Text updated with the amendments made by Law no. 162 of 28 October 2024. Changes are shown in bold print.

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LEGISLATIVE DECREE No. 58 OF 24 FEBRUARY 1998
Consolidated Law on Finance pursuant to Articles 8 and 21 of Law no. 52 of 6 February 1996[1]

1 Published in the Ordinary Supplement of O.J. no. 71 of 26.3.1998. Legislative Decree 58/1998 was subsequently amended by:

- Decree Law 351/2001, (ratified by Law 410/2001 (published in O.J. no. 274 of 24.11.2001);
- Legislative Decree 274/2003 (published in O.J. no. 233 of 7.10.2003);
- Law 326/2003 (published in O.J. no. 274 of 25.11.2003);
- Law 350/2003 (published in the O.J. of 24.11.2001);
- Legislative Decree 37/2004 (published in the Ordinary Supplement, O.J. no. 37 of 14.2.2004);
- Legislative Decree 170/2004 (published in O.J. no. 164 of 15.7.2004);
- Legislative Decree 197/2004 (published in O.J. no. 182 of 5.8.2004);
- Article 9 of Law 62/2005 (published in the Ordinary Supplement, O.J. no. 96 of 27.4.2005, Law 262/2005 (published in the Ordinary Supplement, O.J. no. 301 of 28.12.2005);
- Legislative Decree 303/2006 (published in Ordinary Supplement no. 5/L, O.J. no. 7 of 10.1.2007);
- Article 2 of Legislative Decree no. 297 of 27.12.2006, coordinated with Enactment Law no. 15 of 23.2.2007 (published in O.J. no. 46 of 24.2.2007);
- Article 10 of Law no. 13 of 6.2.2007 – 2006 Community Law (published in Ordinary Supplement no. 41/L, O.J. no. 40 of 17.2.2007);
- Article 2 of the Legislative Decree no. 32 of 2.2.2007 (published in O.J. no. 73 of 28.3.2007);
- Legislative Decree no. 51 of 28.3.2007 (published in O.J. no. 94 of 23.4.2007);
- Legislative Decree no. 164 of 17.9.2007 (published in Ordinary Supplement no. 200/L, O.J. no. 234 of 8.10.2007);
- Legislative Decree no. 195 of 6.11.2007 (published in Ordinary Supplement no. 228, O.J. no. 261 of 9.11.2007);
- Legislative Decree no. 229 of 19.11.2007 (published in O.J. no. 289 of 13.12.2007);
- Legislative Decree no. 173 of 3.11.2008 (published in O.J. no. 260 of 6.11.2008);
- Decree Law no. 185 of 29.11.2008 (published in Ordinary Supplement no. 263/L, O.J. no. 280 of 29.11.2008) co-ordinated with the conversion Law no. 2 of 28 January 2009 (published in Ordinary Supplement no. 14/L, O.J. no. 22 of 28.1.2009);
- Decree Law no. 5 of 10.2.2009 (published in O.J. no. 34 of 11.2.2009) co-ordinated with the conversion Law no. 33 of 9 April 2009 (published in Ordinary Supplement no. 49/L, O.J. no. 85 of 11.4.2009);
- Law 69/2009 (published in Ordinary Supplement no. 95/L, O.J. no. 140 of 19.6.2009);
- Legislative Decree no. 101 of 17.7.2009 (published in O.J. no. 178 of 3.8.2009);
- Legislative Decree no. 146 of 25.9.2009 (published in O.J. no. 246 of 22.10.2009);
- Legislative Decree no. 21 of 27.1.2010 (published in O.J. no. 44 of 23.2.2010);
- Legislative Decree no 27 of 27.1.2010 (published in Ordinary Supplement no. 43/L, O.J. no. 53 of 5.3.2010), the amendments made by Legislative Decree no. 27 of 27.1.2010 shall enter into force on 20 March 2010 unless otherwise envisaged in the final provisions of Article 7 of that Decree;
- Legislative Decree no. 39 of 27.1.2010 (published in Ordinary Supplement no. 58/L, O.J. no. 68 of 23.3.2010), the amendments made by Legislative Decree no. 39 of 27.1.2010 shall enter into force on 7 April 2010 unless otherwise envisaged in the final and transitional provisions of Article 43 of that Decree;
- Decree Law no 78 of 31.5.2010 (published in Ordinary Supplement no. 114/L, O.J. no. 125 of 31.5.2010), coordinated with conversion Law no. 122 of 30.7.2010 (published in Ordinary Supplement no. 174, O.J. no. 176 of 30.7.2010);
- Legislative Decree no. 104 of 2.7.2010 (published in Ordinary Supplement no. 148/L, O.J. no. 156 of 7.7.2010), the amendments introduced by Legislative Decree no. 104 of 2.7.2010 entered into force on 16.9.2010;

- Legislative Decree no. 141 of 13.8.2010 (published in Ordinary Supplement no. 212/L, O.J. no. 207 of 4.9.2010), the amendments introduced by Legislative Decree no. 141 of 13.8.2010 entered into force on 19.9.2010;
- Legislative Decree no. 176 of 5.10.2010 (published in O.J. no. 253 of 28.10.2010), the amendments introduced by Legislative Decree no. 176 of 5.10.2010 entered into force on 12.11.2010;
- Legislative Decree no. 224 of 29.11.2010 (published in O. J. no. 300 of 24.12.2010), the changes made from Legislative Decree no. 224 of 29.11.2010 are in force from 8.1.2011;
- Legislative Decree no. 239 of 30.12.2010 (published in O. J. no. 9 of 13.1.2011), the changes made from Legislative Decree no. 239 of 30.12.2010 are in force from the date on which it was published in the O. J.;
- Legislative Decree no. 259 of 30.12.2010 (published in O. J. no. 30 of 7.2.2011), the changes made from Legislative Decree no. 259 of 30.12.2010 are in force from 22.2.2011;
- Italian Law Decree no. 26 of 25.3.2011 (published in O. J. no. 70 of 26.3.2011) in force from 27.3.2011, converted with Italian Law no. 73 of 23.5.2011 (published in O. J. no. 120 of 25.5.2011);
- Legislative Decree no. 48 of 24.3.2011 (published in O. J. no. 92 of 21.4.2011) in force from 30.6.2011;
- Law no. 120 of 12 July 2011 (published in O.J. no. 174 of 28.7.2011) in force from 12.8.2011;
- Law no. 217 of 15 December 2011 (published in O.J. no. 1 of 2.1.2012) in force from 17.1.2012;
- Legislative Decree no. 47 of 16 April 2012 (published in O.S. no 86/L to O.J. no. 99 of 28.4.2012) in force from 13.5.2012;
- Legislative Decree no. 91 of 18 June 2012 (published in the O.J. no. 152 of 2.7.2012) in force from 17.7.2012, without prejudice to that established by the final provisions dictated by Article 5 of the said Decree;
- the decision of the Constitutional Court no. 162 of 27.6.2012 (published in the O.J., 1st Special Series, no. 27 of 4.7.2012);
- Legislative Decree no. 130 of 30 July 2012 (published in the O.J. no. 184 of 8.8.2012) in effect as from 23.8.2012;
- Legislative Decree no. 160 of 14 September 2012 (published in the O.J. no. 218 of 19.9.2012) in effect as from 3.10.2012;
- Legislative Decree no. 169 of 19.9.2012 (published in the O.J. no. 230 of 2.10.2012) in effect from 17.10.2012;
- Italian Decree Law no. 179 of 18.10.2012 (published in O.S. no. 194/L to O.J. no. 245 of 19.10.2012), in effect from 20.10.2012; coordinated with conversion Law no. 221 of 17.12.2012 (published in O.S. no. 208/L to O.J. no. 294 of 18.12.2012), in effect from 19.12.2012;
- Legislative Decree no. 184 of 11.10.2012 (published in O.J. no. 253 of 29.10.2012), in effect from 13.11.2012;
- Legislative Decree no. 69 of 21.6.2013, (published in the Ord. Suppl. no. 50 of O.J. no. 144 of 21.6.2013), in force from 22.6.2013, converted with amendments from Law no. 98 of 9.8.2013, (published in the Ord. Suppl. no. 63 of the O.J. no. 194 of 20.8.2013), in force from 21.8.2013;
- Law no. 97 of 6.8.2013 (published in O.J. no. 194 of 20.8.2013), in force from 4.9.2013, without prejudice to the rulings of the transitional provisions established by Article 89, paragraphs 3 and 4, of Regulation (EU) no. 648/2012 of the European Parliament and of the Council, of 4 July 2012;
- Legislative Decree no. 44 of 4.3.2014 (published in Official Journal no. 70 of 25.3.2014) in force as of 9.4.2014, without prejudice to the transitory provisions contemplated by Article 15 of the same Legislative Decree;
- Legislative Decree no. 53 of 4.3.2014 (published in Official Journal no. 76 of 1.4.2014) in force as of 16.4.2014;
- Constitutional Court Decision no. 94 of 9/15.4.2014 (O.J. 1a Special Series no. 18 of 23.4.2014);
- Legislative Decree no. 91 of 24.6.2014 (published in the O.J. no. 144 of 24.6.2014), in force since 25.6.2014 (see also notice of amendment in the O.J. no. 150 of 1.7.2014), coordinated with conversion Law no. 116 of 11.8.2014 (published in the Ord. Suppl. no. 72 of the O.J. no. 192 of 20.8.2014), in force from 21.8.2014;
- Law no. 161 of 30.10.2014 (published in the Ord. Suppl. no. 83/L of the O.J. no. 261 of 10.11.2014), in force from 25.11.2014;
- Decree Law no. 133 of 12.9.2014, (published in the O.J. no. 212 of 12.9.2014), in force since 13.9.2014 converted with amendments by Law no. 164 of 11.11. 2014, (published in the Ord. Suppl. no. 85 of the O.J. no. 262 of 11.11.2014), which has introduced Section 119-ter into Article 1 of Law 296 of 27.12. 2006, no. 296 (in the Ord. Suppl. no. 244 of the O.J. no. 299 of 27.12.2006);
- Law no. 161 of 30.10.2014 (published in the Ord. Suppl. no. 83/L of the O.J. no. 261 of 10.11.2014), in force since 25.11.2014;
- Decree Law no. 3 of 24.1.2015 (published in the O.J. no. 19 of 24.1.2015), in force since 25.1.2015, converted with amendments by Italian Law no. 33 of 24.3.2015 (published in Ordinary Supplement no. 15 of O.J. no. 70 of

25.3.2015), in force since 26.3.2015;

- Legislative Decree no. 66 of 7.5.2015 (published in Official Journal no. 116 of 21.5.2015) in force as of 5.6.2015;
- Legislative Decree no. 72 of 12.05.2015 (published in Official Journal no. 134 of 12.06.2015), in force since 27.06.2015, except as provided for by the transitional dispositions of Article 6 of the same decree Paragraph 1 of Legislative Decree no. 72 of 12.05.2015 provides that: "The regulations issued by the Minister of Economy and Finance pursuant to provisions repealed or amended by this decree shall continue to apply until the date of entry into force of the provisions issued by CONSOB and the Bank of Italy on the corresponding matters";
- Italian Law no. 208 of 28.12.2015 (published in the Ordinary Section no. 70 of the Official Journal no. 302 of 30.12.2015), in force since 1.1.2016;
- Legislative Decree no. 18 of 14.2.2016 (published in the Official Journal no. 37 of 15.2.2016), in force since 16.2.2016 converted with amendments by Italian Law no. 49 of 8.4.2016, (published in the Official Journal no. 87 of 14.4.2016);
- Legislative Decree no. 25 of 15.2.2016 (published in the Official Journal no. 52 of 3.3.2016), in force since 18.3.2016, without prejudice to the transitory provisions contemplated by Article 2 of the same decree;
- Legislative Decree no. 71 of 18.4.2016 (published in the Official Journal no. 117 of 20.5.2016), in force since 4.6.2016;
- Legislative Decree no. 176 of 12.8.2016 (published in the Official Journal no. 211 of 9.9.2016), in force as of 24.9.2016, without prejudice to the transitional provisions set out by Article 5 of the same Legislative Decree;
- Legislative Decree no. 224 of 14 November 2016 (published in the Official Journal no. 278 of 28 November 2016), the provisions of Legislative Decree no. 224 of 14 November 2016, in force since 13 December 2016, are applied as of the date of the application of Regulation (EU) no. 1286/2014;
- Law No. 232 of 11 December 2016 (published in S.O. no. 57/L at the O.J. no. 297 of 21.12.2016), in force since 1 January 2017;
- Legislative Decree no. 254 of 30.12.2016 (published in the Official Journal no. 7 of 10.01.2017), in force since 25.01.2017, without prejudice to the application of the provisions of Article 10 of the same Legislative Decree;
- Legislative decree no. 112 del 3.7.2017 (published in O.J. no. 167 of 19.7.2017), in force since 20.7.2017. Legislative decree no. 112 of 3.7.2017 established (with Article 18, subsection 9) that "The efficacy of the provisions of this article and article 16 are subject, pursuant to article 108, subsection 3, of the Treaty on the Functioning of the European Union, to the authorisation of the European Commission, required by the Ministry of Labour and social policy";
- Legislative decree no. 129 of 3.8.2017 (published in O.J. no. 198 of 25.8.2017), in force since 3.1.2018, except for what is specified in Article 10 of the same Legislative Decree; paragraph 2 of Article 10 of Legislative Decree no. 129 of 3.8.2017 requires: "The provisions of Legislative Decree no. 58 of February 24 1998, modified by this decree, 3 January 2018, except for what is specified differently by article 93 of the directive 2014/65/EU, with reference to article 65, section 2, of the same directive, the implementing orders of which have been applied since September 3 2019, and by article 55 of (EU)regulations no. 600/2014, and subsequent amendments, as well as by paragraph 3. Until the aforementioned date, the provisions in force the day before this Legislative Decree comes into effect shall be applied. The provisions of the European Union that are directly applicable are not affected, the provisions issued by the Bank of Italy and CONSOB, jointly or separately, pursuant to the provisions Legislative Decree no. 58, 24 February 1998 repealed or modified by this decree, continue to be applied until the provisions issued by the Bank of Italy or CONSOB come into effect. The Bank of Italy and CONSOB adopt these provisions within 180 days of the date this decree comes into effect. In order to guarantee the coordination of the exercising of the supervisory functions in their specific areas of responsibility, the memorandum of understanding stipulated by CONSOB and the Bank of Italy on October 31, 2007 pursuant to article 5, paragraph 5-bis, of Legislative Decree 24 February 1998, no. 58, in the text in force before this decree came into effect continue to apply, until the date it is revised. In order to ensure compliance with the implementing provisions, issued pursuant to regulations repealed or substituted by this decree, that continue to be applied, pursuant to the previous period, the Bank of Italy and CONSOB, in the transitory phase, will retain all the powers provided for in Legislative Decree no. 58 of February 24th 1998, no. 58 in force before the date this decree came into force";
- Decree Law no. 148 of 16.10.2017 (published in O.J. no. 242 of 16.10.2017), in force since 16.10.2017, converted with amendments by Italian Law no. 172 of 4.12.2017 (published in O.J. no. 284 of 5.12.2017);
- Legislative Decree no. 233 of 15.12.2017 (published in O.J. no. 36 of 13.2.2018), in force since 28.2.2018;
- Law no. 205 of 27.12. 2017 (2018 Budget Law, published in the O.S. no. 62 to the Official Journal no. 302 of 29.12.2017), in force since 1.1.2018;
- Legislative Decree no. 68 of 21.05.2018 (published in O.J. no. 138 of 16.6.2018), in force since 1.7.2018;
- Legislative Decree no. 95 of 20.7.2018 (published in the O.J. no. 185 of 10.8.2018), in force since 2.9.2018;
- Legislative Decree no. 107 of 10.8.2018 (published in O.J. no. 214 of 14.9.2018), in force since 29.9.2018;
- Decision of the Constitutional Court 25 October/5 December 2018, no. 223 (published in O.J., 1st special series -

Constitutional Court - no. 13 no. 49 of 12.12.2018), in force since 13.12.2018;

- Law no. 145 of 30.12.2018 (published in the Ordinary Supplement no. 62/L to the O.J. no. 302 of 31.12.2018), in force since 1.1.2019;
- Legislative Decree no.19 of 13.2.2019 (published in the O.J. no. 61 of 13.3.2019) in force since 28.3.2019;
- Decree Law no. 22 of 25.3.2019 (published in the O.J. no. 71 of 25.3.2019), in force since 26.3.2019, converted with amendments by Law no. 41 of 20.5.2019 (published in the O.J. no. 120 of 24.5.2019), in force since 25.5.2019;
- Decision no. 63 of the Constitutional Court - 20 February/21 March 2019, (published in O.J., 1st special series - Constitutional Court no. 13 of 27.3.2019);
- Decree Law no. 34 of 30 April 2019 (published in the O.J. No. 100 of 30.4.2019), in force since 1.5.2019, converted with modifications by Law no. 58 of 28.6.2019 (published in the Ordinary Supplement No. 26/L to the O.J. No. 151 of 6.29.2019);
- Law no. 37 of 3 May 2019 – European Law 2018 (published in O.J. no. 109 of 11.5.2019) in force since 26.5.2019;
- Decision no. 112 of the Constitutional Court – 6 March/10 May 2019, (published in O.J., 1st special series - Constitutional Court no. 20 of 15.5.2019);
- Legislative Decree no. 49 of 10.5.2019 (published in O.J. no. 134 of 10.6.2019), in force since 10.6.2019, for the transitional and final provisions see Article 7 of the same Legislative Decree.
- Decree Law no. 124 of 26/10/2019 (published in O.J. no. 252 of 26.10.2019), in force since 27.10.2019, converted with amendments into Italian Law no. 157 of 19.12.2019 (published in the O.J. no. 301 of 24.12.2019), in force since 25.12.2019;
- Following Consob resolution no. 21195 of 18.12.2019, with which the company Monte Titoli S.p.A. has been authorized to provide services as a central depository pursuant to Regulation (EU) no. 909/2014 of the European Parliament and of the Council of 23 July 2014, the ultraplication regime, established by Legislative Decree no. 176 of 12.8.2016, of certain prevailing provisions of the TUF, subject to repeal by the same decree;
- Legislative Decree no. 165 of 25.11.2019 (published in O.J. no. 6 of 9.1.2020), in force since 24.1.2020, for the final and transitional provisions, see Article 8 of the same Legislative Decree;
- Law no. 160 of 27.12.2019 (the 2020 Budget Law) in the text republished in O.J. no. 12 of 17.1.2020, in force since 1.1.2020;
- Legislative Decree no. 162 of 30.12.2019 (published in the O.J. no. 305 of 31.12.2019), in force since 31.12.2019, converted with modifications by L. no. 8 of 28.2.2020 (published in the Ordinary Supplement no. 10 to the O.J. no. 51 of 29.2.2020), in force since 1.3.2020;
- Decree Law no. 23 of 8.4.2020 (published in the O.J. no. 94 of 8.4.2020), in force since 9.4.2020, converted with modifications by Law no. 40 of 5.6.2020 (published in the O.J. no. 143 of 6.6.2020), in force since 7.6.2020;
- Decree Law no. 34 of 19.5.2020 (published in the Ordinary Supplement no. 21 to the O.J. no. 128 of 19.5.2020), in force since 19.5.2020, converted with modifications by Law no. 77 of 17.7.2020 (published in the Ordinary Supplement no. 25 to the O.J. no. 180 of 18.7.2020), in force since 19.7.2020;
- Legislative Decree no. 84 of 14.7.2020 (published in the ultraplication O.J. no. 190 of 30.7.2020), in force since 14.8.2020. Art 4 of Legislative Decree no. 84 of 14.7.2020 provides that: "1. Without prejudice to the provisions of article 7, Legislative Decree no. 49 of 10 May 2019, Article 2 shall apply to the infringements committed after the date of entry into force of this decree";
- Decree Law no. 76 of 16.7.2020 (published in the Ordinary Supplement no. 24 to the O.J. No. 178 of 16.7.2020), in force since 17.7.2020, converted with amendments by Law no. 120 of 11.9.2020 (published in the Ordinary Supplement no. 33 to the O.J. no. 228 of 14.9.2020), in force since 15.9.2020;
- Decree Law no. 104 of 14.8.2020 (published in the Ordinary Supplement no. 30 to the O.J. no. 203 of 14.8.2020), in force since 15.8.2020, converted with amendments by Law no. 126 of 13.10.2020 (published in the Ordinary Supplement no. 37 to the O.J. no. 253 of 13.10.2020), in force since 14.10.2020;
- Law no. 178 of 30.12.2020 (published in the Ordinary Supplement no. 46 to the O.J. no. 322 of 30.12.2020), in force since 1.1.2021;
- Legislative Decree no. 17 of 2.2.2021 (published in the O.J. no. 46 of 24.2.2021), in force since 11.3.2021;
- Decision no. 84 of the Constitutional Court - 13/30 April 2021 (published in O.J., 1st special series - Constitutional Court no. 18 of 5.5.2021);

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- Legislative Decree no. 182 of 8.11.2021 (published in the O.J. no. 284 of 29.11.2021), in force since 30.11.2021, for the transitional provisions, see Article 4 of the same Legislative Decree;
- Legislative Decree no. 191 of 5.11.2021 (published in the O.J. no. 285 of 30.11.2021), in force since 15.12.2021;
- Legislative Decree no. 193 of 8.11.2021 (published in the O.J. no. 285 of 30.11.2021), in force since 1.12.2021, for the transitional provisions, see Article 8 of the same Legislative Decree;
- Legislative Decree no. 201 of 5.11.2021 (published in the O.J. no. 286 of 1.12.2021), in force since 2.12.2021, for the transitional provisions, see Article 3 of the same Legislative Decree;
- Law no. 238 of 23.12.2021 (published in the O.J. no. 12 of 17.1.2022), in force since 1.2.2022;
- Decree Law no. 50 of 17.5.2022 (published in the O.J. no. 114 of 17.5.2022), in force since 18.5.2022, converted with amendments by Italian Law no. 91 of 15.7.2022 (published in the O.J. no. 164 of 15.7.2022), in force since 16.7.2022;
- Legislative Decree no. 113 of 2.8.2022 (published in the O.J. no. 184 of 8.8.2022), in force since 23.8.2022;
- Legislative Decree no. 131 of 3.8.2022 (published in the O.J. no. 205 of 2.9.2022), in force since 3.9.2022;
- Decree Law no. 25 of 17.3.2023 (published in the O.J. no. 65 of 17.3.2023), in force since 18.3.2023, converted with amendments by Italian Law no. 52 of 10.5.2023 (published in the O.J. no. 112 of 15.5.2023), in force since 16.5.2023;
- Legislative Decree no. 29 of 10.3.2023 (published in the O.J. no. 70 of 23.3.2023), in force since 7.4.2023;
- Legislative Decree no. 30 of 10.3.2023 (published in the O.J. no. 71 of 24.3.2023), in force since 8.4.2023;
- Legislative Decree no. 31 of 10.3.2023 (published in the O.J. no. 71 of 24.3.2023), in force since 8.4.2023;
- Legislative Decree no. 204 of 6.12.2023 (published in the O.J. no. 299 of 23.12.2023) in force since 24.12.2023;
- Legislative Decree no. 207 of 7.12.2023 (published in the O.J. no. 300 of 27.12.2023) in force since 11.1.2024;
- Legislative Decree no. 224 of 6.12.2023 (published in the O.J. no. 12 of 16.1.2024) in force since 31.1.2024;
- Law no. 21 of 5.3.2024 (published in the O.J. no. 60 of 12.3.2024), in force since 27.3.2024;
- Legislative Decree no. 125 of 6.9.2024 (published in the O.J. no. 212 of 10.9.2024) in force since 25.9.2024, except as provided in Articles 17 and 18 of the same decree;
- Law no. 162 of 28.10.2024 (published in the O.J. no. 261 of 7.11.2024), in force since 22.11.2024.

Article 190.2	Fines for the violation of the provisions of Regulation (EU) no. 909/2014
Article 190.3	Administrative sanctions related to the governing of markets
Article 190.4	Pecuniary administrative sanctions relative to the infringements of the provisions of (EU) regulation no. 600/2014, delegated deeds and provisions for the technical regulation and implementation of directive 2014/65/EU and of (EU) regulation no. 600/2014
Article 190.5	Pecuniary administrative sanctions related to credit rating agencies relating to infringements of provisions of (EC) regulation no. 1060/2009
Article 190-bis	Liability of corporate officers and staff for violations relating to the regulation of intermediaries, markets, centralised depositories, centralised management of financial instruments and of APA and ARM services
Article 190-bis.1	Administrative sanctions for breach of the provisions of Regulation (EU) 2016/11
Article 190-bis.2	Administrative sanctions for infringements of the provisions of Regulation (EU) 2017/2402
Article 190-ter	Other infringements regarding reserved activities (repealed)
Article 190-quater	Administrative sanctions related to crowdfunding services
Article 191	Public offering of underwriting and sale of financial products and admission to trading of securities
Article 191-bis	Additional sanctions
Article 191-ter	Public offering of underwriting and sale and admission to trading of open-end UCITS units or shares
Article 192	Takeover bids or exchange tender offerings
Article 192-bis	Fines regarding disclosures on corporate governance and policy on remuneration and fees paid
Article 192-ter	Admission to trading (repealed)
Article 192-quater	Obligation of abstention
Article 192-quinquies	Fines regarding transactions with related parties
Article 193	Fines regarding corporate disclosures and the duties of auditors, statutory auditors and auditing firms
Article 193-bis	Business dealings with foreign companies having their registered office in a country that does not ensure corporate transparency
Article 193-bis.1	Fines regarding the transparency of institutional investors, asset managers and proxy advisors
Article 193-ter	Fines for breach of the prescriptions of Regulation (EU) no. 236/2012
Article 193-quarter	Fines relative to breach of the provisions issued by Regulation (EU) no. 648/2012 of the European Parliament and of the Council, of 4 July 2012, by Regulation (EU) 2015/2365 of the European Parliament and of the Council, of 25 November 2015 and by Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020
Article 193-quinquies	Pecuniary administrative sanctions in the case of breach of the provisions of regulation (EU) no. 1286/2014
Article 193-sexies	Internal reporting systems
Article 194	Proxies
Article 194-bis	Criteria for determining sanctions
Article 194-ter	Pecuniary administrative sanctions for infringements of the provisions of Regulation (EU) no. 575/2013, the delegated acts and the regulatory and implementing technical standards of Directive 2013/36/EU and Regulation (EU) no 575/2013

PART I
COMMON PROVISIONS

Article 1
Definitions

1. In this legislative decree:

a) "Bankruptcy Law" shall mean Royal Decree no. 267 of 16 March 1942 and subsequent amendments;

b) "Consolidated Law on Banking" shall mean Legislative Decree no. 385 of 1 September 1993 and subsequent amendments;

c) "CONSOB" shall mean Commissione Nazionale per le Società e la Borsa (National Commission for Companies and the Stock Exchange);

c-bis) "COVIP" shall mean the Commissione di vigilanza sui fondi pensione (Supervisory Commission on Pension Funds)[2];

d) "IVASS": the Assurance Supervisory Institute[3];

d-bis) "ESFS": the European System of Financial Supervision comprising the following parts:

1) "EBA": European Banking Authority, established by Regulation (EU) No 1093/2010;

2) "EIOPA": European Insurance and Occupational Pensions Authority, established by Regulation (EU) No 1094/2010;

3) "ESMA": European Securities and Markets Authority, established by Regulation (EU) No 1095/2010;

4) "Joint Committee": the Joint Committee of the European supervisory authorities, envisaged by article 54 of Regulation (EU) No. 1093/2010, of Regulation (EU) No. 1094/2010, of Regulation (EU) No. 1095/2010;

5) "ESRB": European Systemic Risk Board, established by Regulation (EU) no. 1092/2010;

6) "Member State supervisory authorities": the competent authorities or supervisory authorities of Member States specified in the deeds of the Union pursuant to article 1, section 2 of Regulation (EU) no. 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) no. 1095/2010[4];

d-ter) "EU": the European Union[5];

d-ter.1) "Single Supervisory Mechanism (SSM)": the financial supervisory system comprised of the European Central Bank and the national competent authorities of the members states participating in it[6];

d-ter.2) "Single Resolution Mechanism (SRM)": the resolution system established in accordance with Regulation (EU) 806/2014, comprised of the Single Resolution Board and the national resolution authorities of the member states participating in it[7];

d-quater) "investment company": the company whose usual occupation or activity consists in providing one or more investment services to third parties and/or carrying out one or more investment activities professionally[8];

d-quinquies) "bank": the bank as defined by article 1, paragraph 1, letter b), of the consolidated banking law[9];

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2 Letter included by Article 1 of Legislative Decree no.19 of 13.2.2019.

3 Letter thus replaced by Article 1 of Legislative Decree no. 44 of 4.3.2014.

4 Letter included by Article 2 of Legislative Decree no. 130 dated 30.7.2012.

5 Letter included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

6 Letter included by Article 1 of Legislative Decree no. 201 dated 5.11.2021.

7 Letter included by Article 1 of Legislative Decree no. 201 dated 5.11.2021.

8 Letter included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

9 Letter included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

d-sexies) “European Union bank” or “EU bank”: the bank with its registered office and central administration in the same country of the European Union other than Italy[10];

e) “investment firm” (Sim): the investment company with the form of a legal person with its registered office and general management in Italy, other than banks and financial intermediaries on the register specified by article 106 of the consolidated banking law authorised to carry out investment services or activities[11];

e-bis) “Class-1 investment firm”: the above investment company that fulfils the requirements provided for by Article 4, paragraph 1, point 1), letter b) of Regulation (EU) no. 575/ 2013[12];

e-ter) “Class 1-minus investment firm”: the above investment company that fulfils the requirements provided for by Article 1, paragraph 2, letters a) or b), of Regulation (EU) no. 2019/2033, or the investment firm recipient of a decision of the competent authority in accordance with art 7-undecies, paragraphs 3 or 4[13];

f) “European Union investment company” or “EU investment company”: the investment company different from the bank authorised to carry out investment companies or activities with a registered office and general management in the same state of the European Union, other than Italy[14];

g) “Non-EU country company”: the company that does not have its registered office or general management in the European Union, the activity of which corresponds to that of an EU investment firm or of an EU bank that provides investment services or activities[15];

h) …omissis…[16];

i) "variable capital investment company" (SICAV): open-ended UCI constituted in the form of a joint stock company with variable capital with registered office and general management in Italy with the exclusive purpose of the collective investment of the assets obtained by the offer of its own shares and directly managing its own assets[17];

i.1) "variable capital investment company under outsourced management" (SICAV under outsourced management): open-ended UCI constituted in the form of a joint stock company with variable capital with registered office and general management in Italy with the exclusive purpose of the collective investment of the assets obtained by the offer of its own shares and appointing as external manager an assets management company or EU management company or EU AIFM according to the provisions of Article 38[18];

i-bis) "fixed capital investment company" (SICAF): closed-ended UCI constituted in the form of a joint stock company with fixed capital with registered office and general management in Italy with the exclusive purpose of the collective investment of the assets obtained by the offer of its own shares and other financial instruments of equity held by the same and directly managing its own assets[19];

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10 Letter included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

11 Letter first amended by Article 1 of Legislative Decree no. 164 dated 17.9.2007 and then thus replaced by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

12 Letter included by Article 1 of Legislative Decree no. 201 dated 5.11.2021.

13 Letter included by Article 1 of Legislative Decree no. 201 dated 5.11.2021.

14 Letter first amended by Article 1 of Legislative Decree no. 164 dated 17.9.2007 and then thus replaced by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

15 Letter first amended by Article 1 of Legislative Decree no. 164 dated 17.9.2007 and then thus replaced by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

16 Letter repealed by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

17 Letter first replaced by Article 1 of Legislative Decree no. 44 of 4.3.2014, and then thus amended by Article 16 of Law no. 21 of 5.3.2024, which, after the words: «own shares» added the words: «and directly managing its own assets».

18 Letter included by Article 16 of Law no. 21 of 5.3.2024.

19 Letter first included by Article 1 of Legislative Decree no. 44 of 4.3.2014, and then thus amended by Article 16 of

i-bis.1) "fixed capital investment company under outsourced management" (SICAF under outsourced management): closed-ended UCI constituted in the form of a joint stock company with fixed capital with registered office and general management in Italy with the exclusive purpose of the collective investment of the assets obtained by the offer of its own shares and other financial instruments of equity held by the same and appointing as external manager an assets management company or EU AIFM according to the provisions of Article 38[20];

i-ter) "staff": employees and those who, in any case, operate on the basis of relationships that determine inclusion in the corporate organization, even in a form other than an employment relationship[21];

i-quater) simple investment company (SiC): the Italian AIF (Alternative investment fund) set up in the form of a Sicaf meeting all the following conditions:

1) net equity financial assets not exceeding **€ 50 million**;

2) it has as its exclusive object the direct investment of the assets raised in not listed SMEs on regulated markets, with reference to Article 2 paragraph 1, letter f), first line, of Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 that are in the testing, establishment and start-up phase of the activity, as a derogation to Article 35-bis, paragraph 1, letter f);

3) does not resort to leveraging;

4) has a share capital at least equal to that provided for by Article 2327 of the Civil Code, as a derogation to Article 35-bis, paragraph 1, letter c)[22];

j) "investment fund": UCI constituted in the form of an enterprise with independent equity, divided into units, set up and managed by a fund manager[23];

k) "Undertaking for Collective Investment" (UCI): body set up to provide the service of the collective management of assets, the capital of which is obtained from multiple investors by the issue and offer of units or shares, managed upstream in the investors' interests and independently by the same and also invested in financial instruments, credit, including credit backed, in favour of subjects other than consumers, by the UCITS capital, equity or other fixed or non-fixed assets, on the basis of a predetermined investment policy[24];

k-bis) "Open-ended UCI": UCI the investors of which have the right to request redemption of the units or shares of the capital of the same, according to procedures and with the frequency contemplated by the regulation, by the articles of association and by the UCI offer documentation[25];

Law no. 21 of 5.3.2024, which, after the words: «own shares» added the words: «and directly managing its own assets».

20 Letter included by Article 16 of Law no. 21 of 5.3.2024.

21 Letter included by Article 4 of Legislative Decree no. 72 of 12.05.2015.

22 Letter already included by Article 27 of the Decree Law no. 34 of 30.4.2019, converted with modifications by Law no. 58 of 28.6.2019, subsequently amended by Article 16 of Law no. 21 of 5.3.2024, which, in the subsection, deleted the words: «which directly manages its own assets» and by Article 5 of Law no. 162 of 28.11.2024 which, in number 1), replaced the words: "€ 25 million" with the words: "€ 50 million".

23 Letter already amended by Article 5 of Italian Decree Law 351 of 25.9.2001, converted into Italian Law no. 410 of 23.11.2001 and then substituted first by Article 32, paragraph 1 of Italian Decree Law no. 78 of 31.5.2010, converted into Italian Law no. 122 of 30.7.2010 and lastly by Article 1 of Legislative Decree no. 44 of 4.3.2014.

24 Letter first replaced by Article 1 of Legislative Decree no. 44 of 4.3.2014 and then amended by Article 22, section 5 of Italian Decree Law no. 91 of 24.6.2014, converted with amendments by Italian Law no. 116 of 11.8.2014, which after the word: "credits" has introduced the words: ", included those issued from the capital of the UCITS" and by paragraph 1 of Article 17 Legislative Decree no. 18 of 14.2.2016, converted with amendments by Italian Law no. 49 of 8.4.2016, which, after the words: "included in those issued" has included the words: ", in favour of subjects other than consumers,". Law no. 296 of 27.12.2006, as amended by Decree Law no. 133 of 12.9.2014, converted with amendments by Law no. 164 of 11.11.2014, has ruled (with Article 1, Section 119-ter) that "The SIIQ are not collective investment bodies pursuant to Legislative Decree n° 58 of 24 February 1998".

