



CONSOB
COMMISSIONE NAZIONALE
PER LE SOCIETA' E LA BORSA

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COMMISSIONE NAZIONALE PER LE SOCIETÀ E LA BORSA

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This document includes data and analyses concerning the activity of the Commission and the changes in the reference framework. It provides supporting material for the report submitted to the Minister of the Treasury in accordance with Article 1/1(13) of Law 216 of 7 June 1974 and for the Chairman's address to the annual meeting with the authorities and market participants.

I. IMPLEMENTATION OF THE CONSOLIDATED LAW ON FINANCIAL INTERMEDIATION

The objectives of regulatory activity

During 1998 the Commission prepared the secondary regulation provided for in the Consolidated Law on Financial Intermediation issued in February 1998, with the sole exception of that on public offerings. This activity involved the revision of all the existing regulations and, to a lesser extent, the issue of new ones on matters that had previously not been within the scope of Consob's authority. Consequently, this was the task that placed the heaviest demands on the Commission and Consob's staff.

In drawing up the regulations a similar approach was followed to that adopted by Parliament in preparing the Consolidated Law: maximum flexibility of the rules within the limits consented by the technical nature of the matters addressed and maximum simplification of the procedural requirements.

The first objective led to the drafting of provisions that avoided detailed prescriptions and maintained a non-case-specific structure, so as not to require amendment with every innovation in financial instruments and market techniques. This choice leaves room both for private initiative and for self-regulation. The objective of simplification led to a critical appraisal of all the procedural requirements involved in the preparation of acts and transactions and to the cancellation of rules that experience had shown to serve no useful purpose for the protection of investors or the transparency of markets.

As regards the timetable for the issue of the regulations, the Commission decided not to wait until the end of the six-month period specified in the law and to adopt - with effect from 1 July 1998, the date of entry into force of the Consolidated Law - the rules whose absence would have prevented some of the most important innovations introduced by the new law from being operative or created legislative voids.

For these reasons, in agreement with the Bank of Italy, the provisions on intermediaries were issued immediately, thereby making operative the division of functions in collective asset management, and so were those on the liquidation of market insolvencies, public offers to buy or exchange financial instruments, proxies and disclosure requirements for companies.

In the six following months other delegated legislation was prepared on significant holdings, the transparency of shareholder agreements, financial salesmen, central depositories of financial instruments and the latter's dematerialization (which also implemented Legislative Decree 213 of 24 June 1998). The new regulation on public offerings and the new text of the regulation on issuers will be adopted shortly.

In drafting the new regulations, Consob followed an innovative approach in line with practice in other more advanced markets and based on transparent choices and the involvement of the markets. In fact, there was wide-ranging discussion with the participation of professional associations and a selection of intermediaries, chosen on a case-by-case basis as being representative of the interests in question, which submitted observations in writing and attended meetings with Consob staff.

The inputs provided enabled the Commission to take into account the views of those who will have to comply with the rules and hence to arrive at a broader consensus on the objectives to be achieved between Consob, market operators and investors.

The regulations adopted

The provisions implementing the Consolidated Law were grouped into three regulations covering the parts of Legislative Decree 58/1998 devoted to issuers, intermediaries and markets.

The rules on issuers are contained in the regulation approved by resolution 11520 of 1 July 1998 - which covers public offers to buy or exchange financial instruments, disclosure requirements for companies, exclusion from trading upon request, proxies and postal voting - and in that on significant holdings and shareholder agreements, approved by resolution 11715 of 24 November 1998.

In drafting the rules on issuers, reference was made to the following principles. The first was to make companies more responsible for the correct performance of transactions and the information to be provided to the market. Among other things, this led to the cancellation of the detailed rules on the procedures to be followed in public offers to buy, exchange, sell or subscribe for securities, thereby leaving more room for new developments in market techniques. The second principle was to reduce the regulatory burden on companies: listed issuers are no longer required to submit their draft annual accounts before they are made available to the public; the advance with which documentation on extraordinary transactions has to be sent was reduced; and care was taken to avoid weighing down further the already demanding requirements with respect to significant holdings, where the level of transparency is one of the highest in Europe. The third principle was to allow companies to choose their preferred means of communicating information in complying with transparency requirements; in particular, without prejudice to the constraints imposed by law, instead of press communiqués companies may use other equally effective means of making information available. In order to improve the circulation of information in the market, central depositories have been assigned a special role, notably as regards public offers and proxies.

The secondary legislation on intermediaries, contained in the regulation approved by resolution 11522 of 1 July 1998, is limited to: the reformulation of the rules on the authorization of Italian Securities Investment Firms (SIMs) and the entry into Italy of EU and non-EU investment

firms; the revision of the provisions implementing the Eurosim decree (Legislative Decree 415/1996) with respect to the supply of individual portfolio management services; the introduction of new rules on collective asset management services; the regulation of distance selling of financial instruments and investment services; and the revision of the rules on financial salesmen.

The rules on markets, which were introduced from July onwards, were consolidated in a single regulation approved by resolution 11768 of 23 December 1998. They cover the minimum capital requirements for market management companies, auxiliary and related activities, the requirements concerning the concentration of trading and central depositories.

II. OWNERSHIP OF LISTED COMPANIES

Ownership structure and control of listed companies

The downward trend of the concentration of ownership among Italian listed companies continued last year.

The more widespread holding of shares of Italian listed companies has been primarily due to privatizations, which have reduced the share of market capitalization of companies controlled by the state from around 28 per cent in 1995 to 25.6 per cent in 1998. Privatizations have been carried out in a way that has given priority to the objective of diffused ownership, with a core of stable shareholders being constituted, albeit with a limited portion of the capital.

Diffused share ownership is found almost exclusively among larger companies.

TABLE II.1

OWNERSHIP STRUCTURE OF LISTED COMPANIES (SITUATION AT 31 DECEMBER)

	1997		1998	
	NUMBER	% ¹	NUMBER	% ¹
<i>TYPE OF CONTROL</i>				
COMPANIES CONTROLLED WITH MAJORITY BLOCKS	121	48.2	128	32.3
COMPANIES CONTROLLED "DE FACTO"	28	12.4	31	21.7
COMPANIES CONTROLLED UNDER SHAREHOLDER AGREEMENTS	27	6.3	24	7.4
OTHER COMPANIES	29	33.1	35	38.7
<i>TOTAL</i>	<i>205</i>	<i>100</i>	<i>218</i>	<i>100</i>
<i>CONCENTRATION</i>				
LARGEST SHAREHOLDER		37.0		33.8
THREE LARGEST SHAREHOLDERS		45.1		40.8
DISPERSED SHAREHOLDERS		53.2		56.5

Source: Consob ownership transparency archive. See the Methodological Notes.

¹ Percentage of the market value of ordinary shares over total market capitalization.

The steady reduction in the concentration of ownership can also be seen in the distribution of companies by type of control (Table II.1). In 1998 companies without a single controlling shareholder or group of controlling shareholders increased between 1997 and 1998, both in number (from 29 to 35) and in relation to total share capital (from 33.1 to 38.7 per cent). The reduction in concentration is even more pronounced in terms of the proportion held by the largest shareholder (down from 37 to 33.8 per cent) and the three largest shareholders (down from 45.1 to 40.8 per cent).

The reduced concentration in shareholdings of listed companies can also be seen in the acquisitions and variations of significant holdings. Some 60 per cent of all transactions involved a reduction in such holdings. The majority were carried out in the first half of the year and a large proportion involved a reduction in controlling interests. All the 32 transactions carried out by the State involved a reduction.

TABLE II.2

SIGNIFICANT SHAREHOLDINGS IN LISTED COMPANIES¹

	1997		1998	
	NUMBER	% ²	NUMBER	% ²
FOREIGN INVESTORS	166	5.0	176	5.9
INSURANCE COMPANIES	22	2.2	32	2.5
BANKS	79	5.1	65	4.8
FOUNDATIONS	42	3.1	31	5.1
INSTITUTIONAL INVESTORS	50	0.1	69	0.1
COMPANIES	150	14.4	155	12.6
STATE	44	12.1	32	8.8
INDIVIDUALS	266	4.8	233	3.8
<i>TOTAL</i>	<i>819</i>	<i>46.8</i>	<i>793</i>	<i>43.6</i>

Source: Consob ownership transparency archive. See the Methodological Notes.
¹ Shareholdings exceeding 2 per cent of the voting capital. ² Percentage of the value of the shareholdings to market capitalization.

The increase in the dispersion of ownership did not significantly modify, at least for the leading companies, the level of minority interests' participation in shareholders' meetings. The annual meetings held in 1998 of the companies making up the Mib30 index at the end of the same year were attended on average by around 0.6 per cent of the shareholders on the register, while the capital represented in the meetings, apart from that of the three largest shareholders, amounted on average to 8 per cent of the total.

The decline in the number of significant holdings in listed companies, from 819 in 1997 to 793 in 1998, was accompanied by a reduction in their relative importance (Table II.2). The share of total market capitalization in terms of ordinary shares accounted for by significant holdings fell from 46.8 to 43.6 per cent. The distribution of significant holdings among the different types of owners shows a contraction in nearly every case. In particular, the proportion of significant holdings owned by the State fell from 12.1 per cent in 1997 to 8.8 per cent in 1998. The only major exception in this respect was the increase in the proportion owned by foundations, from 3.1 to 5.1 per cent.

TABLE II.3

SHAREHOLDER AGREEMENTS IN LISTED COMPANIES
(SITUATION AT 31 DECEMBER 1998)

TYPE OF AGREEMENT	NUMBER	SHARE CAPITAL COVERED ¹	SHARE CAPITAL COVERED ²	MARKET CAPITALIZATION OF THE COMPANIES ²
LIMITATIONS ON SHARE TRANSFERS	11	40.1	0.6	2.9
VOTING AGREEMENT	7	74.4	0.5	0.9
LIMITATIONS ON SHARE TRANSFERS ET AL.	47	47.9	11.1	41.1
<i>TOTAL</i>	<i>65</i>	<i>49.4</i>	<i>12.1</i>	<i>44.9</i>

Source: Consob ownership transparency archive. See the Methodological Notes.
¹ Percentage of total ordinary share capital, average values. ² Percentage of total market capitalization.

Shareholder agreements continue to be a major instrument of corporate control, although their importance is declining. At the end of 1998 there were significant agreements in 65 companies (excluding the cases where the agreement involved only a very small proportion of capital) and they accounted for 45 per cent of total market capitalization (Table II.3). The average proportion of shares covered was substantial, amounting to just under 50 per cent. Weighted by market capitalization, however, this figure falls to 27 per cent. Overall, the shares covered by shareholder agreements account for 12.1 per cent of total market capitalization, a reduction of 20 percentage points compared with 1995.

The unstandardized nature of shareholder agreements means that they can contain many different clauses and experience confirms a wide variety of contractual forms. Most agreements seek both to stabilize the composition of the company's shareholders and to ensure that voting rights are exercised in a coordinated manner or at any rate after consultation among the parties. Such agreements can thus be seen as "global" and aimed at influencing the control structure and ensuring stable ownership.