25 Letter included by Article 1 of Legislative Decree no. 44 of 4.3.2014.

k-ter) "Closed-ended UCI": UCI other than open-ended UCIs[26];

l) "Italian UCIs": investment funds, SICAVs under outsourced management, SICAFs and SICAFs under outsourced management[27];

m) "Italian undertaking for the collective investment in transferable securities" (Italian UCITS): investment funds and SICAVs and SICAVs under outsourced management falling within the scope of the application of Directive 2009/65/EC[28];

m-bis) “Undertaking for the collective investment in EU transferable securities” (EU UCITS): UCIs falling within the scope of application of Directive 2009/65/EC, set up in an EU State other than Italy[29];

m-ter) “Italian alternative UCI” (Italian AIF): investment funds, SICAVs, SICAVs under outsourced management, SICAFs and SICAFs under outsourced management falling within the scope of application of Directive 2011/61/EU[30];

m-quater) “Italian reserved AIF”: Italian AIF, participation in which is reserved to professional investors and the investor categories indicated by the regulation referred to in article 39[31];

m-quinquies) “EU alternative UCI” (EU AIF): UCIs falling within the scope of application of Directive 2011/61/EC, set up in an EU State other than Italy[32];

m-sexies) “Non-EU alternative UCI” (non-EU AIF): UCIs falling within the scope of application of Directive 2011/61/EC, set up in a State not belonging to the EU[33];

m-septies) “European Venture Capital Fund” (EuVECA): UCI falling within the scope of application of Regulation (EU) no. 345/2013[34];

m-octies) “European Social Entrepreneurship Fund” (EuSEF): UCI falling within the scope of application of Regulation (EU) no. 346/2013[35];

m-octies.1) “European Long-Term Investment Funds” (ELTIF): UCI falling within the scope of application of Regulation (EU) no. 2015/760[36];

m-octies.2) “Money Market Funds” (MMF): UCI falling within the scope of application of

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26 Letter included by Article 1 of Legislative Decree no. 44 of 4.3.2014.

27 Letter first replaced by Article 1 of Legislative Decree no. 44 of 4.3.2014, and then thus amended by Article 16 of Law no. 21 of 5.3.2024, which replaced the words: «SICAVs and SICAFs» with the words: «SICAVs under outsourced management, SICAFs and SICAFs under outsourced management ».

28 Letter first replaced by Article 1 of Legislative Decree no. 44 of 4.3.2014, and then thus amended by Article 16 of Law no. 21 of 5.3.2024, which replaced the words: «and SICAVs» with the words: «, SICAVs and SICAVs under outsourced management».

29 Letter first included by Article 1 of Legislative Decree no. 47 of 16.4.2012 and subsequently thus replaced by Article 1 of Legislative Decree no. 44 of 4.3.2014.

30 Letter first included by Article 1 of Legislative Decree no. 47 of 16.4.2012, subsequently replaced by Article 1 of Legislative Decree no. 44 of 4.3.2014 and finally thus amended by Article 16 of Law no. 21 of 5.3.2024, which replaced the words: «and SICAFs» with the words: «, SICAVs under outsourced management, SICAFs and SICAFs under outsourced management».

31 Letter first included by Article 1 of Legislative Decree no. 47 of 16.4.2012 and subsequently thus replaced by Article 1 of Legislative Decree no. 44 of 4.3.2014.

32 Letter first included by Article 1 of Legislative Decree no. 47 of 16.4.2012 and subsequently thus replaced by Article 1 of Legislative Decree no. 44 of 4.3.2014.

33 Letter first included by Article 1 of Legislative Decree no. 47 of 16.4.2012 and subsequently thus replaced by Article 1 of Legislative Decree no. 44 of 4.3.2014.

34 Letter included by Article 1 of Legislative Decree no. 44 of 4.3.2014.

35 Letter included by Article 1 of Legislative Decree no. 44 of 4.3.2014.

36 Letter included by Article 1 of Legislative Decree no. 233 of 15.12.2017.

Regulation (EU) no. 2017/1131[37];

m-novies) “feeder UCI”: the UCI which invests its assets entirely or mainly in the master UCI[38];

m-decies) “master UCI”: the UCI in which one or more feeder UCIs invest all or most of their assets[39];

m-undecies) “professional clients or investors”: professional clients as contemplated by article 6, paragraphs 2-quinquies and 2-sexies[40];

m-undecies.1) "Business Angel": investors supporting innovation and having invested directly or indirectly a minimal amount of € 40,000 over the last three years [41].

m-duodecies) “retail clients or retail investors”: the clients or investors who are not professional clients or professional investors[42];

n) "collective asset management": the service which is carried out through the management of UCIs and of the relative risks[43];

o) "asset management company" (società di gestione del risparmio - SGR) shall mean a joint stock company having its registered office and head office in Italy authorised to provide the service of collective portfolio management;[44]

o-bis) "EU management company": company authorised pursuant to Directive 2009/65/EC in an EU State other than Italy, which practises the management of one or more UCITS[45];

p) "EU AIF manager" (AIFM): company authorised pursuant to Directive 2011/61/EU in an EU state other than Italy, which practises the management of one or more AIFs[46];

q) "non-EU AIF manager" (non-EU AIFM): company authorised pursuant to Directive 2011/61/EU with registered office in a state not belonging to the EU, which practises the management of one or more AIFs[47];

q-bis) "manager": asset management company, SICAV, SICAF, an EU management company, an EU AIFM, a non-EU AIFM, an EuVECA manager, an EuSEF manager, an ELTIF manager and a MMF manager[48];

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37 Letter included by Article 1 of Legislative Decree no. 17 of 2.2.2021.

38 Letter included by Article 1 of Legislative Decree no. 44 of 4.3.2014.

39 Letter included by Article 1 of Legislative Decree no. 44 of 4.3.2014.

40 Letter first included by Article 1 of Legislative Decree no. 44 dated 4.3.2014 and then thus amended by Article 1 of Legislative Decree no. 129 dated 3.8.2017 that before the words: “professional or” has included the words: « professional clients or».

41 Letter included by Article 1, paragraph 217 of Law no. 145 of 30.12.2018.

42 Letter first included by Article 1 of Legislative Decree no. 44 dated 4.3.2014 and then thus replaced by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

43 Letter already substituted by Article 2 of Legislative Decree no. 274 of 1.8.2003; then amended by Article 1 of Legislative Decree no. 47 of 16.4.2012 which introduced number 2-bis and lastly substituted again by Article 1 of Legislative Decree no. 44 of 4.3.2014.

44 Letter as amended by Article 2 of Legislative Decree 274/2003.

45 Letter first included by Article 2 of Legislative Decree no. 274 of 1.8.2003 and subsequently thus replaced by Article 1 of Legislative Decree no. 44 of 4.3.2014.

46 Letter first replaced by Article 2 of Legislative Decree no. 274 of 1.8.2003 and lastly by Article 1 of Legislative Decree no. 44 of 4.3.2014.

47 Letter first replaced by Article 2 of Legislative Decree no. 274 of 1.8.2003 and lastly by Article 1 of Legislative Decree no. 44 of 4.3.2014.

48 Letter first included by Article 1 of Legislative Decree no. 47 of 16.4.2012, subsequently replaced by Article 1 of Legislative Decree no. 44 of 4.3.2014, later amended by Article 1 of Legislative Decree no. 233 of 15.12.2017, which replaced the words “and an EuSEF manager” with the words “, an EuSEF manager and an ELTIF manager”, by Article 1 of Legislative Decree no. 17 of 2.2.2021, which replaced the words “and an ELTIF manager” with the words “, an

q-ter) "UCI custodian": the subject authorised in the country of origin of the UCI to undertake mandate as custodian[49];

q-quater) "master UCI custodian or feeder UCI custodian": the custodian of a master UCI or a feeder UCI or, if the master UCI or the feeder UCI is an EU or non-EU UCI, the subject authorised in the Home State to act as custodian[50];

q-quinquies) "UCI units and shares": the units of investment funds, the shares of SICAVs and SICAVs under outsourced management, the shares and other financial instruments held by SICAFs and SICAFs under oursourced management[51];

r) "qualified parties": investment firms, EU Investment companies with branch in Italy, non-EU country companies authorised in Italy, Sgrs, EU management companies with a branch in Italy, Sicavs, Sicafs, EU AIFM with branch in Italy, non-EU AIFMs authorised in Italy, non-EU AIFMs authorised in a company of the EU other than Italy with branch in Italy, as well as the financial intermediaries on the register specified in article 106 of the consolidated banking law, Italian banks and EU banks with branch in Italy authorised to provide investment services or activities[52];

r-bis) "Home Member State of the EU management company": the EU Member State where the EU management company has its registered office and general management[53];

r-ter) "Home Member State of the UCITS": EU Member State in which the UCITS was established[54];

r-ter.1) "benchmark": the index referred to in article 3, paragraph 1, point 3) of Regulation (EU) 2016/1011[55];

r-ter.2) "benchmark administrator": the natural or legal person referred to in article 3, paragraph 1, point 6), of Regulation (EU) 2016/1011[56];

r-quater) 'credit rating': an opinion on the credit rating of an entity, as defined by Article 3, paragraph 1, letter a) of Regulation (EC) No 1060/2009[57];

r-quinquies) 'credit ratings agency': a legal entity whose business includes issuing credit ratings on a professional level[58];

s) "services subject to mutual recognition" shall mean the activities and services listed in

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ELTIF manager and a MMF manager," and by Article 16 of Law no. 21 of 5.3.2024, which replaced the words: "and SICAF which directly manages its own capital" with the words: ", SICAF".

49 Letter first included by Article 1 of Legislative Decree no. 47 of 16.4.2012 and subsequently thus replaced by Article 1 of Legislative Decree no. 44 of 4.3.2014.

50 Letter first included by Article 1 of Legislative Decree no. 47 of 16.4.2012 and subsequently thus replaced by Article 1 of Legislative Decree no. 44 of 4.3.2014.

51 Letter first included by Article 1 of Legislative Decree no. 44 of 4.3.2014, subsequently replaced by Article 1 of Legislative Decree no. 129 of 3.8.2017 and finally thus replaced by Article 16 of Law no. 21 of 5.3.2024, which replaced the words: "SICAV shares and the shares and other financial instruments held by SICAFs" with the words: "the shares of SICAVs and SICAVs under outsourced management, the shares and other financial instruments held by SICAFs and SICAFs under oursourced management".

52 Letter first replaced by Article 2 of Legislative Decree no. 274 of 1.8.2003 and by Article 1 of Legislative Decree no. 164 of 17.9.2007; subsequently amended by Article 1 of Legislative Decree no. 47 of 16.4.2012; later replaced again by Article 1 of Legislative Decree no. 44 of 4.3.2014 and finally by Article 1 of Legislative Decree no. 129 of 3.8.2017.

53 Letter first introduced by Article 1 of Legislative Decree no. 47 of 16.4.2012 and subsequently thus amended by Article 1 of Legislative Decree no. 44 of 4.3.2014, which replaced the words: "harmonised management company" with the words: "EU management company".

54 Letter included by Article 1 of Legislative Decree no. 47 of 16.04.12.

55 Letter included by Article 1 of Legislative Decree no.19 of 13.2.2019.

56 Letter included by Article 1 of Legislative Decree no.19 of 13.2.2019.

57 Letter included by Article 1 of Legislative Decree no. 66 of 7.5.2015.

58 Letter included by Article 1 of Legislative Decree no. 66 of 7.5.2015.

sections A and B of Annex I to this decree, authorised in the home EU state of origin[59];

t) "public offering or investment incentive" shall mean every offer or incentive, invitation to offer or promotional message, in whatsoever form addressed to the public, whose objective is the sale or subscription of financial products including the allocation through authorised people; [60]

u) "financial products" shall mean financial instruments and every other form of investment of a financial nature; bank or postal deposits without the issue of financial instruments shall not constitute financial products; [61]

v) "public offer to buy or exchange" shall mean every offer, invitation to offer or promotional message, in whatsoever form effected, whose objective is the purchase or exchange of financial products, addressed to a number of persons and of a total amount greater than that indicated in the regulation pursuant to article 100, paragraph 3, paragraphs b) and c); an offering of securities issued by the central banks of EU Member States shall not constitute a mandatory takeover bid or exchange tender offering[62];

w) "listed issuers": the subjects, Italian or foreign, including trusts, which issue financial instruments listed on a regulated Italian market. In the case of deposit receipts admitted for trading on a regulated market, the term issuer refers to the issuer of the securities represented, even if such securities are not admitted for trading on a regulated market[63];

w-bis) "persons authorised to distribute insurance products": the insurance intermediaries registered in section d) of the Single Register of Insurance Intermediaries referred to in Article 109 of Italian Legislative Decree no. 209 of 2005, the entities of the European Union registered in the annexed list, referred to in article 116-quinquies, paragraph 5, of the Italian Legislative Decree no. 209 of 2005, such as banks, securities brokerage firms and investment firms, even when working with collaborators referred to in Section E of the Single Register of Insurance Intermediaries referred to in Article 109 of Legislative Decree no. 209 of 2005[64];

w-bis.1) **"**packaged retail investment and insurance product **"**or **"**PRIIP**"**: a product pursuant to article 4, number 3), of regulation (EU) no. 1286/2014[65];

w-bis.2) **"**packaged retail investment product **"**or **"**PRIP**"**: an investment pursuant to article 4, number 1), of regulation (EU) no. 1286/2014[66];

w-bis.3) **"**insurance investment product**"**: a product pursuant to article 4, number 2), of Regulation (EU) no. 1286/2014. This definition does not include: 1) non-life insurance products listed in Annex I of Directive 2009/138/EC; 2) life insurance contracts, where the contractual benefits are

59 Letter first replaced by Article 1 of Legislative Decree no. 164 of September 17, 2007 and then amended by Article 1 of Legislative Decree no. 129 of 3 August 2017 replacing the words "of the attached table" with the words: "of Annex I" and the words "Community State" in the words "EU State".

60 Paragraph modified by Article 3 of Legislative Decree no. 303 of 29.12.2006 and later substituted by Article 2 of Legislative Decree no. 51 of 28.3.2007

61 The wording: "bank or postal deposits without the issue of financial instruments shall not constitute financial products" has been added by Article 3 of Legislative Decree No.303 of 29.12.2006.

62 Paragraph first amended by Article 1 Legislative Decree no. 229 of 19.11.2007, which replaced the words: "greater than that indicated in the regulation pursuant to article 100, and of a total amount greater than that indicated in said regulation;" with the words "and of a total amount greater than that indicated in the regulation pursuant to article 100, paragraph 1, paragraphs b) and c); an offering of securities issued by the central banks of EU Member States shall not constitute a mandatory takeover bid or exchange tender offering;" then by Article 5 of Legislative Decree no. 191 of 5.11.2021, which replaced the words "paragraph 1" with the words: "paragraph 3".

63 Letter thus replaced by Article 1 of Legislative Decree no. 25 of 15.2.2016.

64 Letter first added by Article 3 of Legislative Decree no. 303 of 29.12.2006, and then replaced by Article 2 of Legislative Decree no. 68 of 21.5.2018.

65 Letter included by article 1 of Legislative Decree no. 224 of 14 November 2016.

66 Letter included by article 1 of Legislative Decree no. 224 of 14 November 2016.

only payable in the event of death or incapacity due to injury, disease or disability; 3) pension products which, under national Italian law, are recognised as having the primary purpose of providing the investor an income in retirement and which allows the investor to enjoy certain benefits, 4) officially recognised corporate or professional pension schemes falling under the scope of Directive 2003/41/EC or Directive 2009/138/EC, 5) individual pension products for which national Italian law requires a financial contribution from employers and in which the worker or employer cannot choose the pension provider or product[67];

w-bis.4) **"**developer of packaged retail investment and insurance products **"**or **"**PRIIP developer**"**: an entity referred to in article 4, number 4), of Regulation (EU) no. 1286/2014[68];

w-bis.5) **"**a PRIIP vendor**"**: an entity referred to under article 4, number 5), of regulation (EU) no. 1286/2014[69];

w-bis.6) **"**PRIIP retail investor**"**: a customer pursuant to article 4, number 6), of regulation (EU) no. 1286/2014[70].

w-bis.7) administers the activity of a regulated market and may coincide with said regulated market[71];

w-ter) "regulated market": multilateral facility administered and/or managed by a market operator, that permits or facilitates the meeting within it and on the basis of its non-descretional rules, of the multiple buying and selling interests of third parties relative to financial instruments, in such a way as to give rise to contracts relative to financial instruments admitted to trading in conformance with its rules and/or systems and that is authorised and functions regularly and in conformance with part III[72];

w-quater) "listed issuers with Italy as home member state":

1) the issuers with shares admitted to trading on Italian regulated markets or of another Member State of the European Union, with registered office in Italy[73];

2) issuers of debt securities with a nominal unit value of less than Euro one thousand, or corresponding value in a different currency, admitted to trading on Italian regulated markets or those of another Member State member of the European Union, with registered office in Italy[74];

3) the issuers of securities referred to under numbers 1) and 2), with registered office in a country not belonging to the European Union, which have chosen Italy as Member State of origin from the Member States in which their securities are admitted for trading on a regulated market. The

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67 Letter first included by Article 1 of the Legislative Decree no. 224 of 14.11.2016 and then amended by Article 2 of Legislative Decree no. 68 of 21.5.2018 which replaced the words: «Regulation (EU) no. 1286/2014;» with the words: «Regulation (EU) no. 1286/2014. This definition does not include: 1) non-life insurance products listed in Annex I of Directive 2009/138/EC; 2) life insurance contracts, where the contractual benefits are only payable in the event of death or incapacity due to injury, disease or disability; 3) pension products which, under national Italian Law, are recognised as having the primary purpose of providing the investor an income in retirement and which allows the investor to enjoy certain benefits, 4) officially recognised corporate or professional pension schemes falling under the scope of Directive 2003/41/EC or Directive 2009/138/EC, 5) individual pension products for which national Italian Law requires a financial contribution from employers and in which the worker or employer cannot choose the pension provider or product;».

68 Letter included by article 1 of Legislative Decree no. 224 of 14 November 2016.

69 Letter included by article 1 of Legislative Decree no. 224 of 14 November 2016.

70 Letter included by article 1 of Legislative Decree no. 224 of 14 November 2016.

71 Letter included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

72 Letter formerly added by Article 2 of Legislative Decree no. 51 dated 28.3.2007 and then replaced first by Article 1 of Legislative Decree no. 164 dated 17.9.2007 and then by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

73 Number thus amended by Article 1 of Legislative Decree no. 25 of 15.2.2016 which has replaced the word: "the" with the word: "the" and the words: "of the European Community, with head office in Italy" with the words: "of the European Union, with registered office in Italy"

74 Number thus amended by Article 1 of Legislative Decree no. 25 of 15.2.2016 which replaced the words: "of the European Community, with head office in Italy" with the words: "of the European Union, with registered office in Italy".

choice of the Member State of origin remains valid unless the issuer has chosen a new Member State of origin pursuant to number 5) and has communicated this choice[75];

4) issuers of securities other than those indicated under points 1) and 2), with registered office in Italy or whose securities are admitted to trading on an Italian regulated market and who have adopted Italy as the home Member State. The issuer may choose one Member State only as the home member state. The decision shall remain valid for at least three years, unless the issuer's securities are no longer admitted to trading on any market of the European Union, or unless the issuer, in the three-year term, is included in the issuers referred to under numbers 1), 2), 3) and 4-bis), of this letter[76];

4-bis) the issuers referred to under numbers 3) and 4) whose securities are no longer admitted for trading on a regulated market of the Member State of origin, but which are admitted for trading on an Italian regulated market or that of other Member States and, if necessary, with registered office in Italy or which has chosen Italy as a new Member State of origin[77/78];

w-quater.1) "SME": without prejudice to what is contemplated by other legal provisions, small and medium-sized enterprises, issuing listed shares with a market capitalization of less than 1 billion euros. Issuers of listed shares that have exceeded this limit for three consecutive years are not considered SMEs. Consob establishes by regulation the implementation provisions of this letter, including the disclosure methods to which these issuers are required in relation to the purchase or the loss of the SME qualification. Consob publishes the list of SMEs through its website[79];

w-quinquies) "central counterparties": the subjects indicated in article 2, point 1), of Regulation (EU) no. 648/2012 of the European Parliament and of the Council, of 4 July 2012, concerning OTC derivative instruments, central counterparties and the recorded data on the transactions[80].

w-sexies) “recovery provisions”: the provisions which provide for:

1) the extraordinary administration, and the measures adopted within the sphere of the same;

2) the measures adopted pursuant to article 60-bis.4;

3) the measures, equivalent to those indicated under points 1 and 2, adopted by authorities of other states in the European Union[81].

w-septies) “central securities depositories or central depositories": the subjects indicated in Article 2, sub-section 1, point 1), of Regulation (EU) no. 909/2014 of the European Parliament and of the Council, of 23 July 2014, concerning the improvement of the regulation of securities in the

75 Number thus replaced by Article 1 of Legislative Decree no. 25 of 15.2.2016.

76 Number thus replaced by Article 1 of Legislative Decree no. 25 of 15.2.2016 which has replaced the words: "with head office" with the words: "with registered office", in the second sentence has suppressed the words: "as Member State" and, in the third sentence, has replaced the words: "of the European Community" with the words: "of the European Union, or unless the issuer, in the three-year term, is included in the issuers referred to under numbers 1), 2), 3) and 4-bis), of this letter".

77 Number added by Article 1 of Legislative Decree no. 25 of 15.2.2016.

78 Letter first included by Article 1 of Legislative Decree no. 195 of 6.11.2007 and subsequently amended by Article 1 of Legislative Decree no. 25 of 15.2.2016, in the terms indicated in the preceding notes.

79 Letter first included by Article no. 20 of Law Decree no. 91 of 24.6.2014, converted with amendments by Law no. 116 of 11.8.2014, subsequently replaced by Article no. 1 of Legislative Decree no. 25 of 15.2.2016, amended by Article no. 44-bis of the Law Decree no. 76 of 16.7.2020, coordinated with the Conversion Law no. 120 of 11.9.2020, which deleted the words: «whose turnover, even before the admission to trading of their shares, is less than 300 million euros, or», replaced the words: «both of the aforementioned limits» with the words: «this limit» and deleted the words: «based on the information provided by the issuers» and finally thus amended by Article 1 of Law no. 21 of 5.3.2024, which replaced the words: “500 million euros” with the words: “1 billion euros”.

80 Letter added by Article 33 of Law no. 97 of 6.8.2013.

81 First letter added by Article 2 of Legislative Decree no. 181 of 16.11.2015 then amended by Article 1 of Legislative Decree no. 129 of 3 August 2017 which, at number 3) replaced the words "Community States" with the words "States of the European Union".

European Union and central depositories of securities[82].
1-bis. “transferable securities” are categories of security that can be traded in capital markets, such as for example:

a) company shares and other titles equivalent to company shares, of partnership or of other parties and share deposit receipts;

b) bonds and other debt titles including the deposit receipts relative to said shares;

c) any other transferable security that permits buying or selling transferable securities indicated in letters a) and b) or that involve spot settlement determined with reference to transferable securities, foreign exchange, interest rates or rates of return, commodities or other indices or measurements[83].

1-bis.1. " Make-whole clause" shall mean a clause that aims to protect the investor by ensuring that, in the event of an early redemption of a bond, the issuer is required to pay the investor holding the bond an amount equal to the sum of the net present value of the remaining coupon payments expected until maturity and the principal amount of the bond to be redeemed84.

1-ter. “Money market instruments” shall mean categories of instruments normally negotiated on the money market, such as Treasury bonds, certificates of deposit and commercial bills[85].

1-quater. “deposit receipts” mean titles that can be traded on the capital market, representing the ownership of the securities of a non-domiciled issuer, admissible to trading on a regulated market and traded independently of the securities of the non-domiciled issuer[86].

2. “Financial instrument” means any instrument listed in Section C of Annex I, including instruments issued using distributed ledger technology. The payment instruments are not financial instruments[87].

2-bis. The Minister of Economy and Finance through the regulation referred to in article 18, paragraph 5, can establish:

a) other derivative contracts referred to in point 7, Section C, of Annex I with the characteristics of other derivative financial instruments;

b) the other derivative contracts referred to in point 10, Section C, of the Annex I with the characteristics of other derivative financial instruments, traded in a regulated market, in a multilateral trading facility or in an organised trading facility[88].

2-ter. In this legislative decree the following applies:

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82 Letter first added by Article 1 of Legislative Decree no. 176 of 12.8.2016 and then amended by Article 1 of Legislative Decree no. 129 dated 3 August 2017 replacing the definition of "central securities depositories" with the definition: " central securities depositories or central depositories ".

83 Paragraph first included by Article 1 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

84 Paragraph included by Article 1 Legislative Decree no. 31 of 10.3.2023.

85 Paragraph included by Article 1 Legislative Decree no. 164 of 17.09.2007

86 Paragraph first included by art.1 of Legislative Decree no. 129 dated 3.8.2017 and then thus substituted by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

87 Paragraph already replaced by Article 1 of Legislative Decree no. 164 of 17.9.2007 and by art. 1 of Legislative Decree no. 129 of 3.8.2017, subsequently amended by Article 31 of the Decree Law no. 25 of 17.3.2023, converted with amendments by Italian Law no. 52 of 10.5.2023, which after the words "Annex I" added the words: ", including instruments issued using distributed ledger technology".

88 Paragraph first included by Article 1 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 1 of Legislative Decree no. 129 dated 3.8.2017. See decree of the Minister of Economy and Finance no. 44 dated 2.3.2007 (published in the O.J. no. 81 dated 6.4.2007).

a) “derivative instruments” mean financial instruments mentioned in Annex I, Section C, points from 4 to 10, as well as the financial instruments provided for in paragraph 1-bis, letter c);

b) “derivatives on commodities” are financial instruments referring to commodities or underlying activities referred to in Annex I, Section C, points 5), 6), 7) and 10), as well as the financial instruments specified in paragraph 1-bis, letter c), when they refer to commodities or underlying activities mentioned in Annex I, Section C, point 10);

c) “derivative contracts on C6 energy products” mean option contracts, standardized forward contracts, swaps and all the other derivative contracts concerning coal or petrol mentioned in Section C, point 6, of Annex I that are traded in an organised trading facility and must be regulated with physical delivery of the underlying[89].

3. …omissis… [90]

4. …omissis… [91]

5. "Investment services and activities" shall mean the following activities where they concern financial instruments:

a) trading for own account;

b) execution of orders for clients[92];

c) underwriting and/or placement based on an irrevocable commitment towards the issuer[93];

c-bis) placement without irrevocable commitment to issuers[94]

d) portfolio management;

e) reception and transmission of orders;

f) investment consultancy[95];

g) management of multilateral trading facilities.

g-bis) management of organised trading facilities[96].

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89 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

90 Paragraph first substituted by Article 1 of Legislative Decree no. 164 dated 17.9.2007 and then repealed by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

91 Paragraph first substituted by Article 9 of Legislative Decree no. 141 dated 13.8.2010 and then repealed by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

92 Paragraph 9 of Article 10 Legislative Decree no. 129 dated 3.8.2017 requires: “Starting on January 3 2018, the authorisation issued for the provision of the placement service without spot settlement, nor standing surety for the issuer, is intended to refer to the service specified in article 1, paragraph 5-bis, Letter c), of Legislative Decree no. 58 of February 24, 1998”.

93 Paragraph 8 of Article 10 of Legislative Decree no. 129 dated 3.8.2017 requires: “Starting on January 3 2018, the authorisation issued for the provision of the subscription and/or placement service with spot settlement, or with standing surety for the issuer, is intended to refer to the service specified in article 1, paragraph 5, Letter c), of Legislative Decree no. 58 of February 24, 1998”.

94 Paragraph 9 of Article 10 Legislative Decree no. 129 dated 3.8.2017 requires: “Starting on January 3 2018, the authorisation issued for the provision of the placement service without spot settlement, nor standing surety for the issuer, is intended to refer to the service specified in article 1, paragraph 5-bis, Letter c), of Legislative Decree no. 58 of February 24, 1998”.

95 Paragraph 5 of Article 10 of Legislative Decree no. 129 dated 3.8.2017 requires: “From the date the single register of financial advisors established by pursuant to paragraph 3 becomes operative, the reserving of activities referred to in article 18 of Legislative Decree no. 24 February 1998, no. 58 does not prejudice the possibility for parities who, up to the date of October 31 2007, have provided investment consultancy services to continue to provide the service referred to in article 1, paragraph 5, letter f), of the aforementioned Legislative Decree, without holding sums of money or financial instruments pertaining to the client”.

96 Paragraph first substituted by Article 1 of Legislative Decree no. 164 dated 17.9.2007 and then thus amended by

5-bis. "Trading on own account" is intended as buying and selling financial instruments, directly[97].

5-bis.1. “Multilateral facility” is taken to mean a system that allows the interaction between third party buying and selling relative to financial instruments[98].

5-ter. “Systematic internaliser” is taken to mean the investment company that trades outside a regulated market, a multilateral trading facility or an organised trading facility in an organised, frequent, systematic and substantial way on own account filling the orders of the clients without managing a multilateral facility. The frequent and systematic mode is measured by the number of trades of list (OTC) on financial instruments performed on own account filling the orders of the clients. The substantial mode is measured by the size of the OTC trading affected by the party on a specific financial instrument in relation to the total of trades carried out on the financial instrument by the said party or inside the European Union[99].

5-quater. “Market maker” means a person who, within the trading venues and/or outside them, on an ongoing basis presents him or self as prepared to trade on own account buying and selling financial instruments directly at prices defined by the same[100].

5-quinquies. “Portfolio management” shall mean the management, on a discretional and individual basis, of portfolio investments which include one or more financial instruments and according to mandate conferred by customers[101].

5-sexies. The service pursuant to paragraph 5, paragraph e), including the receipt and transmission of orders as well as consistent activities to place two or more investors in contact, thereby making it possible to conclude transactions by mediation[102].

5-septies. “Investment consultancy” is meant as the provision of recommendations tailored to a client following a request or on the initiative of the provider of the service, concerning one or more transactions relative to financial instruments[103].

5-septies.1. “Filling of orders for clients” is meant as the conclusion of agreements for the purchase or sale of one or m more financial instruments on behalf of clients, including the conclusion of agreements for the subscription or sale of financial instruments issued by an investment company or

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Article 1 of Legislative Decree no. 129 dated 3.8.2017 that replaced letter c); to letter c-bis); has substituted the words: «spot settlement nor standing surety » with the words: « irrevocable commitment» and included letter g-bis).

97 Paragraph first included by Article 1 of Legislative Decree no. 164 dated 17.9.2007 and then thus amended by Article 1 of Legislative Decree no. 129 dated 3.8.2017 that suppressed the words: «and in relation to orders of the customers, as well as the activity of market maker».

98 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

99 Paragraph first included by Article 1 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

100 Paragraph first included by Article 1 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

101 Paragraph included by Article 1 Legislative Decree no. 164 of 17.09.2007

102 Paragraph included by Article 1 Legislative Decree no. 164 of 17.09.2007

103 Paragraph first included by Article 1 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

a bank at the time of their issue[104].

5-septies.2. "Associate agent" means the natural or legal person who, under the full and unconditional responsibility of a single investment company for whom he/she/it works, promotes investment services and/or additional services at the clients' or potential clients' premises, receives and transmits instructions or clients' orders regarding investment services or financial instruments, places financial instruments or provides consultancy to clients or potential clients with regard to said instruments or financial services[105].

5-septies.3. "Financial consultant authorised to make door-to-door sales" means the natural person in the appropriate section of the register required under article 31, paragraph 4, of this decree that, in the capacity of an associated agent, professionally makes door-to-door sales as an employee, agent or principal[106].

5-octies. In this legislative decree the following definitions are intended:

a) "multilateral trading facility": a multilateral facility managed by an investment company or by a market operator that permits the meeting, within it and on the basis of non-discretionary rules, of multiple third-party buying and selling interests relative to financial instruments, in such a way as to provide the environment for contracts in conformance with parts II and III;

b) "organised trading facility": a multilateral facility different from a regulated market or a multilateral trading facility that permits the interaction among multiple third-party buying and selling interests relative to bonds, structured financial instruments and stakes of issues and derivative instruments, in such a way as to provide the environment for contracts in conformance with parts II and III;

c) "trading venues": a regulated market, a multilateral trading facility or an organised trading facility[107].

5-octies.1. "Order with price limits" mean a buying or selling order for a financial instrument at the fixed price limit or a more advantageous price and for a fixed quantity[108].

5-novies. "Crowdfunding services" mean the services as defined by Article 2 (1), letter (a) of Regulation (EU) 2020/1503109.

5-decies. …omissis…[110]

104 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

105 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

106 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

107 Paragraph first included by Article 1 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

108 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

109 Paragraph formerly included by Article 30 of Legislative Decree no. 179 dated 18.10.2012, later amended by Legislative Decree no. 3 dated 24.1.2015, converted with amendments by Law no. 33 dated 24.3.2015, substituted by Law no. 232 dated 11.12.2016, amended by Article 18 of Legislative Decree no. 112 of 3 July 2017, by Article 1 of Legislative Decree no. 129 dated 3.8.2017 and by Article 1, paragraph 236 of Law no. 145 of 30.12.2018 and finally thus substituted by Article 1 of Legislative Decree no. 30 of 10.3.2023.

110 Paragraph first included by Article 30 of D.L. no. 179 dated 18.10.2012 and then repealed by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

5-undecies. …omissis…[111]

5-duodecies. "Social enterprises" are defined as social enterprises within the meaning of the legislative decree 3 July 2017, no. 112, formed in the form of capital companies or cooperatives.[112]

6. “Additional service” means any service included in Section B of Annex I[113].

6-bis. "Shareholdings or holdings" shall mean shares, capital parts and other financial instruments that confer administrative rights or in any case those provided for by the final paragraph of Article 2351 of the Civil Code.[114]

6-bis.1. “Parent company” meaning as holding company pursuant to articles 2, section 9, and 22 of the directive 2013/34/EU[115].

6-bis.2. “Subsidiary company” means a subsidiary company pursuant to articles 2, section 10, and 22 of the directive 2013/34/EU; the subsidiary company of a subsidiary company is similarly considered a subsidiary company of the parent company that is at the head of these companies[116].

6-bis.3. “Close ties” means the situation which two or more natural or legal persons are linked:

a) by a «holding», in other words by the fact of holding, directly or through a controlling tie, 20 percent or more of the voting rights or of the share capital of a company;

b) by a «control» tie, in other words by the relationship existing between a parent company and a subsidiary company, in all the cases referred to in article 22, sections 1 and 2, of the directive 2013/34/EU, or a similar relationship between natural and legal persons and a company, in which case every subsidiary company of a subsidiary company is considered a subsidiary company of the parent company that heads all these companies;

c) by a long-standing link between two or all the above-mentioned persons and a party that is a controlling relationship[117].

6-ter. Except as specified, the provisions of this legislative decree that refer to the board of directors, the administrative body or the directors shall also apply to the management board and the members thereof[118].

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111 Paragraph first included by Article 4 of D.L. no. 3 dated 24.1.2015, converted with amendments of Law no. 33 dated 24.3.2015, and then repealed by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

112 Comma first inserted by Article 18 of Legislative Decree no. 112 of 3.7.2017 and then amended by Article 8, paragraph 3 of the Legislative Decree no. 95 of 20.7.2018 which replaced the words: "of the Legislative Decree referred to in Article 1, paragraph 2, letter c), of the Law 6 June 2016, no. 106” with the words: “of the Legislative Decree 3 July 2017, no. 112”. Comma inserted by Article 18 of Legislative Decree no. 112 of 3 July 2017. Legislative Decree no. 112 of 3 July 2017 (Article 18 (9)) states that "The effectiveness of the provisions of this Article and Article 16 shall be subject to the provisions of Article 108 (3) of the Treaty on the Functioning of the European Union of the European Union, to the authorization of the European Commission, requested by the Ministry of Labor and Social Policy ".

113 Paragraph first amended by Article 1 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

114 Paragraph added by Legislative Decree no. 37 of 06.02.2004.

115 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

116 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

117 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

118 Paragraph added by Legislative Decree no. 37 of 06.02.2004.

6-quater. Except as specified, the provisions of this legislative decree that refer to the board of auditors, the members thereof or the control body shall also apply to the supervisory board, the management control committee and the members thereof[119].

6-quinquies. "Algorithmic trading" means the trading of financial instruments where a computer algorithm automatically determines the individual parameters of the orders, as for example the initiation of the order, the relevant timeline, the price, the quantity or the method the order is managed after sending, with minimal or no human intervention, with the exception of the systems used simply to send the orders to one or more trading venues, to treat orders that do not involve the establishment of trading parameters, to confirm orders or carry out the regulation of the transactions[120].

6-sexies. "Direct electronic access" means an agreement on the basis of which a member or an investor or a client of trading venues permits a third party to use his or her trading password for the sending of orders relative to a financial instrument to the trading venues directly, both in the case where the agreement involves the use by third part of the member's infrastructure, investor or client, or of any system for connection provided by the member, investor or client for sending the orders (direct access to the market)
in the case where there is no such use (sponsored access) [121].

6-septies. "High-frequency algorithmic trading technology" means any algorithmic trading technology characterised by:

a) infrastructures aimed at reducing the network latency to a minimum and other types, including at least one of the structures for the algorithmic inputting of orders: collocation, proximity hosting or high-speed direct electronic access;

b) establishment by the system of the initialisation, generation, transmission or carrying out of orders without human intervention for the single order or trade, and

c) elevated intra-day traffic of messages consisting of orders, quotations or cancellations[122].

6-octies. "Matched principal trading" means trading where the party that is interposed between the buying and the seller is never exposed to market risk during the entire execution of the operation, with the purchase and the sale carried out simultaneously at a price that does not allow said party to make a profit or a loss, exception being made for the commissions, fees or charges for the transaction previously communicated[123].

6-novies. "Practice of bundled selling" means the offer of an investment service together with another service or product as part of a package or as a condition obtaining the same agreement or package[124].

6-decies. "Structured deposit" means a deposit as defined in article 69-bis, paragraph 1, letter c), of the consolidated banking law that is refundable in full on the maturity date on the basis of terms on agreement with which any interest or premium will be reimbursed (or it is at risk) on agreement with a formula including factors such as:

a) an index or a combination of indices, except the variable rate deposits the return on which is

119 Paragraph added by Legislative Decree no. 37 of 06.02.2004.

120 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

121 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

122 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

123 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

124 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

directly linked to the rate of interest such as the Euribor or Libor;

b) a financial instrument or a combination of the financial instruments;

c) a commodity or combination of commodities or other non-fungible, tangible, or intangible assets; or

d) a rate of exchange or a combination of rates of exchange[125].

6-undecies. This legislative decree contains the following definitions:

a) "authorised publication arrangement" or "APA": a subject as defined in Article 2, paragraph 1, point 34) of Regulation (EU) no. 600/2014 to which the derogation provided for by Article 2, paragraph 3, of the same regulation and related delegated acts applies[126];

b) …omissis…[127]

c) "authorised reporting mechanism" or "ARM": a subject as defined in Article 2, paragraph 1, point 36) of Regulation (EU) no. 600/2014 to which the derogation provided for by Article 2, paragraph 3, of the same regulation and related delegated acts applies[128];

d) …omissis…[129]

e) …omissis…[130] / [131].

6-duodecies. This legislative decree contains the following definitions:

a) "Original member state of the investment company":

1) if the investment company is a natural person, the member state is where this person has his or her principal offices;

2) if the investment company is a legal person, the member state is where it has its registered office;

3) if, on the basis of national law to which it is subject, the investment company does not have a registered office, the member state is where its general administration department is situated;

b) "Original member state of the regulated market": the member state where the regulated market is regulated or if, on the basis of the national law of that member state said market does not have a registered office, the member state in which its general administration department is situated;

c) …omissis…[132] / [133].

6-terdecies. In this legislative decree the following definitions are given:

a) "Member state hosting the investment company": the member state different from the

125 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

126 Letter thus replaced by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022.

127 Letter repealed by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022.

128 Letter thus replaced by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022.

129 Letter repealed by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022.

130 Letter repealed by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022.

131 Paragraph first inserted by Article 1 of Legislative Decree no. 129 of 3.8.2017 and then amended by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022.

132 Letter repealed by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022.

133 Paragraph first included by Article 1 of Legislative Decree no. 129 dated 3.8.2017 and then amended by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022.

original state in which an investment company has a branch or provides investment services and/or carries out investment activities;

b) “Member state hosting the regulated market”: the member state in which a regulated market adopts appropriate measures in such a way as to facilitate access to distance trading in its system by members or investors settled in said member state[134].

6-quaterdecies. “Wholesale energy product” means a wholesale energy product as defined in article 2, point 4, of (EU) regulation no. 1227/2011[135].

6-quinquiesdecies. “Derivatives on agricultural commodities” are contract derivatives connected with products referred to in article 1 and Annex I, parts from I to XXIV/1 of (EU) regulation no. 1308/2013, and the products referred to in Annex I, of (EU) regulation no. 1379/2013136.

6-quinquiesdecies.1. “Mainly commercial group” means any group whose core activity is not the provision of investment services in accordance with this decree or the exercise of the activities referred to in Annex I of Directive 2013/36/EU or market-making activities in relation to derivative contracts on commodities137.

6-sexiesdecies. “Sovereign issuer” means one of the following debt instrument issuers:

a) The European Union;

b) a member state, including a ministry, an agency or a vehicle company of said member state;

c) in the case of a federal member state, a member of the federation;

d) a vehicle company on behalf of various member states;

e) an International finance body consisting of two or more member states with the aim of mobilising resources and providing financial assistance to the benefit of its members that are facing or are threatened by serious financial crises; or

f) The European Investment Bank[138].

6-septiesdecies. “Sovereign debt” means a debt instrument issued by a sovereign issuer[139].

6-octiesdecies. “Durable medium” means any instrument that:

a) allows the client to store information addressed to him or her personally, in such a way that it can easily be retrieve for a period of time that is adequate for the purposes for which said information is intended; and

b) that allows the unchanged reproduction of the stored information[140].

6-noviesdecies. "Electronic format" means any durable medium other than paper**141**.

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134 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

135 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

136 Paragraph first included by Article 1 of Legislative Decree no. 129 dated 3.8.2017 and then thus substituted by Article 1 of Legislative Decree no. 31 dated 10.3.2023.

137 Paragraph included by Article 1 of Legislative Decree no. 31 dated 10.3.2023.

138 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

139 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

140 Paragraph included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

141 Paragraph included by Article 1 of Legislative Decree no. 31 dated 10.3.2023.

Article 2
Relationship to European Union law and integration in ESFS

1. The Ministry of the Economy and Finance, the Bank of Italy and CONSOB shall exercise the powers conferred on them in harmony with the provisions of the European Union, apply the regulations and decisions of the European Union and act on the recommendations concerning matters governed by this decree.

2. In exercising their respective competences, the Bank of Italy and CONSOB are parties to the ESFS and participate in its activities, considering the convergence within Europe of supervisory practices and instruments.

2-bis. The authorities indicated in paragraph 1 shall exercise, each to the extent applicable, the intervention powers attributed to them by Parts I and II of this Legislative Decree also to ensure compliance with EU regulation no. 575/2013, the relevant technical regulatory and implementing rules issued by the European Commission pursuant to Articles 10 and 15 of EU Regulation no. 1093/2010, or in the event of non-compliance with the directly applicable ESMA and EBA acts adopted under these regulations[142].

3. In cases of crisis or tension on financial markets, the Bank of Italy and CONSOB consider the effects of their action on the stability of the financial system of the other Member States, also using the appropriate exchange of information with European Securities and Markets Authority, the Joint Committee, European Systemic Risk Board and the supervisory authorities of other Member States[143].

Article 3
Administrative measures

1. The ministerial regulations referred to in this decree shall be adopted under Article 17(3) of Law 400/1998.

2. The Bank of Italy and CONSOB shall establish the time limits and procedures for the adoption of the measures falling within the scope of their respective authority.

3. The regulations and the provisions of a general nature of the Bank of Italy and of CONSOB are published in the Official Gazette. The other provisions relevant to the parties subject to supervision are published on the Internet site of the Bank of Italy or of CONSOB. The provisions of article 195-bis in as far as they are applicable are applied[144].

4. By 31 January of each year the Ministry of the Economy and Finance,[145] shall publish all the regulations and measures of general application issued under this decree as well as the rules governing

142 Paragraph included by Article 4 of Legislative Decree no. 72 of 12.05.2015.

143 Article thus replaced by Article 2 of Legislative Decree no. 130 of 30.7.2012.

144 Paragraph first amended by Article 4 of Legislative Decree no. 72 dated 12.5.2015 that replaced the words: «are published by the Bank of Italy and CONSOB in the respective bulletins» with the words: «are published by the Bank of Italy on its Internet site and by CONSOB, in electronic format, in its bulleting» and then thus substituted by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

145 The former wording “Ministry of the Treasury, Budget and Economic Planning” was replaced with the wording “Ministry of the Economy and Finance” by Article 1 of Legislative Decree no. 37 of 6.2.2004.

the markets in a single compendium, which may be in electronic form, where even one such document has been amended during the preceding year.

Article 4[146]
Cooperation between authorities and professional secrecy

1. The Bank of Italy, CONSOB, the COVIP and IVASS shall cooperate by exchanging information and otherwise for the purpose of facilitating their respective functions. Said authorities may not invoke professional secrecy in their mutual relations[147].

2. The Bank of Italy and CONSOB collaborate, also through the exchange of information, with the authorities and committees comprising the ESFS and the European Central Bank (EBC), in order to facilitate their respective duties. In the cases and ways established by European legislation, they fulfil the disclosure and cooperation obligations with regards to said parties and other authorities and institutions indicated by the provisions of the European Union[148].

2-bis. For the purposes specified under paragraph 2, CONSOB and the Bank of Italy can stipulate cooperation agreements with the competent authorities of the European Union Member States and with AESFEM and the ECB which may provide for the mutual delegation of supervisory duties. CONSOB and the Bank of Italy may use ESMA and EBA to solve disputes with the supervisory authorities from the other Member States in cross-border situations[149].

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146 Article 9 of Legislative Decree no. 254 of 30.12.2016 provides that: “1. Without prejudice to what is contemplated by article 4 of Legislative Decree no. 58 of 24 February 1998, after consulting the Bank of Italy and IVASS, for the aspects of its competence with reference to subjects under investigation, CONSOB regulates: a) conditions of the direct transmission to CONSOB of the declaration of a non-financial nature on behalf of the subjects pursuant to articles 2 and 7 of this Decree, and without prejudice to the provisions of article 5 of this Decree, any further procedures for the publication of the declaration and the information required by CONSOB pursuant to paragraph 2 of this article; b) the methods and terms for the audit carried out under the terms of the declaration of a non-financial nature, also with reference to the powers awarded pursuant to paragraph 3, letter b) of this article; c) the principles of conduct and the methods used to carry out the task of verifying the compliance with the information on behalf of the auditors. 2. In the case of an incomplete or noncompliant declaration pursuant to articles 3 and 4, CONSOB asks subjects to make the necessary amendments and supplements, pursuant to articles 2 and 7 and sets the deadline for the adaptation. In case of failure to adapt, article 8 is applied. 3. CONSOB may exercise, among other things: a) in relation to the auditors in charge of the tasks pursuant to article 3, paragraph 10, the powers set out in article 22, paragraph 2 of Legislative Decree no. 39 of 27 January 2010; b) only as regards the fulfilment of the obligations contemplated by this Legislative Decree, the powers set out article 115, paragraph 1, letters a), b) and c), of Legislative Decree no. 58 of 24 February 1998 as regards the entities and other subjects pursuant to article 2 of this Decree that publish information of a non-financial nature pursuant to article 7 of this Decree and of the members of their corporate bodies”.

147 Paragraph thus amended first by Article 2 of Legislative Decree no. 130 of 30.7.2012 which replaced the words: "Isvap and the Ufficio Italiano Cambi" with the words: "and Isvap", then by Article 1 of Legislative Decree no. 44 of 4.3.2014 which replaced the word: "Isvap" with the word: «IVASS» and finally by Article 1 of Legislative Decree no.19 of 13.2.2019 which replaced the words “Commissione di vigilanza sui fondi pensione” with the word “COVIP”. See Bank of Italy-CONSOB memorandum of understanding of 31.10.2007 (published in O.J. no. 270 of 20.11.2007 and CONSOB Bulletin no. 10.2 of October 2007, attached to the joint Bank of Italy-CONSOB regulation adopted pursuant to Article 6, paragraph 2-bis.

148 Paragraph first replaced by Article 2 of Legislative Decree no. 130 of July 30, 2012 and then amended by Article 1 of Legislative Decree 129 of 3 August 2017 which, in the first period, after the word: "ESFS" inserted the words "and with the European Central Bank (ECB)", and by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: “disclosure” with the words: “disclosure and cooperation”.

149 Paragraph first inserted by Article 1 of Legislative Decree no. 164 of September 17, 2007, subsequently replaced by Article 2 of Legislative Decree no. 130 of July 30, 2012 and then amended by Article 1 of Legislative Decree no. 129 of 3 August 2017, which replaced the words: "and with AESFEM" with the words ", with AESFEM and the ECB", and by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words “ESMA to” with the words: “ESMA and EBA to”.

2-ter. CONSOB shall be the point of contact for the receipt of requests for information from competent authorities of EU member states regarding investment services and activities performed by authorised persons and regulated markets of trading venues and APA and ARM. CONSOB shall cooperate with the Bank of Italy on aspects for which the latter is responsible. The Bank of Italy shall submit information simultaneously to both the competent authority of the EU member state issuing the request and to CONSOB[150].

3. The Bank of Italy and CONSOB may cooperate by exchanging information and otherwise with the competent authorities of non-EU countries[151].

4. Information received by the Bank of Italy and CONSOB pursuant to paragraphs 1, 2 and 3 may not be transmitted to third parties or other Italian authorities, including the Minister of the Economy and Finance, without the consent of the authority that supplied it.[152]

5. The Bank of Italy and CONSOB may exchange information:

a) with administrative and judicial authorities in connection with winding-up or bankruptcy proceedings in Italy or abroad involving authorised intermediaries;

b) with bodies responsible for the administration of compensation systems;

c) with the central counterparties and the central depositories[153];

d) with the managers of the trading venues, for the purpose of guaranteeing the smooth functioning of the venues managed by them[154].

5-bis. The exchange of information with authorities of non-EU countries shall be subject to the existence of provisions concerning professional secrecy.[155]

6. The information referred to in paragraph 5, paragraphs b), c) and d), may be disclosed to third parties with the consent of the person who supplied it. Such consent shall not be necessary where the information has been provided in compliance with domestic and international cooperation obligations.

7. The Bank of Italy and CONSOB may also exercise the powers conferred on them by law for the purpose of cooperating with other authorities and at the request thereof. The competent authorities of EU and non-EU countries may ask the Bank of Italy and CONSOB to carry out investigations in Italy on their behalf pursuant to the provisions of this decree, and to issue notifications on their behalf in

150 Paragraph already included by Article 1 Legislative Decree no. 164 of 17.09.2007, subsequently amended by Article 1 of Legislative Decree no. 129 of 3 August 2017 which, in the first period, replaced the words: "and regulated markets" with the words " of trading venues and data communication services " and then by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Italian Law no. 91 of 15.7.2022, which replaced the words: "data communication services" with the words: "APA or ARM".

151 Paragraph amended by Article 1 Legislative Decree no. 164 of 17.9.2007 which removed the words: “For the same purpose,”.

152 Paragraph as amended by Article 3 of Legislative Decree 274/2003 and Article 9 of Law 62/2005 (the 2004 Community Law).

153 Letter first amended by Article 33 of Italian Law no. 97 of 6.8.2013 which replaced the words: “on regulation” with the words: "on settlement" and then substituted by Article 1 of Legislative Decree no. 176 of 12.8.2016.

154 Letter thus replaced by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

155 Paragraph added by Article 3 of Legislative Decree 274/2003 and amended by Article 9 of Law 62/2005 (the 2004 Community Law), which suppressed the words “equivalent to those in force in Italy”.

Italy in relation to measures taken by them. Such authorities may ask for members of their staff to be allowed to accompany the personnel of the Bank of Italy and CONSOB during the performance of the investigations.[156]

8. For any other purpose the provisions governing professional secrecy in respect of information and data in the possession of the Bank of Italy shall be unaffected.

9. In order to facilitate the supervision on a consolidated basis with regards to groups operating in several different European Community States, in observance of the conditions set out by the EU legislation and on the basis of agreements reached with the competent authorities, the Bank of Italy defines forms of collaboration and coordination, institutes supervisory boards and participates in the boards instituted by other authorities. Under this scope, the Bank of Italy may agree specific allocations of tasks and delegations of functions[157.]

9-bis. If, within the exercise of the consolidated supervision, the Bank of Italy determines an emergency situation, including one of the situations described in Article 10 of Regulation (EU) 1093/2010, or a negative evolution of the markets that might negatively impact the market liquidity and the stability of the financial system in a EU-member state, in which the group identified in accordance with Article 11 operates, it shall immediately informs EBA, ESRB and the relevant competent authorities, including CONSOB, providing all relevant information in order for them to exercise their duties[158].

10. All the information and data possessed by CONSOB by virtue of its supervisory activity shall be covered by professional secrecy, with respect to governmental authorities as well, except for the Minister of the Economy and Finance.[159] The cases in which the law provides for investigations of violations subject to criminal sanction shall be unaffected.

11. In the performance of their supervisory functions employees of CONSOB shall be public officials and required to report any irregularities which they may discover exclusively to CONSOB, even where such irregularities appear to be criminal offences.

12. Employees of CONSOB and those who work or have worked for CONSOB on whatever grounds, as well as consultants and experts currently or previously engaged by CONSOB, shall be bound by professional secrecy[160].

13. Governmental authorities and public entities shall provide the information, documents and every further form of cooperation requested by CONSOB in accordance with the laws governing each authority or entity.

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156 Paragraph first amended by Article 9, Law no. 62 of 18.04.2005 (EU Law 2004) and later by Article 1, Legislative Decree no. 229 of 19.11.2007.

157 Paragraph first replaced by Article 2 of Legislative Decree no. 239 of 30.12.2010, then thus amended by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: “States, on” with the words: “States, in observance of the conditions set out by the EU legislation and on”.

158 Paragraph introduced by Article 1 of Legislative Decree no. 201 of 5.11.2021.

159 Name as amended by Legislative Decree 37/2004.

160 Paragraph thus amended by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: “Employees of CONSOB and consultants and experts engaged by CONSOB” with the words: “Employees of CONSOB and those who work or have worked for CONSOB on whatever grounds, as well as consultants and experts currently or previously engaged by CONSOB,”.

13-bis. For cooperation, by the exchange of information, which the competent authorities of European Union Member States and with ESMA, CONSOB and the Bank of Italy establish with the Ministry of Justice, also on the basis of a memorandum of understanding, the procedures for obtaining information on the criminal sanctions applied by the Judicial Authority, for the offences contemplated under Article 2638 of the Civil Code and Articles 166, 167, 168, 169, 170-bis and 173-bis, for successive communication to ESMA, pursuant to Article 195-ter, paragraph 1-bis[161].

13-ter. For the same purposes as paragraph 13-bis and without prejudice to the ban pursuant to Article 329 of the Code of Criminal Procedure, CONSOB and the Bank of Italy may request information from the relevant judicial authority in regard of the investigations and criminal proceedings for the offences contemplated by paragraph 13-bis [162].

Article 4-bis
Identification of the competent authority and sector competent authorities for the purpose of Regulation (EC) No. 1060/2009 as subsequently amended, in relation to credit ratings agencies

1. CONSOB is the competent authority in accordance with Article 22 of Regulation (EC) No 1060/2009 of the European Parliament and Council of 16 September 2009 relative to the credit ratings agencies, and exercises the powers envisaged by said Regulation.

2. CONSOB, the Bank of Italy, IVASS and COVIP are the competent sector authorities in accordance with Article 3, paragraph 1, letter r) of the regulation pursuant to paragraph 1. Said authorities collaborate and exchange information, also on the basis of specific memorandums of understanding[163].

Article 4-ter
Identification of the national authorities with competence pursuant to regulation (EU) no. 236/2012 on short selling and certain aspects of derivative contracts for hedging the credit default swap risk

1. The Ministry of Economy and Finance, the Bank of Italy and CONSOB are the national competent authorities pursuant to regulation (EU) n° 236/2012 relative to short selling and certain aspects of derivative contracts for hedging the credit default swap risk, as laid down by the following paragraphs.

2. CONSOB is the competent authority for receiving the notifications, implementing the measures and exercising the functions and powers contemplated by the regulation referred to in paragraph 1 in reference to financial instruments other than sovereign debt instruments and credit default swaps of sovereign issuers.

3. Without prejudice to the provision of paragraph 4, the Bank of Italy and CONSOB, within the sphere of their respective powers, are the competent authorities for receiving the notifications,

161 Paragraph included by Article 1 of Legislative Decree no. 71 of 18.4.2016.

162 Paragraph first included by Article 1 of Legislative Decree no. 71 of 18.4.2016 and subsequently amended by Article 1 of Legislative Decree no. 176 of 12.8.2016, which after the words: "regarding" has added the words: "the investigations and".

163 Article first included by Article 1 of Legislative Decree no. 176 of 5.10.2010 and subsequently replaced by Article 1 of Legislative Decree no. 66 of 7.5.2015.

implementing the measures and exercising the functions and powers contemplated by the regulation referred to in paragraph 1 in respect of sovereign debt instruments and credit default swaps of sovereign issuers.

4. With regard to sovereign debt and credit default swaps of sovereign issuers, the powers of temporary suspension of the restrictions and powers to intervene in exceptional circumstances, contemplated by the regulation referred to in paragraph 1, are exercised by the Ministry of Economy and Finance, on proposal by the Bank of Italy and after consultation with CONSOB.

5. CONSOB is the authority responsible for coordinating the cooperation and exchange of information with the European Union Commission, AESFEM, and the competent authorities of the other Member States, pursuant to article 32 of the regulations referred to in paragraph 1.

6. In order to coordinate the exercise of the functions referred to in paragraphs 3 and 4, the Ministry of Economy and Finance, the Bank of Italy and CONSOB, by means of a memorandum of understanding, establish the procedures of the cooperation and of the reciprocal exchange of relevant information in order to exercise the aforesaid functions, also in the case of irregularities found and the measures adopted in the exercise of their respective duties and the procedures for receiving the aforesaid notifications, taking into account the need to reduce to a minimum the costs bearing on the operators.

7. The Bank of Italy and CONSOB, to fulfil their respective duties as defined by this article and to ensure respect for the measures adopted pursuant to the Regulation referred to in paragraph 1, including those delegated to the Ministry of Economy and Finance pursuant to paragraph 4, hold the powers contemplated by article 187-octies[164].

Article 4-quater[165]
Identification of the national authorities with competence pursuant to Regulation (EU) no. 648/2012 of the European Parliament and of the Council, of 4 July 2012, and pursuant to Regulation (EU) 2015/2365 of the European Parliament and of the Council, of 25 November 2015[166]

1. …omissis[167] …

2. …omissis[168] …

2-bis. Bank of Italy, CONSOB, IVASS and the COVIP are the competent authorities for the respect of the obligations under the terms of the Regulation (EU) no. 648/2012 and Regulation (EU) 2015/2365 referred to entities supervised by the same authorities, according to the respective powers

164 Article introduced pursuant to Article 24 of Legislative Decree n° 179 of 18.10.2012.

165 Article first added by Article 33 of Italian Law no. 97 of 6.8.2013 and subsequently amended by Article 11 of Italian Law no. 161 of 30.10.2014, Article 1 of Legislative Decree no. 176 of 12.8.2016 and Article 1 of Legislative Decree no. 19 of 13.2.2019 in the terms specified in the notes that follow.

166 Heading thus replaced by Article 1 of Legislative Decree no.19 of 13.2.2019.

167 Paragraph repealed by Article 1 of Legislative Decree no. 176 of 12.8.2016. The repealed provisions have been transfused into Article 79-quinquies.

168 Paragraph repealed by Article 1 of Legislative Decree no. 176 of 12.8.2016. The repealed provisions have been transfused into Article 79-quinquies.

of supervision[169].

3. CONSOB is the competent authority in respect of non-financial counterparties, as defined respectively by Regulation (EU) no. 648/2012 and by Regulation (EU) 2015/2365, that are not subject to supervision by any other authority in accordance this Article, in compliance with the obligations laid down in Articles 9, 10 and 11 of Regulation (EU) no.648/2012 and articles 4 and 15 of Regulation (EU) 2015/2365. For this purpose, CONSOB exercises the powers contemplated by article 187-octies of this Legislative Decree, according to the procedures established thereby, and can dictate provisions on the procedures for the exercise of supervisory powers[170].

4. …omissis[171] …

5. …omissis[172] …

Article 4-quinquies[173]
Identification of the national authorities with competence pursuant to regulation (EU) no. 345/2013, relative to the European Venture Capital Fund (EuVECA), and regulation (EU) no. 346/2013, relative to the European Social Entrepreneurship Fund (EuSEF)

1. The Bank of Italy and CONSOB, according to their respective powers and purposes indicated in article 5, are the national authorities with competence pursuant to regulation (EU) no. 345/2013 and regulation (EU) no. 346/2013. The Bank of Italy and CONSOB transmit without delay the information they must each receive pursuant to this article. Without prejudice to the provisions of article 4, the Bank of Italy and CONSOB collaborate with each other and, including via an exchange of information, with the competent authorities of the host Member States in which an Italian EuVECA or EuSEF is marketed[174].

2. The Bank of Italy, after consulting CONSOB, for parties not registered on the registers provided for by articles 35 and 35-ter, registers and cancels Italian EuVECA and EuSEF managers pursuant to articles 14, 14-bis and 21, paragraph 2, letter b), of regulation (EU) no. 345/2013 and articles 15, 15-bis and 22, paragraph 2, letter b), of regulation (EU) no. 346/2013. Such managers are listed in a separate section of the register referred to in article 35, held by the Bank of Italy. Articles 34, 35,

169 Paragraph first included by Article 11 of Italian Law no. 161 of 30.10.2014 and subsequently amended by Article 1 of Legislative Decree no. 176 of 12.8.2016, which has replaced the words: "pursuant to paragraph 1" with the words: "(EU) no. 648/2012" and by Article 1 of Legislative Decree no.19 of 13.2.2019 which has replaced the words “Commissione di vigilanza sui fondi pensione (COVIP)” with the words “COVIP” and inserted the words “and by Regulation (EU) 2015/2365” after the words “by Regulation (EU) no. 648/2012”.

170 Paragraph first amended by Article 11 of Italian Law no. 161 of 30.10.2014 which replaced the first sentence, then by Article 1 of Legislative Decree no. 176 of 12.8.2016 which, in the first sentence, has replaced the words: "paragraph 1" with the words: “paragraph 2-bis” and has removed the words: "of paragraph 2-bis" and finally by Article 1 of Legislative Decree no.19 of 13.2.2019 which replaced the first sentence.

171 Paragraph repealed by Article 1 of Legislative Decree no. 176 of 12.8.2016. The repealed provisions have been transfused into Article 79-quinquies.

172 Paragraph repealed by Article 1 of Legislative Decree no. 176 of 12.8.2016. The repealed provisions have been transfused into Article 79-quinquies.

173 Article first included by Article 1 of Legislative Decree no. 44 of 4.3.2014 and then amended by Article 1 of Legislative Decree no. 233 of 15.12.2017, Article 1 of Legislative Decree no. 191 of 5.11.2021 and Article 1 of Legislative Decree no. 113 of 2.8.2022 under the terms indicated in the following footnotes. For the transitory provisions, see Article 15 of Legislative Decree no. 44 of 4.3.2014.

174 Paragraph thus amended by Article 1 of Legislative Decree no. 113 of 2.8.2022, which added the last clause.

paragraphs 2 and 3, 35-bis, 35-ter, 35-quinquies, 35-septies to 35-undecies, paragraph 1, and 35-duodecies and the relative enactment rules are applied as far as compatible with regulation (EU) no. 345/2013 and regulation (EU) no. 346/2013[175].

2-bis. The Bank of Italy is the authority with competence:

a) To serve the notification on the competent authorities of the host Member States provided for by article 16, paragraph 1 of regulation (EU) no. 345/2013 and article 17, paragraph 1 of regulation (EU) no. 346/2013 in reference to the entry onto, or cancellation from, the register of a EuVECA and EuSEF manager;

b) To serve the reasoned notification provided for by article 14-ter of regulation (EU) no. 345/2013 and article 15-ter of regulation (EU) no. 346/2013 in the event of refusal to register the EuVECA and EuSEF managers[176].

2-ter. The Bank of Italy is the authority with competence to adopt the measures provided for by:

a) article 21, paragraph 2, letter a) of regulation (EU) no. 345/2013 in the cases indicated in paragraph 1, letters a), c), e) and h) of the same article, for the purposes of compliance with articles 5, 12, 14 and 14-bis of the aforementioned regulation;

b) article 22, paragraph 2, letter a) of regulation (EU) no. 346/2013 in the cases indicated in paragraph 1, letters a), c), e) and h) of the same article, for the purposes of compliance with articles 5, 13, 15 and 15-bis of the aforementioned regulation[177].

2-quater. CONSOB is the authority with competence to adopt the measures provided for by:

a) article 21, paragraph 2, letter a) of regulation (EU) no. 345/2013 in the cases indicated in paragraph 1, letters b), d) and i) of the same article, for the purposes of compliance with articles 6, 3, letter b), point iii) and 13 of the aforementioned regulation;

b) article 22, paragraph 2, letter a) of Regulation (EU) no. 346/2013 in the cases indicated in paragraph 1, letters b), d), and i) of the same article, for the purposes of compliance with articles 6, 3, paragraph 1, letter b), point iii) and 14 of the aforementioned regulation[178].

2-quinquies. The Bank of Italy and CONSOB, according to their respective powers and purposes pursuant to article 5, are the authorities with competence to adopt the measures provided for by:

a) article 21, paragraph 2, letter a) of regulation (EU) no. 345/2013 in the cases indicated in paragraph 1, letters f) and g) of the same article, for the purposes of compliance with article 7, letters a) and b) of the aforementioned regulation;

b) article 22, paragraph 2, letter a) of regulation (EU) no. 346/2013 in the cases indicated in paragraph 1, letters f) and g) of the same article, for the purposes of compliance with article 7, letters a) and b) of the aforementioned regulation[179].

175 Paragraph first amended by Article 1 of Legislative Decree no. 233 of 15.12.2017 which after the words: “after consulting CONSOB” added the words: “for parties not registered on the registers provided for by articles 35 and 35-ter” and then thus replaced by Article 1 of Legislative Decree no. 113 of 2.8.2022.

176 Paragraph inserted in Article 1 of Legislative Decree no. 113 of 2.8.2022.

177 Paragraph inserted in Article 1 of Legislative Decree no. 113 of 2.8.2022.

178 Paragraph inserted in Article 1 of Legislative Decree no. 113 of 2.8.2022.

179 Paragraph inserted in Article 1 of Legislative Decree no. 113 of 2.8.2022.

2-sexies. The Bank of Italy and CONSOB inform each other of the measures adopted pursuant to paragraphs 2-ter, 2-quater and 2-quinquies[180].

3. The Bank of Italy is the authority with competence to receive from Italian EuVECA and EuSEF managers the communication referred to in Article 15 of Regulation (EU) no. 345/2013 and Article 16 of Regulation (EU) no. 346/2013. It also receives the notification referred to in Article 16, paragraph 1 of Regulation (EU) no. 345/2013 and Article 17 of Regulation (EU) no. 346/2013, in reference to the entry onto, or cancellation from, the register of a EuVECA and EuSEF manager by the competent authorities of the Member States of origin of these managers[181].

3-bis. CONSOB is the authority with competence to receive from Italian EuVECA and EuSEF managers the note on the pre-marketing activities referred to in Article 4-bis of Regulation (EU) no. 345/2013 and Article 4-bis of Regulation (EU) no. 346/2013, and to inform the competent authorities of the member states in which the Italian managers carry out or have carried out pre-marketing activities, as defined by Article 3, letter o) of Regulation (EU) no. 345/2013 and Article 3, letter o) of Regulation (EU) no. 346/2013[182].

3-ter. Where EuVECA and EuSEF managers established in a EU-member state other than Italy carry out or have carried out premarketing in Italy, Consob is the authority with competence to receive from the competent authority of the state of origin of such managers the note on the pre-marketing activities referred to in paragraph 3-bis and to request from such authority further information on the pre-marketing that is carried out or has been carried out in Italy, in accordance with Article 4-bis, paragraph 4, of Regulation (EU) no. 345/2013 and Article 4-bis, paragraph 4, of Regulation (EU) no. 346/2013[183].

4. CONSOB serves the notifications contemplated by article 16 of regulation (EU) no. 345/2013 and article 17 of regulation (EU) no. 346/2013 on ESMA and, limited to each entry onto, or cancellation from, the list of Member States referred to in article 14, paragraph 1, letter d) of regulation (EU) no. 345/2013 and article 15, paragraph 1, letter d), of regulation (EU) no. 346/2013, on the competent authorities of the Member States in which the Italian EuVECA and EuSEF managers are registered pursuant to paragraph 2 and intend to market the relative UCIs in compliance with the rulings of the said regulations[184].

4-bis. CONSOB is responsible for providing ESMA with:

a) the necessary information to carry out the inter pares verifications provided for by articles 16-bis and 19 of regulation (EU) no. 345/2013 and articles 17-bis and 20 of regulation (EU) no. 346/2013;

b) the information referred to in article 12, paragraph 4 of regulation (EU) no. 345/2013 and article 13, paragraph 5 of regulation (EU) no. 346/2013[185].

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180 Paragraph inserted in Article 1 of Legislative Decree no. 113 of 2.8.2022.

181 Paragraph thus amended by Article 1 of Legislative Decree no. 113 of 2.8.2022, which substituted the second clause.

182 Paragraph inserted by Article 1 of Legislative Decree no. 191 of 5.11.2021.

183 Paragraph inserted by Article 1 of Legislative Decree no. 191 of 5.11.2021.

184 Paragraph thus amended in Article 1 of Legislative Decree no. 113 of 2.8.2022, which after the words «regulation (EU) no. 346/2013» added the words: «on ESMA and, limited to each entry onto, or cancellation from, the list of Member States referred to in article 14, paragraph 1, letter *d)* of regulation (EU) no. 345/2013 and article 15, paragraph 1, letter *d),* of regulation (EU) no. 346/2013,».

185 Paragraph inserted in Article 1 of Legislative Decree no. 113 of 2.8.2022.

4-ter. In reference to article 21, paragraphs 3 and 5 of regulation (EU) no. 345/2013 and article 22, paragraphs 3 and 5 of regulation (EU) no. 346/2013:

a) The Bank of Italy serves the information note on the competent authorities of the host Member States in which the fund is marketed as provided for by article 21, paragraph 3 of regulation (EU) no. 345/2013 and article 22, paragraph 3 of regulation (EU) no. 346/2013 in reference to the cancellation from the register of a EuVECA or EuSEF manager in the event of infringements;

b) CONSOB serves the information note on ESMA in reference to article 21, paragraph 3 of regulation (EU) no. 345/2013 and article 22, paragraph 3 of regulation (EU) no. 346/2013;

c) CONSOB serves without delay the communication on ESMA pursuant to article 21, paragraph 5 of regulation (EU) no. 345/2013 and article 22, paragraph 5 of regulation (EU) no. 346/2013, and assures the prompt involvement of the Bank of Italy in the communications with ESMA, where the Bank of Italy is the competent authority pursuant to paragraphs 2-ter and 2-quinquies. To this purpose, the Bank of Italy and CONSOB set out, via a memorandum of understanding, the methods for their mutual involvement and exchange of information[186].

5. EuVECA or EuSEF managers established in a Member State other than Italy which satisfy the requisites of regulations (EU) no. 345/2013 and no. 346/2013 and which intend to market in Italy the UCIs which they manage, must provide for the serving, through the competent authority of the Home State, of the notification required by article 16 of regulation (EU) no. 345/2013 and article 17 of regulation (EU) no. 346/2013. CONSOB is the authority to which said notification must be delivered, limited to each entry onto, or cancellation from, the list of Member States referred to in article 14, paragraph 1, letter d) of regulation (EU) no. 345/2013 and in article 15, paragraph 1, letter d), of regulation (EU) no. 346/2013[187].