Transfers of control and tender offers involving listed companies

There were 8 transfers of corporate control involving listed companies in 1998. In two cases the transfer was achieved by means of a takeover under the rules introduced by the Consolidated Law on Financial Intermediation and in the other 6 cases by means of the acquisition of controlling interests followed by a mandatory bid under the rules laid down by Law 149/1992 (now repealed). The total value of the offers connected with or subsequent to the transfer of control amounted to around 3,400 billion lire, as against some 1,200 billion in 1997 (Table II.4).

The introduction of the new rules on takeovers and public offers make it possible to assess the impact of Law 149/1992 on the basis of an analysis of the transfers of control that took place in the nearly seven years during which it was in force (from 1992 to the middle of 1998).

In this period there were 46 "agreed" transfers of controlling interests followed by mandatory bids, corresponding to the annual transfer of around 2.3 per cent of the total stock market capitalization. The recourse to partial mandatory bids was on an even smaller scale, thus confirming the high concentration and limited contestability of ownership.

TABLE II.4

**PUBLIC OFFERS TO BUY AND/OR EXCHANGE
SHARES OF LISTED COMPANIES**

	1992-96	1997	1998 ¹	1992-96	1997	1998
	NUMBER OF TRANSACTIONS			BILLIONS OF LIRE		
TENDER OFFER	18	5	2	3,589	753	186
TAKEOVER	5	3	2	5,233	453	3,211
MANDATORY BID	33	7	6	3,851	729	198
RESIDUAL BID	30	8	3	131	53	44
INCREMENTAL BID	1	1	1	103	8	244
<i>TOTAL</i>	<i>87</i>	<i>24</i>	<i>14</i>	<i>12,907</i>	<i>1,996</i>	<i>3,883</i>

Sources: Offer documents and Borsa Italiana S.p.A. notices. ¹ The two tender offers and the two takeovers were carried out under Legislative Decree 58/1998.

Most of the subsequent offers involving listed companies made while Law 149/1992 was in force were *de facto* total-acquisition offers, but less than half of such offers were followed by residual offers and the delisting of the acquired companies (see Box 1).

Privatizations of listed companies

In 1998 the state sold, by means of public offerings and private placements restricted to institutional investors, direct and indirect interests in listed companies for a total of around 19,400 billion lire (Table II.5). In addition, the Treasury negotiated the sale of 25 per cent of Banca Nazionale del Lavoro for 2,500 billion, with a view to creating a core group of investors. Receipts from the privatization of listed companies contracted significantly compared with the previous year, but remained at a high level compared with the period 1993-1996.

At the end of 1998 the market capitalization of the ordinary shares of the main companies privatized by means of public offerings or placements with institutional investors and included in the Mib30 index amounted to around 300,850 billion lire. The volume of trading in the ordinary shares of the same companies amounted to around 280,600 billion, with an average turnover of around 120 per cent. The volume of trading in the ordinary shares of privatized companies accounted for around 34 per cent of the stock market total in 1998.

Box 1

***Transfers of control followed by mandatory bids
during the period in which Law 149/1992 was in force***

As regards control block transfers followed by mandatory bids, three types of transaction can be identified. The first group (21 cases) comprises the total-acquisition offers triggered by the transfer of the majority controlling interest (i.e. more than 50 per cent of the ordinary shares) in which there was a high proportion of shares tendered to shares bid for (just over 80 per cent on average). In these cases the new controlling shareholder held nearly 100 per cent of the total voting capital after the bid and the acquired company was delisted (following a residual offer).

The second group includes mandatory bids, again triggered by the sale of the majority controlling interest, in which the proportion of shares tendered to shares bid for was very low (25 per cent on average). Since the free float after the offer was still substantial, the acquired company was not delisted. In these cases the low ratio of shares tendered to shares bid for is due to the fact that the offer price included a very small (or even negative) control premium.

The third group includes mandatory bids triggered by the sale of minority controlling interests or relative majority holdings. These cases triggered the application of partial mandatory bids and minority shareholders were only able to dispose of part of their shares.

**OWNERSHIP STRUCTURE OF COMPANIES BEFORE AND AFTER
MANDATORY BIDS MADE UNDER LAW 149/1992
(1992-1998)**

	NUMBER OF COMPANIES	VOTING RIGHTS HELD BY OFFEROR BEFORE THE MANDATORY BID ¹	SHARES BID FOR ¹	VOTING RIGHTS HELD BY OFFEROR AFTER THE MANDATORY BID ¹	SHARES TENDERED ²
MANDATORY BIDS FOLLOWED BY DELISTING	21	69.4	29.0	94.5	82.5
MANDATORY BIDS NOT FOLLOWED BY DELISTING	13	59.3	33.9	65.0	25.4
PARTIAL MANDATORY BIDS	12	32.5	24.9	48.8	76.4
TOTAL	46	56.2	29.3	73.5	64.8

Sources: Offer documents and Borsa Italiana S.p.A. notices. ¹ Average proportion of total voting capital; percentages. ² Ratio of shares tendered to shares bid for; percentages.

TABLE II.5

**SALES OF HOLDINGS IN PUBLICY-CONTROLLED LISTED COMPANIES
BY MEANS OF PUBLIC OFFERS AND PRIVATE PLACEMENTS**

COMPANY	DATE	VALUE ¹	SELLER	% SOLD ²	BUYERS ²			
					PUBLIC	EMPLOYEES	FOREIGN INVESTORS	INST. INVESTORS
CREDIT ORD	4.12.93	1,715.0	IRI	63.1	36.3	—	—	26.8
CREDIT SAV	4.12.93	86.1	IRI	17.4	—	17.4	—	—
IMI	31.01.94	2,384.4	TREASURY ET AL.	36.5	14.8	0.8	—	20.9
COMIT	26.02.94	2,891.2	IRI S.P.A.	51.9	26.9	3.5	—	21.5
INA	27.06.94	4,530.0	TREASURY	47.2	31.6	0.6	—	15.0
ENI	21.11.95	6,300.0	TREASURY	15.0	4.3	0.7	3.3	6.7
IMI	7.07.96	501.3	TREASURY	6.9	—	—	—	6.9
AMGA	7.10.96	207.6	GENOA MUNICIPALITY	49.0	17.6	0.8	—	30.6
ENI	21.10.96	8,872.0	TREASURY	15.8	8.0	0.8	2.0	5.0
MONTEFIBRE	8.07.96	182.6	ENICHEM	66.4	8.2 ³	—	—	58.2
ISTITUTO BANC. SAN PAOLO	19.05.97	2,660.0	GRUPPO BANC. SAN PAOLO, TREASURY ET AL.	31.0	12.3	2.4	—	16.3
ENI	23.06.97	13,176.3	TREASURY	17.6	9.9	0.8	2.3	4.6
AEROPORTI DI ROMA	15.07.97	594	IRI	45.0	15.5	0.9	—	28.6
TELECOM	20.10.97	18,933.0	TREASURY	32.9	24.3	3.3	1.1	4.2
BANCA DI ROMA	24.11.97	2,670.6	IRI, BANCA DI ROMA	36.6 ⁴	26.7 ⁵	2.4	—	7.5
SAIPEM	17.03.98	742.5	ENI	17.1	—	—	—	17.1
ALITALIA	22.05.98	786.6	IRI	18.4	—	—	—	18.4
ENI	22.06.98	12,767.3	TREASURY	14.0	10.5	0.6	—	2.8
AEM	14.07.98	1,473.0	MILAN MUNICIPALITY	49.0	28.9	0.5	—	19.6
BNL	16.11.98	5,073.9	TREASURY	64.7	34.8	3.6	—	26.3

Sources: Consob and Ministry of the Treasury. *Relazione al Parlamento sulle operazioni di cessione delle partecipazioni in società controllate direttamente o indirettamente dallo Stato*. Pursuant to Article 13.6 of Law 474/1994. Various years. ¹ Billions of lire.

² Excludes any bonus shares but includes the green shoe. Percentages. ³ Includes the 2.5 per cent reserved to shareholders.

⁴ Calculated on the post-offer capital. ⁵ Includes the 1.5 per cent reserved to shareholders.

The average market price increase of the ordinary shares of the privatized companies included in the Mib30 index was around 54 per cent in 1998. The average market price increase

weighted by the companies' market capitalization was around 42 per cent, which was basically the same as that of the market as a whole (41 per cent).

The most important privatization in 1998 was that of Banca Nazionale del Lavoro.

Other important transactions in 1998 include the fourth tranche of the ENI privatization, which resulted in the Treasury's holding falling from 51.2 to 36.9 per cent and produced receipts of 12,700 billion lire, and the sale of AEM shares, which lowered the Milan municipality's holding from 99 to 51 per cent and produced receipts of 1,400 billion lire.

III. PUBLIC OFFERINGS

Initial public offerings

Sixteen companies were admitted to listing on the official market by means of initial public offerings (IPO) in 1998, compared with 10 in 1997 and 12 in 1996. The number of companies listed on the official market accordingly rose to 223 at the end of the year, compared with 213 at the end of 1997. In one case, the operation involved the privatization of a municipal company, AEM.

Financial and operating performance of newly-listed companies

For each newly-listed company three unlisted companies (benchmark sample) were chosen belonging to the same industry sector and roughly comparable in terms of revenues. The comparison in the table shows a number of indicators of profitability and financial structure covering the three years prior to listing and the year of listing (numbered for -3 to 0). A positive difference indicates that the value is higher for the newly-listed companies and vice versa.

It can be seen that the newly-listed companies were more profitable than the benchmark sample of unlisted companies, both in the years before the public offering and in the year they were listed.

The newly-listed companies were already less heavily indebted than the unlisted companies before they came to the market: the index of leverage is lower in each of the three years prior to listing and the difference becomes more marked in the year the public offering was made, owing to the change in financial structure produced by the simultaneous increase in capital. It can also be seen that the newly-listed companies had a higher ratio of shareholders' equity to total assets.

The growth in revenues and total assets was faster for the newly-listed companies than for the benchmark companies, both in the three years prior to listing and in the year of listing.

The cost of debt capital for newly-listed companies was also analyzed. To this end the newly-listed companies were compared with a sample of listed companies with a similar market capitalization and with a sample of unlisted companies belonging to the same industry sectors and roughly comparable in terms of revenues and leverage.

Considering the period before and after the newly-listed companies came to the market, their cost of debt differentials - measured using data made available by the Bank of Italy's Central Credit Register - improved in the run-up to listing, albeit with fluctuations. Listing on the stock exchange thus appears to have a positive effect on the cost of debt capital.

The total value of the 16 public offerings exceeded 3,500 billion lire, an increase of more than 100 per cent compared with the previous year. The importance of the newly-listed companies in relation to the total capitalization of the market also increased considerably: the sum of their individual market capitalizations following the IPO, calculated on the basis of the offering prices, amounted to around 8,500 billion, compared with around 4.500 billion for the companies listed in 1997.

The companies listed in 1998 placed on average around 42 per cent of their share capital on the market. Controlling shareholders maintained ownership of around 57 per cent on average; only in three cases did the shares offered exceed 50 per cent of the total voting capital (Table III.1). The proportion of the pre-offering capital disposed of by the controlling shareholder at the time of listing averaged 14.9 per cent.