6. If the threshold indicated in article 3, paragraph 2, letter b), of Directive 2011/61/EU, the provisions contemplated for the manager by this legislative decree and the relative enactment provisions apply to the managers indicated in paragraphs 2 and 5. In such a case, the name EuVECA or EuSEF can be maintained only if contemplated by the aforesaid EU regulations.

7. To ensure respect for this article, and for the regulations indicated in paragraph 1, the Bank of Italy and CONSOB, according to their respective powers and purposes pursuant to article 5, have the faculties attributed to the same by this legislative decree.

Article 4-quinquies.1[188]
Identification of the competent national authorities, pursuant to Regulation (EU) no. 2015/760, in relation to the European Long-Term Investment Funds (ELTIF)

1. The Bank of Italy and CONSOB, in accordance with their respective attributions and the purposes indicated under article 5, are the competent national authorities pursuant to Regulation (EU) no. 2015/760.

2. The Bank of Italy is the competent authority for authorising the management of an ELTIF by an

186 Paragraph inserted in Article 1 of Legislative Decree no. 113 of 2.8.2022.

187 Paragraph thus amended in Article 1 of Legislative Decree no. 113 of 2.8.2022, which deleted the words: «, once they have obtained registration pursuant to the said regulations» and after the words: «said notification must be delivered» added the words: «limited to each entry onto, or cancellation from, the list of Member States referred to in article 14, paragraph 1, letter *d)* of regulation (EU) no. 345/2013 and in article 15, paragraph 1, letter *d),* of regulation (EU) no. 346/2013».

188 Paragraph first inserted by Article 1 of Legislative Decree no. 233 of 15.12.2017 and then amended by Article 1 of Legislative Decree no. 191 of 5.11.2021 as indicated in the following footnote.

operator and approving the regulation of the ELTIF in compliance with article 5 of Regulation (EU) no. 2015/760. In the case of the first institution of an ELTIF by an operator, the authorisation is issued by the Bank of Italy, after consulting CONSOB, for the profiles indicated under article 5, paragraph 1, letter d) of Regulation (EU) no. 2015/760. The Bank of Italy registers authorised operators in a separate section of the register, as referred to in articles 35 and 35-ter. Articles 35, paragraphs 2 and 3 and 35-ter, paragraphs 2 and 3 shall apply.

3. The Bank of Italy authorises the extension provided for by article 17, paragraph 1 of Regulation (EU) no. 2015/760.

4. CONSOB is the competent authority for:

a) receiving the notification provided for by article 31, paragraph 1 of Regulation (EU) no. 2015/760 from the asset management company and the SICAF that manage the ELTIF for the marketing in Italy of the units or shares of the ELTIF to professional and retail investors;

b) receiving the notification provided for by article 31, paragraph 1 of Regulation (EU) no. 2015/760 from the asset management company and the SICAF that manage the ELTIF for the marketing in an EU Member State other than Italy of the units or shares of the ELTIF to professional and retail investors;

c) receiving the notification provided for by article 31, paragraph 2 of Regulation (EU) no. 2015/760 from the authority of the EU Member State of origin of the operator of the ELTIF for the marketing in Italy of the units or shares of the ELTIF to professional and retail investors;

d) fulfilling the disclosure obligations towards ESMA provided for by article 3, paragraph 3 of Regulation (EU) no. 2015/760[189];

e) receiving the prospectus, and relative amendments, referred to in article 24, paragraph 1 of Regulation (EU) no. 2015/760 according to the methods and terms established under its own regulations.

5. Article 43 and the related implementing provisions shall apply, insofar as compatible, to the notification procedures referred to in paragraph 4, letters a), b) and c); the agreement of the Bank of Italy provided for in paragraphs 4 and 5 of this article and the acquisition of the opinion of this authority pursuant to paragraphs 6 and 8 of the same article are not required.

6. CONSOB identifies in its regulations any additional information to be included in the prospectus in relation to the information required under article 23, paragraphs 2, 3 and 4 of Regulation (EU) no. 2015/760, in order to enable investors to perform informed assessment of the investment offered to them and, in particular, of the related risks.

7. In order to ensure compliance with this article, as well as with the regulation indicated under paragraph 1, the Bank of Italy and CONSOB have, according to the respective attributions and the purposes of article 5, the powers attributed to them by this decree on collective investment schemes, as well as the powers envisaged by Regulation (EU) no. 2015/760.

189 Letter thus amended by Article 1 of Legislative Decree no. 191 of 5.11.2021, which replaced the word: “ESMA” with the Italian word: “AESFEM” (Autorità europea degli strumenti finanziari e dei mercati).

Article 4-quinquies.2[190]
Identification of the competent national authorities, pursuant to Regulation (EU) no. 2017/1131 on money market funds (MMF)

1. The Bank of Italy and CONSOB, in accordance with their respective attributions and the purposes indicated under article 5, are the competent national authorities pursuant to Regulation (EU) no. 2017/1131. The Bank of Italy and CONSOB promptly transmit to each other the information that each of them is competent to receive under this article.

2. The Bank of Italy is the competent authority for authorising a MMF pursuant to article 4, paragraphs 2 and 3 of Regulation (EU) no. 2017/1131.

3. The Bank of Italy is the competent authority for:

a) authorizing the derogation under article 17, paragraph 7 of Regulation (EU) no. 2017/1131;

b) receiving the credit quality assessment methodologies review pursuant to article 19, paragraph 4, letter e) of Regulation (EU) no. 2017/1131;

c) Receiving the valuations carried out in accordance with article 29, paragraphs 2, 3, 4, 6 and 7 of Regulation (EU) no. 2017/1131, pursuant to the same article 29, paragraph 5;

d) receiving the details of the decisions concerning the liquidity management procedures pursuant to article 34, paragraph 3 of Regulation (EU) no. 2017/1131;

e) receiving the extensive report with the results of the stress testing and proposed action plan, and receiving carrying out the examination pursuant to article 28, paragraph 5, second clause of Regulation (EU) no. 2017/1131;

f) adopting all the specific measures under article 41, paragraph 2 of Regulation (EU) no. 2017/1131, regarding the violations referred to by the same article, paragraph 1, letters a), b), c), d), e), f), and related to the violations of articles 21, 23, 26, 27 and 28, and g), of the aforementioned Regulation. In the cases envisaged by article 41, paragraph 1, letter f), in reference to the violation of article 36 of Regulation (EU) no. 2017/1131, the revocation of the authorization granted in accordance with paragraph 2 shall be adopted at the proposal of Consob.

4. Consob is the competent authority for:

a) fulfilling the disclosure obligations towards ESMA provided for by articles 4, paragraph 6, 28, paragraph 6, and 37, paragraph 5, of Regulation (EU) no. 2017/1131[191];

b) adopting the specific measures provided for by article 41, paragraph 2, letter a) of Regulation (EU) no. 2017/1131 in the cases envisaged by article 41, paragraph 1, letter f), for the violation of article 36 of the same regulation. In the event of such violations, Consob can also propose to the Bank of Italy, pursuant to article 41, paragraph 2, letter b), the revocation of the authorization granted in accordance with paragraph 2.

5. In order to ensure compliance with this article, as well as with the regulation indicated under paragraph 1, the Bank of Italy and CONSOB have, according to the respective attributions and the purposes of article 5, the powers attributed to them by this decree, as well as the powers envisaged by article 39 of the aforementioned Regulation (EU) no. 2017/1131.

190 Article first inserted by Article 1 of Legislative Decree no. 17 of 2.2.2021 and then amended by Article 1 of Legislative Decree no. 191 of 5.11.2021 as indicated in the following footnote.

191 Letter thus amended by Article 1 of Legislative Decree no. 191 of 5.11.2021, which replaced the word: “ESMA” with the Italian word: “AESFEM” (Autorità europea degli strumenti finanziari e dei mercati).

Article 4-quinquies.3
Identification of the competent national authorities pursuant to regulation (EU) no. 2019/1156 on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) no. 345/2013, (EU) No 346/2013 and (EU) no. 1286/2014

1. The Bank of Italy and CONSOB, according to the respective attributions and the purposes of Article 5, are the competent national authorities pursuant to Regulation (EU) no. 2019/1156 as for the publication and management on the respective Internet sites of the information envisaged by Article 5, paragraph 1, of Regulation (EU) no. 2019/1156.

2. CONSOB is the competent authority to publish and manage on its Internet site the information envisaged by Article 10, paragraph 1, of Regulation (EU) no. 2019/1156 and to disclose to ESMA the information envisaged by Article 5, paragraph 2, Article 8, paragraph 1, Article 10, paragraph 2 and Article 13, paragraph 1, of Regulation (EU) no. 2019/1156[192].

Article 4-sexies[193]
Identification of the competent national authorities pursuant to regulation (EU) no. 1286/2014, relative to the documents containing the key information for packaged retail investment and insurance products (PRIIPs)

1. CONSOB and IVASS are the competent national authorities designated pursuant to article 4, number 8), of regulation (EU) no. 1286/2014 for monitoring compliance with the obligations that the same regulation (EU) no. 1286/2014 imposes on PRIIP developers and on the persons who provide advice on PRIIPs or who sell PRIIPs, also by the respective supervisory, investigation and sanctioning powers, according to the respective attributions and in accordance with the provisions of this article.

2. For the purposes of paragraph 1, CONSOB is the competent authority for:

a) ensuring observance of the obligations imposed by regulation (EU) no. 1286/2014 on PRIIP manufacturers and persons advising on, or selling, PRIIPs, without prejudice to the provisions of paragraph 3, letter a)[194];

b) exercising, with reference to the insurance investment products marketed, distributed or sold in Italy, or originating from Italy, the monitoring activity and the powers contemplated by articles 15, paragraph 2, 17 and 18, paragraph 3, of regulation (EU) no. 1286/2014, as regards investor protection or the integrity and orderly functioning of the markets, without prejudice to the provision of paragraph 3, letter b), for the subjects indicated therein[195];

c) …omissis...[196]

2-bis. In accordance with the responsibilities identified in paragraph 2, Consob exercises the

192 Article inserted by Article 1 of Legislative Decree no. 191 of 5.11.2021.

193 Article first inserted by Article 1 of Legislative Decree no. 224 of 14.11.2016 and then amended by Article 2 of Legislative Decree no. 68 of 21.5.2018, Article 1 of Legislative Decree no. 165 of 25.11.2019 and Article 33 of Decree Law no. 34 of 19.5.2020 (converted with modifications by Law no. 77 of 17.7.2020) according to the terms indicated in the subsequent notes.

194 Letter as amended by Article 1 of Legislative Decree no. 165 of 25.11.2019 which removed the words: “insurance intermediaries indicated therein”.

195 Letter as amended by Article 2 of Legislative Decree no. 68 of 21.5.2018 which replaced the words: "insurance intermediaries", with the words: "the subjects".

196 Letter repealed by Article 1 of Legislative Decree no. 165 of 25.11.2019.

supervisory and investigative powers stipulated in Part II[197].

3. For the purposes of paragraph 1, IVASS is the competent authority for:

a) ensuring observance of the obligations imposed by regulation (EU) no. 1286/2014 on PRIIP manufacturers persons advising on, or selling, the PRIIP, with regard to the insurance companies and insurance intermediaries pursuant to article 109, paragraph 2, letters a) and b) of Italian Legislative Decree no. 209 of 07 September 2005, by the other subjects that might be used by such insurance intermediaries listed in the section of the register referred to under letter e) of article 109, paragraph 2, of Italian Legislative Decree no. 209 of 07 September 2005, and by the subjects listed in the section of the register referred to by letter c) of article 109, paragraph 2, of Italian Legislative Decree no. 209 of 07 September 2005[198];

b) exercising, with reference to the insurance investment products marketed, distributed or sold in Italy, the activity of monitoring and the powers pursuant to articles 15, paragraph 2, 17 and 18, paragraph 3, of regulation (EU) no. 1286/2014 in the case of products distributed by insurance companies and insurance intermediaries pursuant to article 109, paragraph 2, letters a) and b), of Italian Legislative Decree no. 209 of 07 September 2005, by the other subjects of which these insurance intermediaries may take avail listed in the section of the register referred to under letter e) of article 109, paragraph 2, of Italian Legislative Decree no. 209 of 07 September 2005, and by the subjects listed in the section of the register referred to under letter c) of article 109, paragraph 2, of Italian Legislative Decree no. 209 of 07 September 2005[199];

c) exercising, with reference to the insurance investment products marketed, distributed or sold in Italy, or originating from Italy, the monitoring activity and the powers contemplated by articles 15, paragraph 2, 17 and 18, paragraph 3, of Regulation (EU) no. 1286/2014 regarding the profiles involved in the stability of the financial and insurance system or a part of the same[200].

4. CONSOB and IVASS, in respect of the reciprocal independence, identify forms of operational coordination, also pursuant to article 20 of Italian Law no. 262 of 28 December 2005, for the exercise of the duties and powers attributed to the same pursuant to this article, also through memoranda of understanding, without new or higher charges bearing on the public finance, pursuing the aim of simplifying, where possible, the burden for the subjects supervised. CONSOB and IVASS collaborate together, also pursuant to article 21 of Italian Law no. 262 of 28 December 2005, to facilitate the exercise of the duties and powers attributed to the same pursuant to this article and article 4-septies and they reciprocally communicate the provisions adopts pursuant to articles 17 and 18, paragraph 3, of regulation (EU) no. 1286/2014[201].

5. CONSOB, after consulting IVASS, adopts with its own regulations the implementation provisions of paragraph 2, while also identifying, for supervisory purposes, procedures for accessing the key information before the PRIIP are marketed in Italy, taking due account of the need to contain costs for the supervised entities, in compliance with the delegated deeds and regulatory technical standards

197 Paragraph inserted by Article 1 of Legislative Decree no. 165 of 25.11.2019.

198 Letter replaced by Article 1 of Legislative Decree no. 165 of 25.11.2019.

199 Letter as amended by Article 2 of Legislative Decree no. 68 of 21.5.2018 which removed the words: "as regards investor protection or the integrity and ordered functioning of the markets" and, after the words: "in the case of products distributed", added the words: “by insurance companies and”.

200 Letter as amended by Article 2 of Legislative Decree no. 68 of 21.5.2018 which removed the words: ", and regarding the risks inherent to the stability of the insurance companies, on the insurance companies themselves.".

201 Paragraph as amended by Article 2 of Legislative Decree no. 68 of 21.5.2018 which after the words: "powers attributed to the same pursuant to this article" added the words: "and article 4-septies".

adopted by the European Commission pursuant to regulation (EU) no. 1286/2014[202].

6. IVASS, after consulting CONSOB, adopts, with its own regulations, the implementation provisions of paragraph 3.

7. CONSOB and IVASS adopt the provisions referred to under paragraphs 5 and 6 having regard to the need to simplify, where possible, the charges for the supervised subjects and the distribution of the duties according to the principles indicated under paragraphs 2 and 3.

Article 4-sexies.1
Identification of the competent national authorities pursuant to Regulation (EU) 2020/1503 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937

1. For the purposes of the provisions on crowdfunding service providers, the definitions set out in Article 2 of Regulation (EU) 2020/1503 shall apply.

2. CONSOB and the Bank of Italy are the competent national authorities in accordance with Regulation (EU) 2020/1503, delegated acts and regulatory and implementing technical standards thereof, according to the powers and competences respectively attributed to:

a) CONSOB, pursuant to Article 5 (1) and (3);

b) The Bank of Italy, pursuant to Article 5 (1) and (2);

3. After consulting the Bank of Italy, CONSOB authorizes the crowdfunding service providers pursuant to Article 12 of Regulation (EU) 2020/1503 and revokes, after consulting the Bank of Italy, the authorization pursuant to Article 17 of Regulation (EU) 2020/1503.

4. As a derogation to paragraph 3, the Bank of Italy, after consulting CONSOB, authorizes as crowdfunding service providers the banks, payment institutions, electronic money institutions and financial intermediaries entered in the Register referred to in Article 106 of Legislative Decree no. 385 of 1 September 1993 and, after consulting CONSOB, revokes the authorization under Article 17 of Regulation (EU) 2020/1503.

5. For the purposes of paragraph 2, CONSOB is the competent authority for:

a) ensuring observance of the obligations imposed by Regulation (EU) 2020/1503:

1) on transparency, therein including the information obligations in providing crowdfunding services;

2) on fairness, therein including the procedures for a correct provision of crowdfunding services, management of conflicts of interest potentially harmful for clients, including those deriving from remuneration and incentive systems, incentives, claims handling, modalities for the control of the conformity with rules, where so required;

b) identifying the national regulations applicable to marketing communications spread over the territory of the Italian Republic, and carrying out the related monitoring activity as referred to in Article 27 (4) of Regulation (EU) 2020/1503.

202 As modified by Article 1 of Legislative Decree no. 165 of 25.11.2019, which replaced the words: “establishing in any case a discipline for the methods of absolving the obligations of prior serving of the document containing the key information referred to under paragraph 2, letter c) and article 4-decies” with the words: “while also identifying, for supervisory purposes, procedures for accessing the key information before the PRIIP are marketed in Italy, taking due account of the need to contain costs for the supervised entities”.

6. For the purposes referred to in paragraph 2, the Bank of Italy is the competent authority to ensure observance of the obligations imposed by Regulation (EU) 2020/1503, therein including those on:

a) Capital adequacy, limitation of risk and equity interests, information to be provided to the public on the same matters;

b) Corporate governance and general organization requirements, including implementation of Article 4-undecies, and business continuity;

c) Administrative and accounting organization, internal controls, remuneration and incentive systems, including the provision of a function for the control of the conformity with rules, where so required, management of risks, including those related to the determination of the default rate, internal audit where required and externalising of operational functions;

d) Requirements of the participants in the capital of the crowdfunding service provider that hold at least 20 percent of the capital or voting rights. As far as compatible, the provisions of Article 14, (5) to (8), of this decree and, with reference to the requirements referred to in Article 12 (3), letter a) of Regulation (EU) 2020/1503, the provisions laid down in the implementing decree of Article 25 (2) of the consolidated banking law, are applied;

e) Due diligence in respect of project owners, as indicated in Article 5 of Regulation (EU) 2020/1503;

f) Requirements of corporate officers of crowdfunding service providers. As far as compatible, the provisions of Article 13, (5) and (6), of this decree and, with reference to the requirements referred to in Article 12 (3), letter a) of Regulation (EU) 2020/1503, the provisions laid down in the implementing decree of Article 26 (3) of the consolidated banking law, are applied.

7. The Bank of Italy and CONSOB, in exercising the duties and powers attributed to them under this article, shall operate in a coordinated manner inter alia with a view to minimizing the costs incurred by crowdfunding service providers. To this purpose, they shall stipulate memoranda of understanding or modify existing ones, giving each other notice of the measures adopted and the irregularities discovered in carrying out their supervisory activity. The memoranda of understanding shall be made public and have in particular the following subject matters:

a) The exercise of the duties and powers conferred on the Bank of Italy and CONSOB pursuant to this Article;

b) The exchange of information between the Bank of Italy and CONSOB, also in reference to the irregularities discovered and the measures adopted in the exercise of the supervisory activity.

8. CONSOB is the single contact point for cross-border administrative cooperation among competent authorities and with ESMA.

9. Within the context of its duties and for the purposes indicated in paragraphs 2, 3 and 5, CONSOB, after consulting the Bank of Italy, adopts, with its own regulations, the implementation provisions of this article.

10. Within the context of its duties and for the purposes indicated in paragraphs 2, 4 and 6, the Bank of Italy, after consulting CONSOB, adopts, with its own regulations, the implementation provisions of this article.

11. To fulfil the duties on crowdfunding services as defined by this decree, the related implementing provisions and Regulation (EU) 2020/1503, the delegated acts and regulatory and implementing technical standards, the Bank of Italy and CONSOB, according to their respective powers and purposes, hold the investigative and supervisory powers contemplated by article 30 of Regulation (EU) 2020/1503 as well as the powers contemplated by this decree on the matter of intermediaries.

12. Articles 4-undecies and 4-duodecies, paragraphs 1, 2 and 2-bis, apply to crowdfunding service providers[203].

Article 4-septies[204]
Power to intervene in the case of breach of the provisions of Regulation (EU) no. 1286/2014

1. Without prejudice to the attributions and powers pursuant to articles 15, paragraph 2, 17 and 18, paragraph 3, of regulation (EU) no. 1286/2014, in the case of breach of the provisions contemplated by article 5, paragraph 1, by articles 6 and 7, by article 8, paragraphs from 1 to 3, by article 9 and by article 10, paragraph 1, by article 13, paragraphs 1, 3 and 4, and by articles 14 and 19 of regulation (EU) no. 1286/2014, or in the case of failure to notify CONSOB of the document concerning the key information or of the reviewed versions of the same pursuant to article 4-decies and the relative implementation provisions, CONSOB may, taking into account, in as far as compatible, the criteria of article 194-bis[205]:

a) suspend the marketing of a PRIIP, for a period of no more than sixty days each time[206];

b) ban the offer;

c) ban the supply of a document containing the key information that does not comply with the requisites of articles 6, 7, 8 or 10 of regulation (EU) no. 1286/2014 and impose the publication of a new version of a document containing the key information.

1-bis. Without prejudice to the provisions of paragraph 1, in case of infringement of articles 13, paragraphs 1, 3 and 4, 14 and 19 of Regulation (EU) no. 1286/2014, CONSOB or IVASS, according to their respective duties defined pursuant to Article 4-sexies, may, taking into account, in as far as compatible, the criteria established by Article 194-bis, exercise the powers referred to in paragraph

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203 Article included by Article 1 of Legislative Decree no. 30 of 10.3.2023. Article 1, paragraphs 2 and 3, of Legislative Decree no. 30 of 10.3.2023 provide that: “2. CONSOB and the Bank of Italy, inter alia within the context of the regulations referred to in Article 4-sexies.1, (9) and (10), of Legislative Decree no. 58 of 24 February 1998, as introduced by paragraph 1, letter b), of this article, may provide for simplified authorization procedures for parties that, at the date of entry into force of Regulation (EU) 2020/1503, are already authorized in accordance with national law to provide crowdfunding services in accordance with Article 48 of the same regulation, as well as for banks, payments institutions, electronic money institutions, and other supervised intermediaries that at the same date provide crowdfunding services. 3. For the purpose of the portal management service for the raising of capital via portals for small and medium-sized enterprises and social enterprises, during the transitional period referred to in Article 48 of Regulation (EU) 2020/1503, the parties listed in the register referred to in Article 50-quinquies, paragraph 2, of Legislative Decree no. 58 of 24 February 1998, continue to be subject to the provisions of the aforementioned decree, in the text in force prior to the amendments made by this article, until expiry of the transitional period defined in accordance with Article 48 of Regulation (EU) 2020/1503 or, if earlier than that, until obtainment of the authorization provided for by Article 12 of Regulation (EU) 2020/1503”.

204 Article first included by Article 1 of Legislative Decree no. 224 dated 14.11.2016 and then amended by Article 1 of Legislative Decree no. 129 dated 3.8.2017, Article 2 of Italian Legislative Decree no. 68 of 21.5.2018, Article 1 of Italian Legislative Decree no. 165 of 25.11.2019 and Article 33 of Decree Law no. 34 of 19.5.2020 (converted with modifications by Law no. 77 of 17.7.2020) according to the terms indicated in the following notes.

205 Line first amended by Article 2 of Legislative Decree no. 68 of 21.5.2018 which replaced the words ", from article 10," with the words: "and from article 10,"; removed the words: “from article 13, paragraphs 1, 3 and 4, and articles 14 and 19” and replaced the words: “or IVASS, in accordance with their respective duties defined pursuant to Article 4-sexies, may," with the word: “may”; and then by Article 1 of Legislative Decree no. 165 of 25.11.2019 which deleted the words: “or in the event of failure to notify CONSOB of the key information document or revised versions thereof pursuant to article 4-decies and the associated implementing provisions”.

206 Letter thus amended by Article 1 of Legislative Decree no. 129 dated 3.8.2017 that removed the words: «consecutive working».

1[207].

2. CONSOB and IVASS may require, according to their respective duties imposed pursuant to article 4-sexies, the PRIIP developers or the subjects who provide advice on the PRIIPs or who sell such products, to transmit a communication to the PRIIP retail investor concerned, giving information on the administrative measures adopted and communicating the procedures for the presentation of possible complaints or requests for reimbursement also by resorting to the out-of-court settlement mechanisms of controversies contemplated by Italian Legislative Decree no. 179 of 08 October 2007[208].

3. The provisions adopted by CONSOB pursuant to this article are published in compliance with the provisions on the publication of the sanction provisions contemplated by article 195-bis.

4. The provisions adopted by IVASS pursuant to this article are subject, as far as compatible, to the provisions of Title XVIII of Italian Legislative Decree no. 209 of 07 September 2005.

5. …..omissis…..[209]

Article 4-septies.1
Identification of the national authorities with competence pursuant to Regulation (EU) 2016/11 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds

1. Pursuant to article 40, paragraph 1, of Regulation (EU) 2016/2011, CONSOB is the competent authority for benchmark administrators and supervised contributors, as defined by article 3, paragraph 1, point 10) of the said Regulation, established in the territory of the Republic.

2. Without prejudice to the provisions of paragraph 1, the Bank of Italy is the competent authority for the contributors that it supervises, for the purposes of participation in the colleges envisaged by article 46, paragraphs 2 and 3 of Regulation (EU) 2016/1011, and collaborates with the competent authority for administrators as envisaged by article 23 of the same Regulation. In order to fulfil these tasks, CONSOB and the Bank of Italy establish, via a memorandum of understanding, the procedures for cooperation and mutual exchange of information.

3. Pursuant to article 40, paragraph 1, of Regulation (EU) 2016/1011, CONSOB, the Bank of Italy, IVASS and the COVIP are the competent authorities, according to their respective supervisory powers, for subjects supervised by the same that make use of a benchmark, as provided for by article 3, paragraph 1, point 7) of the said Regulation.

4. Pursuant to article 40, paragraph 1, of Regulation (EU) 2016/1011, CONSOB is the competent authority responsible for the coordination, cooperation and exchange of information with the Commission of the European Union, ESMA and the competent authorities of other Member States.

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207 Paragraph added by Article 2 of Legislative Decree no. 68 of 21.5.2018.

208 Paragraph 12 of Article 10 of Legislative Decree no. 129 of 3 August 2017 provides as follows: "Legislative Decree no. 179 of 8 October 2007 is repealed but shall continue to apply until 3 January 2018. From that date, references to paragraphs 5-bis and 5-ter of article 2 and paragraph 2 of Article 9 of Legislative Decree no. 179 of 8 October 2007, shall be intended as made respectively to paragraphs 1, 2 and 3 of article 32-ter of Legislative Decree no. 58; references to article 8 of Legislative Decree no. 179 of 8 October 2007 shall be intended as made to article 32-ter of Legislative Decree no. 58 of 24 February 1998.

209 Paragraph repealed by Article 2 of Legislative Decree no. 68 of 21.5.2018.

5. For the purposes of carrying out the tasks envisaged by Regulation (EU) 2016/1011, CONSOB, the Bank of Italy, IVASS and the COVIP exercise the supervisory and inspection powers assigned to them by sector legislation. Furthermore, CONSOB may exercise the additional powers envisaged by article 187-octies, according to the procedures defined therein[210].

5-bis. Pursuant to Article 23-ter (7) of Regulation (EU) 2016/1011, the Macroprudential Policy Committee, hereinafter also referred to as the Committee, shall be the competent authority to assess whether a reserve clause of a specific type of agreement originally agreed upon no longer reflects, or reflects with significant differences, the market or economic reality that the discontinued benchmark was intended to measure and whether the application of this clause could constitute a threat to financial stability. The Committee shall make public the elements considered as the basis for the assessment referred to in the first paragraph. The Committee shall provide itself with the necessary procedures to carry out the assessment referred to in this paragraph[211].

Article 4-septies.2[212]

Identification of the competent national authorities under Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation

1. The Bank of Italy, CONSOB, IVASS and COVIP are the competent national authorities under Regulation (EU) 2017/2402, according to their respective powers and in accordance with the provisions of this article.

2. For the purposes of this Article, the following definitions shall apply:

a) “securitisation” means the transaction or scheme referred to in Article 2 (1) of Regulation (EU) 2017/2402;

b) “securitisation special purpose entity” or “SSPE” means the entity referred to in point (2) of Article 2 of Regulation (EU) 2017/2402;

c) “originator” means the entity referred to in Article 2 (3) of Regulation (EU) 2017/2402;

d) “sponsor” means the entity referred to in Article 2 (5) of Regulation (EU) 2017/2402;

e) “institutional investor” means the investor referred to in Article 2 (12) of Regulation (EU) 2017/2402;

f) “original lender” means the entity referred to in Article 2 (20) of Regulation (EU) 2017/2402;

g) "insurance company" means the entity referred to in letter u) of Article 1, paragraph 1, of Italian Legislative Decree no. 209 of 7 September 2005, including the branches in Italy of companies with registered office in a third country;

h) "reinsurance company" means the entity referred to in letter cc) of Article 1, paragraph 1, of Legislative Decree no. 209 of 7 September 2005, including the branches in Italy of companies with registered office in a third country;

i) "Institution for occupational retirement provision" means a pension fund that is entered in the register maintained by COVIP, that qualifies as one of the funds referred to in Articles 4, paragraph

210 Article included by Article 1 of Legislative Decree no.19 of 13.2.2019.

211 Paragraph added by Article 4 of Legislative Decree no. 207 of 7.12.2023.

212 Article first inserted by article 1 of Legislative Decree no. 131 of 3.8.2022 and then modified by article 1 of Legislative Decree no. 204 of 6.12.2023 within the terms indicated in the following notes. In implementation of this article, Consob has adopted resolution no. 22833 of 9.10.2023, published in the O.J. no. 244 of 18.10.2023.

1, and 12 of Italian Legislative Decree no. 252 of 5 December 2005, or those referred to in Article 20 of the same decree, and that has legal subjectivity.

3. For the purposes of paragraph 1, without prejudice to the duties of the European Central Bank (ECB) under Regulation (EU) No. 1024/2013, the Bank of Italy shall be the competent authority to:

a) supervise compliance with the obligations laid down in Article 5 of Regulation (EU) 2017/2402 for banks, investment firms, management companies, as well as for financial intermediaries entered in the register provided for in Article 106 of the Consolidated Law on Banking that hold a securitisation position or are instructed to fulfil the obligations of another institutional investor under Article 5 (5) of Regulation (EU) 2017/2402;

b) supervise compliance with the obligations laid down in Articles 6, 7, 8 and 9 of Regulation (EU) 2017/2402 in securitisation where the originator or the original lender or the sponsor or the SSPE are banks, investment firms, management companies, or financial intermediaries entered in the register provided for by Article 106 of the Consolidated Law on Banking.

4. For the purposes of paragraph 1, IVASS shall be the competent authority to:

a) supervise compliance with the obligations laid down in Article 5 of Regulation (EU) 2017/2402 for insurance or reinsurance companies holding a securitisation position or being instructed to fulfil the obligations of another institutional investor under Article 5 (5) of Regulation (EU) 2017/2402;

b) supervise compliance with the obligations laid down in Articles 6, 7, 8 and 9 of Regulation (EU) 2017/2402 in securitisation where the originator or original lender is an insurance or reinsurance company.

5. For the purposes of paragraph 1, COVIP is the competent authority to:

a) supervise compliance with the obligations laid down in Article 5 of Regulation (EU) 2017/2402 for institutions for occupational retirement provision[213];

b) supervise compliance with the obligations laid down in Articles 6, 7, 8 and 9 of Regulation (EU) 2017/2402 in securitisation where the originator is an institution for occupational retirement provision.

6. For the purposes of paragraph 1, CONSOB is the competent authority to:

a) supervise compliance with the obligations laid down in Article 3 of Regulation (EU) 2017/2402;

b) supervise compliance with the obligations laid down in Articles 6, 7, 8 and 9 of Regulation (EU) 2017/2402 where neither the originator nor the original provider nor the SSPE established in the Union are supervised entities; supervised entities shall mean those contemplated by the Union legislative acts referred to in Article 29 (3) of Regulation (EU) 2017/2402;

c) supervise compliance of originators, sponsors and SSPEs with Articles 18 to 27 of Regulation (EU) 2017/2402;

d) authorise the third-party verifier referred to in Article 27 paragraph (2), of Regulation (EU) 2017/2402 in accordance with the provisions of Article 28 of the same regulation, supervise compliance of this subject with Article 28 of the same regulation, as well as withdraw the aforementioned authorisation[214].

213 Letter thus amended by article 1 of Legislative Decree no. 204 of 6.12.2023 which replaced the words: «of Regulation (EU) 2017/240» with the words: «of Regulation (EU) 2017/2402».

214 Letter thus modified by article 1 of Legislative Decree no. 204 of 6.12.2023 which replaced the word: "(2)" with the words: "paragraph (2)".

7. With regard to the originators, original lenders, sponsors and SSPEs, even when they are unsupervised entities, the Bank of Italy, CONSOB, IVASS and COVIP exercise the powers of supervision and investigation provided for in Article 30 of Regulation (EU) 2017/2402 and sectoral legislation, including those provided for in Article 6-bis, according to the respective powers indicated in the preceding paragraphs. CONSOB may also exercise the additional powers provided for in Article 187-octies, in accordance with the procedures established therein, and may lay down provisions relating to the authorisation procedure for third-party verifiers referred to in Article 27 (2) of Regulation (EU) 2017/2402 and any withdrawal thereof. Those authorities shall fulfil their reporting obligations to ESMA under Article 37 (6) of Regulation (EU) 2017/2402 in accordance with their respective powers.

8. For the purposes of paragraphs 3 letter b), 4 letter b) and 5 letter b), if the originators, the original lenders, the sponsors and the SSPEs are not all supervised entities, the Bank of Italy, IVASS and COVIP shall exercise the powers of supervision and investigation provided for in paragraph 7 through the supervised entities. For these purposes, unsupervised entities shall transmit the necessary information to the supervised entities, which shall send it to their Supervisory Authority. The Bank of Italy, IVASS and COVIP shall have the right to request information directly from unsupervised parties.

9. In order to ensure compliance with this article and with the regulation referred to in paragraph 1, the Bank of Italy, CONSOB, IVASS and COVIP may issue provisions implementing this article, each within their sphere of competence. While respecting their mutual independence, they shall also identify forms of operational coordination, including pursuant to Article 20 of Law no. 262 of 28 December 2005, for the exercise of the duties and powers conferred on them pursuant to this Article, including through memoranda of understanding, at no additional or higher cost for public finances, also to regulate the cases in which, pursuant to paragraphs 3, letter b), 4, letter b), 5, letter b), more than one supervisory authority is involved in the same securitisation transaction. Those authorities shall cooperate with each other, including pursuant to Article 21 of Law No. 262 of 28 December 2005, in order to facilitate the exercise of the duties and powers conferred on them, and shall exchange information.

Article 4-octies
Internal systems for reporting breach of regulation (EU) no. 1286/2014

…omissis…[215]

Article 4-novies
Procedure for reporting to the Supervisory Authorities

…omissis…[216]

215 Article first included by Article 1 of Legislative Decree no. 224 dated 14.11.2016 and then repealed by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

216 Article first included by Article 1 of Legislative Decree no. 224 dated 14.11.2016 and then repealed by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

Article 4-decies
Obligation of prior serving of the document containing the key information on the PRIIPs

…omissis…[217]

Article 4-undecies[218]
Internal reporting of infringements (Whistle-blowing)

1. The parties referred to in parts II and III adopt specific procedures for whistle blowing, by the staff, of acts or facts that could constitute infringements of the regulations governing the activities carried on, as well as of the Prospectus Regulation as defined by article 93-bis, paragraph 1, letter a), and of Regulation (EU) no. 596/2014[219].

2. The procedures specified in paragraph 1 are able to guarantee:

a) the confidentiality of the personal data of the whistle blower and the person allegedly responsible for the infringement, without prejudice to the investigations or the procedures initiated by the judicial authorities in relation to the facts that are the subject of the reporting; the identity of the reporter is removed from the application of article 7, paragraph 2, of legislative decree no. 196 dated June 30th 2003, and cannot be revealed for all the phases of the procedure, without his or her consent or when the knowledge is essential for the defence of the accused;

b) the adequate protection of the subject against retaliation, discrimination or anyway unfair behaviour resulting from the reporting;

c) a specific, independent and autonomous channel for the reporting.

3. Other than cases of responsibility for bearing false witness or defamation, or for the same reason pursuant to article 2043 of the Civil Code, the presentation of reporting as part of the procedure referred to in paragraph 1 does not constitute an infringement of the obligations deriving from the work relationship. The provisions laid down by article 6, paragraphs 2-ter and 2-quater, of Legislative Decree no. 231 of 8 June 2001 shall apply[220].

4. The Bank of Italy and CONSOB adopt, in accordance with their respective competences, the implementing provisions of this article, having consideration for the need to for co-ordinating the supervisory functions and reducing the charges on the recipient parties to the minimum[221].

217 Article first included by Article 1 of Legislative Decree no. 224 of 14.11.2016 and then repealed by Article 1 of Legislative Decree no. 165 of 25.11.2019.

218 Article first inserted by Article 1 of Legislative Decree no. 129 of 3.8.2017 and then amended by Article 2 of Legislative Decree no. 68 of 21.5.2018, and by article 1 of Legislative Decree no. 17 of 2.2.2021 according to the terms indicated in the subsequent notes.

219 Paragraph first amended by Article 2 of Legislative Decree no. 68 of 21.5.2018 which removed the words: “and assurance companies”, and then by article 1 of Legislative Decree no. 17 of 2.2.2021, which, after the words “as well as” added the words “of the Prospectus Regulation as defined by article 93-bis, paragraph 1, letter a) and of”.

220 Paragraph as amended by Article 1 of Legislative Decree no. 17 of 2.2.2021 which added the last clause.

221 Paragraph as amended by Article 2 of Legislative Decree no. 68 of 21.5.2018 which removed the words: “The assurance companies comply with the implementing provisions adopted by IVASS, having consulted CONSOB”

Article 4-duodecies[222]
Procedure for reporting to the Supervision Authorities

1. The Bank of Italy and CONSOB[223]:

a) receive, each for the matter they are competent for, from the personnel of the parties indicated in article 4-undecies, reports that refer to infringements of the provisions of this decree, as well as of deeds of the European Union that can be directly applied in the same material;

b) bear in mind the criteria provided for by article 4-undecies, paragraph 2, letters a) and b), and can establish conditions, limits and procedures for the reception of the reports;

c) make use of the information contained in the reports, where relevant, exclusively in the exercise of the supervisory functions;

d) through a protocol of understanding they provide for the appropriate co-ordination measures for the carrying out of the activities relative to their respective competences, including the application of the relative sanctions, in such a way as to co-ordinate the exercise of supervisory functions and reduce the charges against the supervised parties to a minimum.

1- bis. Paragraph 1 shall apply to reports to CONSOB, whoever they are made by, of infringements of the Prospectus Regulation as defined by article 93-bis, paragraph 1, letter a) or infringements of the Regulation (EU) no. 596/2014. The procedures are adopted by CONSOB in compliance with the provisions of Enforcement Directive (EU) 2015/2392[224].

2. Documents relative to the reports referred to in paragraphs 1 and 1-bis are removed with the access planned by articles 22 of law no. 241 dated August 7, 1990 and subsequent amendments [225].

2-bis. Article 4-undecies, paragraph 3 shall apply to the reports of infringements carried out in accordance with the procedures referred to in this article[226].

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222 Article first included by Article 1 of Legislative Decree no. 129 of 3.8.2017 and then amended by Article 1 of Legislative Decree no. 107 of 10.8.2018 and by Article 1 of Legislative Decree no. 17 of 2.2.2021 according to the terms indicated in the subsequent notes.

223 Sentence thus substituted by Article 1 of Legislative Decree no. 107 of 10.8.2018.

224 Paragraph first added by Article 1 of Legislative Decree no. 107 of 10.8.2018, then amended by Article 1 of Legislative Decree no. 17 of 2.2.2021, which, after the words “whoever they are made by” added the words “of infringements of the Prospectus Regulation as defined by article 93-bis, paragraph 1, letter a), or”.

225 Article included by Article 1 of Legislative Decree no. 129 dated 3.8.2017.

226 Paragraph included by Article 1 of Legislative Decree no. 17 of 2.2.2021.

Article 4-terdecies[227]
Exemptions

1. The provisions contained in part II do not apply:

a) to assurance companies nor to companies that provide the reinsurance and retrocession activities referred to in Legislative Decree no. 209 of 7 September 2005[228];

b) to parties that provide investment services exclusively to parent, subsidiary companies or companies subject to shared control;

c) to parties that provide investment services as an addition in the context of a professional activity governed by the legislative or regulatory provisions or by a code of professional ethics that admit the provision of these services, without prejudice to what is provided for in this decree for the intermediaries in the register required by article 106 of the consolidated banking law;

d) to parties that trade on their own account in financial instruments other than derivatives on commodities or by stakes of issue or relative derivative instruments and that do not provide other investment services or do not exercise other investment activities in financial instruments other than derivatives on commodities, by stakes of issue or relative derivatives, unless these parties:

1) are market makers

2) are members of or investors in a regulated market or multilateral trading facility or have direct electronic access to a trading venue, in accordance with what is provided for by delegated regulation (EU) 2017/565, with the exception of parties that are not traders that perform transactions in a trading venue of which it is objectively possible to measure the capacity of reducing the risks directly connected with the commercial activity or the financing activity of their own treasury or that of the group they belong to;

3) apply a high-frequency algorithmic trade technique, or

4) trade on their own account when carrying out orders of the clients.

The managers of UCI, Sicav, Sicaf and the relative depositories, the central counterparties and the exempted parties in line with the letters a), h), i) and l), are not required for the purpose of the exemption to satisfy the conditions enunciated in this letter.

e) to the operators subject to the obligations laid down in Directive 2003/87/EC that, when they concern emission stakes they do not carry out the clients' orders and they do not provide investment services or activities other that trading on their own account, on the condition they do not apply high-frequency algorithmic trading techniques;

f) to the parties that provide investment services consisting exclusively of the management of worker participation systems;

g) to the parties that provide investment services consisting exclusively of managing working participation systems and providing investment services exclusively for their own parent company, their own subsidiaries or other subsidiaries of the parent company;

h) to the European Central Bank, the Bank of Italy, to other members of the SEBC and other

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227 Article first included by Article 1 of Legislative Decree no. 129 of 3.8.2017 subsequently amended by Article 2 of Legislative Decree no. 68 of 21.5.2018, by and Article 1 of Legislative Decree no. 165 of 25.11.2019 and by Article 27 of Law no. 238 of 23.12.2021 and by Article 1 of Legislative Decree no. 31 of 10.3.2023 according to the terms indicated in the following note. Correction to paragraph 1, letter e) with notice of rectification, published in the O.J. no. 22 of 27.11.2018 which disposed as follows: "where it is written: " by the Legislative Decree 30 May 2005, no. 142", read: "from the Directive 2003/87/CE"". Paragraph 15 of Article 10 of Legislative Decree no. 129 of 3.8.2017 states: " The ministerial regulation dated 26 June 1997, no. 329, showing "Activity reservation implementation and integration provisions established in favour of investment companies and banks regarding the professional provision of investment service to the public" has been repealed but continues to be applied until 3 January 2018. Starting from this date references to the aforementioned ministerial regulation are intended as being made to article 4-terdecies of Legislative Decree no. 58 of 24 February 1998".

228 Letter as amended by Article 2 of Legislative Decree no. 68 of 21.5.2018 which removed the words: "with the exception of article 25-ter".

national bodies that carry out similar functions in the European Union, to the Ministry of the Economy and Finance and to other public bodies that are charged or that take part in the management of the public debt in the European Union and international financial institutions created by two or more member states with the aim of mobilising resources and providing financial assistance to those, among their members, that are facing or are threatened by grave financial difficulties;

i) to pension funds, harmonised or otherwise by European Union law, as well as to their depositary parties;

l) to parties:

i) including market makers, that trade derivatives on commodities or emission stakes or derivatives **on** the same on their own account excluding those that trade on their own account while carrying out client orders; or

ii) that provide investment services other than trading on their own account, in derivatives on commodities or emission stakes or derivative instruments **on** the same to clients or providers of their principal activity;

providing:

1) for each of these cases, considered both singularly and in aggregate format, it concerns an ancillary activity to their principal activity considered in the context of the group;

1-bis) these parties are not part of a group whose principal activity consists of the provision of investment services pursuant to this decree, exercise of the activities referred to in Annex I of Directive 2013/36/EU or market making activities in relation to derivatives on commodities;

2) these parties do not apply a high-frequency algorithmic trade technique; and

3) these parties communicate to CONSOB, on request thereof, the criteria for establishing whether their activity in accordance with points i) and ii) is to be considered to be ancillary to the principal activity, in compliance with the provisions of the delegated acts issued by the European Commission in accordance with Article 2 (4) of Directive 2014/65/EU.

Any loss of the requirements specified for the exemption under this letter must be communicated without delay to CONSOB by the interested parties that may continue to perform the activities indicated under points i) and ii) provided that, within six months of the abovementioned communication, they make an authorisation application as per the norms provided for in this decree[229];

m) to the parties that provide investment consultancy while performing another professional activity not contemplated by directive 2014/65/EU, providing this consultancy is not specifically remunerated;

n) to the foreign exchange agents whose activities and functions are governed by article 201 of this decree;

o) to the managers of the transmission system as defined in article 2, section 4, of directive 2009/72/EC or in article 2, section 4, of directive 2009/73/EC, when they perform their functions in compliance with the above-mentioned directives or (EC) regulation no. 714/2009 or (EC) regulation no. 715/2009 or of the network codes or of the approaches adopted by a provision of said regulations, to the people that act in the capacity of providers of services on their behalf to fulfil their tasks pursuant to said legislative acts or the network codes or of the approaches adopted by a provision of said regulations, or to any manager or administrator of an energy, network or behaviour system balancing mechanism, for balancing energy supply and consumption when they perform said task.

229 Letter first modified by Article 1 of Legislative Decree no. 165 of 25.11.2019, which, in point ii), number 3) replaced the words “by December 31st each year” with the word “annually” and replaced the final paragraph in its entirety, and then by Article 1 of Legislative Decree no. 31 of 10.3.2023, which, in point i) and subsection of point ii), replaced the word: “from” with the word “on”; in point ii), number 1), it deleted the words: “providing this principal activity does not consist of the provision of investment services pursuant to this decree, banking activities pursuant to consolidated banking law or in market making activities in relation to derivatives on commodities”; in point ii), it added number 1-bis) and replaced number 3).

This exemption is applied to the people who carry out the activities mentioned in this letter only when they perform investment activities or provide investment services relative to the derivatives on commodities for the purpose of carrying out said activity. This exemption is not applied in relation to the management of a secondary market, including platforms for secondary financial transmission rights trading;

p) to the central depositaries authorised pursuant to the (EU) regulation no. 909/2014, except for what is specified in article 79-noviesdecies.1 of this decree;

p-bis) to the crowdfunding service providers authorized pursuant to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020[230].

PART II
REGULATION OF INTERMEDIARIES

TITLE I
GENERAL PROVISIONS AND POWERS OF SUPERVISION[231]

Chapter I
Supervision

Article 5
Purpose and scope

1. The objectives of supervisory activities indicated in this section shall be:

a) the safeguarding of faith in the financial system;

b) the protection of investors;

c) the stability and correct operation of the financial system;

d) competitiveness of the financial system;

e) the observance of financial provisions[232].

2. For the pursuance of objectives indicated in paragraph 1, the Bank of Italy shall be responsible for risk containment, asset stability and the sound and prudent management of intermediaries[233].

3. For the pursuance of objectives indicated in paragraph 1, CONSOB shall be responsible for the transparency and correctness of conduct[234].

4. The Bank of Italy and CONSOB shall exercise supervisory powers over authorised persons. Each shall supervise the observance of regulatory and legislative provisions according to their respective responsibilities as defined in paragraphs 2 and 3[235].

5. The Bank of Italy and CONSOB shall operate in a coordinated manner, inter alia with a view to minimizing the costs incurred by authorised intermediaries and shall notify each other of the measures

230 Letter added by Article 27 of Law no. 238 of 23.12.2021, providing for its entry into force as from 10.11.2021.

231 Title thus replaced by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

232 Paragraph replaced by Article 2 Legislative Decree no. 164 of 17.09.2007

233 Paragraph replaced by Article 2 Legislative Decree no. 164 of 17.09.2007

234 Paragraph replaced by Article 2 Legislative Decree no. 164 of 17.09.2007

235 Paragraph replaced by Article 2 Legislative Decree no. 164 of 17.09.2007

adopted and the irregularities discovered in carrying out their supervisory activity.

5-bis. The Bank of Italy and CONSOB, with the aim of coordinating their supervisory duties and reducing to a minimum the onus on authorised persons, shall stipulate a protocol of understanding in relation to:

a) the responsibility of each and task performance methods, according to the prevalence criteria of duties pursuant to paragraphs 2 and 3;

b) the exchange of information, also with reference to irregularities discovered and measures adopted in the exercise of supervisory activities[236].

5-ter. The protocol of understanding referred to in paragraph 5-bis was made public by the Bank of Italy and by CONSOB in the ways established by them[237].

Article 6
Regulatory powers [238]

01. In the exercise of its regulatory powers, the Bank of Italy and CONSOB shall observe the following principles:

a) valuation of the decision-making autonomy of authorised persons;

b) proportionality, intended as a criterion for the exercise of power suited to achieving the purpose, with the minimum sacrifice of addressees' interests;

c) recognition of the international character of the financial market and safeguarding of the competitive position of Italian industry;

d) facilitation of innovation and competition[239].

02. The Bank of Italy and CONSOB can maintain or impose obligations in the regulations that are additions to those provided for by article 16, sections 8, 9 and 10, of directive 2014/65/EU and by relative delegated acts, as well as by article 24 of the same directive, only in exceptional cases where said obligations are objectively justified and proportioned, having taken account of the need to deal with specific risks for the protection of investors or the well-being of the market that are particularly significant in the context of the structure of the Italian market[240].

03. The Bank of Italy and CONSOB shall inform the Minister of the Economy and Finance of the regulatory provisions containing additional obligations pursuant to paragraph 02 for the purposes of

236 Paragraph as amended by Article 2 Legislative Decree no. 164 of 17.09.2007. See Bank of Italy-CONSOB memorandum of understanding of 31.10.2007 (published in O.J. no. 270 of 20.11.2007 and CONSOB Bulletin no. 10.2 of October 2007, attached to the joint Bank of Italy-CONSOB regulation adopted pursuant to Article 6, paragraph 2-bis.

237 Paragraph first included by Article 2 of Legislative Decree no. 164 dated 17.9.2007 and then thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that removed the words: «and it is the Annex to the regulation referred to in article 6, paragraph 2-bis». See the Memorandum of Understanding between the Bank of Italy / Consob of 31 October 2007 (published in OJ No 270, 20.11.2007 and Consob Bulletin no. 10.2 of October 2007 annexed to the Banca d'Italia / Consob Joint of Article 6, paragraph 2-bis.

238 Chapter thus replaced by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

239 Paragraph first added by Article 2 Legislative Decree no. 164 of 17.09.2007 and then amended by Article 2 of Legislative Decree no. 129 of 3 August 2017, which replaced the words "Regulatory Supervision" with the words "Regulatory powers". See joint Bank of Italy-CONSOB Regulation of 29.10.2007 (published in O.J. no. 255 of 2.11.2007 and CONSOB Fortnightly Bulletin no. 10.2, October 2007).

240 Paragraph first included by Article 2 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

notifying the European Commission[241].

1. The Bank of Italy, after consulting CONSOB, shall issue a regulation on:

a) obligations of SIMs, third-country enterprises and SGRs in terms of capital adequacy, limitation of risk in its various forms and equity interests, and information to be provided to the public on the same matters and on corporate governance, administrative and accounting procedures, internal controls and remuneration and incentive systems[242];[243]

b) the obligations of the investment companies, the companies of non-EU countries, the Sgrs, as well as the financial intermediaries in the register required by article 106 of the Consolidated banking law, Italian banks authorised to provide investment services or activities, regarding methods of deposit and sub-deposit of financial instruments and money belonging to the clients[244];

c) the rules applicable to Italian UCIs regarding:

1) the criteria and bans relative to the investment activity, also regarding group agreements;

2) the prudential provisions for risk containment and fractioning, in the case of UCIs other than reserved AIFs. The Bank of Italy may contemplate the application to Italian reserved AIFs of a financial lever ceiling and of prudential provisions to ensure the stability and integrity of the financial market;

3) the layout and drafting procedures of the accounting statements which asset management companies, SICAVs and SICAFs must periodically produce;

4) the methods for the calculation of the value of the UCI units or shares;

5) the criteria and procedures for evaluating the assets and valuables in which the capital is invested and the frequency of said evaluation. For the evaluation of assets not traded on regulated markets, the Bank of Italy may contemplate the use of the services of independent experts and may request their intervention also in the case of purchases and sales of the assets on the part of the manager;

6) the conditions for delegation to third parties of the evaluation of the assets in which the UCI capital is invested and the calculation of the value of the relative units and shares[245].

c-bis) the obligations of the parties qualified to provide investment services and activities and for the collective management of Assets, regarding:

1) corporate governance and general organisational requirements, including the implementation of article 4-undecies;

2) systems of remuneration and of providing incentives;

3) continuity of the activity;

4) administrative and accounting organisation, including the institution of the compliance with

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241 Paragraph included by Article 2 Legislative Decree no. 164 of 17.09.2007

242 Paragraph first amended by Article 2 Administrative Order no 297 of 27.12.2006, coordinated by enactment Law no. 15 of 23.2.2007, subsequently replaced by Article 2 of Legislative Decree no. 164 of 17.9.2007 and then amended by Article 4 of Legislative Decree no. 72 of 12.5.2015 which added, at the end, the following words: ", and information to be provided to the public on the same matters and on corporate governance, administrative and accounting procedures, internal controls and remuneration and incentive systems", and by Article 1 of Legislative Decree no. 201 of 5.11.2021 which added, after the words: “obligations of SIMs”, the words: “, third-country enterprises”. See Bank of Italy Regulation of 24.10.2007 (published in Ordinary Supplement no. 247, O.J. no. 277 of 28.11.2007.

243 Paragraph thus amended by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: “Employees of CONSOB and consultants and experts engaged by CONSOB” with the words: “Employees of CONSOB and those who work or have worked for CONSOB on whatever grounds, as well as consultants and experts currently or previously engaged by CONSOB,”

244 Letter first replaced by Article 2 of Legislative Decree no. 164 dated 17.9.2007, later amended by Article 1 of Legislative Decree no. 47 dated 16.4.2012 and in conclusion thus replaced by Article 2 of Legislative Decree no. 129 dated 3.8.2017. See Bank of Italy regulation no. 1097 dated 29.10.2007 (published in the O.J. no. 255 dated 2.11.2007.

245 Letter thus replaced by Article 2 of Legislative Decree no. 44 of 4.3.2014.

the regulations monitoring function;

5) business risk management;

6) internal audit;

7) liability of the senior management;

8) externalisation of essential or important operating functions or services or activities[246].

1-bis. The provisions pursuant to paragraph 1, paragraph a) allow for the adoption of internal risk measurement systems to determine equity requirements, subject to authorisation by the Bank of Italy, and for the use of credit risk assessments issued by the company or external authorities[247].

2. CONSOB, after consulting the Bank of Italy and taking into account the different need for protection of investors in relation to their nature and professional experience, shall issue a regulation governing the obligations of authorised intermediaries on:

a) transparency, including:

1) reporting obligations on the provision of investment services and activities, and collective asset management services, with particular reference to the level of risk of each type of financial product and portfolio management offered, to the companies and to services provided, to the safeguarding of financial instruments or cash equivalents held by the company, and the costs, incentives and, order implementation strategies and bundled selling practices[248];

2) the methods and criteria to be adopted in advertising and promotion communications and investment research;

3) obligations to inform customers regarding the execution of orders, portfolio management, transactions with potential liabilities and statements of customers' financial instruments or cash equivalents held by the company;

3-bis) the information obligations towards the investors of Italian AIFs, EU AIFs and non-EU AIFs[249];

b) correctness of conduct, including:

1) obligations to obtain information from customers or potential customers with the aim of assessing the adequacy or appropriateness of the transactions or services provided, including therein cases bundled selling practices[250];

2) measures for the execution of orders under the best conditions for customers;

3) obligations relating to order management;

4) the obligation to ensure that portfolio management is performed in a manner consistent with the specific needs of individual investors, and that on a collective basis is performed in observance of the aims of UCITS investments;

5) the conditions under which incentives may be paid or received[251].

b-bis) provision of investment activities and services and collective Assets management,

246 Letter added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

247 Paragraph included by Article 2 of Decree Law no. 297 of 27.12.2006, coordinated by enactment Law no. 15 of 23.2.2007. See Bank of Italy Regulation of 24.10.2007 (published in Ordinary Supplement no. 247, O.J. no. 277 of 28.11.2007).

248 Number thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «and order implementation strategies » with the words: «, order implementation strategies and bundled selling practices ».

249 Number included by Article 2 of Legislative Decree no. 44 of 4.3.2014.

250 Number thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that has added in conclusion the words: «, including there in bundled selling practices ».

251 Paragraph first substituted by Article 2 of Legislative Decree no. 164 of 17.9.2007 and then thus amended by Article 2 of Legislative Decree no. 44 of 4.3.2014 and by Article 2 of Legislative Decree no. 129 of 3.8.2017. See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the OJ no. 41of 19.2.2018).

relative:

1) to procedures, of internal auditing, for the correct and transparent provision of investment activities and services, including those for:

a) The regulation of financial instruments and structured deposits;

b) the receipt or payment of incentives;

2) to procedures, of internal auditing, for the correct and transparent provision of collective Assets management, including those for the receipt or payment of incentives;

3) to the methods for performing the monitoring of compliance with the regulations function;

4) to the treatment of complaints;

5) to personal transactions;

6) to the management of conflicts of interest potentially damaging to the client including those deriving from the remuneration and incentive systems;

7) to the conservation of the registrations;

8) to the knowledge and skill of the natural persons that provide consultancy to the clients regarding stakes or information about financial instruments, investment services or additions on behalf of the qualified parties[252].

2-bis. With reference to the matters indicated paragraph 1, letter c-bis), numbers 1), 2), 3), 7) and 8), the Bank of Italy gains the agreement of CONSOB on significant aspects of regulation for the purposes referred to in article 5, paragraph 3. With reference to matters indicated in paragraph 2, letter b-bis), number 6), CONSOB gains the agreement of the Bank of Italy on significant aspects of regulation for the purposes referred to in article 5, paragraph 2. The aspects of regulation significant for the purposes of competence of the Bank of Italy and CONSOB are specified in the protocol specified in article 5, paragraph 5-bis. For the exercising of supervision pursuant to this part, the following are competent: the Bank of Italy for compliance with the provisions adopted pursuant to paragraph 1, letter c-bis), numbers 1), 2), 3), 7) and 8), and CONSOB for compliance with the provisions adopted pursuant to paragraph 2, letter b-bis), number 6); furthermore, the Bank of Italy and CONSOB, in relation to the aspects over which they have provided the agreement and for the purpose referred to in article 5, paras 2 and 3, can:

a) exercise the powers of information and survey supervision attributed to them by this chapter even adopting for the purpose the intervention provisions for which they are competent, in the ways indicated in the protocol;

b) communicate irregularities encountered to the other authority for the purpose for adopting the provisions of competence[253].

2-ter. …omissis… [254]

2-quater. By regulation and after consulting the Bank of Italy, CONSOB shall identify:

a) …omissis…[255];

b) the conditions in which authorised persons shall not be obliged to observe regulatory provisions pursuant to paragraph 2, paragraph b), subparagraph 1), when they provide services

252 Letter included by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

253 Paragraph formerly added by Article 10 of Law no. 262 dated 28.12.2005, poi amended by Article 22 of Law no. 217 dated 15.12.2011, later substituted first by Article 2 of Legislative Decree no. 164 dated 17.9.2007 and then by Article 2 of Legislative Decree no. 129 dated 3.8.2017. See the joint Bank of Italy/CONSOB dated 29.10.2007 regulation (published in O.J. no. 255 dated 2.11.2007 and in the CONSOB Bulletin no. 10.2, October 2007).

254 Paragraph first included by Article 2 of Legislative Decree no. 164 dated 17.9.2007 and then repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

255 Letter repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

pursuant to Article 1, paragraph 5, paragraphs b) and e);

c) the specific discipline applicable to relations between authorised persons and professional customers;

d) the standards of behaviour that do not apply to the relations between the qualified parties that provide the services referred to in article 1, paragraph 5, letters a), b) and e), and qualified counterparties, meaning:

1) investment firms, EU Investment companies, banks, insurance companies, UCIs, managers, pension funds, the entities referred to in Legislative Decree no. 509 of 30 June 1994, and Legislative Decree no. 103 of 10 February 1996, financial intermediaries in the register specified in article 106 of the Consolidated banking law, companies referred to in article 18 of the consolidated banking law, electronic money institutions, banking foundations, national governments and their corresponding offices, including the public bodies tasked with managing the public debt, the central banks and supranational organisations of a public nature;

2) the other categories of private parties found with regulation by CONSOB, having consulted the Bank of Italy, in respect of the criteria referred to in the directive 2014/65/EU and the relative measures of implementation;

3) the categories corresponding to those of numbers 1) and 2) of parties from countries not belonging to the European Union[256].

2-quinquies. CONSOB, having consulted Bank of Italy, specifies with regulation:

a) professional private customers[257];

b) the criteria for identifying the private parties that on request can be treated as professional clients and the relative application procedure[258].

2-sexies. the Ministry of the Economy and Finance, having consulted with the Bank of Italy and CONSOB, identifies with regulation:

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256 Paragraph first included by Article 2 of Legislative Decree no. 164 dated 17.9.2007, subsequently amended by Article 33 of Law no. 97 of 6.8.2013, by Article 2 of Legislative Decree no. 44 of 4.3.2014, by Article 2 of Legislative Decree no. 129 dated 3.8.2017 and by Article 15 of Law no. 21 of 5.3.2024, which in subsection d), no. 1), added the words: “the entities referred to in Legislative Decree no. 509 of 30 June 1994, and Legislative Decree no. 103 of 10 February 1996,”. See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018). Paragraph 2 of Article 33 of Law no. 97 of 6.8.2013 establishes that: “The provisions on the central counterparty guarantee systems contained in the provision adopted by the Bank of Italy and by Consob on 22 February 2008, bearing "Discipline on the centralised management, liquidation and guarantee services and of the relative management companies", published in the O.J. no. 54 of 4 March 2008, continue to apply according to the transitional provisions contemplated by article 89, paragraphs 3 and 4, of Regulation (EU) no. 648/2012 of the European Parliament and of the Council, of 4 July 2012, concerning the OTC derivative instruments, the central counterparties and the data records on the transactions. Non-observance of the provisions on the central counterparty guarantee systems continues to be punished pursuant to article 190 of the Consolidated Law referred to by Legislative Decree no. 58 of 24 February 1998.”

257 Paragraph 16 of Article 10 of Legislative Decree no. 129 dated 3.8.2017 specifies that: “without prejudice to what is provided for in article 54, section 1, of (EU) regulation no. 600/2014, companies of countries outside the European Union (formerly called non-community investment companies) and banks of countries outside the European Union(formerly called non-community banks) that to the date of January 2nd 2018 are authorised to the freely provide investment services and activities on Italian soil and that have their registered office in countries for which , at the same date, the European Commission has not adopted a decision regarding article 47, section 1, of the same regulation, can continue to take advantage of the authorisation to provide these services and activities limited to the activity carried on to qualified counterparties or professional clients as identified pursuant to article 6, paragraph 2-quinquies, letter a), and paragraph 2-sexies, Letter a), of Legislative Decree no. 58 dated February 24th 1998, until the adoption of said decision and anyway not after January 3rd 2021”.

258 Paragraph first included by Article 2 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017. See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018).

a) the public professional customers [259];

b) the criteria for identifying the public parties that on request can be treated as professional clients and the relative application procedure [260].

2-septies. The provisions on remuneration and incentive systems issued pursuant to paragraph 1 letter c-is number 2), may provide that certain decisions regarding remuneration and incentives are referred to the competence of the shareholders' meeting, even in the dualistic administration and control model, establishing quorums in derogation of laws[261].

2-octies. Any agreement or provision not in conformity with the provisions on remuneration and incentive systems issued pursuant 1, letter c-bis), number 2), or contained in directly applicable acts of the European Union, is void. The invalidity of the clause does not lead to the nullity of the contract. Where possible, the provisions contained in the voided clauses are replaced by law with the parameters indicated in the above provisions in the values closest to the original agreement[262].

2-novies. The shareholders and directors of qualified subjects, without prejudice to the obligations under Article 2391, first paragraph, of the Italian Civil Code, shall refrain from deliberations in which they have a conflicting interest, on their own behalf or that of third parties[263].

Article 6-bis
Informative and investigatory powers

1. The Bank of Italy may ask the qualified parties, as far as it is competent to do so, to provide it with data and news and for documents and deeds to be sent in the way and under the terms that it establishes. The Bank of Italy may ask for information from the personnel of qualified parties, as far as it is competent to do so, including through said qualified parties.

2. The obligations provided for in paragraph 1 are also applied to those to which the qualified parties have externalised essential or important functions as well as their personnel.

3. The powers provided for under paragraph 1 can be exercised with regard to the party tasked with

259 Paragraph 16 of Article 10 of Legislative Decree no. 129 dated 3.8.2017 specifies that: “without prejudice to what is provided for in article 54, section 1, of (EU) regulation no. 600/2014, companies in countries outside the European Union(formerly called non-Community investment companies) and banks of countries outside the European Union (formerly called non-community banks) that to the date of January 2nd 2018 are authorised to freely provide investment services and activities on Italian soil and have their registered office in countries per which, at the same date, the European Commission has not adopted a decision regarding article 47, section 1, of the same regulation, can continue to take advantage of the authorisation to provide these services and activities limited to the activity carried on to qualified counterparties or professional clients as identified pursuant to article 6, paragraph 2-quinquies, letter a), and paragraph 2-sexies, Letter a), of Legislative Decree no. 58 dated February 24th 1998, until the adoption of said decision and anyway not after January 3rd 2021”.

260 Paragraph first included by Article 2 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017. See the decree of the Ministry of the Economy and Finance no. 236 dated 11.11.2011 (published in the O.J. no. 56 dated 7.3.2012).

261 Paragraph included first by Article 4 of Legislative Decree no. 72 dated 12.5.2015 and then thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «paragraph 2-bis, Letter a)» with the words: «paragraph 1, Letter c-bis), number 2)».

262 Paragraph included first by Article 4 of Legislative Decree no. 72 dated 12.5.2015 and then thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «paragraph 2-bis, Letter a)» with the words: «paragraph 1, Letter c-bis), number 2)».

263 Paragraph included by Article 4 of Legislative Decree no. 72 of 12.05.2015.

auditing the books.

4. CONSOB, in the contest of its competences, can:

a) ask anyone to send it data and information and send it documents and deeds in the ways and under the terms that it specifies, that may be pertinent to the purposes of the exercise of its powers of supervision;

b) hold a personal hearing with anyone who may be in possession of pertinent information.

5. CONSOB, within the context of its competences, may also, with regard to the qualified parties:

a) proceed with searches in the ways specified in article 33 of the decree of the President of the Republic no. 600 dated September 29 1973, and by 52 of the decree of the President of the Republic no. 633 dated October 26th 1972;

b) ask for records, existing regarding telephone conversations, electronic communications or exchange of data kept by a qualified party;

c) ask for records kept by a telecommunications operator concerning the telephone communications and exchanges of data of a qualified party;

d) take advantage of the help from public authorities by asking of the communication of data and information also in derogation the prohibitions referred to in article 25, paragraph 1, of the legislative decree no. 196 dated June 30, 2003, and access the IT system of the tax registry in the ways provided for in articles 2 and 3, paragraph 1, of the legislative decree no. 212 dated 12th July 1991;

e) request the communication of personal data also in derogation of the prohibitions referred to in article 25, paragraph 1, of the legislative decree no. 196 dated 30 June 2003;

f) take advantage, where necessary, of data contained in the registry of accounts and of the deposits referred to in article 20, paragraph 4, of the law no. 413 dated December 30th 1991, as well as acquire, even through direct access, the data contained in the file indicated in article 13 of decree-law no. 625 dated 15 December 1979, converted, with modifications, by law no. 15 dated February 6th 1980;

g) access directly, through appropriate electronic connection, to the data contained in the Bank of Italy Risks central database;

h) take advantage, where necessary, even through electronic connection, of the data contained in the appropriate section of the tax registry referred to in article 7, sixth paragraph, of the decree of the President of the Republic no. 605 dated September 29th 1973;

f) proceed with seizure of assets that might form the subject of confiscation pursuant to article 187–sexies of this decree. Paras 9, 10 and 11 of article 187-octies of this decree are applied.

6. This is without prejudice to the application of the provisions of articles 199, 200, 201, 202 and 203 of the code of criminal procedure, where compatible.

7. The powers referred to in paragraph 5, letters a), c) and o), are exercised after the authorisation of the public prosecutor of the Republic.

8. In the cases provided for by paragraph 4, letter b), paragraph 5, letters a) and i), and paragraph 9 a report is drawn up of the data and the information acquired or of the facts ascertained,
the seizures made, and the declarations made by those involved, who are asked to sign the report and have the right to have a copy thereof.

9. In the exercising of the powers provided for by paras 4 and 5 CONSOB may make use of the Guardia della Finanza (Finance Police) that carries out the investigations requested acting with the powers of investigation given to it for the purpose of the assessment of the value added tax and on income tax.

10. All the information, and the data acquired by the Guardia della Finanza in performing the tasks provided for by l paragraph 9 are covered by professional secrecy and are communicated exclusively to CONSOB without delay.

11. The Bank of Italy, within the scope of its competence, may exercise the power provided for in paragraph 4, letter b), in with regard to officers and personnel of the qualified parties. In this case paragraph 8 is applied[264].

Article 6-ter
Powers of inspection

1. The Bank of Italy and CONSOB may, within the context of their respective competences and in compliance with European regulations, carry out inspections and request the production of the documents and the fulfilment of the deeds considered necessary with regard to the qualified parties and those to whom the qualified parties have externalised essential or important corporate functions and to their personnel. Paras 9 and 10 of article 6-bis are applied.

2. For the purpose of checking compliance of a qualified party with the provisions referred to in this part, CONSOB, after authorisation from the public prosecutor of the Republic, may exercise the power referred to in paragraph 1 even with regard to parties, other than those indicated to therein, that have had relations of a capital or professional nature with the qualified party.

3. CONSOB may request the parties tasked with the legal auditing of the accounts of the qualified parties to provide information. When there are particular needs and it is not possible to do so with its own resources, CONSOB may also authorise legal auditors or auditing firms to make checks or inspections on its behalf. The party authorised to proceed with the aforementioned checks and inspections acts in the capacity of a public official.

4. In the cases provided for by l paragraph 2 CONSOB draws up a report of the data and of the information acquired or the facts ascertained and the declarations made by those involved, who are asked to sign the report and have the right to a copy thereof.

5. Each authority communicates the inspections ordered to the other authorities, which may ask for investigations with their own specifications.

6. Bank of Italy and CONSOB may ask the competent authorities of an EU state to conduct investigations at branches of investment firms, of Sgrs and of banks established on the soil of said state or agree other methods for the checks.

7. The competent authorities of one EU State after informing the Bank of Italy and CONSOB, may inspect, even through their representatives, the branches of EU investment companies, EU banks, EU management companies and EU AIFM authorised by the same, established on the soil of the Republic. If the authorities of a State in the European Union so requests, the Bank of Italy and CONSOB, within the context of their respective competences, proceed directly with the investigation or agree other ways for the checks to be made.