Box 2

**DIFFERENCES BETWEEN LISTED AND UNLISTED COMPANIES (1995-97):
PROFITABILITY AND FINANCIAL STRUCTURE RATIOS¹**

	YEAR ²			
	-3	-2	-1	0
ROA ³	1.7	2.8	3.4	2.6
ROE ⁴	3.2	5.4	7.2	3.4
LEVERAGE ⁵	-2.8	-2.4	-3.0	-21.6
LEVERAGE ⁶	4.4	4.4	6.1	22.6

Sources: Based on Bureau Van Dijk-Aida data and companies' financial statements. ¹ Differences between the average values for the newly-listed companies and those for the sample of unlisted companies. ² Measured from the year of listing (year 0). ³ Return on assets: (operating margin + financial income) / total assets. ⁴ Return on equity: net profit / shareholders' equity. ⁵ Financial debt / (financial debt + shareholders' equity). ⁶ Shareholders' equity / total assets.

Another interesting feature is the presence among the shareholders of newly-listed companies of institutional investors (mainly closed-end investment funds and venture capital companies). They held interests in the capital of about half the companies listed in the three years in question and sold a sizable part at the time of the IPO, so that their holdings fell on average from 40 to 14 per cent of the total share capital. The shares sold amounted on average to more than 20 per cent of the pre-offering capital.

TABLE III.1

OWNERSHIP STRUCTURE OF NEWLY-LISTED COMPANIES¹
(PERCENTAGES OF VOTING CAPITAL)

COMPANY	BEFORE THE IPO		AFTER THE IPO		
	CONTROLLING SHAREHOLDER	SHAREHOLDERS WITH MORE THAN 2 PER CENT	CONTROLLING SHAREHOLDER	SHAREHOLDERS WITH MORE THAN 2 PER CENT	TOTAL HELD BY PRE-IPO SHAREHOLDERS ²
<i>AVERAGE 1996</i>	78.3	94.7	52.8	61.2	65.8
<i>AVERAGE 1997</i>	81.2	90.8	55.6	61.3	63.3
AEM	100.0	100.0	51.0	51.0	51.0
BAYERISCHE VITA	100.0	100.0	70.0	70.0	70.0
BEGHELLI	100.0	98.7	72.8	72.8	72.8
CASTEL GARDEN	100.0	98.3	42.9	41.2	42.9
CLASS EDITORI	59.3	97.8	50.0	52.4	52.4
CREMONINI	98.4	98.4	56.2	56.2	57.3
EMAK	100.0	100.0	74.2	74.2	74.2
GEFRAN	97.0	100.0	62.0	62.0	63.9
GRUPPO BUFFETTI	61.4	89.2	25.9	36.0	45.6
I GRANDI VIAGGI	89.4	99.8	53.7	59.8	57.3
RICHARD GINORI 1735	100.0	100.0	74.9	74.9	74.9
S.S. LAZIO	100.0	100.0	42.4	42.4	42.4
SABAF	66.7	100.0	54.5	58.9	58.9
SOL	100.0	100.0	75.0	75.0	75.0
TARGETTI SANKEY	63.5	95.1	50.8	66.4	69.3
<i>AVERAGE 1998</i>	89.0	98.5	57.1	59.5	60.5

Sources: Prospectuses. See the Methodological Notes. ¹ The figures for 1998 do not include ST Microelectronics N.V., already listed on foreign regulated markets. ² In addition to the shareholders who exercise control and those with holdings of more than 2 per cent of the share capital, this column includes pre-IPO shareholders with holdings of less than 2 per cent.

The period from 1995 to 1998 saw a recovery in admissions to listing by means of public offerings (48 companies) after five years in which only 13 companies were listed in this way. The

companies that have come to the market in the last few years have mostly been independent businesses, i.e. not belonging to a group with a company that was already listed.

The companies admitted to listing on the official and “mercato ristretto” between 1995 and the end of 1997 are compared with a sample of similar unlisted companies, in terms of sector and size, in Box 2.

The role of intermediaries in placements and initial public offerings

Last year provided partial confirmation of the previous year’s decline in the concentration of intermediaries carrying out placements.

In particular, as regards admissions to listing, in 1998 the top three global coordinators in terms of the value of the public offerings had a market share of around 60 per cent, compared with 71 per cent in 1997; the market share of the first five amounted, instead, to 75 per cent, compared with 89 per cent in 1997.

TABLE III.2

INSTITUTIONAL INVESTORS’ STAKES IN NEWLY-LISTED COMPANIES¹

YEAR	NUMBER OF COMPANIES ²	NUMBER OF INSTITUTIONAL INVESTORS ³	PRE-OFFERING STAKE ⁴ (% HELD)	POST-OFFERING STAKE ⁵ (% HELD)
1995	6	2.3	27.7	8.5
1996	5	2.8	53.2	25.4
1997	2	1.5	40.9	7.1
1998	4	4.3	48.3	18.9

Sources: Prospectuses. See the Methodological Notes. ¹ Institutional investors include closed-end investment funds, venture capital companies and commercial and investment banks. ² Number of companies listed in which institutional investors were present at the offering date. ³ Average number of institutional investors present at the offering date. ⁴ Average proportion of the share capital held by institutional investors at the time of the offering. ⁵ Average proportion of the share capital held by institutional investors immediately after the offering.

Institutional investors, such as closed-end investment funds, venture capital companies and investment banks, held substantial interests in four of the companies listed in 1998. They sold sizable quantities of shares in the offerings, so that the percentage they held fell on average from 48 per cent before the listing to 19 per cent immediately afterwards (Table III.2). As in the three preceding years, Italian closed-end investment funds did not hold any stake in newly listed companies.

In the second half of the nineties there was a reduction in the average underpricing of companies admitted to listing by way of a public offering compared with the average underpricing of the late eighties.

TABLE III.3

UNDERPRICING IN INITIAL PUBLIC OFFERINGS

YEAR	NUMBER OF OFFERINGS ¹	AVERAGE UNDERPRICING ²
1995	11	7.8
1996	12	10.1
1997	10	7.1
1998	14	6.8

Source: Based on Datastream data. ¹ Does not include offerings by privatized companies. ² Percentage difference between the market price on the first day of trading and the offering price, adjusted for the movement in the stock market index.

The reduction in the level of underpricing appears to have been due at least in part to the improvement in the information provided in prospectuses.

Underpricing with respect to market prices may depend to some extent on companies' desire to ensure their shares are also taken up by less well-informed investors. A high quality prospectus may be one of the factors able to reduce the underpricing required by helping to diminish, other things being equal, the uncertainty surrounding the value of the company and hence the risk incurred by non-professional investors.

Secondary offerings by listed companies and mergers and acquisitions

As in the preceding years, most of the secondary offerings by listed companies (excluding newcomers) were in the form of rights issues. When IPOS are included, the fresh capital raised in

1998 showed a strong recovery and amounted to more than 17,000 billion lire. The largest issues were those made by Assicurazioni Generali, Alitalia and Mediobanca. Compared with 1995, another year marked by a peak in fund-raising, there was a change in the types of companies involved, since in 1995 most of the secondary offerings to raise new capital were made by second-ranking companies, many of which were being reorganized and some of which had been suspended from trading.

Some of the operations carried out between 1995 and 1998 included the issue of warrants. In total there were 9 issues of ordinary shares with pre-emptive rights for the holders of both ordinary and savings shares, of which 7 were made in 1995. The number of secondary offerings involving the issue of shares of different classes was small, just 7 in the four years in question.

The price of nearly all of the secondary offerings made by listed companies was at a large discount compared with the market prices (Table III.4). The median value of the discount varies from one year to another; in 1998 it was around 34 per cent compared with the latest cum-dividend price.

TABLE III.4

**SECONDARY OFFERINGS OF LISTED COMPANIES
- ISSUE DISCOUNTS AND UNSUBSCRIBED RIGHTS -
(PERCENTAGES)**

YEAR	SHARE RIGHTS OF UNSUBSCRIBED		ISSUE PRICE DISCOUNT ¹	
	MEAN	MEDIAN	MEAN	MEDIAN
1995	24.48	24.11	14.79 ²	6.66
1996	2.34 ³	0.70	22.94	15.78
1997	10.99 ⁴	6.15	42.07	39.99
1998	0.16	0.13	37.93	34.64

Sources: Borsa Italiana S.p.A. and Datastream data. ¹ Calculated with respect to the latest cum-dividend price available. ² In 1995 the mean discount was significantly smaller owing to the inclusion of six issues for which the issue price was higher than the last price recorded before the start of the operation; excluding these issues, the mean discount rises to 35 per cent. ³ Excludes Banco di Napoli (98.86 per cent unsubscribed and taken up by the Treasury). ⁴ Excludes two operations for which the data were not available.

Except in 1995, the unsubscribed part of the secondary offerings made by way of rights issues was less than 1 per cent. Higher levels are characteristic of issues made in the presence of financial difficulties, often by companies that have just reduced or cancelled their capital. In such situations the issue price of the new shares is often higher than the market price.

In addition to the recovery in the raising of new capital, last year also saw a number of large mergers and corporate reorganizations involving listed companies.

One of the most important of these transactions was the merger between Istituto Bancario San Paolo di Torino S.p.A. and Istituto Mobiliare Italiano S.p.A. The operation was part of the consolidation of the Italian banking system that is under way and led to the creation of a financial group with total assets of around 350,000 billion lire. The merger, which technically involved the absorption of IMI by San Paolo, was approved by the two companies' extraordinary shareholders' meetings at the end of July and became effective on 1 November 1998. The name of the new company is San Paolo di Torino - Istituto Mobiliare Italiano.

Another important operation carried out during the year was the spinoff of part of Unicredito S.p.A. into Credito Italiano S.p.A. This was one step in a more far-reaching project that includes an increase in the latter's capital, reserved to the minority shareholders of Cariverona Banca S.p.A., and the acquisition of a shareholding in Cassa di Risparmio di Trento e Rovereto S.p.A., to be completed in 1999.

Other operations in 1998 involved listed companies that reorganized their group structures by way of spinoffs and disposals of shareholdings. The spinoffs included those carried out by Schiapparelli 1824, Aedes S.p.A. and Premafin Finanziaria S.p.A.

Public offerings of unlisted securities

In 1998 Consob authorized the publication of the prospectus and offer document in connection with 19 public offers involving unlisted securities.

Most of these operations were tender offers; only one was an exchange offer. The total value of these tender offers was more than 3,000 billion lire, a substantial increase on the figure for 1997, when there were 8 offers totaling 650 billion (Table III.5). Moreover, whereas in 1997 one large operation accounted for more than 80 per cent of the total value, in 1998 the degree of concentration was lower and the largest operation, UniCredito's tender offer for Cassa di Risparmio di Verona, amounted to 1,700 billion and accounted for just over 50 per cent of the total.