8. The Bank of Italy and CONSOB may agree methods for the inspection of investment company

264 Article added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

branches, Italian banks and companies of non-EU established within the respective territories, within the context of their respective competences, with the competent authorities of the non-EU States[265].

Article 7
Powers of intervention over the qualified parties [266]

1. The Bank of Italy and CONSOB, within the scope of their respective authority, may take the following actions with respect to authorised intermediaries:

a) convene the directors, auditors and staff[267];

b) order the convening of the governing bodies and set the agenda for the meeting;

c) proceed directly to convene the governing bodies where the competent bodies have not complied with an order issued under paragraph b);

1-bis. The Bank of Italy and CONSOB, within their respective competences, may also convene the directors, auditors and staff of those to whom the qualified subjects have outsourced essential or important business functions[268].

1-ter. The Bank of Italy and CONSOB, within the context of their respective competences, may publish warnings to the public[269].

1-quater. CONSOB tells the qualified parties not to make use of, in performing their activities and for a period of no longer than three years, of professional activities of a party where it might be damaging for the transparency and correctness of behaviour[270].

2. For stability purposes, the Bank of Italy can issue special provisions concerning the matters governed by Article 6, paragraph 1, letter a) and, where the situation so requires: adopt, after consulting CONSOB, restrictive or limiting measures concerning services, activities, operations and territorial structure; prohibit the distribution of profits or other elements of capital; with reference to financial instruments that can be calculated in capital for supervisory purposes and prohibit the payment of interest; set limits on the total amount of the variable part of remuneration in qualified subjects, when it is necessary for the maintenance of a sound capital base. The measures may be issued in respect of one or more qualified subjects, as well as one or more categories of them[271].

2-bis. The Bank of Italy, within the context of its competences, may order having consulted CONSOB, the removal of one or more corporate representatives of SIMs, asset management companies, SICAVs and SICAFs, if their tenure is of detriment to the sound and prudent management

265 Article added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

266 Chapter thus replaced by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

267 Letter thus amended by Article 4 of Legislative Decree no. 72 of 12.5.2015 which replaced the words: "the executives" with the words: "the staff".

268 Paragraph included by Article 4 of Legislative Decree no. 72 of 12.05.2015.

269 Paragraph added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

270 Paragraph added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

271 Letter first replaced by Article 2 of Legislative Decree no. 164 of 17.09.2007 and subsequently amended by Article 1 of Legislative Decree no. 47 of 16.04.2012, which replaced the words: “qualified subjects” with the words: “investment brokers, non-EU investment firms, asset management companies and financial intermediaries registered on the list pursuant to Article 107 of the Consolidated Law on Banking, Italian banks and non-EU banks, authorised to provide investment or services”. See Bank of Italy Regulation no. 1097 of 29.10.2007 (published in O.J. no. 255 of 02.11.2007).

of the qualified subject; removal is not ordered when there are justified grounds for declaring disqualification pursuant to Article 13, unless there is an urgent need to take action[272].

2-ter. CONSOB, within the context of its competences, orders, after consulting the Bank of Italy, the removal of one or more corporate officers of investment firms, Italian banks, Assets management companies, Sicavs and Sicafs, if their being in office is harmful to the transparency and correctness of the behaviour of the qualified parties; the removal is not ordered where there are the conditions to pronounce disqualification pursuant to article 13, unless there is an urgency to take steps[273].

3. In the public interest or in the interest of participants, the Bank of Italy and CONSOB, within the scope of their respective authority, may order the suspension or temporary limitation of the issue or redemption of units or shares of collective investment undertakings.

3-bis. CONSOB orders the suspension for a period of no more than sixty days each time of the marketing or sale of financial instruments in the case of infringement of the implementation provisions of the article 6, paragraph 2, letter b-bis), number 1), letter a), and of the existence of harm to the protection of the investors[274].

Article 7-bis
Powers of intervention referred to in Title VII, Chapter I, of (EU) regulation no. 600/2014

1. The Bank of Italy and the CONSOB are the national authorities competent for the purposes of the application of the provisions referred to in Title VII, Chapter I, of (EU) regulation no. 600/2014. They exercise the powers and adopt the supervisory measures provided for by article 39, section 3, by article 42 and by article 43, section 3, of (EU) regulation no. 600/2014, also in conformance with what is established by the delegated acts issued pursuant to article 42, section 7, of the aforementioned regulation.

2. For the purposes referred to in paragraph 1, CONSOB is competent as far as the protection of the investors, the orderly functioning and soundness of the financial markets or of the commodity markets are concerned, as well as for the purposes referred to in article 42, section 2, letter a), point ii), of (EU) regulation no. 600/2014.

3. For the purposes referred to in paragraph 1, the Bank of Italy is competent as far as the stability of the whole or part of the financial system is concerned.

4. For the purpose of co-ordinating the exercise of the functions referred to in paragraph 1, the Bank of Italy and CONSOB established, based in part on the relevant protocol of understanding, the method of cooperation and the reciprocal exchange of information relevant for the purposes of the exercise of the aforementioned functions and the exercise by CONSOB of the point of contact functions pursuant to article 4 of this decree.

5. Without prejudice to the powers provided for by article 39, section 3, article 42 and article 43, section 3, of (EU) regulation no. 600/2014, the Bank of Italy and CONSOB, within the context of

272 Paragraph first included by Article 4 of Legislative Decree no. 72 of 12.05.2015 and then so modified by Article 2 of Legislative Decree no. 129 of 3 August 2017, which after the words "the Bank of Italy", added the words: "within the limits of its powers", and after the words "may order" added the words: " having consulted CONSOB".

273 Paragraph included by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

274 Paragraph included by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

their respective competences, may also order the suspension for a period of not more than 60 days each time financial instruments or structured deposits are marketed or sold if the conditions referred to in articles 40, 41 or 42 of (EU) regulation no. 600/2014 are met.

6. Each authority exercise the powers and adopts the supervisory measures in conformance with the paras 1 and 5 of this article having consulted with the other authority[275].

Article 7-ter
Injunctive powers against national and non-EU intermediaries

1. In the case of infringement by Investment firms, companies of non-EU countries and of Assets management companies, Sicav, Sicaf, non-EU AIFM authorised in Italy and banks authorised for the provision of investment services and activities with offices in Italy of obligations deriving from provisions of Italian law and European Union law applicable to them on the subject of this decree, the Bank of Italy or CONSOB, within the context of their respective competences, may order the same, even by way of precaution, to temporarily or permanently cease said irregularities.

2. The supervisory authority that proceed, having consulted the other authority, prohibits the parties indicated in paragraph 1 to undertake new transactions, as well as imposing all other limitations concerning single types of transactions, single services or activities, even limited to individual branches or branch offices of intermediaries, when:

a) the infringements committed may harm the interests involved in the objectives of a general nature listed in article 5, paragraph 1;

b) in cases of urgency for the protection of the interests of the investors[276].

Article 7-quater
Powers of injunction over EU intermediaries

1. In the case of infringement by EU investment firms with a branch in Italy, EU management company, EU and non-EU AIFM authorised in a state of the EU other than Italy, EU banks with branch in Italy and financial companies provided for by article 18, paragraph 2, of the consolidated banking law, obligations deriving from provisions of Italian and European Law applicable to them on the subject of this decree, the Bank of Italy or CONSOB, within the context of their respective competences, may order the same to bring said irregularities to an end, giving communication thereof also to the supervisory authority of the member state in which the intermediary has its registered office for any provisions necessary.

2. The supervisory authority that is proceeding adopts the necessary provisions, having consulted the other authority, including the imposition of the prohibition against undertaking new transactions, as well as every other limitation concerning single types of transaction, single services or activities, even limited to individual branches or branch offices of intermediaries, single types of transactions, single services or activities even limited to individual branches or branch offices of the intermediary, or order the closure of the branch, when:

a) there are no provisions of the competent authority in the state where the intermediary has its registered office, or they are inadequate;

b) they are infringements of the rules of conduct;

275 Article first included by Article 4 of Legislative Decree no. 72 dated 12.5.2015 and then thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

276 Article included by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

c) the irregularities committed may harm the interests inherent in the objectives of a general nature listed in article 5, paragraph 1;

d) in cases of urgency for the protection of the interests of the investors.

3. The provisions provided for by l paragraph 2 are communicated by the authority that has adopted them to the competent authority of the EU state in which the intermediary has its registered office.

4. If there is a grounded suspicion that an EU investment company or EU bank, operating under the free provision of services system in Italy, is not fulfilling the obligations deriving from the provisions of the European Union, the Bank of Italy or CONSOB informs the competent authority of the member state in which intermediary has its registered office for the necessary provisions. If, despite the measures adopted by the competent authority, the intermediary persists in such a way as to prejudice the interests of the investors or the good functioning of the market, the Bank of Italy or CONSOB, after informing the competent authority of the member state in which the intermediary has its registered office, adopts all the measures necessary including the imposition of the prohibition against undertaking new transactions in Italy. The Bank of Italy or CONSOB proceeds having consulted the other authority, and inform the European Commission of the measures adopted.

5. Paragraph 4 is also applied in the case of infringements, by EU investment companies or EU banks, with a branch in Italy, or EU management companies, EU and non-EU AIFMs authorised in a State of the EU other than Italy, of obligations deriving from provisions of the European Union for which the member state in which the intermediary has its registered office is competent.

6. If the infringement concerns provisions relative to the liquidity of the EU investment company or in any other case in which the liquidity situation of the same is deteriorating, the Bank of Italy may adopt the measures necessary for the financial stability or for the protection of the rights of the parties to which the services are provided, if those taken by the competent authority of the state of origin are lacking or inadequate; the measures to adopt are communicated to the competent authority of the state of origin[277].

277 Article included by Article 2 of Legislative Decree no. 129 dated 3.8.2017. Article 36, paragraph 2-terdecies of Legislative Decree no. 34 of 04.4.2019, converted with amendments by Law no. 58 of 28.6.2019 states that: "CONSOB orders connectivity internet providers or to the operators of other telematic or telecommunication networks, or to the operators that in relation to them provide telematic or telecommunication services, the removal of the initiatives of anyone in the territory of the Republic, through the telematic or telecommunication networks, offers or carries out services or investment activities without being authorized. The addressee of the orders communicated pursuant to the first period have the obligation to inhibit the use of the networks of which they are managers or in relation to which they provide services. Consob may establish the procedures and terms of the obligations set forth in this paragraph by regulation.". Article 4, paragraph 3-bis of Legislative Decree no. 162 of 30.12.2019, introduced by the conversion law no. 8 of 28.2.2020, provides that: "[...] In relation to the provisions of the second sentence of this paragraph, CONSOB may exercise the additional powers pursuant to article 36, paragraph 2-terdecies, of the Decree-Law of 30 April 2019, no. 34, converted with modifications by Law no. 58 of 28 June 2019, to remove the initiatives of anyone in the territory of the Republic, through telematic or telecommunication networks: a) offers financial products to the public in default of the prescribed prospectus; b) spreads advertisements relating to offers of financial products other than Community financial instruments to the public before the publication of the required prospectus. Among the measures that CONSOB may adopt pursuant to article 7-quater of the aforementioned consolidated text referred to in Legislative Decree No. 58 of 1998 must also be understood as included the ones applicable by exercising the powers provided for by the aforementioned Article 36, paragraph 2-terdecies, of Legislative Decree no. 34 of 2019, converted with amendments by law no. 58 of 2019".

Article 7-quinquies
Powers of injunction over EU OICVM, EU and non-EU FIA with holdings or shares offered in Italy

1. When there are elements that allow the non-compliance by EU UCIS, EU and non-EU AIF of obligations deriving from provisions of Italian and European Union law applicable to them regarding this decree to be assumed, the Bank of Italy or CONSOB, within the context of their respective competences, may suspend by way of a precaution, for a period not exceeding sixty days, the offer of the relative stakes or actions. In the case of the ascertained infringement, supervisory authorities, within the context of their respective competences, may temporarily suspend or prohibit the offer of the stakes or the shares of the UCI.

2. If there is a grounded suspicion that an EU UCI, an EU and non-EU AIF whose stakes or shares are sold in Italy, or the manager of said UCI, is non-compliant with the obligations deriving from provisions of the European Union for which the state of origin of the UCI is competent, the Bank of Italy or CONSOB shall inform the competent authority of said state so that it adopts the provisions necessary. If, despite the measures adopted by the competent authority, the UCI, or its manager, persists in acting in such a way as to prejudice the interests of the investors or the proper functioning of the markets, the Bank of Italy or CONSOB, after informing the authorities of the state of origin, adopts the measures necessary to protect the investors or ensure the proper functioning of the markets, including the prohibition against the offer of stakes or shares] of the UCI[278].

Article 7-sexies
Suspension of the administrative bodies

1. The Chairman of CONSOB orders, as an urgent measure, where there are situations of danger for the clients of for the markets, the suspension of the administrative bodies of the investment firms and the appointment of a commissioner who takes over the management when there are serious irregularities in the administration or serious infringements of the legislative, administrative or statutory provisions. The order given by the Chairman of CONSOB is submitted to the approval of the Committee.

2. The commissioner remains in office for a maximum period of sixty days. The commissioner, in the exercise of its functions, is a public official. The Chairman of CONSOB may establish special precautions and limitations for the management of investment firms.

3. The indemnity to which the commissioner is entitled is determined by CONSOB on the basis of criteria it has established and is met by the company in special administration. Article 91, paragraph 1, last sentence, of the consolidated banking law is applied.

4. Civil actions against the commissioner, for acts performer while performing the duty are initiated after CONSOB's authorisation.

5. This article also applies to Italian branches of Companies of non-EU countries other than banks. The commissioner assumes with regard to the branches the powers of the company's administrative body.

6. This article also applies to Assets management companies and Sicavs. The Chairman of CONSOB

278 Article included by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

orders the Provision, having consulted the governor of the Bank of Italy[279].

Article 7-septies
Precautionary powers that can be applied to autonomous financial consultants, financial advisory firms and financial consultants authorised to offer outside their offices

1. The supervisory body and keeper of the single register of financial advisors, in the case of necessity and urgency , orders, by way of a precaution, the suspension of the autonomous financial consultant, of the financial advisory firms and of the financial consultant qualified for door to door selling from exercising the activity for a maximum period of one hundred and eighty days, if there are elements that make it possible to presume the existence of serious infringements of law or of general or particular provisions issued under this decree.

2. The body referred to in paragraph 1 orders by way of precaution, for a maximum period of one year, suspension from exercising the activity when the subject in the register is subject to one of the personal precautionary measures in book IV, Title I, Chapter II, of the code of criminal procedure or assumes the capacity of accused pursuant to article 60 of the said code in relation to the following crimes:

a) crimes provided for in Title XI of book V of the civil code and in bankruptcy law;

b) crimes against the public administration, against public trust, against capital, against public order, against the public economy, or crimes of a tax nature;

c) offences specified in Title VIII of the consolidated banking law;

d) offences provided for by this decree[280].

Article 7-octies[281]
Powers to counteract abuse

1. CONSOB may, with regard to anyone who offers or carries out investment services or activities

279 Article included by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

280 Article included by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

281 Article first included by Article 2 of Legislative Decree no. 129 dated 3.8.2017, and then amended by Article 22 of Law no. 21 of 5.3.2024 in the terms indicated in the following note. Article 36, paragraph 2-terdecies of Legislative Decree no. 34 of 04.4.2019, converted with amendments by Law no. 58 of 28.6.2019 states that: "CONSOB orders connectivity internet providers or to the operators of other telematic or telecommunication networks, or to the operators that in relation to them provide telematic or telecommunication services, the removal of the initiatives of anyone in the territory of the Republic, through the telematic or telecommunication networks, offers or carries out services or investment activities without being authorized. The addressee of the orders communicated pursuant to the first period have the obligation to inhibit the use of the networks of which they are managers or in relation to which they provide services. Consob may establish the procedures and terms of the obligations set forth in this paragraph by regulation.". Paragraph 2-quaterdecies of Article 36 of Decree Law no. 34 of 30.4.2019, introduced by Article 22 of Law no. 21 del 5.3.2024, provides that: "Consob may order the entities referred to in paragraph 2-terdecies to remove the advertising campaigns carried out through the telematic or telecommunication networks and concerning investment services or activities provided by unauthorized parties". Article 4, paragraph 3-bis of Legislative Decree no. 162 of 30.12.2019, introduced by the conversion law no. 8 of 28.2.2020, provides that: "[...] In relation to the provisions of the second sentence of this paragraph, CONSOB may exercise the additional powers pursuant to article 36, paragraph 2-terdecies, of the Decree-Law of 30 April 2019, no. 34, converted with modifications by Law no. 58 of 28 June 2019, to remove the initiatives of anyone in the territory of the Republic, through telematic or telecommunication networks: a) offers financial products to the public in default of the prescribed prospectus; b) spreads advertisements relating to offers of financial products other than Community financial instruments to the public before the publication of the required prospectus. Among the measures that CONSOB may adopt pursuant to article 7-quater of the aforementioned consolidated text referred to in Legislative Decree no. 58 of 1998 must also be understood as included the ones applicable by exercising the powers provided for by the aforementioned Article 36, paragraph 2-terdecies, of Legislative Decree no. 34 of 2019, converted with amendments by law no. 58 of 2019".

through the Internet without being qualified therefor pursuant to this decree:

a) make public, even by way of a precaution, the circumstance that the party is not authorised to carry out the activity indicated by article 1, paragraph 5;

b) order that the infringement cease.

1-bis. Consob may prohibit the diffusion of advertising campaigns carried out through the telematic networks or any other type of communication means if the object of which is, directly or indirectly, investment services and activities provided by parties not qualified under Article 18 of this Decree[282].

Article 7-novies
Capital reserve

1. The Bank of Italy adopts the measures regarding reserves of capital provided for by Chapter IV of Title VII of the directive 2013/36/EU, as well as those of a macroprudential nature provided for by (EU) regulation no. 575/2013, as the designated authority pursuant to said European regulation with regard to investment firms and the branches of companies of non-EU countries other than banks[283].

Article 7-decies
Supervision of compliance with EU provisions that can be directly applied

1. The Bank of Italy and CONSOB supervise, each according to its competence, pursuant to this part:

a) the respect of the provisions dictated by (EU) regulation no. 600/2014, as well as by delegated acts and regulatory and implementing technical standards of the mentioned regulation and of the directive 2014/65/EU;

b) the respect of the provisions dictated by (EU) regulation no. 2019/2033, as well as by delegated acts and regulatory and implementing technical standards of the mentioned regulation and of the directive 2019/2034/EU[284].

Article 7-undecies
Identification of the competent national authorities pursuant to Regulation (EU) 2019/2033

1. The Bank of Italy and CONSOB, according to their respective powers and purposes indicated in article 5, are the national authorities with competence pursuant to Regulation (EU) no. 2019/2033.

2. The Bank of Italy, within the limits and according to the modalities indicated in Article 6-bis of the Consolidated Law on Banking, is the national authority with competence to adopt, having heard CONSOB, the decision provided for by Article 4, paragraph 1, point 1), letter b), number iii), of Regulation (EU) no. 575/2013.

3. The Bank of Italy is the national authority with competence to resolve, having consulted CONSOB, on the application to the SIMs of the provisions of Regulation (EU) no. 575/2013 and the national implementing provisions of Titles VII and VIII of Directive 2013/36/EU, in accordance with the provisions of Article 1, paragraph 5, of Regulation (EU) 2019/2033.

4. Having consulted CONSOB, the Bank of Italy may resolve, on the basis of the criteria set out in the regulation adopted in accordance with Article 6, paragraph 1, letter a), on the application to the

282 Paragraph included by Article 22 of Law no. 21 of 5.3.2024.

283 Article included by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

284 Article first included by Article 2 of Legislative Decree no. 129 of 3.8.2017 and then so replaced by Article 1 of Legislative Decree no. 201 of 5.11.2021.

SIMs of the provisions of Regulation (EU) no. 575/2013 and the national implementing provisions of Titles VII and VIII of Directive 2013/36/EU, in accordance with the provisions of Article 1, paragraph 2, letter c), of Regulation (EU) no. 2019/2033.

5. CONSOB is the authority with competence to supervise the respect by the SIMs of the public disclosure obligations provided for by Article 52 of Regulation (EU) no. 2019/2033[285].

Article 7-duodecies
Applicable regulation for Class 1-minus investment firms

1. In addition to the provisions of Regulation (EU) no. 575/2013, Class 1-minus SIMs are also subject to the national implementing provisions of Titles VII and VIII of Directive 2013/36/EU. This is without prejudice to the powers and responsibilities conferred on the Bank of Italy and CONSOB by this Legislative Decree[286].

Article 8
Information requirements [287]

1. …omissis…[288]

1-bis. The UCITS which invest in credits participate in the Bank of Italy's Central Risks Bureau, as established by the Bank of Italy. The Bank of Italy may contemplate participation in the Central Risks Bureau through the banks and intermediaries registered on the list referred to under Article 106[289].

1-ter. …omissis…[290]

2. …omissis…[291]

3. The board of auditors shall inform the Bank of Italy and CONSOB without delay of any act or fact it comes to know of in the performance of its duties that may constitute a management irregularity or a violation of the provisions governing the activity of Italian investment companies, asset management companies, of SICAVs or SICAFs. To this end the Articles of Association of Italian investment companies, asset management companies, the SICAVs or the SICAFs, independently of the system of management and control adopted, shall assign the related tasks and powers to the control body.[292].

285 Article included by Article 1 of Legislative Decree no. 201 of 5.11.2021.

286 Article included by Article 1 of Legislative Decree no. 201 of 5.11.2021.

287 Chapter thus replaced by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

288 Paragraph first amended by Article 2 of Legislative Decree no. 164 dated 17.9.2007 and by Article 4 of Legislative Decree no. 72 dated 12.5.2015 and in conclusion repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

289 Section included by Article 22, section 5 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014.

290 Paragraph first included by Article 4 of Legislative Decree no. 72 dated 12.5.2015 and then repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

291 Paragraph first amended by Article 40 of Legislative Decree no. 39 dated 27.1.2010 and then repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

292 Paragraph first introduced by Legislative Decree no. 37 of 6.2.2004 and subsequently by Article 2 of Legislative Decree no. 44 of 4.3.2014, which replaced the words: "or of the SICAVs" with the words: "of the SICAVs or of the SICAFs".

4. The independent statutory auditors of Italian investment companies, asset management companies, of the SICAVs or of the SICAFs or leading companies of the groups identified in accordance with Article 11 shall notify the Bank of Italy and CONSOB without delay of the acts or facts found in the performance of the engagement that may constitute a serious violation of the provisions governing the activity of the audited companies, jeopardize the continued existence of the undertaking or result in an adverse opinion or a qualified opinion on the annual accounts or interim statements of collective investment undertakings or a disclaimer[293].

5. Paragraph 3, first sentence, and paragraph 4 shall also apply to the control body and independent statutory auditors of the companies that control or are controlled by Italian investment companies, asset management companies, the SICAVs or the SICAFs pursuant to Article 23 of the Consolidated Law on Banking[294].

5-bis. …omissis…[295]

6. Paras 3, 4, 5 and 6-bis are applied to the banks just for the provision of investment activities and services[296].

6-bis. The Bank of Italy and CONSOB, in the exercise of their respective powers, and having heard the other authority, can resolve the revocation of the engagement of the independent statutory auditors, or of the person in charge of the statutory audit, of investment firms, asset management companies, SICAVs or SICAFs or leading companies of the groups identified in accordance with Article 11, if the person in charge of the statutory audit of the accounts violates the obligations provided for by paragraph 4. This paragraph shall not apply to the entities indicated in paragraph 5[297].

Article 8-bis
Internal systems for reporting infringements (whistle blowing)

…omissis…[298]

293 Paragraph first amended by Article 40 of Legislative Decree no. 39 of 27.1.2010 which replaced the words: "the companies appointed to carry out the audit" with the words: "the subjects appointed to carry out the certified audit of the accounts", then by Article 2 of Legislative Decree no. 44 of 4.3.2014, which replaced the words: "or of the SICAVs" with the words: "of the SICAVs or of the SICAFs" and, finally, by Article 2 of Legislative Decree no. 182 of 8.11.2021 which replaced the words “of the SICAVs shall notify” with the words: “of the SICAFs or leading companies of the groups identified in accordance with Article 11 shall notify”.

294 Paragraph first replaced by Legislative Decree no. 37 of 06.02.2004 and later amended by Article 40, Legislative Decree no. 39 of 27.01.2010 which replaced the words: “the appointed independent auditors” with the words: “the appointed statutory auditors” and subsequently by Article 2 of Legislative Decree no. 44 of 4.3.2014 which replaced the words: "or the SICAVs" with the words: ", the SICAVs or the SICAFs".

295 Paragraph first included by Article 2 of Legislative Decree no. 164 dated 17.9.2007 and then repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

296 Paragraph previously substituted by Article 2 of Legislative Decree no. 164 dated 17.9.2007, then first amended by Article 2 of Legislative Decree no. 129 of 3.8.2017 that removed the words: «and 5-bis» and then by Article 2 of Legislative Decree no. 182 of 8.11.2021 that replaced the words: “5 are applied” with the words “5 and 6-bis are applied”.

297 Paragraph included by Article 2 of Legislative Decree no. 182 of 8.11.2021.

298 Article first included by Article 4 of Legislative Decree no. 72 dated 12.5.2015 and then repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

Article 8-ter
Reporting of infringements to the Bank of Italy and to CONSOB

…omissis…[299]

Article 9[300]
Legal audit

1. For Italian investment companies, asset management companies, to the SICAVs and to the SICAFs, article 159 paragraph 1 shall apply[301].

2. For asset management companies, the statutory auditor or the independent statutory auditor shall issue a special report expressing an opinion on the financial statements of the mutual fund governed by the Italian law[302].

2-bis. For mutual funds governed by the Italian law and managed by EU management companies, EU and non-EU AIFM, the statutory auditor or the independent statutory auditor entered in the Register referred to in article 1, paragraph 1, letter g) of Legislative Decree no. 39 of 27 January 2010 shall issue a special report expressing an opinion on the financial statements of the fund, in compliance with the principles set out in article 11 of the same decree. Without prejudice to the provisions governing the methods for conferment, dismissal and resignation of the appointed auditor in force of the national legislation where the registered office of the EU management companies, EU and non-EU AIFM is located, the provisions laid down by Legislative Decree no. 39 of 27 January 2010, shall apply with reference to the entities subject to an intermediate regime[303].

Article 10
Inspection supervision

…omissis…[304]

Article 11
Composition of groups

1. The Bank of Italy, after consulting CONSOB:
a) shall determine the notion of group relevant for the purpose of verifying the requirements

299 Article first included by Article 4 of Legislative Decree no. 72 dated 12.5.2015 and then repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

300 Article already amended by Article 3 of Legislative Decree no. 303 of 29.12.2006; subsequently replaced by Article 40 of Legislative Decree no. 39 of 27.1.2010 and lastly amended by Article 2 of Legislative Decree no. 44 of 4.3.2014, and by Article 2 of Legislative Decree no. 17 of 2.2.2021 within the terms specified in the following notes.

301 Paragraph thus amended by Article 2 of Legislative Decree no. 44 of 4.3.2014 which replaced the words: "and to the SICAVs" with the words: ", to the SICAVs and to the SICAFs".

302 Paragraph thus amended by Article 2 of Legislative Decree no. 17 of 2.2.2021 which after the words “mutual fund” added the words “governed by the Italian law.”

303 Paragraph inserted by Article 2 of Legislative Decree no. 17 of 2.2.2021.

304 Article first amended by Article 4 of Legislative Decree no. 274 dell’1.8.2003, by Article 2 of Legislative Decree no. 164 dated 17.9.2007, by Article 40 of Legislative Decree no. 39 dated 27.1.2010, by Article 4 of Legislative Decree no. 72 dated 12.5.2015 and then repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

provided for in Articles l9(1)(h) and 34(1)(f) [305];

a-bis) indicates the provisions of Chapter II of this Title applicable to companies which control an investment company or an asset management company, as indicated by letter b);

b) may issue rules for identifying the set of persons to be subjected to group supervision from among those providing investment services and collective portfolio management services as well as other financial activities or related and instrumental activities, as defined in Article 59(1)(b) and (c), of the Consolidated Law on Banking. Such persons shall be identified from among those not subject to consolidated supervision under the Consolidated Law on Banking that:

1) are directly or indirectly controlled by an Italian investment company or asset management company;

2) directly or indirectly control an Italian investment company or asset management company[306];

1-bis. The group identified pursuant to paragraph 1, paragraph b), is registered in a special register held by the Bank of Italy. The parent company shall immediately inform the Bank of Italy of the existence of the group and its updated composition. A copy of the aforementioned notification is forwarded by the Bank of Italy to CONSOB[307].

Article 11-bis
Intermediate EU parent undertaking

1. For the purposes of this article:

a) «third-country holding company» means a holding company as defined in Article 4, paragraph 1, point 138, of Regulation (EU) no. 575/2013, whose parent undertaking, as defined in Article 4, paragraph 1, point 15, of the same regulation, is established in a third country;

b) «financial holding company» means a financial holding company as defined in Article 4, paragraph 1, point 20, of Regulation (EU) no. 575/2013;

c) «mixed financial holding company» means a financial holding company as defined in Article 4, paragraph 1, point 21, of Regulation (EU) no. 575/2013.

2. SIMs that belong to third-country holding companies must have an intermediate EU parent undertaking in Italy or other EU-member state if both of the following conditions are fulfilled:

a) at least a bank or financial holding company or mixed financial holding company established in the EU, or another SIM or EU investment undertaking belongs to the third-country holding company;

b) the total values of the assets held in the European Union by the third-country holding

305 See Bank of Italy instructions of 4.8.200, 17.6.2002 and 14.4.2005 (published in O.J. no. 218 of 18.9.2000, O.J. no. 167 of 18.7.2002 and Ordinary Supplement no. 88, O.J. no. 109 of 12.5.2005).

306 Paragraph first replaced by Article 2 of D.L. 27.12.2006, no. 297, coordinated with conversion Law no. 15 of 23.2.2007 and then amended by Article 4 of Legislative Decree no. 53 of 4.3.2014 which has introduced letter a-bis) and, into letter b), after the words: "letter b)" has introduced the words: "and letter b-bis)", and by Article 1 of Legislative Decree no. 201 of 5.11.2021 which replaced the words: “as well as related and instrumental activities or other financial activities, as defined” with the words: “as well as other financial activities or related and instrumental activities, as defined”, and the words “(b) and letter b-bis)” are replaced by the following: “(b) and (c)”. See Bank of Italy regulation of 24.10.2007 (published in the Ordinary Section no. 247 of the Official Journal no. 277 of 28.11.2007).

307 Paragraph added by Article 2 of Administrative Order no. 297 of 27.12.2006, coordinated by enactment Law no. 15 of 23.2.2007. See Bank of Italy Regulation of 24.10.2007 (published in Ordinary Supplement no. 247, O.J. no. 277 of 28.11.2007).

company is equal to, or greater than 40 billion euros[308].

3. For the purposes of paragraph 2, intermediate EU parent undertaking means a bank, or financial holding company or mixed financial holding company that is authorized in accordance with Article 60-bis of the Consolidated Law on Banking, has its registered office in Italy or in another EU-member state and belongs to a third-country holding company, which, in turn, is not controlled by a bank, or by a financial holding company or mixed financial holding company that is authorized in accordance with Article 60-bis of the Consolidated Law on Banking, has its registered office in Italy or in another EU-member state and belongs to a third-country holding company.

4. Where no bank is among the subjects referred to in paragraphs 2, letter a), a SIM as referred to in Article 55-bis, paragraph 1, or a EU investment undertaking that is subjected to Directive 2014/59/EU and belongs to a third-country holding company, which, in turn, is not controlled by a SIM as referred to in Article 55-bis, paragraph 1, or by a EU investment undertaking that is subjected to Directive 2014/59/EU and belongs to a third-country holding company, can be an intermediate EU parent undertaking.

5. In the case indicated in Article 69.3, paragraph 6, letter a), of the Consolidated Law on Banking, the second intermediate EU parent undertaking is a SIM as referred to in Article 55-bis, paragraph 1, or two a EU investment undertaking that is subjected to Directive 2014/59/EU and belongs to a third-country holding company, which, in turn, is not controlled by a SIM as referred to in Article 55-bis, paragraph 1, or by a EU investment undertaking that is subjected to Directive 2014/59/EU and belongs to a third-country holding company[309].

6. Having heard CONSOB, the Bank of Italy issues provisions for the implementation of this article, with special regard to the procedure for the establishment of an intermediate EU parent undertaking in the cases envisaged in paragraphs 4 and 5[310].

Article 12
Supervision of groups

1. The Bank of Italy gives the company at the head of the group chosen pursuant to article 11, paragraph 1, letter b), provisions referring to all the parties identified pursuant to the same article, with the subject the contents of article 6, paragraph 1, letter a), and letter c-bis), numbers 1), 2), 3), 4) and 6), and paragraph 1-bis. Where stability needs are required, the Bank of Italy may issue special provisions in the same content[311].

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308 Article 4, paragraph 1, of Legislative Decree no. 182 of 8.11.2021 provides that: "The Italian SIMs referred to by Article 11-bis, paragraph 2, of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree, and that belong to third-country holding companies whose total assets in the EU, as at 27 June 2019, are valued at least at 40 billion euros, shall comply with the provisions of Article 11-bis, paragraph 2 and, where applicable, paragraph 5, of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree, by 30 December 2023".

309 Article 4, paragraph 1, of Legislative Decree no. 182 of 8.11.2021 provides that: "The Italian SIMs referred to by Article 11-bis, paragraph 2, of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree, and that belong to third-country holding companies whose total assets in the EU, as at 27 June 2019, are valued at least at 40 billion euros, shall comply with the provisions of Article 11-bis, paragraph 2 and, where applicable, paragraph 5, of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree, by 30 December 2023".

310 Article included by Article 2 of Legislative Decree no. 182 of 8.11.2021.

311 Paragraph formerly substituted by Article 2 of D.L. 27.12.2006, no. 297, coordinated with conversion Law, no. 15 dated 23.2.2007 later amended by Article 2 of Legislative Decree no. 164 dated 17.9.2007 and in conclusion thus

1-bis. In line with EU regulations, the Bank of Italy shall identify options for exemption from the application of provisions adopted pursuant to paragraph 1[312].

2. The Italian investment company or asset management company or financial company that is the group's parent undertaking, in performing its activity of direction and coordination, shall issue rules to the components of the group identified in accordance with Article 11(1)(b) for carrying out instructions issued by the Bank of Italy. The directors of the companies belonging to the group shall supply all the data and information needed for the issue of such rules and shall cooperate in complying with the provisions on consolidated supervision[313].

3. The Bank of Italy and CONSOB, within the scope of their respective authority, may require persons identified in accordance with Article 11(1)(b) to transmit reports, data and any other relevant information on a periodic or other basis. Information needed to carry out supervision may also be required of persons that, while not engaging in investment services, collective portfolio management services, related and instrumental activities or other financial activities, are linked to the Italian investment company or asset management company by the shareholding relationships specified in Article 11(1)(b)[314].

3-bis. In the exercise of supervisory activities on a consolidated basis, the Bank of Italy may issue provisions, pursuant to this Article, with regard to all persons included in the group identified pursuant to Article 11, paragraph 1, paragraph b)[315].

4. ...omissis...[316]

5. The Bank of Italy and CONSOB, to the extent of their duties, may:

a) carry out inspections of persons identified under Article 11(1)

b) exclusively for the purpose of verifying the exactness of the data and information provided, carry out inspections of persons that, while not engaging in investment services, collective portfolio management services, related and instrumental activities or other financial activities, are linked to the Italian investment company or asset management company by the shareholding relationships specified in Article 11(1)(b);

b-bis) carry out inspections at subjects to whom essential or important business functions have

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substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017. See Regulation of Bank of Italy dated 24.10.2007 (published in the Ordinary Supplement no. 247 to the G.U. no. 277 dated 28.11.2007.

312 Paragraph included by Article 2 of Administrative Order no. 297 of 27.12.2006, coordinated by enactment Law no. 15 of 23.2.2007. See Bank of Italy Regulation of 24.10.2007 (published in Ordinary Supplement no. 247, O.J. no. 277 of 28.11.2007).

313 Paragraph included by Article 2 of Administrative Order no. 297 of 27.12.2006, coordinated by enactment Law no. 15 of 23.2.2007. See Bank of Italy Regulation of 24.10.2007 (published in Ordinary Supplement no. 247, O.J. no. 277 of 28.11.2007)

314 Paragraph first replaced by Article 2, Decree Law no. 297 of 27.12.2006, coordinated by conversion Law no. 15 of 23.2.2007, and later amended by Article 2, Legislative Decree no. 164 of 17.09.2007 which replaced the words: “on matters pertaining to their respective duties” with the words: “to the extent of their duties”. See Bank of Italy Regulation of 24.10.2007 (published in Ordinary Supplement no. 247, O.J. no. 277 of 28.11.2007).

315 Paragraph included by Article 2 of Administrative Order no. 297 of 27.12.2006, coordinated by enactment Law no. 15 of 23.2.2007. See Bank of Italy Regulation of 24.10.2007 (published in Ordinary Supplement no. 247, O.J. no. 277 of 28.11.2007).

316 Paragraph repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

been outsourced by the subjects listed in letters a) and b), limited to the purposes referred to therein[317].

5-bis. In the exercise of supervisory activities on a consolidated basis, the Bank of Italy may issue provisions, pursuant to article 7, paragraph 2 with regard to persons pursuant to Article 11, paragraph 1, letter b)[318].

5-ter. The Bank of Italy may, if their tenure in office is of detriment to the sound and prudent management of the group, order the removal of one or more corporate representatives of the parent company; removal is not ordered when there are justified grounds for declaring disqualification pursuant to Article 13, unless there is an urgent need to take action[319].

5-quater. The Bank of Italy and CONSOB, within their respective competences, may even request information from the staff of the qualified subjects listed in paragraph 3, including by means of the latter[320].

5-quinquies. The obligations imposed by paragraphs 2 and 3 shall also apply to those to whom the qualified subjects have outsourced and essential or important business functions and to their staff[321].

5-sexies. Parent companies are subject to Articles 6, paragraph 2-septies and 2-octies, and 7, paragraphs 1 and 1-bis[322].

Article 12-bis
Provisions applicable to companies controlling one or more EU investment undertakings

1. The Bank of Italy and CONSOB, within the sphere of their respective powers, may request the transmission, periodic or otherwise, of data and information, from the investment holding company, as defined in Article 4, paragraph 1, point 23, of Regulation (EU) no. 2019/2033, or from the mixed financial holding company, as defined in Article 4, paragraph 1, point 40, of the same regulation, with registered office in Italy, that is not among those subjects defined in accordance with Article 11, paragraph 1, letter b), and controls, whether directly or indirectly, one or more EU investment undertakings and, in turn, is not controlled by an investment undertaking or other investment holding company or mixed financial holding company.

2. The Bank of Italy and CONSOB, within the sphere of their respective powers, carry out inspection of the companies indicated in paragraph 1.

3. The Bank of Italy and CONSOB, within the sphere of their respective powers, on request of the competent authorities of other EU-member states, may carry out inspections of the companies

317 Paragraph already replaced by Article 2 of Legislative Decree no. 297 of 27.12.2006, coordinated with Conversion Law no. 15 of 23.2.2007; subsequently amended first by Article 2 of Legislative Decree no. 164 of 17.9.2007, which replaced the words: “for the matters of its respective competence” with: “within their respective competences" and finally by Article 4 of Legislative Decree no. 72 of 12.5.2015 which added letter b-bis). See Bank of Italy Regulation of 24.10.2007 (published in Ordinary Supplement no. 247, O.J. no. 277 of 28.11.2007).

318 Paragraph added by Article 2 of Administrative Order no. 297 of 27.12.2006, coordinated by enactment Law no. 15 of 23.2.2007.

319 Paragraph included by Article 4 of Legislative Decree no. 72 of 12.05.2015.

320 Paragraph included by Article 4 of Legislative Decree no. 72 of 12.05.2015.

321 Paragraph included by Article 4 of Legislative Decree no. 72 of 12.05.2015.

322 Paragraph included by Article 4 of Legislative Decree no. 72 of 12.05.2015

indicated in paragraph 1 and subject to consolidated supervision on the part of the requesting authorities. The Bank of Italy and CONSOB may allow the inspection to be carried out by the authorities that have requested it, or by an auditor or expert. Where the requesting competent authority does not directly carry out the inspection, it may participate in it if desired.

4. Article 13 applies to the officers of the companies indicated in paragraph 1. The duties and powers referred to in paragraph 6 of the same article are exercised on request by the competent authorities of other EU member states.

5. Except as provided for by this article, the provisions laid down in this Chapter shall not apply to the companies indicated in paragraph 1[323].

Chapter II
Corporate officers and shareholders

Article 13[324]
Company representatives

1. Persons who perform administrative, managerial or control functions at SIMs, asset management companies, SICAVs and SICAFs must be suitable for the appointment.

2. For the purposes of paragraph 1, representatives shall have the requirements of professionalism, integrity and independence, meet criteria of competence and fairness and devote the time necessary for the effective performance of their duties.

3. The Ministry of Economy and Finance, with a regulation adopted after consultation with the Bank of Italy and CONSOB, identifies:

a) consistent integrity requirements for all representatives;

b) requirements of professionalism and independence, graduated according to principles of proportionality;

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323 Article included by Article 1 of Legislative Decree no. 201 of 5.11.2021.

324 Article first amended by Legislative Decree no. 37 of 6.2.2004 and Article 2 of Law no. 44 of 4.3.2014, subsequently replaced by Article 4 of Legislative Decree no. 72 of 12.5.2015 and then modified by Article 2 of Legislative Decree no. 165 of 25.11.2019 and Article 2 of Legislative Decree no. 182 of 8.11.2021 in the terms indicated in the following footnotes. Paragraph 5 of Article 6 of Legislative Decree no. 72 of 12.5.2015 provides that the provisions set forth in Article 13 of Legislative Decree no. 58 of 24 February 1998, as amended by this Legislative Decree, apply to appointments after the date of its entry into force. Until then, Article 13 of Legislative Decree no. 58 of 24 February 1998, continues to apply in the version before amendment by this Legislative Decree, and the related implementing regulations, which is shown below: "Article 13 (Requirements of professionalism, integrity and independence of corporate representatives) 1. Persons who perform administrative, managerial or control functions at SIMs, asset management companies, SICAVs and SICAFs must meet the requirements of professionalism, integrity and independence established by the Minister of Economy and Finance, with a regulation adopted after consulting the Bank of Italy and CONSOB. 2. The lack of the requirements shall result in disqualification from office. It is declared by the board of directors, the supervisory board or the management board within thirty days of the appointment or knowledge of the supervening defect. 3. In the case of lack of action, the disqualification pronounced by the Bank of Italy or CONSOB. 3-bis. In case of lack of the requirements of independence established by the Italian Civil Code or the Articles of Association, paragraphs 2 and 3 shall apply. 4. The regulation required by paragraph 1 shall establish the grounds for the temporary suspension from office and its duration. The suspension is declared in the manner set forth in paragraphs 2 and 3". Paragraph 7 of Article 6 of Legislative Decree no. 72 of 12.05.2015 provides that: "For the purposes of applying Legislative Decree no. 159 of 6 September 2011, the anti-mafia communication is acquired, including by sampling, from the persons referred to in Articles 13 and 14 of Legislative Decree no. 58 of 24 February 1998. The Bank of Italy and CONSOB have direct access to the Judicial Records System and the Single National Database of Anti-Mafia documentation".

c) responsibility criteria, consistent with the office to be filled and the characteristics of the qualified subject, and adequate composition of the body;

d) the criteria of fairness, with regard, among other things, to the business relations of the representative, their conduct in relation to the supervisory authorities and sanctions or corrective measures issued by them and restrictive measures related to the professional activities carried, as well as any other element that may affect the fairness of the representative[325];

e) the limits on the number of offices for representatives of SIMs, graduated according to principles of proportionality and taking into account the size of the intermediary;

f) the grounds for the temporary suspension from office and its duration.

4. The regulation referred to in paragraph 3 may define cases in which the requirements and criteria of suitability also apply to the heads of the main company functions in the subjects of greater importance referred to in paragraph 1.

5. The administration and control bodies of the subjects referred to in paragraph 1 shall assess the suitability of their members and the overall adequacy of the body, documenting the process of analysing and properly justifying the outcome of the assessment. In the event of specific and limited deficiencies related to the criteria established pursuant to paragraph 3, letter c), the same bodies may take measures necessary to address them. In all other cases, the lack of suitability or a violation of the limits to the number of offices shall result in disqualification from the office; this is pronounced by the body of membership within thirty days of the appointment or knowledge of the supervening defect or violation. For persons who are not members of a body, the assessment and pronouncement of disqualification are made by the body that appointed them.

6. The Bank of Italy and CONSOB, within their respective competences, in the manner and time established jointly, also in order to minimize the costs incurred by the qualified subjects: assess the suitability of the representatives and compliance with the limits to the number of offices, including on the basis of the analyses carried out and any measures taken pursuant to paragraph 5; in the event of a defect or violation, they pronounce the disqualification from office[326].

325 Letter thus replaced by Article 2 of Legislative Decree no. 182 of 8.11.2021, which replaced the words: “fairness of representatives of SIMs, with regard,” with the words: “fairness, with regard,”.

326 Paragraph modified by Article 2 of Legislative Decree no. 165 of 25.11.2019 which replaced the words “by joint regulation” with the word “jointly”.

Article 14[327]
Shareholders

1. The shareholders referred to in Article 15 shall have the requirements of integrity and meet criteria of competence and fairness so as to ensure the sound and prudent management of the investee company.

2. The Ministry of Economy and Finance, with a regulation adopted after consultation with the Bank of Italy and CONSOB, identifies:

a) the requirements of integrity;

b) the criteria of competence, graduated in relation to the influence on the management of the company that the shareholder can exercise;

c) the criteria of fairness, with regard, among other things, to the business relations of the shareholder, their conduct in relation to the supervisory authorities and sanctions or corrective measures issued by them and restrictive measures related to the professional activities carried, as well as any other element that may affect the fairness of the shareholder.

3. For the purposes of the application of this Article and Article 15, for SICAVs and SICAFs, reference is made only to nominative shares and the provisions referred to in paragraph 2 lay down the cases in which, for the purpose of conferring the right to vote, such shares are regarded as bearer shares, with regard to the date of purchase.

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327 Article first amended by Legislative Decree no. 37 of 6.2.2004, subsequently amended by Article 2 of Law no. 21 of 27.1.2010, replaced again by Article 4 of Legislative Decree no. 72 of 12.5.2015 and finally amended by Article 2 of Legislative Decree no. 182 of 8.11.2021 under the terms indicated in the following footnote. Paragraph 6 of Article 6 of Legislative Decree no. 72 of 12.5.2015 provides that until the entry into force of the implementing provisions issued pursuant to Article 14 of Legislative Decree no. 58 of 24 February 1998, as amended by this Legislative Decree, the version preceding the amendments made by this Legislative Decree, (paragraph 5 of Article 4 of Legislative Decree no. 182 of 8.11.2021 introduced a few amendments to this version of Article 14 of Legislative Decree no. 58/1998, without prejudice to the provisions of Article 6, paragraphs 5 and 6, of Legislative Decree no. 72 of 12.5.2015) and related implementing provisions, which are shown below, shall continue to apply: "Article. 14 (Requirements of integrity) 1. The Minister of Economy and Finance, with regulation adopted after consulting the Bank of Italy and CONSOB, shall establish the integrity requirements of the holders of the shareholdings referred to in Article 15, paragraph 1, in SIMs and asset management companies, as well as shareholders of SICAVs and SICAFs. 2. For the purposes of the application of this Article and Article 15, for SICAVs and SICAFs, reference is made only to nominative shares and the provisions referred to in paragraph 1 lay down the cases in which, for the purpose of conferring the right to vote, such shares are regarded as bearer shares, with regard to the date of purchase. 3. For the purposes of paragraph 1, the following are also considered: a) shares held through subsidiaries, trust companies or third parties; b) cases as referred to in Article 15, paragraph 4, letter b); c) cases in which the rights arising from shares belong or are assigned to a person other than the owner of the holdings themselves or agreements exist concerning the exercise of voting rights (Note: paragraph thus amended by Article 4 of Legislative Decree no. 182 of 8.112021). 4. In the absence of the requirements, the voting rights and other rights that allow influencing the company, inherent in holdings exceeding the thresholds specified by Article 15, paragraph 1, letter a) (Note: paragraph thus amended by Article 4 of Legislative Decree no. 182 of 8.112021) may not be exercised. 5. In case of non-compliance with the prohibition, the resolution or other measure adopted by the vote or, in any case, the contribution of the shareholdings referred to in paragraph 1, may be challenged under the provisions of the Italian Civil Code. The shares for which the right to vote cannot be exercise are counted for the purposes of the regular constitution of the related shareholders' meeting. 6. The challenge may also be initiated by the Bank of Italy or CONSOB within one hundred and eighty days of the date of the resolution or, if this is subject to registration in the companies register, within one hundred eighty days of registration or, if it is subject only to filing at the companies register office, within one hundred and eighty days of the date of this. 7. Shareholdings exceeding the thresholds provided for in Article 15, paragraph 1, letter a), of persons without the requirements of integrity must be sold within the deadline set by the Bank of Italy or CONSOB" (Note: paragraph thus amended by Article 4 of Legislative Decree no. 182 of 8.112021). Paragraph 7 of Article 6 of Legislative Decree no. 72 of 12.05.2015 provides that: "For the purposes of applying Legislative Decree no. 159 of 6 September 2011, the anti-mafia communication is acquired, including by sampling, from the persons referred to in Articles 13 and 14 of Legislative Decree no. 58 of 24 February 1998. The Bank of Italy and CONSOB have direct access to the Judicial Records System and the Single National Database of Anti-Mafia documentation"

4. For the purposes of paragraphs 1 and 2, the following are also considered:

a) shares held through subsidiaries, trust companies or third parties;

b) the cases referred to in Article 15, paragraph 4, letter b);

c) the cases in which the rights arising from shares belong or are assigned to a person other than the owner of the holdings themselves or agreements exist concerning the exercise of voting rights[328].

5. Notwithstanding the provisions of Article 16, if the requirements and criteria set out in paragraphs 1 and 2 are not met, the voting rights and other rights that allow influencing the company, inherent in holdings exceeding the thresholds specified by Article 15, paragraph 1, letter a), may not be exercised[329].

6. In case of non-compliance with the prohibition, the resolution or other measure adopted by the vote or, in any case, the contribution of the shareholdings referred to in paragraph 1, may be challenged under the provisions of the Italian Civil Code. The shares for which the right to vote cannot be exercise are counted for the purposes of the regular constitution of the related shareholders' meeting.

7. The challenge may also be initiated by the Bank of Italy or CONSOB within one hundred and eighty days of the date of the resolution or, if this is subject to registration in the companies register, within one hundred eighty days of registration or, if it is subject only to filing at the companies register office, within one hundred and eighty days of the date of this.

8. Where the requirements and criteria referred to in paragraphs 1 and 2 are not fulfilled, shareholdings exceeding the thresholds provided for by Article 15, paragraph 1, letter a), must be sold within the deadline set by the Bank of Italy or CONSOB[330].

Article 15
Acquisition and sale of shareholdings [331]

1. Advance notice must be given to the Bank of Italy of the following:

a) Acquisition or disposal for any reason, in an Italian investment company, asset management company or SICAV or SICAFs, of shareholdings that could control or have a significant influence in such company, or that assigns a share of voting rights or capital of at least 10 per cent, taking into account the shares or units already owned;

b) Changes in shareholdings when the share of voting rights or capital reaches or exceeds, upwards or downwards, 20 per cent, 30 per cent or 50 per cent, and in any event when changes result in the acquisition or loss of control of the company;

c) Acquisition for any reason, in a company holding the shares indicated in letter a), of:

1) control;

2) a share of voting rights or capital, where, as an effect of the acquisition, one of the cases indicated in paragraph 4, letter b), occurs;

d) Acquisition for any reason, in the absence of acquisition of shareholdings, including through a contract with an investment firm, asset management company or SICAV or SICAFs, or an article of its articles of association, of control or significant influence in such company or of a share of voting

328 Paragraph thus replaced by Article 2 of Legislative Decree no. 182 of 8.11.2021.

329 Paragraph thus amended by Article 2 of Legislative Decree no. 182 of 8.11.2021, which replaced the words: “15, paragraph 1.” with the words: “15, paragraph 1, letter a).”.

330 Paragraph thus replaced by Article 2 of Legislative Decree no. 182 of 8.11.2021.

331 List first replaced by Article 2 of Legislative Decree no. 21 of 27.1.2010 and then by Article 4 of Legislative Decree no. 72 of 12.5.2015.

rights or capital of at least 10 per cent, 20 per cent, 30 per cent or 50 per cent taking into account the shares or units already owned[332].

2. Within the term established pursuant to paragraph 5, letter, c), the Bank of Italy may prohibit the acquisition of the shareholding if it deems that conditions are not met to ensure a sound and prudent management of the intermediary, considering the quality of the potential buyer and the financial soundness of the proposed acquisition based on the following criteria: the reputation of the potential buyer in accordance with Article 14; the integrity, fairness, professionalism and suitability, under Article 13, paragraph 3, of those who, following the acquisition, will carry out administrative and management functions; the financial soundness of the potential buyer; the capacity of the intermediary to comply with provisions governing its activities following the acquisition; the suitability of the structure of the group of the potential buyer to allow effective supervision; the absence of reasonable suspicion that the acquisition is related to money laundering or terrorist financing. The Bank of Italy may establish a time limit for the acquisition as well as communicate, even before the expiration of the term, that it approves of the transaction[333].

3. Acquisitions and disposals referred to in paragraph 1 shall be notified upon completion to the Bank of Italy, CONSOB and the company[334].

3-bis. The persons assessed in accordance with paragraph 2 notify the Bank of Italy of any such acts and facts that invalidate or change the requirements and the necessary conditions on the basis of which the Bank of Italy had made its assessment[335].

4. For the purpose of the application of Chapter II of this Title, the following are also considered:

a) Shareholdings acquired or in any case held through subsidiary companies, trust companies or nominees. Control shall exist in the cases defined in Article 23 of the Consolidated Law on Banking;

b) The cases envisaged by the Bank of Italy that result in one of the situations indicated in paragraph 1, as an effect of voting rights or capital shares held through companies, whether subsidiaries or not, which, in turn, have voting rights or capital shares in an investment firm, asset management company or SICAV or SICAF, keeping into account the reduction produced by the chain of shareholdings[336].

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332 Paragraph previously replaced by Legislative Decree no. 37 of 6.2.2004 and by Article 2 of Legislative Decree no. 21 of 27.1.2010, subsequently amended by Article 2 of Legislative Decree no. 44 of 4.3.2014 which after the word: "SICAVs" has introduced the words: "or SICAFs", and finally replaced again by Article 2 of Legislative Decree no. 182 of 8.11.2021.

333 Paragraph first amended by Article 2 of Legislative Decree no. 21 of 27.1.2010, subsequently replaced by Article 4 of Legislative Decree no. 72 of 12.5.2015 and finally amended by Article 2 of Legislative Decree no. 182 of 8.11.2021, which replaced the words: " Article 14; the suitability, under Article 13, paragraph 3, of those who, following the acquisition, will carry out administrative, management and control functions" with the words: "Article 14; the integrity, fairness, professionalism and suitability, under Article 13, paragraph 3, of those who, following the acquisition, will carry out administrative and management functions;".

334 Paragraph amended by Article 2, Legislative Decree no. 21 of 27.01.2010 which deleted the second sentence.

335 Paragraph included by Article 2 of Legislative Decree no. 182 of 8.11.2021. Article 4, paragraph 2 of Legislative Decree no. 182 of 8.11.2021 provides that: "Article 15, paragraph 3-bis, of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree, applies to facts and acts occurred after the date of entry into force of the related implementing regulation, issued in accordance with Article 15, paragraph 5, letter c), of Legislative Decree no. 58 of 24 February 1998."

336 Paragraph thus replaced by Article 2 of Legislative Decree no. 182 of 8.11.2021. Article 4, paragraph 3 of Legislative Decree no. 182 of 8.11.2021 provides that: "Article 15, paragraph 4, letter b), of Legislative Decree no. 58 of 24 February

5. By a regulation, the Bank of Italy shall establish:

a) the calculation criteria for voting rights for application of the thresholds envisaged in paragraph 1, including cases in which voting rights are not calculated for the purpose of that paragraph, together with criteria to identify cases of significant influence and involuntary acquisition;

b) the persons required to give notice where voting rights attached to holdings are exercisable by or attributed to a person other than the owner of the holdings and where agreements exist concerning the exercise of voting rights;

b-bis) the cases referred to in paragraph 4, letter b)[337];

c) the notification conditions, procedures and time limits, and for completion of the assessment procedures envisaged in paragraph 2[338].

Article 15-bis
Persons acting in concert

1. For the purpose of the application of Chapter II of this Title, advance notice in accordance with Article 15 is also given of the acquisition or holding of shares by multiple persons, who, on the basis of agreements however finalized, even though invalid or ineffective, intend to exercise in concert the related rights, where such shares, considered cumulatively, reach or exceed the thresholds indicated in article 15 or result in the possibility of control or significant influence[339].

2. For the purposes referred to in paragraph 1, Article 22-bis, paragraph 2, of Legislative Decree no. 385 of 1 September 1993 are applied[340].

1998, as introduced by this decree, and the related obligation of notification in advance applies to cases occurred after the date of entry into force of the related implementing regulation, issued in accordance with Article 15, paragraph 5, letter b-bis), of Legislative Decree no. 58 of 24 February 1998."

337 Article 4, paragraph 3 of Legislative Decree no. 182 of 8.11.2021 provides that: "Article 15, paragraph 4, letter b), of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree, and the related obligation of notification in advance applies to cases occurred after the date of entry into force of the related implementing regulation, issued in accordance with Article 15, paragraph 5, letter b-bis), of Legislative Decree no. 58 of 24 February 1998."

338 Paragraph previously replaced by Legislative Decree no. 37 of 6.02.2004 and then amended first by Article 2, Legislative Decree no. 21 of 27.01.2010 which replaced paragraph a) and added the following words to paragraph c): ", and for completion of the assessment procedures envisaged in paragraph 2", and then by Article 2 of Legislative Decree no. 182 of 8.11.2021 which, in letter a), replaced the words: "of significant influence;" with the words: "of significant influence and involuntary acquisition;", added letter b-bis) and, in letter c), replaced the words: "the procedures" with the words: "the conditions, procedures". See Bank of Italy instructions of 4.8.200, 17.6.2002 and 14.4.2005 (published in O.J. no. 218 of 18.9.2000, O.J. no. 167 of 18.7.2002 and Ordinary Supplement no. 88, O.J. no. 109 of 12.5.2005). Article 4, paragraph 2, of Legislative Decree no. 182 of 8.11.2021 provides that: "Article 15, paragraph 3-bis, of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree, applies to facts and acts occurred after the date of entry into force of the related implementing regulation, issued in accordance with Article 15, paragraph 5, letter c), of Legislative Decree no. 58 of 24 February 1998."

339 Article 4, paragraph 4, of Legislative Decree no. 182 of 8.11.2021 provides that: "Article 15-bis, paragraph 1, of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree, applies to the acquisition or holding of shares related to agreements: a) finalized after the date of entry into force of the implementing regulation, issued in accordance with Article 15-bis, paragraph 2, of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree; b) finalized prior to the date of entry into force of the same implementing regulation, if the subsequent adhesion of other persons results in one of the thresholds provided for by Article 15, paragraph 1, of Legislative Decree no. 58 of 24 February 1998 being exceeded.".

340 Article included by Article 2 of Legislative Decree no. 182 of 8.11.2021. Article 4, paragraph 4, of Legislative Decree no. 182 of 8.11.2021 provides that: "Article 15-bis, paragraph 1, of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree, applies to the acquisition or holding of shares related to agreements: a) finalized after the date of entry into force of the implementing regulation, issued in accordance with Article 15-bis, paragraph 2, of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree; b) finalized prior to the date of entry into

Article 16
Suspension of voting and other rights, obligation to dispose of shareholdings[341]

1. The voting and other rights making it possible to influence the company attached to the shareholdings exceeding the thresholds established by Article 15(1) may not be exercised where the notices referred to in Articles 15(1) have not been given, where the Bank of Italy has prohibited the acquisition or the time limit within which the Bank of Italy may prohibit the acquisition has not expired or where the time limit established under Article 15(2), if any, has expired.[342]

2. The Bank of Italy, acting on its own initiative or on a proposal from CONSOB, may suspend the voting and other rights making it possible to influence the company, including those deriving from a contract or an article of association, attached to a qualifying shareholding in an investment firm or asset management company or in a SICAV or in a SICAF when the preconditions and requirements provided for by article 15, paragraph 2, no longer exist or have changed[343].

3. In the event of non-compliance with the prohibitions referred to in the preceding paragraphs, Articles 14(6) and 14(7) shall apply[344].

4. The Bank of Italy may fix a time limit for the disposal of shareholdings exceeding the thresholds established under Article 15(1) when the prior notice referred to in Article 15 has not been given, when, pursuant to Article 15(2), the Bank of Italy has prohibited an acquisition or any time limit it established for the acquisition has expired, or when pursuant to paragraph 2, a suspension of voting and other rights making it possible to influence the company is ordered[345].

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force of the same implementing regulation, if the subsequent adhesion of other persons results in one of the thresholds provided for by Article 15, paragraph 1, of Legislative Decree no. 58 of 24 February 1998 being exceeded.".

341 List first replaced by Legislative Decree no. 37 of 6.2.2004 and then thus amended by Article 2 of Legislative Decree no. 182 of 8.11.2021, which replaced the words: "voting rights, obligations" with the words: "voting and other rights, obligation".

342 Paragraph first amended by Legislative Decree no. 37 of 6.2.2004 and then thus amended by Article 2 of Legislative Decree no. 182 of 8.11.2021, which replaced the words: "thresholds established under Article 15(5)" with the words: "thresholds established by Article 15(1)", and the words: "referred to in Articles 15(1) and 15(3) have not been given, where" with the words: "referred to in Article 15 have not been given, where".

343 Paragraph previously replaced by Legislative Decree no. 37 of 6.2.2004, subsequently first amended by Article 2 of Legislative Decree no. 44 of 4.3.2014 which replaced the words "or in SICAV" with the words: ", in a SICAV or in a SICAF", and then by Article 2 of Legislative Decree no. 182 of 8.11.2021, which replaced the words: "company, attached" with the words: "company, including those deriving from a contract or an article of association, attached" and the words: "when the influence exercised by the holder of such voting rights is likely to be prejudicial to the company's sound and prudent management or effective supervision" with the words: "when the preconditions and requirements referred to in article 15, paragraph 2, no longer exist or have changed".

344 Paragraph thus amended by Article 2 of Legislative Decree no. 182 of 8.11.2021, which replaced the words: "Articles 14(5) and 14(6) with the words: "Articles 14(6) and 14(7)".

345 Paragraph first introduced by Legislative Decree no. 37 of 6.2.2004 and then thus amended by Article 2 of Legislative Decree no. 182 of 8.11.2021, which replaced the words: "exceeding the limits established under Article 15(5), when the prior notice referred to in Article 15 (1) has not been given, or when, pursuant to Article 15(2), the Bank of Italy has prohibited an acquisition or any time limit it established for the acquisition has expired" with the words: "exceeding the thresholds established under Article 15(1), when the prior notice referred to in Article 15 has not been given, when, pursuant to Article 15(2), the Bank of Italy has prohibited an acquisition or any time limit it established for the acquisition has expired, or when, pursuant to paragraph 2, a suspension of voting and other rights making it possible to influence the company is ordered".

4-bis. Any rights arising from contracts of articles of association cannot be exercised if the notices referred to in Article 15 have not been given, when the Bank of Italy has issued a prohibition or the related period of validity has not expired yet, or when any time limit possibly established pursuant to article 15, paragraph 2, has expired[346].

Article 17[347]
Requests for information on shareholdings

1. The Bank of Italy and CONSOB, specifying the time limit for the response, may require:

a) Italian investment companies, asset management companies, to the SICAVs and to the SICAFs, to provide the names of the owners of shareholdings on the basis of the register of shareholders, notifications received or other information available to them[348];

b) companies and entities of whatsoever nature which own shareholdings in the companies referred to in paragraph a) to provide the names of the owners of the shareholdings on the basis of the register of shareholders, notifications received or other information available to them;

c) the directors of companies and entities which own shareholdings in Italian investment companies or asset management companies or in the SICAVs and in the SICAFs to provide the names of their controllers;

d) trust companies which hold shareholdings in companies referred to in paragraph c) in their own names to provide the identification data of the beneficiaries[349].

TITLE II
INVESTMENT SERVICES[350]

Chapter I
Persons and authorisation

Article 18
Persons

1. The professional provision of investment services and activities for the public is reserved for investment firms, EU investment companies, Italian banks, EU banks and companies of non-EU countries[351].

2. Asset management companies may professionally practice towards the public the services

346 Paragraph included by Article 2 of Legislative Decree no. 182 of 8.11.2021.

347 Article first replaced by Legislative Decree no. 37 of 6.2.2004 and subsequently amended by Article 2 of Legislative Decree no. 44 of 4.3.2014 in the terms indicated in the following notes.

348 Letter thus amended by Article 2 of Legislative Decree no. 44 of 4.3.2014 which replaced the words: "and to the SICAVs" with the words: ", to the SICAVs and to the SICAFs".

349 Article as amended by Legislative Decree 37/2004.

350 Title as amended by Article 3 of Legislative Decree 164/2007.

351 Paragraph first amended by Article 3 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017. Paragraph 5 of Article 10 of Legislative Decree no. 129 dated 3.8.2017 states: “From the date the single register of financial advisors established pursuant to paragraph 3 is initiated, the reservation of activities referred to in article 18 of Legislative Decree no. 58 dated 24 February 1998, does not prejudice the opportunity for parties that were providing investment consultancy at October 31st 2007, to continue to perform service referred to in article 1, paragraph 5, Letter f), of mentioned Legislative Decree, without holding sums of money or financial instruments belonging to clients”.

contemplated by article 1, paragraph 5, letters d) and f). Asset management companies may also professionally practise towards the public the service contemplated by article 1, paragraph 5, letter e), if authorised to provide the AIF management service. EU management companies may professionally practise towards the public the services contemplated by article 1, paragraph 5, letters d) and f), if authorised in the Home Member State[352].

3. Financial intermediaries entered in the register referred to in Article 106 of the Consolidated Law on Banking may provide the services referred to in Article 1(5)(a) and (b) exclusively for derivative financial instruments, and in Article 1(5)(c) and (c-bis) to the public on a professional basis in the circumstances and subject to the conditions established by the Bank of Italy after consulting CONSOB.[353]

3-bis. …omissis… [354]

4. Italian investment companies may provide non-core services and other financial activities as well as related and instrumental activities to the public on a professional basis. Reservations of such activities established by law shall be unaffected.

5. The Minister of the Economy and Finance,[355] in a regulation adopted after consulting the Bank of Italy and CONSOB:

a) for the purpose of tracking the development of financial markets and the standards of adaptation of EU authorities, new categories of financial instruments, new investment services and activities and new accessory services, indicating which persons subject to certain forms of prudential supervision may exercise the new services and operations[356] / [357];

b) shall adopt the rules implementing and integrating the reservations of activities provided for in this article, in compliance with the provisions of European law[358] / [359].

Article 18-bis
Independent financial advisors

1. The reservation of activities referred to in article 18 does not prejudice the possibility for natural persons, in possession of the requirements of professionalism, integrity, independence and capital established with the regulation adopted by the Ministry of the Economy and Finance, having

352 Paragraph first replaced by Article 5 of Legislative Decree no. 274 of 1.8.2003, subsequently by Article 3 of Legislative Decree no. 164 of 17.9.2007 and lastly by Article 2 of Legislative Decree no. 44 of 4.3.2014. For the transitory provisions, see Article 15 of Legislative Decree no. 44 of 4.3.2014.

353 Paragraph first replaced by Article 3 of Legislative Decree no. 164 of September 17, 2007 and then amended by Article 2 of Legislative Decree no. 129 of 3 August 2017, which replaced the words "in the list referred to in Article 107" with the words "in the register referred to in Article 106".

354 Paragraph first included by Article 3 of Legislative Decree no. 164 dated 17.9.2007 and then repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

355 The previous wording: “Minister of the Treasury, Budget and Economic Planning” was replaced by the wording: “Minister of the Economy and Finance” by Article 1 of Legislative Decree 37/2004.

356 See Ministry of the Economy and Finance decree no. 44 of 2.3.2007 (published in O.J. no. 81 of 6.4.2007).

357 Paragraph as replaced by Article 3 Legislative Decree no. 164 of 17.09.2007

358 Letter thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the word: «community» with the word: «European».

359 Pending the implementing regulation of this paragraph, the Treasury decree no. 329 dated 26.06.1997 applies (published in O.J. no. 228 dated 30.9.1997).

consulted CONSOB, and entered in a special section of the register referred to in article 31, paragraph 4, to perform investment consultancy, relative to securities and stakes of collective investment bodies, without holding funds or securities belonging to clients. The requirements of professionalism for entry to the register are ascertained requirements of professionalism based on rigorous evaluation criteria that take into account previous professional experience that is validly documented or based on proficiency tests.

2. The provisions established by CONSOB with the regulation referred to in article 31, paragraph 6 are applied to independent financial advisors[360]

Article 18-ter[361]
Financial advisory firm

1. The reservation of activities referred to in article 18 does not prejudice the possibility for company constituted in form of joint stock companies or companies with limited liability, in possession of the capital and independence requirements established with regulations adopted by the Ministry of the Economy and Finance, having consulted CONSOB, and entered in a special section register referred to in article 31, paragraph 4, of providing security-related investment consultancy and stakes of mutual investment bodies, without holding funds or securities belonging to clients[362].

2. The Minister of the Economy and Finance, having consulted CONSOB, establishes with the regulations the requirements of professionalism, integrity and independence that the corporate officers must possess[363].

3. …omissis…[364]

3-bis. The provisions established by CONSOB with the regulation referred to in article 31, paragraph

360 Article first inserted by Article 3 of Legislative Decree no. 164 of September 17, 2007, subsequently replaced by Article 1 of Legislative Decree no. 101 of July 17, 2009, again amended by Law no. 208 of 28.12.205 and finally replaced by Article 2 of Legislative Decree no. 129 of 3.8.2017. Pursuant to Article 10, paragraph 5 of Legislative Decree no. 129 of 3 August 2017 "**5**. Until the date of operativeness of the Single Register of Financial Advisors, set in accordance with paragraph 3 and in any case within at the most one hundred and eighty days from the date of filing of the application for registration, if this has been filed by 30 November 2018, or the date of the decision of the Body on such application, the reserved activities in accordance with Article 18 of Legislative Decree no. 58 of 24 February 1998 does not preclude the possibility for the entities that, as at 31 October 2007, provide investment advice, to continue to provide the service referred to in Article, paragraph 5, letter f) of the aforementioned Legislative Decree, without holding sums of money or financial instruments pertaining to the clients." Section 4-ter of Article 17 of Legislative Decree no. 141 of 13.8.2010 introduced by Article 10 of Legislative Decree no. 169 of 19.9.2012 rules that": "4-ter. The agency activity in financial activities is not compatible with (…) with the activity of financial advisor referred to by Article 18-bis of Legislative decree no. 58 of 24 February 1998, nor with that of financial advisory firms referred to by Article 18-ter of the aforesaid Legislative Decree". Section 1-bis of Legislative Decree no. 141 of 13.8.2010 introduced by Article 7 of Legislative Decree no. 169 of 19.9.2012 rules that: "1-bis the promotion and placing of contracts relative to the granting of loans or the performance of payment services on the part of financial advisors listed on the register contemplated by Article 31 of Legislative Decree no. 58 of 24 February 1998, carried out on behalf of the authorised subject which has conferred on them the mandate of financial advisor, do not represent the practice of agency activities, provided the loans or the payment services are for the purpose of allowing investors to carry out transactions relative to financial instruments. (…)".