TABLE III.5

PUBLIC OFFERS INVOLVING UNLISTED SECURITIES¹

TYPE OF OFFER	NUMBER OF OPERATIONS		VALUE (BILLIONS OF LIRE)		RATIO TO VALUE OF OPERATIONS INVOLVING LISTED SECURITIES ²	
	1997	1998	1997	1998	1997	1998
SECONDARY OFFERINGS ³ (ISSUE OF NEW SHARES)	3	2	162	175	13.3	0.8
SECONDARY OFFERINGS (SALE OF EXISTING SHARES)	6	4	121	36	5.6	1.7
TENDER OFFERS	8	13	649	3,282	32.5	84.5
<i>TOTAL</i>	<i>17</i>	<i>19</i>	<i>932</i>	<i>3,493</i>	<i>15.1</i>	<i>12.2</i>

Sources: Prospectuses and offer documents. ¹ Excludes offerings reserved to employees, private placements and offerings made abroad. ² Percentages. ³ Excludes the Telecom and ENI public offerings.

There were six public offerings in 1998 for a total value of around 210 billion lire, a slight decrease compared with 1997, when there were nine offerings for a total value of around 280 billion.

As in the preceding years, most of the operations involving unlisted securities were in the banking sector, where consolidation continued, especially among cooperative banks.

All the tender offers were for banks, cooperative banks in more than half of the cases. The majority of public offerings were also made by banks and in value terms they accounted for more than 85 per cent of the total. The offerings made by non-bank issuers were restricted to bonds.

IV. INFORMATION ON LISTED COMPANIES

Controls on continuous information

Listed companies issued 3,354 press releases to the public in 1998, compared with 3,100 in 1997 and 2,177 in 1996. In addition to this action, they placed numerous advertisements in leading Italian newspapers in order to provide shareholders with information needed for the exercise of rights.

As part of its verification activity, Consob called on seven companies to make additional data and information public. The Commission's attention was attracted in 1998 by the substantial increase in bilateral and more widely attended meetings between companies and financial analysts, especially in view of the growing tendency for such meetings to focus on forecasts. Consob accordingly recommended issuers to make public without delay, in the manner provided for in Regulation 11520/98, the data and information provided in such meetings that could have a significant effect on the market.

Consob found some violations of the information requirements to which companies are subject, despite the general improvement in corporate transparency that was achieved in 1998 thanks in part to the greater attention issuers paid to this aspect of their activity (Table IV.1).

TABLE IV.1

VERIFICATION OF ISSUERS' COMPLIANCE WITH INFORMATION REQUIREMENTS

YEAR	VIOLATIONS	SANCTIONS ¹
1995	2	3
1996	4	3
1997	5	7
1998	4	1

Source: Press releases issued in compliance with the information requirements of Consob Regulations 5553/91 and 11520/98. See the Methodological Notes. ¹ The sanctions also refer to violations committed in earlier years.

Controls on accounting and periodic information

The activity of ensuring compliance with the law in the accounting field is largely based on moral suasion. The repression of situations deemed to be irregular, for example by challenging a company's financial statements in the courts, is ineffective in view of the slowness of civil law proceedings. Where an issuer fails to make the adjustments called for by the Commission spontaneously, the outcome of a challenge may only be known several years after the financial statements in question have been made public.

The usual two-pronged approach was adopted last year in verifying listed companies' financial statements and consolidated financial statements. On the one hand, *ex ante* action aimed at ensuring transparency and completeness and, on the other, *ex post* checks on accounting correctness.

Nineteen requests were made for data and information, three of which were addressed to auditing firms (Table IV.2). The aim of the requests was to obtain explanations in relation to the comprehensibility of the information provided in the annual report or the correctness of the accounts.

TABLE IV.2

CONTROLS ON LISTED COMPANIES' FINANCIAL STATEMENTS

YEAR	NUMBER OF MEASURES ADOPTED AGAINST AUDITING FIRMS			NUMBER OF MEASURES ADOPTED AGAINST ISSUING COMPANIES			
	REQUESTS FOR INFORMATION	INSPECTIONS	WRITTEN REPRIMANDS	REQUESTS FOR INFORMATION	INSPECTIONS	SUNDRY MEASURES ¹	CHALLENGE OF THE FINANCIAL STATEMENT
1995	26	3	1	42	--	29	--
1996	16	3	--	68	1	35	--
1997	9	2	--	26	--	25	--
1998	3	2	--	16	2	11	1

Source: Consob. ¹ Written reprimands and requests to publish data and information.

The downward trend of requests for clarifications and additional information continued in 1998. This is largely attributable to the exceptional circumstances that emerged in earlier years in connection with important and delicate investigations involving leading groups.

One of the issues on which the examination of 1997 financial statements focused was listed banks' valuation of their claims. In particular, Consob called on the companies in question to set out more clearly the accounting methods applied on the occasion of large writeoffs and allocations to provisions for liabilities and charges owing to the deterioration in economic conditions in some areas or sectors or as a result of the introduction of more accurate methods of estimating the realizable values of assets.

The non-accounting information that has to be provided when the financial statements and attachments are made public has been considerably enhanced with the entry into force of Regulation 11520/98. This requires detailed information to be provided in the notes to the accounts of listed companies on the remuneration, in whatever form, of directors, members of the board of auditors and general managers. In particular, the instructions implementing Article 32 of the Regulation provide specifically for detailed disclosure of the stock options granted to directors and general managers.

Last year saw a growing number of listed Italian companies introduce employee stock option plans of different kinds. The reasons for this development lie mainly in changes in the law that have made it easier to pursue this course.

At the end of 1998 twenty of the companies in the Mib30 index had a stock option plan. The formulas most commonly adopted were the granting of free shares under Article 2349 of the Civil Code and the granting of newly-issued shares reserved to employees under the last paragraph of Article 2441 of the Civil Code. Only the Montedison Group will require payment for such shares. Most of the plans cover senior managers, although in some cases junior managers and clerks have also benefited (normally by being granted free shares). The proportion of shares involved in stock option plans is usually less than 1 per cent of the share capital.

Regulation 11520/98 makes no provision for the diffusion of general information on the incentive schemes companies adopt, nor on any stock options they may grant to persons other than directors and general managers. Moreover, the information required at present does not include a quantification of the economic benefit accruing to recipients from the granting and exercise of stock options and thus does not permit an assessment of the cost of a plan in terms of the dilution of the value of the company's shares. Accordingly, Consob began consultations with interested parties in March 1999 with a view to increasing the information made available.

V. AUDITING FIRMS

The auditing market

The auditing market is notable for the presence of a few large multinational firms organized on a network basis and possessing considerable market power. It has been characterized for several years now by a process of consolidation that led in 1998 to the number of major competitors falling to five.

Even though the merger between Price Waterhouse and Coopers & Lybrand has not yet taken place in Italy, the national market is a fairly faithful reflection of the situation abroad and the degree of concentration is high. Restricting the analysis to statutory audits, the market share of the six largest firms has remained basically stable over time at around 95 per cent. Despite the sector's typically oligopolistic configuration, some weak signs of competition are to be found in a certain variability of market shares and fees. The top three firms measured on the basis of new statutory engagements have varied over the years, as have their combined market shares (Table V.1).

TABLE V.1

DEGREE OF CONCENTRATION OF THE AUDITING MARKET¹ (PERCENTAGES)

	1994	1995	1996	1997	1998
TOP COMPANY	29.4	27.4	24.6	31.7	30.4
TOP THREE COMPANIES	75.1	60.2	65.6	70.0	64.0
TOP SIX COMPANIES	98.2	95.1	93.0	96.3	95.8

Source: Based on communications pursuant to Presidential Decree 136/1975. See the Methodological Notes. ¹ Measured on the basis of new mandates to perform statutory audits.

In recent years, however, there has been a reduction in the variability of the market shares of the individual auditing firms, in contrast with what happened between 1985 and 1995, when large shifts were recorded. This stabilization of market shares can be explained by the tendency for the larger firms to establish a stronger hold on the market at the same time as major changes occurred in the consultancy market and the consolidation of the auditing sector proceeded.

The average hourly fee has risen steadily since 1994 (Table V.2). The increase has been accompanied by a high degree of fee variability, since in some cases firms have charged fees well below the average in order to win important engagements. A similar variability is also to be found in the market for voluntary audits, where competition has sometimes been particularly intense.

TABLE V.2

AVERAGE HOURLY AUDITING FEES¹
(THOUSANDS OF LIRE)

	1994	1995	1996	1997	1998
AVERAGE FEE	131	140	147	153	159
STANDARD DEVIATION	29	25	26	30	27

Source: Communications pursuant to Presidential Decree 136/1975. See the Methodological Notes. ¹ For statutory audits.

The activity of auditing firms

In 1998 firms audited the annual accounts of 232 listed companies, of which 28 were listed on the “parallel market”, and 217 SIMs. In 289 cases the opinion rendered was accompanied by requests for additional information or for changes in accounting policies, while in 6 cases a qualified opinion was rendered. In only one case was the auditing firm unable to render an opinion owing to the lack of continuity in the company’s activities.

Consob approved 291 new engagements in 1998, as against 172 the previous year. This large increase was primarily due to the entry into force of Legislative Decree 173 of 26 May 1997, which extended all the provisions of Presidential Decree 136/1975 to insurance companies. A part of the increase was due, however, to the engagements awarded by companies that applied for listing.

Consob’s supervisory activity with respect to engagements focused in particular on the group audit plans that auditing firms submitted in connection with the auditing of listed holding companies. The aim in such cases was twofold: on the one hand, to monitor the scope of the audit and the types of intervention with respect to the annual accounts of subsidiaries (full audit, limited review or desk review) and, on the other, to verify that the firm engaged to audit the listed parent company had the status of lead auditor on the basis of the percentage cover of consolidated assets and revenues.

Supervisory activity also included a number of inspections, some of which are still under way, and to the imposition of sanctions in four cases (Table V.3).

TABLE V.3

SUPERVISION ON AUDITING FIRMS

	1995	1996	1997	1998
EXAMINATION OF APPLICATIONS FOR INCLUSION IN THE REGISTER	1	--	--	--
INSPECTIONS	3	6	7	5
WRITTEN REPRIMANDS	2 ¹	3	4	--
SUSPENSIONS OF PARTNERS	2	2	5	1
SUSPENSIONS OF AUDITING FIRMS	--	--	--	1
ADMINISTRATIVE SANCTION	--	--	2	2
DELETIONS FROM THE REGISTER	--	2	--	--
REPORTS TO THE JUDICIAL AUTHORITIES	3	2	6	--

Source: Consob. ¹ Calling on auditing firms to satisfy organizational requirements again within six months pursuant to Article 11.2 of Presidential Decree 136/1975.

VI. REGULATED MARKETS

The stock market and derivatives markets

The growth in the number of listed companies that had begun in 1995 made further progress last year with the listing of 25 new companies (16 by means of a public offering, 4 transfers from the “parallel market”, 2 where there had already been a free float and 3 as a result of a merger or a demerger), the largest increase since 1986. The market capitalization of the Italian companies that came to the market in 1998 (excluding delistings, mergers and demergers and transfers from the “mercato ristretto” but including the listing of BNL ordinary shares) amounted to around 23,800 billion lire, or about 2.5 per cent of the total capitalization of the market at the end of the year. The funds raised by Italian companies that were already listed amounted to around 16,000 billion, or about 1.7 per cent of the total year-end market capitalization.

Share prices recorded strong growth of 40.7 per cent (58 per cent in 1997), which brought a broadly equivalent increase in the capitalization of the market (from around 600,000 billion lire at the end of 1997 to more than 931,000 billion at the end of 1998). At the end of last year the Italian stock market ranked fourth in the euro area in terms of market capitalization, preceded by those of Germany, France and the Netherlands, and sixth in Europe, where it was also preceded by those of the United Kingdom and Switzerland.

The Italian stock market recorded one of the largest increase in prices of any of the markets of the industrial countries in 1998, but it remains more volatile and sensitive to external shocks (see Box 3).

The volume of trading in listed shares more than doubled in 1998, rising by 145 per cent from around 351,000 to 861,000 billion lire; average daily trading was around 3,250 billion. At the end of the year the Italian stock market ranked third among those of the euro area for volume of trading (preceded by the German and French markets) and fifth in Europe.

The leading shares continued to account for a large proportion of trading.

In 1998 the Italian derivatives market (Idem) notched up four years of activity and added a new contract, the future on the Midex index. The average daily volume of share-based derivatives business amounted to around 9,700 billion lire, of which the Fib30 contract accounted for 7,500 billion, the MibO30 contract for 2,000 billion, the Iso α contract for 162 billion and the Midex stock index future for 18 billion. Compared with 1997, trading in the Fib30 contract grew by 32 per cent and that in the MibO30 contract by 40 per cent (Table VI.1). Trading in the Iso α option contract on individual shares reduced by 47 per cent, while that in the new Midex stock index future amounted to 30,070 contracts, with a daily average of around 150 contracts.

Box 3

The Italian stock market performance in 1998

From the beginning of 1998 up to the early days of March 1999 the Italian stock market outperformed all the other markets in the euro area in terms of price index appreciation. The differential with respect to the German and French markets was around 32 and 10 percentage points, respectively, while that with respect to the general index of the euro area countries was around 23 points.

The Italian market's better performance was accompanied by higher daily price volatility. On an annual basis it was around 8 percentage points higher than that of the index of the euro area countries, around 3 points higher than that of the French market and around 8 points higher than that of the UK market.

The Italian market was nonetheless the most vulnerable in the periods of greatest turbulence caused by the foreign exchange and financial crises in Asia, Russia and some Latin American countries. The historical Mib index fell by nearly 30 per cent in this period, compared with falls of around 11 per cent in the general index of the euro area countries and 18-19 per cent in the markets of the leading European countries. Price volatility in the Italian market also became more pronounced and the differential with respect to that of the euro area index and the French market widened on an annual basis to around 10 and to nearly 6 percentage points, respectively.

On the other hand, when the turbulence subsided in the financial markets of Asia and the Latin American countries, Italian shares staged a sharp recovery and recorded rises comparable to those of the pre-crisis period. This period also saw the price index appreciation of Italian shares outstrip the average for the euro area countries by around 27 percentage points.

STOCK MARKET RATES OF RETURN IN THE EURO AREA AND ASIAN COUNTRIES¹

PERIOD	ITALY	FRANCE	GERMANY	UK	EURO COUNTRIES	ASIAN COUNTRIES	ASIAN COUNTRIES (EX JAPAN)
BEFORE ASIAN CRISIS (1/1/1998-31/3/1998)	45.9	29.2	19.7	15.5	22.8	3.2	9.1
ASIAN CRISIS (1/4/1998-6/10/1998)	-29.7	-19.2	-18.8	-19.3	-11.3	-21.4	-33.9
AFTER ASIAN CRISIS (7/10/1998-11/3/1999)	41.6	35.1	21.7	31.2	14.7	19.7	30.4
ENTIRE PERIOD (1/1/1998-11/3/1999)	49.4	39.5	17.5	23.4	26.6	5.8	-3.2

Source: Based on Datastream data. ¹ Percentages.

The overcoming of the most acute phase of the Asian crisis did not prevent the volatility of all the leading stock markets in the euro area from remaining higher than before the crisis. The differential shown by the Italian market with respect to some of the others nonetheless narrowed considerably.

TABLE VI.1

ITALIAN DERIVATIVES MARKETS
(SUMMARY DATA ON VOLUME OF TRADING - 1998)

	NUMBER OF CONTRACTS CONCLUDED ¹	DAILY AVERAGE ¹	PERCENTAGE CHANGE ²
FIB30	5,896	23.3	32
MIBO30	1,617	6.4	40
ISO α	1,297	5.1	- 47
MIDEX FUTURE	30	0.2	--
FUTURES SU BTP 10 ANNI	1,293	5.1	- 55
OPZIONE SU FUTURE SU BTP	45	0.2	- 68
FUTURE SU RIBOR	101	0.4	- 25

Source: Based on Borsa Italiana S.p.A. and Cassa di Compensazione e Garanzia data. See the Methodological Notes. ¹ Thousands. ² On previous year.

As for the Italian futures market (Mif), trading in derivatives based on government securities and interest rates contracted sharply, owing in part to increased competition from other European markets. Specifically, trading in the futures contract on 10-year BTPs fell by 55 per cent and that in the futures contract on 5-year BTPs fell by 99 per cent and the contract was delisted at the end of the year. Trading in the interest rate futures contract based on Ribor, which was replaced from 4 January 1999 onwards by a contract based on Euribor, contracted by 25 per cent.

The volume of trading on the government securities and bond market (Mot) amounted to 339,000 billion lire in 1998, of which government securities accounted for 311,172 billion and bonds for 27,943 billion. Compared with 1997, trading in government securities declined by around 4 per cent, while that in bonds rose by 53 per cent. The average turnover for government securities remained virtually unchanged at around 16 per cent, while that for bonds increased by nearly 2 percentage points, rising from 4.6 to 6.5 per cent.

New bond listings on Mot in 1998 continued at the high level recorded the previous year. The ratio of listed bonds to the total stock of bonds in issue nonetheless declined slightly. In terms of the number of issues, structured bonds accounted for just over one third of all the bonds listed on Mot in 1998, whereas in terms of face value, they accounted for nearly half of the newly-listed securities. By contrast, the proportion of bonds issued by non-financial companies remained low, amounting to around 2 per cent in terms of total face value.

Supervision on the stock market and the derivatives markets

The supervision of the stock market with regard to transparency and orderly trading was based mainly on the analysis of cases of anomalous movements in prices and quantities unrelated to temporary imbalances on the trading book and hence presumably due to lack of information on facts concerning the situation of issuers. This activity was supplemented by the analysis of news published in the economic and financial press and the studies prepared by intermediaries.

Where there appeared to be insufficient diffusion of information, Consob promptly made contact with the listed companies involved to find out whether there were prospective facts or events that might justify anomalous movements in prices and quantities. On several occasions this led to requests to make information public by means of press communiqués and paid advertisements.

As regards the supervision of trading on Idem, special attention was paid to the monthly settlements of positions in derivatives and cases of suspected market manipulation investigated by verifying the regularity of trading on the markets for the derivatives and the underlying securities. The time needed to complete the investigations depended on the intermediary that concluded the suspect transactions. Where they were found to have been concluded by foreign intermediaries, Consob applied for help to the competent supervisory authorities of other countries under international cooperation agreements, which inevitably lengthened the process.

Consob's supervision of this derivatives market also included verifying the correctness of the formation of the prices of options on shares, especially as regards the differential between actual and theoretical prices of contracts. In particular, the activity included cross-checking the transactions of a given intermediary with those of other intermediaries, transactions carried out for own account with those for customer account, and the concentration of trading (by analyzing open positions).

VII. INSIDER TRADING AND MARKET MANIPULATION

Amendments to the law

Articles 180-187 of Legislative Decree 58/1998 confirmed the criminal nature of the penalties for insider trading and market manipulation involving financial instruments introduced into the Italian legal system by Law 157 of 17 May 1991. However important amendments were made to the specification of the persons to whom the provisions apply, the acts that are forbidden, the related penalties and the Consob's powers of investigation.

As regards insider trading, the main changes include the replacement of the prohibition to carry out securities transactions when in the possession of inside information with the prohibition to act on the basis of inside information and the stiffening of the penalties, with provision being made in the application of accessory penalties for the compulsory confiscation of the means, including financial resources, used to commit the offence and of the illegal gains.

As regards market manipulation, the main innovations include the addition of transactions or other behaviour likely to create the appearance of an active market as offences, the elimination of the offence referred to in Article 5.2 of Law 157/1991, which provided for the application of the penalties laid down in Article 501 of the Penal Code where the spreading of false, exaggerated or misleading information or the perpetration of sham transactions or other behaviour was intended to have a significant effect on prices or create the appearance of an active market, and the introduction of more severe penalties.

The results of Consob's investigations

In 1998 Consob concluded 36 investigations concerning insider trading and market manipulation, most of which were initiated after Consob's market supervision division had found anomalies (Table VII.1).

The outcome of 21 investigations was the transmission of a report to the judicial authorities indicating the existence of evidence supporting the suspicion of an offence. Compared with the previous year there was an increase in the number of investigations that were concluded in this way and a reduction in the number of cases that were closed at the end of the preliminary investigation.

Of the 21 reports transmitted to the judicial authorities 17 concerned suspected insider trading and 4 referred to episodes of suspected market manipulation involving financial instruments.

TABLE VII.1

RESULTS OF INVESTIGATIONS

	1996	1997	1998
REPORT TO THE JUDICIAL AUTHORITIES	9	19	21
CASE CLOSED AT THE END OF THE PRELIMINARY INVESTIGATION	--	18	3
CASE CLOSED AT THE END OF THE INVESTIGATION	12	15	12 ¹
<i>TOTAL</i>	<i>21</i>	<i>52</i>	<i>36</i>

¹ Of which 9 cases in which the investigation was closed before the entry into force of Legislative Decree 58/1998.

The inside information that gave rise to the majority of investigations concerned changes in the control of listed companies (13 out of 17 cases); in 3 cases the information concerned extraordinary financial transactions (corporate restructurings within the same group in 2 of these cases). By contrast, information on significant changes in a company's profitability, assets and liabilities or financial position were of marginal importance (Table VII.2).

The 4 reports on suspected market manipulation involving financial instruments referred to sham transactions and other behaviour intended to have a significant effect on the prices of listed instruments, except for one that referred to the spreading of false, exaggerated or misleading information.

TABLE VII.2

TYPES OF INSIDE INFORMATION

	1997	1998
CHANGE OF CONTROL - TENDER OFFERS	7	13
PROFITABILITY, ASSETS AND LIABILITIES AND FINANCIAL POSITION	4	1
OPERATIONS AFFECTING THE COMPANY'S CAPITAL - MERGERS - SPINOFFS	2	3
OTHER	3	--
<i>TOTAL</i>	<i>16</i>	<i>17</i>

The differences in the size and composition of the groups of persons involved in the two types of offence suggest some considerations.

As regards insider trading, the presence of an associative element appears to be confirmed both by the total number of persons identified and by the average number of persons involved in each of the suspected cases that were reported. In this respect it is worth noting the sizable number of persons belonging to the category of “other persons”, which is typically made up of tippees, i.e. persons who have received and exploited inside information from insiders.

The importance of the category of “institutional insiders” (shareholders, directors and managers of listed companies) appears consistent with the predominance among the types of inside information found in the suspected cases of insider trading of information on changes in the control of listed companies.

It is also worth noting the increase in recent years in the number of foreigners involved. In many cases they have been institutional investors (investment funds and insurance companies) playing an active role in the Italian share market and dealing with a small group of leading Italian intermediaries.

As regards market manipulation, the majority of persons identified in suspected cases were intermediaries (of which 7 were Italian and 2 foreign). This confirms the fact that this offence requires both technical know-how on the working of markets and a quantity of financial resources to which individuals are unlikely to have access.

TABLE VII.3

OUTCOMES OF THE REPORTS TO THE JUDICIAL AUTHORITIES

	1991-1997	1998
DISMISSAL	7	4
INDICTMENT	5	1
PLEA BARGAIN	2	1 ¹
CONVICTION	2	--
<i>TOTAL</i>	<i>16</i>	<i>6</i>

¹ In addition, in one ongoing trial involving several persons, one of the accused has negotiated a plea bargain.

Since 1991 Consob has transmitted a total of 58 reports to the judicial authorities. 37 are still being investigated, 11 have been dismissed (in some cases owing to the lapsing of the time limit) and in 6 cases charges have been brought. Four trials were concluded, two with a conviction and two with a plea bargain. In addition, a plea bargain was negotiated for one of the accused in an ongoing trial for violations of Article 2 of Law 157/1991 reported in 1997.

VIII. BROKER-DEALERS AND BANKS

Supervisory activity

First Legislative Decree 415/1996 and then Legislative Decree 58/1998 underscored the need for intermediaries to equip themselves with resources, organizational structures and procedures, including internal control mechanisms, able to ensure that their activity is based on principles of transparent and proper conduct and sound and prudent management.

On-site inspection of the reliability and efficacy of intermediaries' organizational and procedural arrangements has become of major importance in Consob's supervisory activity. Under the new law this is directed less to searching for single violations and more to identifying the causes of irregularities, such as structural and organizational weaknesses, inadequate procedures and the behaviour of individual employees.

TABLE VIII.1

ON-SITE INSPECTIONS

	1995	1996	1997	1998
<i>INSPECTIONS</i>				
DECIDED	34	41	16	24
STARTED	43	38	25	20
CONCLUDED	35	30	31	22
<i>PERSONS INSPECTED</i>				
SIMS (ITALIAN SECURITIES INVESTMENT FIRMS) ¹	14	28	12 ²	6
BANKS	23	7	5	9
STOCKBROKERS	6	3	6	3
INVESTMENT FUND MANAGEMENT COMPANIES	--	--	1	--
FINANCIAL SALESMEN	--	--	1	--
<i>TOTAL</i>	<i>43</i>	<i>38</i>	<i>25</i>	<i>18</i>

¹ Includes trust companies. ² Includes one Community investment firm.

Of the 24 inspections decided in 1998 (Table VIII.1), 16 were aimed at verifying the adequacy of the intermediary's organizational structure and procedures; likewise, 12 of the 18 inspections that were started at intermediaries during the year were aimed at verifying the adequacy of their organizational structure, procedures and internal control mechanisms. The intermediaries inspected comprised 6 SIMs, 9 banks and 3 stockbrokers.

Analysis of the supervisory returns submitted by intermediaries revealed a large increase last year in the use of derivative instruments.

TABLE VIII.2

COMPLAINTS BY RETAIL INVESTORS

	BANKS		SIMS ¹ AND STOCKBROKERS		TOTAL	
	1995-97	1998	1995-97	1998	1995-97	1998
DEALING AND RECEPTION OF ORDERS						
PRIOR INFORMATION ON FINANCIAL INSTRUMENTS	13	21	3	5	16	26
COMMISSIONS	25	5	2	0	27	5
INAPPROPRIATE TRANSACTIONS WITHOUT THE CUSTOMER'S PRIOR CONSENT	40	12	15	5	55	17
EXECUTION OF ORDERS	112	75	49	9	161	84
OTHER	41	15	70	18	111	33
PORTFOLIO MANAGEMENT						
FAILURE TO OBSERVE CONTRACTUAL PROVISIONS	13	32	50	25	63	57
UNSATISFACTORY RATES OF RETURN	26	13	28	8	54	21
OTHER	15	18	39	9	54	27
PLACEMENT						
ALLOTMENT OF QUANTITY BOOKED OR ORDERED	53	19	1	19	54	38
DISTANCE SELLING						
DESCRIPTION OF FEATURES OF PRODUCTS/SERVICES	3	7	23	2	26	9
EXECUTION OF INSTRUCTIONS	4	1	18	4	22	5
OTHER	4	12	13	3	17	15
<i>TOTAL</i>	<i>349</i>	<i>230</i>	<i>311</i>	<i>107</i>	<i>660</i>	<i>337</i>

¹ Includes trust companies.

The inspections carried out frequently revealed organizational structures that were inadequate for the use of such instruments and a lack of attention to the problem of internal controls. In general it was found that neither the intermediaries nor their customers were sufficiently aware of the risks inherent in transactions involving derivatives.

More specifically, at some intermediaries providing portfolio management services the inspections found a use of derivatives that was excessive in relation to the average amount of assets under management or even in violation of the terms of contracts. The derivatives business of some intermediaries authorized to provide the service of receiving and transmitting orders and bringing together investors was found to amount to the provision of individual portfolio management services. In addition, serious irregularities were found at numerous intermediaries in the management of customers' liquidity, the entry of margin payments in customers' accounts and the use of the related resources.

The supervision of intermediaries benefited from the complaints lodged by retail investors. In 1998 Consob received 337 complaints (Table VIII.2), which was more than half as many as it received in the three years 1995-97. Most of the complaints concerned banks (230), while the others referred to SIMs (91) and individual stockbrokers (16).

Some 77 per cent of the complaints with regard to dealing and reception of orders concerned banks. The main grounds cited were the failure to execute orders or mistakes in their execution and the inadequacy of the information provided on transactions. The shortcomings appear to have been mainly due to organizational and procedural inefficiencies caused by the ramified nature of banks' branch networks.

As regards portfolio management on an individual basis, investors complained mainly about failure to observe contractual provisions, delay in the execution of special instructions and unsatisfactory rates of return.

Precautionary measures and penalties

The provisions of Legislative Decree 415/1996 on precautionary measures and penalties have been transposed into the Consolidated Law on Financial Intermediation, which has also reformulated the penalties applicable to stockbrokers.

In 1998 the Commission suspended the governing bodies of a SIM as a matter of urgency under Article 31 of Legislative Decree 415/1996 (Table VIII.3). The suspension was followed by a proposal for the company's compulsory liquidation under Article 34 of the same decree. Consob also proposed that three SIMs be placed in special administration; two of the proposals were presented jointly with the Bank of Italy. All the measures proposed were subsequently ratified by the Ministry of the Treasury, the Budget and Economic planning.

TABLE VIII.3

PENALTIES AND PRECAUTIONARY MEASURES IMPOSED OR PROPOSED BY CONSOB

	SIMS			BANKS			STOCKBROKERS		
	1996	1997	1998	1996	1997	1998	1996	1997	1998
REPRIMAND	--	--	--	--	--	--	--	4	1
FINE	12	4	20	17	4	10	--	3	5
SUSPENSION	8	--	--	--	--	--	1	2	2
APPOINTMENT OF A SPECIAL ADMINISTRATOR	8	--	--	--	--	--	--	--	1
DELETION FROM THE REGISTER	2	--	--	--	--	--	--	--	1
EXCLUSION FROM THE STOCK EXCHANGE	--	--	--	--	--	--	2	4	1
SUSPENSION OF GOVERNING BODIES	1	3	1	--	--	--	--	--	--
SPECIAL ADMINISTRATION	2	3	3	--	--	--	--	--	--
COMPULSORY ADMINISTRATIVE LIQUIDATION	--	3	1	--	--	--	--	--	--

See the Methodological Notes.

The suspension ordered as a matter of urgency concerned a small intermediary that, without an adequate organization and despite the serious financial situation that developed and the substantial volume of legal disputes with customers, had continued to increase its transactions in derivatives on behalf of customers. In view of the declaration by the special administrator that the crisis was irreversible, Consob and the Bank of Italy proposed that the company be placed in compulsory administrative liquidation.

The proposals for special administration, all of which concerned smallish intermediaries, were based on information obtained through the application of the various supervisory instruments (findings of inspections, information gathered through monitoring and as a result of the convocation of corporate officers, and information transmitted by the Bank of Italy as a result of its own inspections). It is noteworthy that in all the cases mentioned the problems emerged in connection with the provision of services involving derivatives.

On the basis of the findings of an inspection, Consob also suspended a stockbroker from doing business for a period of sixty days and simultaneously appointed a special administrator under Article 201 of the Consolidated Law on Financial Intermediation.

During the year 35 proposals for penalties were submitted to the Ministry of the Treasury, the Budget and Economic Planning (Table VIII.3), of which 20 for SIMs, 10 for banks and 5 for stockbrokers. More specifically, the proposals for SIMs and banks involved 65 and 84 corporate officers, respectively. In addition, one proposed penalty involving two corporate officers was submitted under Article 40.1 of Legislative Decree 415/1996 (unauthorized use of the term "SIM" in the company name).

Supervision of registered salesmen of financial products

The measures adopted with respect to registered salesmen of financial products were the result of the analysis of reports by intermediaries and retail investors and of the findings coming from on-site inspections.

TABLE VIII.4

MEASURES CONCERNING REGISTERED SALESMEN OF FINANCIAL PRODUCTS

	1995	1996	1997	1998
<i>PENALTIES</i>				
REPRIMAND	1	--	8	11
DEBARMENT	34	22	39	86
SUSPENSION FROM THE REGISTER FOR A FIXED PERIOD	--	1	5	73
<i>PRECAUTIONARY MEASURES</i>				
SUSPENSION FROM DOING BUSINESS FOR A FIXED PERIOD ¹	53	48	64	76
SUSPENSION FROM DOING BUSINESS FOR AN INDEFINITE PERIOD ²	4	12	--	--
<i>TOTAL</i>	92	83	116	246

¹ The figure includes measures adopted under Article 45.4 of Legislative Decree 415/1996 and from 1 July 1998 onwards under Article 55.2 of Legislative Decree 58/1998. ² The figure includes measures adopted under the first part of Article 16.7 of Consob Regulation 5388/91 and subsequent amendments.

A total of 246 precautionary measures and penalties were imposed during the year, an increase of 112 per cent on 1997. The violations ascertained gave rise to 170 penalties (Table VIII.4), of which 11 reprimands and 73 suspensions from the register for a fixed period. In 86 cases where the violations were particularly serious, Consob struck the salesmen off the register.

The Commission also adopted 76 precautionary measures, suspending registered salesmen of financial products from doing business for two months. These measures were adopted in cases of serious irregularities in order to ensure prompt protection of both existing and potential customers.

The number of registered salesmen of financial products increased considerably in 1998 and totaled 33,063 at the end of the year, as against 27,994 at 31 December 1997; compared with earlier years, turnover among salesmen rose significantly to more than 17 per cent.

By contrast, the number of salesmen deleted from the register fell by 28.5 per cent, from 1,961 to 1,402. Last year 1,044 deletions were made at the request of the salesman concerned, while in 90 cases the deletions were ordered by Consob.

IX. JUDICIAL CONTROL

Disputes concerning supervisory measures

A total of 88 appeals were made in 1998 against measures adopted or proposed by Consob; of the appeals 58 were to administrative courts and 30 to ordinary courts.

TABLE IX.1

APPEALS AGAINST CONSOB MEASURES AND ADMINISTRATIVE SANCTIONS (SITUATION AT 31 DECEMBER 1998)

	ADMINISTRATIVE COURTS ¹			ORDINARY COURTS ²		
	1996	1997	1998	1996	1997	1998
GRANTED	2	--	--	--	--	--
REJECTED	4	--	3	3	2	3
UNDER WAY	27	26	55	--	--	27
OF WHICH:						
- SUSPENSION GRANTED	5	2	6	--	--	16
- SUSPENSION REJECTED	5	12	19	--	--	--
<i>TOTAL APPEALS</i>	<i>33</i>	<i>26</i>	<i>58</i>	<i>3</i>	<i>2</i>	<i>30</i>

Source: Consob. ¹ Regional Administrative Tribunals and the Council of State. ² Magistrate's courts and Courts of Appeal.

Table IX.1 shows not only the slowness of proceedings (of the 36 appeals made in 1996, no less than 27 are still being heard) but also the tendency for the ordinary courts (especially the magistrate's courts) to find in favour of applications for the suspension of the effects of the measures challenged.

The large increase of more than 200 per cent in the number of appeals was partly due to the more stringent supervision of financial salesmen, which led to a correspondingly large rise in the number of challenges they filed, from 11 to 62, of which 42 with administrative courts and 19 with magistrate's courts.

As for litigation initiated by securities intermediaries, 1998 was the first year to record a significant number of appeals against fines presented to Courts of Appeal by corporate officers of SIMs and banks; there were 10 such appeals involving 37 corporate officers. As for administrative disputes arising from the results of the supervision on auditing firms, two new appeals were presented, as in 1997.

TABLE IX.2

**SUSPECTED OFFENCES REPORTED
TO THE JUDICIAL AUTHORITIES¹**

VIOLATIONS OF	NUMBER OF SUSPECTED OFFENCES		
	1996	1997	1998
LAW 216/1974	148	92	1
PRESIDENTIAL DECREE 136/1975	1	--	--
LAW 77/1983	3	3	--
LAW 1/1991 OR LEGISLATIVE DECREE 415/1996 ²	28	36	9
LAW 15/1980	11	3	--
LEGISLATIVE DECREE 84/1992	1	--	--
LEGISLATIVE DECREE 86/1992	3	--	--
LEGISLATIVE DECREE 385/1993	2	3	--
CIVIL CODE	4	2	--
PENAL CODE	22	11	4
BANKRUPTCY LAW	2	--	--
DECREE LAW 429/1982	--	--	1
LEGISLATIVE DECREE 58/1998 ³	—	—	4
<i>TOTAL</i>	<i>225</i>	<i>150</i>	<i>19</i>

Source: Consob. ¹ Excludes suspected violations of Law 157/1991 and Legislative Decree 58/1998 for insider trading and market manipulation and suspected offences by financial salesmen. ² Law 1/1991 for suspected offences committed before 1 September 1996 and Legislative Decree 58/1998 for those committed between 1 September 1996 and 30 June 1998. ³ For suspected offences committed from 1 July 1998 onwards.

Reporting of suspected offences

Consob reported 156 suspected offences to the judicial authorities in 1998, of which 137 concerned financial salesmen and 19 referred to other persons (Table IX.2).

The reduction in the number of reports was due to the changes introduced by Legislative Decree 58/1998, which decriminalized numerous offences, as Consob had recommended on several occasions.

In contrast with earlier years, supervisory activity did not lead to the reporting of suspected offences against company law. As regards suspected offences against the provisions governing investment services, excluding the activity of financial salesmen, cases of unauthorized investment services activity declined from 28 in 1997 to 6 last year, cases of unauthorized door-to-door selling declined from 4 to 2 and the number of cases of commingling of assets increased from 2 to 5 (Table IX.3).

TABLE IX.3

**SUSPECTED INVESTMENT SERVICES OFFENCES
REPORTED TO THE JUDICIAL AUTHORITIES¹**

TYPE OF OFFENCE	1996	1997	1998
UNAUTHORIZED INVESTMENT SERVICES ACTIVITY	17	28	6
UNAUTHORIZED DOOR-TO-DOOR SELLING	11	4	2
BREACH OF DUTY	--	2	--
COMMINGLING OF ASSETS	--	2	5

Source: Consob. ¹ Excludes suspected offences by financial salesmen.

The number of suspected offences involving financial salesmen more than doubled, rising from 58 in 1997 to 137 last year. The increase was primarily due to the more stringent supervision of the category. Most of the reports concerned suspected violations of the Penal Code for misappropriation of funds or fraud and of the provisions of Legislative Decrees 415/1996 and 58/1998 on unauthorized individual portfolio management services.

X. INTERNATIONAL RELATIONS

International cooperation

In 1998 the Commission received 37 requests for cooperation from foreign authorities, in line with the number for 1997 (Table X.1). Most of the requests concerned the experience and integrity requirements for the corporate officers and shareholders of SIMs intending to set up branches abroad. There was a reduction, from six to three, in the number of requests concerning investigations into cases of insider trading and market manipulation, while requests concerning major holdings, which had been particularly common in 1997, fell to zero.

The number of requests for cooperation Consob sent to foreign authorities increased in 1998. Most of the requests concerned suspected cases of insider trading and market manipulation (19) and the verification of experience and integrity requirements (12). The information received from foreign authorities allowed the Commission to report two cases of suspected market manipulation to the judicial authorities.

TABLE X.1

INTERNATIONAL COOPERATION (REQUESTS FOR COOPERATION)

OBJECT OF THE REQUEST	FROM CONSOB TO FOREIGN AUTHORITIES			FROM FOREIGN AUTHORITIES TO CONSOB		
	1996	1997	1998	1996	1997	1998
INSIDER TRADING	33	11	17	5	5	2
MARKET MANIPULATION	1	4	2	--	1	1
UNAUTHORIZED SOLICITATION AND INVESTMENT SERVICES ACTIVITY	19	8	7	7	4	3
TRANSPARENCY AND DISCLOSURE REQUIREMENTS	1	2	--	2	2	1
SIGNIFICANT HOLDINGS IN LISTED COMPANIES OR AUTHORIZED INTERMEDIARIES	6	3	--	--	12	--
EXPERIENCE AND INTEGRITY REQUIREMENTS	3	3	12	14	15	30
<i>TOTAL</i>	<i>63</i>	<i>31</i>	<i>38</i>	<i>28</i>	<i>39</i>	<i>37</i>

An international comparison of Consob's powers

Any comparison of the powers of countries' supervisory authorities must take account of the fact that each authority operates within a different legal framework. The differences concern the scope of their powers (all or some of the sectors of the financial market), the classification of violations (as administrative or penal offences) and their legal status (government agency, independent authority or self-regulating body).

The present tendency appears to be to give securities sector regulatory authorities responsibility not only for verifying that the persons traditionally subject to supervision (intermediaries, issuers, auditors, etc.) comply with the relevant rules and regulations but also for preventing and repressing criminal offences in which investors are involved regardless of who commits them.

The scope of this role of prevention and repression, which began with the introduction into national law of provisions on insider trading and market manipulation, is increasing, with the addition of activities such as the provision of investment services by unauthorized persons, the unauthorized supply of financial instruments (including use of the Internet), and financial fraud in general.

Equally significant is the decision taken in some countries to give the supervisory authorities powers of intervention in controversies involving investors and the persons subject to supervision, sometimes as an independent arbiter to which the parties may appeal instead of turning to the courts and sometimes as a quasi-judicial authority which the law invests with the power to decide the compensation to be paid to investors for losses caused by an intermediary's violation of the law.

The table compares Consob's powers of investigation and enforcement with those of the SEC in the United States, the FSA in the United Kingdom and the COB in France.

In the first place, it can be seen that Consob's powers are less extensive than those of the other authorities considered. The differences can be discounted in the case of the SEC, which acts as an out-and-out financial judiciary in the US legal system with powers comparable to those of the criminal courts, and in that of the FSA, which operates in a country with a long tradition of financial regulation, but they are particularly significant in the case of the COB, which operates in a country whose administrative legal system, like Italy's, is rooted in the continental tradition.

The Consolidated Law on Financial Intermediation has undoubtedly increased Consob's powers of intervention where persons subject to its supervision violate statutory or regulatory provisions. In particular, under its powers of injunction it can order intermediaries to put an end to irregularities and prohibit them from carrying out transactions. These powers are in addition to those Consob already possessed with regard to prohibiting the solicitation of public savings and ordering the publication of news and documents investors need in order to be properly informed.

Box 4

POWERS OF INVESTIGATION AND ENFORCEMENT OF LEADING SUPERVISORY AUTHORITIES

POWER	CONSOB (ITALY)	SEC (USA)	FSA (UK)	COB (FRANCE)
TO SEIZE DOCUMENTS	NO	YES	YES	YES
TO CARRY OUT INSPECTIONS - PERSONS SUBJECT TO SUPERVISION	YES	YES	YES	YES
TO CARRY OUT INSPECTIONS - OTHER PERSONS	NO	YES	YES ¹	YES
TO REQUEST DATA AND NEWS AND TO HEAR - PERSONS SUBJECT TO SUPERVISION	YES	YES	YES	YES
TO REQUEST DATA AND NEWS AND TO HEAR - OTHER PERSONS	NO ²	YES	YES ¹	YES
TO FREEZE ASSETS	NO	YES	YES ³	YES ⁴
OF INJUNCTION AND INTERDICTION - PERSONS SUBJECT TO SUPERVISION	YES	YES ⁵	YES	YES
TO CONTROL ADVERTISING MATERIAL	YES ⁶	NO	YES	YES
TO IMPOSE SANCTIONS	NO ⁷	YES	YES ⁸	YES ⁸
TO SETTLE DISPUTES	NO	NO	YES ⁹	YES
TO INITIATE CIVIL ACTIONS	NO	NO	YES	YES

¹ The FSA may investigate any person suspected of having engaged in intermediation without due authorization, failed to observe the ban on employing persons deemed unsuitable by the FSA, hindered the FSA in the exercise of its investigative powers, failed to report the acquisition of equity interests in authorized intermediaries, provided false or misleading information to the FSA or to auditors. It may also investigate the representatives of persons authorized to provide investment services, companies linked by particular equity or associative interests to such persons and persons who have ceased to provide investment services. The latter, however, must be notified by the FSA that they are under investigation. ² Only for investigations involving insider trading and market manipulation. ³ In cases of unauthorized investment business activity and violation of conduct of business rules. ⁴ The COB may request the judicial authorities to freeze, as a matter of urgency, the assets of any person where there is a suspicion of investors having been defrauded. ⁵ The SEC may request federal courts to issue restraining orders and injunctions. ⁶ Exclusively for material concerning the solicitation of public savings. ⁷ Exclusively on financial salesmen. ⁸ Penalties are normally accompanied by reprimands and sometimes the disgorgement of ill-gotten gains is required. ⁹ The FSA may require persons subject to its supervision to pay sums of money to those who have suffered losses as a result of violations of statutory rules or regulations.

Consob is nonetheless still not able to exercise its powers of information monitoring and on-site inspection in the case of persons not subject to its supervision or, more importantly, to impose (or propose) measures such as the freezing of assets or the seizure of documents where insider trading, fraud or other criminal offences are suspected. As things stand today, and exclusively where there is a well-founded suspicion of unauthorized investment services or collective asset management activity, Consob may only report the facts to the public prosecutor with a view to the adoption of the measures provided for in Article 2409 of the Civil Code.

The majority of the requests for cooperation the Commission received and sent (31 and 33 respectively) concerned the authorities of EU member states.

During the year cooperation agreements were entered into with the Hungarian Banking and Capital Market Supervision Authority, and the Australian Securities and Investments Commission. To date, the Commission has signed a total of 17 memoranda of understanding and cooperation agreements.

Consob was unable to meet the cooperation requests received in full, owing to differences between its powers and those of the foreign authorities in question. Box 4 provides a summary comparison of Consob's powers with those of other regulatory authorities.

Participation in international forums

In addition to its contribution to the working of EU institutions, Consob participated last year in the activities of numerous international organizations - including the Wilton Park Conference on international cooperation organized by the UK Treasury and the meetings of financial derivatives markets regulatory authorities held at Boca Raton and Bürgenstock.

At IOSCO's annual conference in Nairobi, Consob was re-elected as a member of the Executive Committee - a position it has held without interruption since 1986.

The financial crises of 1998, the effects of which were amplified at the international level by the ever-increasing integration of markets, revealed the need for closer cooperation between the various countries and their respective regulatory authorities, in order to ensure more effective preventive supervision of intermediaries and reduce systemic risk.

The activity of highly-leveraged institutions (HLIs) and hedge funds has increased considerably in the last few years and shown the need for a better understanding of the risks to which the financial system is exposed by their dealings with and banks and financial intermediaries. The recent crisis of Long Term Capital Management (LTCM) highlighted problems with the systems used by financial intermediaries to manage and control the risks they take on in their business with HLIs, an issue to which IOSCO has devoted considerable attention.

In particular, the Technical Committee of IOSCO has set up a task force charged with verifying whether the principles IOSCO has developed for risk management, internal control mechanisms, settlement systems, disclosure and transparency can be applied to the dealings between HLIs and financial intermediaries. The task force has also been asked to coordinate the initiatives of the Technical Committee with those of the G7 and the Basle Committee.

It is worth mentioning the action taken by FESCO to harmonize the conduct of business rules for securities intermediaries as regards the experience and integrity requirements for corporate

officers and shareholders of investment firms and, above all, the signing in January 1999 of the “Multilateral Memorandum of Understanding on the Exchange of Information and the Surveillance of Securities Activities”. With this Memorandum, all the authorities belonging to FESCO undertook to maximize their mutual cooperation and assistance in order to strengthen supervision on insider trading and market manipulation; investment, advisory and custody services; markets (including the off-market trading of listed securities); and the information to be provided by listed issuers and offerors of financial instruments.

XI. CONSOB'S BUDGET

Total income amounted to 124.6 billion lire in 1998 (Table XI.1), of which 39 billion consisted of fee income (31.3 per cent of the total). The largest portion of fee income derived from financial salesmen (28.2 per cent), followed by that deriving from issuers (25.8 per cent).

TABLE XI.1

SUMMARY TABLE OF INCOME AND EXPENDITURE (BILLIONS OF LIRE)

	1996 ¹	1997 ¹	1998 ²
<i>INCOME</i>			
PRIOR-YEAR SURPLUS ³	6.9	8.5	32.4
STATE FUNDING	49.4	58.4 ⁴	50.0
OWN REVENUES:			
- APPLICATION FEES	4.2	2.5	2.6
- EXAM FEES	1.1	1.1	1.2
- SUPERVISION FEES	34.8	42.0	35.2
- SUNDRY REVENUES	2.4	4.6	3.2 ⁵
<i>TOTAL INCOME</i>	98.8	117.1	124.6
<i>EXPENDITURE</i>			
CURRENT EXPENDITURE:			
MEMBERS OF THE COMMISSION	2.0	2.4	2.9
STAFF	60.8	64.6	64.1
GOODS AND SERVICES	21.3	21.1	30.2
RENEWAL AND EXPANSION OF FIXED ASSETS ⁶	--	1.9	2.7
UNCLASSIFIED	3.5	2.9	1.9
<i>TOTAL CURRENT EXPENDITURE</i>	87.6	92.9	101.8
CAPITAL EXPENDITURE	5.5	1.0	22.8
<i>TOTAL EXPENDITURE</i>	93.1	93.9	124.6

¹ Outturn. ² Preliminary outturn. ³ The 1997 surplus is the difference between total income and total expenditure plus the differences arising in respect of expenditure carryovers; the latter are not shown in the table and amounted to 9.2 billion lire. The 1997 surplus is included in 1998 income. ⁴ The amount shown is net of the "revenue fund" referred to in Article 40 of Law 724/1994; pending its allocation, the 1.6 billion in question has been returned to the Ministry of the Treasury. ⁵ Interest income in respect of the presumed average balance on the interest-bearing current accounts referred to in Article 40 of Law 724/1994 and penalty interest in respect of late payment of fees. ⁶ This item was introduced to record the costs accruing during the year in respect of buildings and other assets used by Consob in performing its functions.

The increase in current expenditure compared with 1997 was largely due to purchases of goods and services, which rose from 21.1 to 30.2 billion lire. This reflected the rise in maintenance costs and the costs incurred for the preparation of restructuring plans for Consob's new premises in Milan.

At the beginning of 1999 the Commission approved the new fee schedule for the year (resolutions 11785/99 and 11786/99), as provided for in Article 40 of Law 724 of 23 December 1994, which introduced the new system for the financing of Consob. The Commission identified the activities to be charged for, the fees payable and the persons required to pay them.

In preparing the new schedule Consob took account of the fact that 1999 will be a year of transition, not least for the fee system. In fact, the drafting of the regulations implementing Legislative Decree 58/1998 is only now nearing completion and the new regime will only come fully into effect in the coming months.

In fixing the fees for 1999 it was therefore deemed desirable to retain those applicable in 1998 as far as possible and basically to make only the changes rendered necessary by the introduction of the Consolidated Law on Financial Intermediation and the consequent repeal of earlier provisions and attribution of new tasks to Consob. The only exception in this respect was the introduction of a trading fee.

APPENDIX

METHODOLOGICAL NOTES

N.B.

The symbols used in the tables in the Report and the Appendix have the following meanings:

- the observed value is nil;
- the phenomenon does not exist;
- ... the phenomenon exists but the data are not known;
- .. the data are below the significance threshold.

Rounding may cause the sum of the individual items to differ from the total shown.

OWNERSHIP OF LISTED COMPANIES

Tables II.1 and II.2

Consob's ownership transparency archive is based on the notifications referred to in Article 1/5 of Law 216/1974, and subsequently in Article 120 of Legislative Decree 58/1998, whereby persons who own more than 2 per cent of the capital of a company listed on the stock exchange or admitted to trading in the "mercato ristretto" and companies listed on the stock exchange or admitted to trading in the "mercato ristretto" that hold more than 10 per cent of the capital of a company that is not listed on the stock exchange or admitted to trading in the "mercato ristretto" or of a *società a responsabilità limitata* are required to notify the fact to the company and Consob. Subsequent variations in holdings must be notified within thirty days of the day on which the size of the increase or decrease exceeds half the percentage held or the holding falls below the percentage threshold. For the purposes of calculating the percentages referred to above, the capital of a company is taken to mean the subscribed capital represented by voting shares or capital parts.

The data do not cover cooperative banks (*banche popolari*) listed on the stock exchange or admitted to trading in the "mercato ristretto", which are subject to a 2 per cent limit on holdings, foreign companies listed on the stock exchange, which are not subject to the above-mentioned notification requirements, or companies for which a residual-acquisition tender offer is under way at the end of the year. "Market" refers to the average percentage held by persons not subject to the notification requirements.

Table II.3

The information on shareholder agreements is obtained from the notifications referred to in Article 122 of Legislative Decree 58/1998, whereby any agreement that limits or regulates participants' voting rights, creates obligations of consultation prior to the exercise of voting rights, imposes conditions on the transfer of shares, or provides for the concerted acquisition of shares must be notified to Consob within five days of its being concluded on pain of nullity.

PUBLIC OFFERINGS

Table III.1

The data are obtained from prospectuses and refer to companies' estimates of the ownership structure before and after offerings on the assumption that all the shares on offer are taken up. Where this is not the case, the data are adjusted on the basis of the actual take-up. In the event of shareholder agreements that give

control, the quantity of shares included under “Controlling shareholder” refers to all the shares held by the participants in the agreement and not just those covered by the agreement.

Table III.2

The data on the number of institutional investors and the pre- and post-offering percentages held are arithmetic means, calculated with reference exclusively to companies in which institutional investors were present before the offering.

The difference between the pre- and post-offering percentages does not correspond to the holdings disposed of by institutional investors since the post-offering percentages are diluted by the increases in capital effected at the time of listing.

INFORMATION ON LISTED ISSUERS

Table IV.1

Article 5 of Consob Regulation 5553/91 specified the information that issuers were required to make public with regard to facts and events that, if made public, would be likely to have a significant effect on the price of their listed securities.

AUDITING FIRMS

Table V.1

The figures only cover statutory audits in respect of engagements that were granted or renewed in the reference year and are calculated with reference to the fees agreed between the auditing firm and the audited company for the audit of the annual accounts on a solo and a consolidated basis.

Table V.2

The hourly fees shown are averages weighted on the basis of the hours worked by each of the four professional categories. They are thus the average hourly fees of the audit teams employed in each year.

REGULATED MARKETS

Table VI.1

The data refer to the Italian derivatives market (IDEM) and the Italian futures market (MIF). Trading in the Midex stock index futures contract began on 24 March 1998.

SECURITIES INTERMEDIARIES

Table VIII.3

The data include all the measures adopted with regard to each intermediary.

“Reprimand” refers to the penalty provided for in Article 7 of Law 157/1991 and to that, exclusively for stockbrokers, provided for in Article 22 of Law 402/1967.

The data for SIMs and banks refer to the proposals for the application of administrative sanctions and fines submitted to the Ministry of the Treasury and include proposals regarding corporate officers.

The suspension measures are those referred to in Article 13, paragraphs 1, 2, 3 and 4 of Law 1/1991 for SIMs and banks and those referred to in Article 22 of Law 402/1967 for stockbrokers.

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