361 Article first included by Article 2 of Law no. 69 dated 18.6.2009 and then amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 under the terms indicated in the following notes.

362 Paragraph thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

363 Paragraph thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

364 Paragraph repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

6 are applied to the financial advisory firms[365].

3-ter. Financial advisory firms are jointly liable for the damage caused to third parties by independent financial advisors that they use in the exercise of the activities, even if said damage follows liability ascertained criminal procedures[366].

Article 19
Authorisation

1. CONSOB, having consulted the Bank of Italy, authorises, within six months of the presentation of the complete application, the provision of investment services and activities by investment firms, when, in conformance with what is specified in the pertinent technical regulating and implementing norms issued by the European Commission pursuant to directive 2014/65/EU, the following conditions recur:

a) the joint stock company form is adopted;

b) the name of the company includes the words “stockbroking company”;

c) the registered office and the general administration department are situated on Italian soil;

d) the paid-up capital is at least that determined generally by the Bank of Italy[367];

e) all the information, including a programme of activities, that indicates in particular the type of transactions provided for and the organisational structure are provided;

f) the parties that perform administrative, management and control functions are suitable pursuant article 13;

g) the owners of the stakes indicated in article 15, paragraph 1, have the requirements and satisfy the criteria established pursuant to article 14 and the conditions for prohibition contemplated by article 15, paragraph 2 do not recur;

h) the structure of the group the company is part of is not such as to prejudice the effective exercise of supervision over the said company and at least the information required pursuant to article 15, paragraph 5 is provided;

i) for the management of multilateral trading facilities or of organised trading facilities the further requirements dictated in part III are complied with[368].

2. Authorisation shall be refused where verification of the conditions indicated in paragraph 1 shows that sound and prudent management is not ensured, nor is the ability of the company to exercise investment services or activities correctly.[369].

3. CONSOB governs the authorisation of investment firm procedure[370].

3-bis. Investment companies shall inform CONSOB and the Bank of Italy of any significant change,

365 Paragraph included by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

366 Paragraph included by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

367 See regulation of Bank of Italy no. 1097 dated 29.10.2007 (published in O.J. no. 255 dated 2.11.2007).

368 Paragraph substituted first by Article 3 of Legislative Decree no. 164 dated 17.9.2007 and then by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

369 Paragraph first amended by Article 3 of Legislative Decree no. 164 of 17.9.2007, then by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: “is not ensured, and” with the words: “is not ensured, nor is”.

370 Paragraph first amended by Article 3 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 2 of Legislative Decree 129 dated 3.8.2017. See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018).

after authorisation, to the conditions pursuant to paragraph 1[371].

3-ter. Consob, having consulted the Bank of Italy, disciplines the possibility of the authorisation of investment firms becoming null and void. CONSOB, having consulted the Bank of Italy, pronounces the nullification of the authorisation when investment firms have not begun to carry out the investment services and activities with the term of one year of the issue of the authorisation or forgoes them expressly[372].

4. The Bank of Italy, having consulted CONSOB, authorises the provision of investment services and activities by Italian banks and of Italian branches of banks of non-EU countries, as well as the provision of the services and activities indicated in article 18, paragraph 3, by financial intermediaries in the register specified in article 106 of the consolidated banking law[373].

4-bis. The Bank of Italy, having consulted CONSOB, pronounces the nullification of the authorisation if the bank has not begun to carry out the investment services and activities with the term of one year of the issue of the authorisation or forgoes them expressly[374].[375]

4-ter. Paras 3-ter and 4-bis are also applied to Companies of non-EU countries authorised pursuant to articles 28 and 29-ter[376].

Article 20
Register

1. Without prejudice to the provisions of Title VIII of (EU) regulation no. 600/2014, CONSOB enters the investment firms and the companies of non-EU countries other than banks in a special register. EU Investment companies are included on a special list annexed to the register[377].

2. CONSOB shall communicate entries in the register to the Bank of Italy.

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371 Paragraph included by Article 3 Legislative Decree no. 164 of 17.09.2007

372 Paragraph included by Article 2 of Legislative Decree 129 dated 3.8.2017.

373 Paragraph thus substituted by Article 2 of Legislative Decree 129 dated 3.8.2017.

374 Paragraph added by Article 2 of Legislative Decree 129 dated 3.8.2017.

375 Article 3 of Legislative Decree no. 201 of 5.11.2021 provides that "2. CONSOB informs the Bank of Italy in the event that the total assets of the undertaking that prior to 25 December 2019 has filed a request for authorization in accordance with Article 19 of Legislative Decree no. 58 of 24 February 1998, to carry out the services indicated in Annex I, Section A, numbers 3) or 6), of the same decree, are equal to or greater than 30 billion euros. Likewise, CONSOB also informs the undertaking. 3. On receipt of the information indicated in paragraph 1, should the Bank of Italy determine that the undertaking fulfills the requirements indicated in Article 4, paragraph 1, point 1), letter *b)*, of Regulation (EU) no. 575/2013, the undertaking and CONSOB are duly informed thereof. In this case, the authorization is granted or refused according to the provisions laid down in Article 20-bis.1 of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree. 4. Departing from the provisions of Article 20-bis.1, paragraph 2, of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree, any SIM authorized in accordance with Article 19 of Legislative Decree no. 58 of 24 February 1998 that, as at 24 December 2019, fulfills the requirements laid down in Article 4, paragraph 1, point 1), letter *b)*, of Regulation (EU) no. 575/2013, files a request for authorization in accordance with Article 20-bis.1 of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree, within thirty days from the date of entry into force of this decree or, if subsequent, within thirty days from the date of entry into force of the regulatory technical standards adopted in accordance with Article 8-bis, paragraph 6, letter *b)*, of Directive 2013/36/EU.".

376 Paragraph added by Article 2 of Legislative Decree 129 dated 3.8.2017.

377 Paragraph thus substituted by Article 2 of Legislative Decree 129 dated 3.8.2017. See CONSOB regulation no. 11760 dated 22.12.1998 and no. 16216 dated 13.11.2007.

3. The persons referred to in paragraph 1 shall indicate the details of the entry in the register or list in their documents and correspondence.

Article 20-bis[378]
Revocation of the authorisation

1. The provisions of this article are applied in cases where there are not the presuppositions for the application of articles 57, paragraph 1, and 60-bis.4, of this decree, as well as articles 17 and 20 of the legislative decree no. 180 dated November 16th 2015, and article 80 of the consolidated banking law.

2. CONSOB, having consulted the Bank of Italy, revokes the authorisation for the provision investment services and activities of investment firms, issued in accordance with Article 19, when:

a) the provision of the investment services and activities is broken by more than six months;

b) authorisation has been obtained by presenting false declarations or using any other illegitimate method;

c) the conditions to which the authorisation is subject no longer exist;

d) in the case of Class-1 investment firms, the authorization pursuant to Article 20-bis.1 has not been obtained[379].

3. The revocation of the authorisation pursuant to paragraph 2 is the reason for the winding up of the company when it concerns all the investment services and activities which the investment company is authorised to provide. Within sixty days of the communication of the provision of revocation, the investment firms communicate to the Bank of Italy and to CONSOB the company's winding up programme. CONSOB, having consulted the Bank of Italy, may also authorise at the same time as the revocation, the provisional provision of activities pursuant to article 2487 of the civil code. The liquidation body sends periodic reports on the progress of the liquidation to the Bank of Italy and, for the period of any provisional provision of activities, to CONSOB. The Bank of Italy supervises the proper execution of the liquidation procedure. With regard to the company in liquidation, the powers of the Ministry of the economy and finance, the Bank of Italy and CONSOB provided for in this decree remain unaltered.

4. The revocation of the authorisation to provide investment services and activities of banks, in the cases provided for by paragraph 2, letters a), b) and c), is ordered by the Bank of Italy, having consulted CONSOB[380].

5. This article also applies to companies of non-EU countries authorised pursuant to the articles 28 and 29-ter.

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378 Paragraph first included by Article 2 of Legislative Decree no. 129 dated 3.8.2017 and then amended by Article 1 of Legislative Decree no. 201 of 5.11.2021 in the terms indicated in the following footnote.

379 Paragraph amended by Article 1 of Legislative Decree no. 201 dated 5.11.2021, which replaced the words: "investment firms, when" with the words: "investment firms, issued in accordance with Article 19, when" and added letter d).

380 Paragraph amended by Article 1 of Legislative Decree no. 201 dated 5.11.2021, which replaced the words: "paragraph 2, is" with the words: "paragraph 2, letters a), b) and c), is".

Article 20-bis.1
Class-1 investment firms

1. Departing from Article 19, the authorization of Class-1 investment firms to provide investment services and activities is issued where the conditions referred to in Article 14 (1) of the Consolidated Law on Banking are met. The authorization is issued by the European Central Bank, on the Bank of Italy's proposal; the authorization is refused by the Bank of Italy or the European Central Bank where, on the basis of the verification of the conditions indicated in Article 14 (1) of the Consolidated Law on Banking, a sound and prudent management is not ensured. The proposal to the European Central Bank or the decision of refusal of the Bank of Italy are made having heard CONSOB.

2. Any investment firm authorized in accordance with Article 19 file a request for authorization pursuant to paragraph 1 at the latest on the day in which one of the following events occur:

i) the monthly average value of the total assets, calculated over a period of 12 consecutive months, of the investment firm is equal to or greater than 30 billion euros;

ii) the monthly average value of the total assets, calculated over a period of 12 consecutive months, of the investment firm is less than 30 billion euros, and the same belongs to a group, as defined by the Bank of Italy in accordance with paragraph 12, in which the total value of the consolidated assets of the group's undertakings that individually hold total assets of less than 30 billion euros, and provide at least one of the investment services indicated in Annex I, Section A, numbers 3) and 6), is equal to or greater than 30 billion euros;

iii) the time limit indicated in the decision made in accordance with Article 4, paragraph 1, point 1), letter b), number iii), of Regulation (EU) no. 575/2013 has expired.

3. Any investment firm that has filed a request for authorization in accordance with paragraph 1 can continue to provide the investment services and activities for which they are authorized in accordance with Article 19 until issuance of the authorization in accordance with this article. Issuance of the authorization in accordance with this article implies revocation by right of the authorization issued in accordance with Article 19 and subsequent erasure from the Register referred to in Article 20.

4. Any investment firm authorized under this article is entered in a special section of the register provided for by Article 20.

5. Revocation of the authorization issued in accordance with paragraph 1 occurs in the following cases:

a) One or more of the conditions envisaged in Article 14, paragraph 3-bis, letters a) and b), of the Consolidated Law on Banking are met; or

b) the monthly average value of the total assets of the investment firm, calculated in accordance with Article 4, paragraph 1, point 1), letter b, of Regulation (EU) no. 575/2013, is less than 30 billion euros for a period of five consecutive years; or

c) interruption of the provision of the investment services indicated in Annex I, Section A, numbers 3) and 6), is established for a continuing period of more than six months. The relevant revocation is ordered by the European Central Bank, having heard the Bank of Italy and CONSOB, or on the Bank of Italy's proposal, having heard CONSOB.

Article 20-bis, paragraph 3, applies without prejudice to the provisions of paragraph 7 of this article.

6. The revocation of the authorization to Class-1 investment firms to provide investment services and activities, other than those indicated in Annex I, Section A, numbers 3) and 6), is ordered in accordance with Article 20-bis, paragraph 4.

7. As for the provision of investment services and activities, the investment firms whose authorization is revoked in accordance with paragraph 5, letters b) or c), request the authorization referred to in Article 19. In this case, the investment firms can continue to provide the investment services and activities for which they are authorized until issuance of the authorization in accordance with Article 19.

8. In addition to the provisions of Regulation (EU) no. 575/2013, the national implementing provisions of Directive 2013/36/EU also apply to Class 1 investment firms. As a result, the provisions of Part II, Title I and Title II, Chapter III, related exclusively to the investment firms, do not apply to these. For the purposes of the provisions referred to in the preceding clauses, Class 1 investment firms are considered equivalent to banks.

9. Except as provided for by Articles 55-bis, 56 and 60-bis.1 and the provisions referred to therein, Class-1 investment firms are considered equivalent to banks for the purpose of the application of the provisions of the EU regulations and directives that are applicable to the credit institutions, as defined in Article 4, paragraph 1, point 1), of Regulation (EU) no. 575/2013, as well as of the national implementation provisions of said directives.

10. In regard to Class-1 investment firms, the Bank of Italy exercises the powers it is given by the Consolidated Law on Banking in accordance with the provisions of Article 6-bis of the same law.

11. In regard to Class-1 investment firms, the supervisory powers and responsibilities of CONSOB on the provision of investment services and activities remain unchanged.

12. Having heard CONSOB, the Bank of Italy can issue implementation provisions of this article [381].

Article 20-ter
Authorisation and supervision of subjects eligible to apply for admission to bid in auctions, pursuant to Commission Regulation (EU) no. 1031/2010, of 12 November 2010, on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances, as amended by Regulation (EU) no. 1210/2011 of the Commission, of 23 November 2011

1. Pursuant to article 59 of Commission Regulation (EU) no. 1031/2010, of 12 November 2010, CONSOB authorises subjects established in the territory of the Republic that benefit from the exemption provided for in article 4-terdecies, paragraph 1, letter l) of this decree to apply for admission to bid in auctions on greenhouse gas emission allowances, as provided for by article 18,

381 Article included by Article 1 of Legislative Decree no. 201 of 5.11.2021. Article 3 of Legislative Decree no. 201 of 5.11.2021 provides that "2. CONSOB informs the Bank of Italy in the event that the total assets of the undertaking that prior to 25 December 2019 has filed a request for authorization in accordance with Article 19 of Legislative Decree no. 58 of 24 February 1998, to carry out the services indicated in Annex I, Section A, numbers 3) or 6), of the same decree, are equal to or greater than 30 billion euros. Likewise, CONSOB also informs the undertaking. 3. On receipt of the information indicated in paragraph 1, should the Bank of Italy determine that the undertaking fulfills the requirements indicated in Article 4, paragraph 1, point 1), letter *b)*, of Regulation (EU) no. 575/2013, the undertaking and CONSOB are duly informed thereof. In this case, the authorization is granted or refused according to the provisions laid down in Article 20-bis.1 of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree. 4. Departing from the provisions of Article 20-bis.1, paragraph 2, of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree, any SIM authorized in accordance with Article 19 of Legislative Decree no. 58 of 24 February 1998 that, as at 24 December 2019, fulfills the requirements laid down in Article 4, paragraph 1, point 1), letter *b)*, of Regulation (EU) no. 575/2013, files a request for authorization in accordance with Article 20-bis.1 of Legislative Decree no. 58 of 24 February 1998, as introduced by this decree, within thirty days from the date of entry into force of this decree or, if subsequent, within thirty days from the date of entry into force of the regulatory technical standards adopted in accordance with Article 8-bis, paragraph 6, letter *b)*, of Directive 2013/36/EU.".

paragraph 2 of the same regulation.

2. CONSOB exercises information, investigation, inspection and intervention powers, as well as the power to adopt injunctions provided for in this part, over the authorised subjects referred to in paragraph 1 in order to ensure compliance with the provisions of article 59 of Regulation (EU) no. 1031/2010 and the related implementing provisions envisaged in paragraph 4 of this article.

3. Without prejudice to the provisions of article 18, paragraph 1, letters b) and c) of Regulation (EU) no 1031/2010 in relation to the submission of bids on own account, Italian banks enrolled in the register provided for by article 13 of the Consolidated Law referred to in Legislative Decree no. 385 of 1 September 1993, and investment firms enrolled in the register provided for by article 20 of this Decree, may submit bids in auction market of greenhouse gas emission allowances on behalf of their clients, if authorised pursuant to this Decree to carry out trading services on own account or execution of orders on behalf of clients. This is without prejudice to the application of the provisions foreseen in the aforesaid Consolidated Text referred to in Legislative Decree no. 385 of 1 September 1993, and in this Decree, including for the purposes of compliance, by these subjects, with the rules of conduct referred to in article 59, paragraphs 2, 3 and 5 of Regulation (EU) no. 1031/2010.

4. Without prejudice to the provisions of article 6, paragraphs 2 and 2-bis of this Decree, CONSOB may lay down provisions implementing article 59, paragraphs 2, 3, 4, 5 and 6 of Regulation (EU) no. 1031/2010, with reference to the procedure for authorisation of the subjects envisaged by paragraph 1 of this article, and for any withdrawal of authorisation in the cases referred to in article 59, paragraph 6, letters b) and c) of Regulation (EU) no. 1031/2010, as well as the rules of conduct that subjects eligible to apply for admission to bid in auctions are required to follow pursuant to the aforesaid regulation[382].

Chapter II
Performance of services[383]

Article 21
General criteria

1. In providing investment and non-core services and activities, authorised intermediaries must:

a) act diligently, fairly and transparently in the interests of customers and the integrity of the market.

b) acquire the necessary information from customers and operate in such a way that they are always adequately informed;

c) use publicity and promotional communications which are correct, clear and not misleading,

d) have resources and procedures, including internal control mechanisms, suitable for ensuring the efficient provision of services and activities[384];

1-bis. In the provision of investment activities and services and additional services, investment firms, the Companies of non-EU countries authorised in Italy, Sgrs, the non-EU AIFMs authorised in Italy, financial intermediaries in the register specified in article 106 of the consolidated banking law and the Italian banks:

382 Article included by Article 13 of Law no. 38 of 3.5.2019 (European Law 2018).

383 Heading amended by Article 4 Legislative Decree no. 164 of 17.9.2007.

384 Paragraph first amended by Article 14 Law no. 262 of 28.12.2005 and by Article 10, paragraph 6 of Law no. 13 of 6.2.2007 (2006 Community Law) and later replaced by Article 4 Legislative Decree no. 164 of 17.9.2007.

a) adopt all measures that can identify and prevent or manage conflicts of interest that could arise among said parties, including the senior management, employees and associated agents or the people directly or indirectly connected and their clients or between clients when any investment service or additional service or a combination of said services is provided;

b) maintain and apply effective organisational and administrative provisions for the purpose of adopting all the reasonable measures for preventing the conflicts of interest from negatively influencing the interest of their clients;

c) when the organisational and administrative provisions adopted as required by letter b) are not sufficient for ensuring, with reasonable certainty, that the risk of harming the interests of the clients is avoided, they clearly inform the clients, before acting on their behalf, of the general nature and/or the sources of the conflicts of interest as well as of the measures adopted to mitigate associated risks;

d) conduct independent, health and prudent management and adopt measures suitable for safeguarding the rights of the clients regarding entrusted assets[385].

1-ter. The provisions referred to in letters a), b) and c) of paragraph 1-bis are also applied to conflicts of interests determined by the receipt by investment firms, companies of non-EU countries authorised in Italy, Sgrs, non-EU AIFMs authorised in Italy, financial intermediaries in the register required under article 106 of the consolidated banking law and Italian banks of incentives paid by third parties or determined by the remuneration policies and incentive structures adopted by them[386].

1-quater. Parties qualified for the provision of investment activities and services shall provide clients or prospective clients with all the information required under this Part and related implementing provisions in digital format, except where such client or prospective client is a retail investor who has requested provision of the information on paper. In such latter case, the information is provided on paper free of charge. Qualified parties shall inform their retail clients or prospective clients that they have the right to receive the information on paper[387].

2. In the performance of the investment services and activities it is possible act in one's own name and on behalf of customers after the written consent of the latter[388].

2-bis. When they create financial instruments for sale to clients, the parties qualified for the provision of investment activities and services ensure that said products are designed to meet the requirements

385 Paragraph first included by Article 4 of Legislative Decree no. 164 dated 17.9.2007 and then substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

386 Paragraph added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

387 Paragraph added by Article 1 of Legislative Decree no. 31 of 10.3.2023. Article 1 (2), (3) and (4) of Legislative Decree no. 31 of 10.3.2023 provide that: "2. The parties qualified for the provision of investment activities and services shall notify their existing retail clients at the date of entry into force of this decree that are receiving the information note under Directive 2014/65/EU on paper, that the obligatory information can continue to be provided on paper or in digital format and that shift to such modality is automatic when, within eight weeks from receipt of the notice referred to in this paragraph, the clients fail to request continuation of the provision of information on paper. The parties qualified for the provision of investment activities and services shall give the notice referred to in this paragraph at the earliest opportunity and in any case not later than one hundred and twenty days from the date of entry into force of this decree. 3. Without prejudice to the provisions of paragraph 2, the parties qualified for the provision of investment activities and services shall provide new clients or prospective new clients with the information referred to in the provisions introduced by paragraph 1, letter c), number 1) at the earliest opportunity and in any case not later than one hundred and twenty days form the date of entry into force of this decree. 4. Paragraph 2 shall not apply in reference to existing retail clients at the date of entry into force of the provisions of this decree who already receive the information required under Directive 2014/65/EU in digital format."

388 Paragraph thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

of a particular reference of end clients specified within the relative category of clients and that the strategy of distribution of financial instruments is compatible with the target client. The parties referred to in this paragraph also adopt reasonable measures to ensure that the financial instrument is distributed to the clients in the market target[389].

2-ter. The qualified party must know the financial instruments offered or recommended, assess their compatibility with the needs of the clients to whom it is providing investment services bearing in mind the reference market of end clients referred to in paragraph 2-bis, and act in such a way that the financial instruments are only offered or recommended when that is in the interests of client[390]/[391].

2-quater. Paragraphs 2-bis and 2-ter and the implementing provisions of Article 6 (2), letter b-bis, number 1), letter a), shall not apply when the provided investment service concerns bonds with make-whole clause that do not have other incorporated derivatives or when the financial instruments are marketed or distributed exclusively to qualified parties[392].

2-quinquies. The provision of research services by third parties to parties qualified for the provision of portfolio management services or other investment or ancillary services fulfils the obligation referred to in paragraph 1 if:

a) Prior to the provision of order-filling or research services, the qualified parties and the research service provider have concluded an agreement that identifies, within combined charges or joint payments for order-filling or research services, the part that concerns the research;

b) The qualified parties inform their clients of the joint payments for the order-filling and research services paid to the third provider of research services;

c) The research services in relation to which combined charges or joint payments are made concern issuers whose market capitalization has not exceeded the threshold of one billion euros as indicated by end-of-year stock prices, in the thirty-six months preceding the provision of the research services, or by own capital for the years in which such issuers are not or were not listed[393].

2-sexies. For the purposes of paragraph 2-quinquies, research means research services or materials concerning one or more financial instruments or other assets, or the issuers or prospective issuers of financial instruments, or research services or materials strictly correlated to a specific sector or market so that they form a basis of evaluation of the instruments, assets or financial issuers within the sector or market in question. Research also includes the materials or services that recommend or propose, explicitly or implicitly, an investment strategy and formulate a reasoned opinion on the present or future value or on the price of assets or financial instruments, or otherwise contain novel analyses and information and draw conclusions on the basis of new or existing information that could be used to create an investment strategy and be pertinent and able to bring added value to the decisions made by

389 Paragraph added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

390 Paragraph added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

391 Paragraph 2-ter of the Article 20 of the Decree Law no. 119 of 23.10.2018, coordinated with the conversion Law no. 136 of 17.12.2018 provides that: "Articles 21, 23 and 24-bis of the consolidated text of the Legislative Decree of 24 February 1998, no. 58, do not apply to the offer and advice concerning shares issued by the subjects referred to in articles 33 and 111-bis of the consolidated act referred to in Legislative Decree 1 September 1993, no. 385, when the subscription or the purchase is of a nominal value not exceeding 1,000 euros or, if higher than this amount, represents the minimum quota established in the bank's bylaws to become a shareholder as long as it does not exceed the nominal value of 2,500 euros. For the purposes of compliance with the aforementioned limits, account is taken of purchases and subscriptions made in the preceding twenty-four months.".

392 Paragraph added by Article 1 of Legislative Decree no. 31 of 10.3.2023.

393 Paragraph added by Article 1 of Legislative Decree no. 31 of 10.3.2023

qualified parties on behalf of the clients, who pay the cost of such research[394].

Article 22
Separation of assets

1. In the provision of the investment services and additions, the financial instruments and the sums of money belonging to individual clients, held for any reason by investment firms, EU investment companies, companies of non-EU countries other than banks, Sgrs, EU management companies, EU AIFMs or financial intermediaries in the register required by article 106 of the consolidated banking law, as well as the financial instruments of the individual clients held by the bank for any reason, constitute capital that is separate for all intents and purposes from that of the intermediary and that of other clients. Actions in respect of such assets may not be brought by creditors of the intermediary or on behalf of such creditors, or by creditors of the depositary or the sub-depositary, if any, or on behalf of such creditors. Creditors of individual customers may bring actions up to the amount of the assets owned by such customers.[395]

2. Legal and court-ordered set-off shall not apply to accounts referring to financial instruments or funds deposited with third parties and agreements may not be made for their set-off against claims of the depositary or the sub-depositary on the intermediary or the depositary.

3. Unless written consent is given by the client, investment firms, EU investment companies, companies of non-EU countries other than the bank, Sgrs, EU management companies, EU AIFMs or financial intermediaries in the register required by article 106 of the consolidated banking law and the bank may not use for their own interests or those of others, the financial instruments belonging to clients held by them for any reason. investment firms, EU investment companies, companies of non-EU countries other than the bank, Sgrs, EU management companies, EU AIFMs or financial intermediaries in the register required by article 106 of the consolidated banking law and the bank, the Sgrs, EU management companies and EU AIFMs may not use the cash and equivalents available belonging the investors that they hold for any reason for its own interests or those of other parties[396].

Article 23
Contracts

1. The contracts relative to the provision of the investment services, and, if relevant, the contracts relative to the provision of additional services, are drawn up in writing, in conformance with what is contemplated by the delegated acts of directive 2014/65/EU, and an example is given to the customers. CONSOB, having consulted the Bank of Italy, may require with a regulation that, for grounded reasons or in relation to the professional nature of the contracting parties, particular types of contract can or must be stipulated in other forms, ensuring with regard to retail clients an appropriate level of guarantee. In cases of non-compliance with the prescribed form, the contract is

394 Paragraph added by Article 1 of Legislative Decree no. 31 of 10.3.2023.

395 Paragraph already replaced by Article 6 of Legislative Decree no. 274 of August 2003, subsequently amended first by Article 3 of Legislative Decree no. 44 of 4 March 2014 and then Article 2 of Legislative Decree no. 129 of 3.8.2017 replacing the first period. See Bank of Italy Regulation no. 1097 of October 29, 2007 (published in the O.J. No. 255 of November 2, 2007).

396 Paragraph formerly substituted by Article 6 of Legislative Decree no. 274 dell'1.8.2003, subsequently amended by Article 3 of Legislative Decree no. 44 dated 4.3.2014 and in conclusion again substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

null[397].

2. Any clause which refers to usage for the determination of the fee payable by customers or any other amount charged to them shall be null. In such cases, nothing shall be payable.

3. In cases referred to in paragraphs 1 and 2, nullity may be enforced only by the customer.

4. The provisions of the Title VI, of the consolidated banking law do not apply:

a) to the investment services and activities;

b) to the placement of financial products;

c) to transactions and to services that are components of financial products subject to the discipline of articles 25-bis and 25-ter or part IV, Title II, Chapter I. In any case, credit transactions as well as the services and payment accounts disciplined by chapters I-bis, II, II-bis and II-ter of the consolidated banking law are applied the relevant provisions of the Title VI of the consolidated banking law[398].

4-bis. In the provision of investment activities and services and accessory services financial guarantee contracts are not concluded with transfer of ownership with retail clients for the purpose of ensuring or hedging clients 'present or future, effective or potential obligations. Contracts concluded in infringement of this disposition are null. CONSOB disciplines the way the activities referred to in this paragraph are carried out in the case of professional clients and qualified counterparties[399].

5. Within the scope of the provision of investment services and activities, Article 1933 of the Civil Code shall not apply to derivative financial instruments or to similar instruments specified pursuant to Article 18(5) (a)[400].

6. In actions for damages in respect of injury caused to the customer in the performance of investment services or non-core services, the burden of proof of having acted with the due diligence required shall be on the authorised intermediaries[401].

397 Paragraph first amended by Article 4 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017. See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018).

398 Paragraph first amended by Article 3 of Legislative Decree no. 303 dated 29.12.2006 and by Article 4 of Legislative Decree no. 164 dated 17.9.2007 and in conclusion thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

399 Paragraph added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

400 Paragraph amended by Article 4 Legislative Decree no. 164 of 17.9.2007.

401 Paragraph 2-ter of the Article 20 of the Decree Law no. 119 of 23.10.2018, coordinated with the conversion Law no. 136 of 17.12.2018 provides that: "Articles 21, 23 and 24-bis of the consolidated text of the Legislative Decree of 24 February 1998, no. 58, do not apply to the offer and advice concerning shares issued by the subjects referred to in articles 33 and 111-bis of the consolidated act referred to in Legislative Decree 1 September 1993, no. 385, when the subscription or the purchase is of a nominal value not exceeding 1,000 euros or, if higher than this amount, represents the minimum quota established in the bank's bylaws to become a shareholder as long as it does not exceed the nominal value of 2,500 euros. For the purposes of compliance with the aforementioned limits, account is taken of purchases and subscriptions made in the preceding twenty-four months.".

Article 24
Portfolio management [402]

1. The following regulations shall be applied to portfolio management:

a) the customer may issue binding instructions with regard to transactions to be performed;

b) the customer may withdraw from the contract at any time, without prejudice to the right of withdrawal by the service provider pursuant to Article 1727 of the Civil Code;

c) the power to exercise voting rights in relation to financial instruments under management may be conferred upon the service provider by means of proxy granted in writing and for several shareholders meetings, departing from Article 2372, paragraph 2, of the Civil Code[403].

1-bis. In the provision of the portfolio management service fees, commissions or other cash or non-cash benefits paid or supplied by third parties or provided by third parties or anyone acting on behalf of third parties, with the exception of low-value non-monetary benefits that may enhance the quality of the service provided to the client and that, due to their size and nature, cannot be considered such as to prejudice compliance with the duty to act in the best interests of the clients. Said non-cash low-value benefits must be clearly communicated to the clients[404].

2. Agreements in conflict with the provisions of this article shall be null and void, nullity may be enforced only by the customer.

Article 24-bis
Investment advice

1. In the case of providing investment advice, the client is also informed, in good time before the provision of the service, of the following:

a) whether the advice is provided on an independent basis or not;

b) whether the advice is based on a deep or more restrictive analysis of the various types of financial instrument, and in particular whether the range is limited to the financial instruments issued or provided by entities that have together with the provider of service strict ties or other close legal or economic relationship, such as a contractual relationship that is so close as to entail the risk of compromising the independence of the advice provided;

c) whether the periodic assessment of the adequacy of the recommended financial instruments is given to the clients.

2. The following rules are applied in the provision of the investment advice service on an independent basis:

a) an assessment is made of an appropriate range of financial instruments available on the

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402 Heading amended by Article 4 Legislative Decree no. 164 of 17.9.2007 which removed the words “investment”.

403 Paragraph first replaced by Article 4 of Legislative Decree no. 164 of September 17, 2007, and subsequently amended by Article 2 of Legislative Decree no. 129 of 3 August 2017, which in point (b) replaced the words: "of the investment firm, the savings or bank management company" with the words "the service provider"; and (c), the words "to the investment firm, the bank or the savings management company" with the words "the service provider" and by Article 17 of Law no. 21 of 5.3.2024, which replaced the words: “for each shareholder’s meeting in observance of the limits and procedures established by regulation by the Minister of the Economy and Finance, after consulting the Bank of Italy and CONSOB” with the words: “and for several shareholders meetings, departing from Article 2372, paragraph 2, of the Civil Code”. See Ministry of the Treasury, Budget and Economic Planning decree no. 470 of 11.11.1998 (published in O.J. no. 7 of 11.1.1999).

404 Paragraph added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

market that are sufficiently diversified in terms of type and issuer or product provider in such a way as to guarantee that the investment objectives of the customer are suitably satisfied and are not limited to the financial instruments issued or supplied:

i) by the service provider or by an entity that have strict links with it or

ii) by other entities that have strict links or legal or economic relations with the service provider, such a contractual relationship that is so close as to entail the risk of compromising the independence of the consultancy provided;

b) Fees, commissions or other cash or non-cash benefits paid or supplied by third parties or provided by third parties or anyone acting on behalf of third parties, with the exception of low-value non-monetary benefits that may enhance the quality of the service provided to the client and that, due to their size and nature, cannot be considered such as to prejudice compliance with the duty to act in the best interests of the clients. Said non-cash low-value benefits must be clearly communicated to the clients [405].

Article 25
Trading activities in regulated markets, in the multilateral trading facilities and in organised trading facilities

1. Investment firms and Italian banks authorised to provide trading services and activities on their own account or through the filling of orders on behalf of customers may operate in the trading venues of Italy or of another member state of the European Union and in the markets outside the EU recognised by CONSOB pursuant to article 70[406].

Article 25-bis[407]
Structured deposits and financial products, other than financial instruments, issued by banks

1. Articles 21, 23 and 24-bis are applied to the offer and the consultancy regarding structured deposits and financial products, other than financial instruments, issued by banks. This is without prejudice to what is established pursuant to article 3 of legislative decree no. 30 dated February 15th 2016.

2. In relation to the products referred to in paragraph 1 and in the pursuit of the purpose referred to in article 5, paragraph 3, CONSOB exercises over qualified parties and over banks not authorised to provide investment services or activities, without prejudice to the powers of the competent authorities of the member states of origin, the powers referred to in article 6, paras. 2, 2-bis and 2-quater; article 6-bis, paras. 4, 5, 6, 7, 8, 9 and 10; article 6-ter, paras. 1, 2, 3 and 4; article 7, except for paras. 2, 2-bis and 3; article 7-bis, without prejudice to the powers of the Bank of Italy provided for by the same article. The powers envisaged in article 6, para. b), letter 2) do not apply to structured deposits [408].

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405 Article added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

406 Article formerly amended by Article 10, paragraph 3 of Law no. 13 dated 6.2.2007 (Community Law 2006), later substituted first by Article 4 of Legislative Decree no. 164 dated 17.9.2007 and in conclusion by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

407 Article first included by Article 11 of Law no. 262 dated 28.12.2005, later amended by Article 3 of Legislative Decree no. 303 dated 29.12.2006, by Article 4 of Legislative Decree no. 164 dated 17.9.2007, by Article 40 of Legislative Decree no. 39 dated 27.1.2010 and by Article 4 of Legislative Decree no. 72 dated 12.5.2015, subsequently replaced by Article 2 of Legislative Decree no. 129 dated 3.8.2017 and lastly modified by Article 2 of Legislative Decree no. 165 of 25.11.2019 according to the terms indicated in the following note.

408 Paragraph thus replaced by Article 2 of Legislative Decree 165 of 25.11.2019.

Article 25-ter[409]
Insurance investment products[410]

1. The distribution of insurance investment products is governed by the provisions of Title IX of Legislative Decree no. 209 of 7 September 2005 and directly applicable European legislation[411].

2. In relation to the products referred to in paragraph 1 and in the continuation of the objective referred to in article 5, paragraph 3, CONSOB exercises over the parties qualified to distribute insurance products as per article 1, paragraph 1, letter w-bis), the powers referred to in article 6, paragraph 2, after consulting IVASS, as well as the powers referred to in article 6-bis, paras 4, 5, 6, 7, 8, 9 and 10; article 6-ter, paras 1, 2, 3 and 4; article 7, paras 1, 1-bis, 1-ter and 3-bis[412].

2-bis. With reference to insurance investment products, CONSOB exercises the power referred to in Article 6, para. 2, after consulting IVASS, in such a way to ensure uniformity of the rules applicable to the sale of insurance investment products, regardless of their distribution channel, as well as the overall efficiency and coherence of the supervision system for insurance investment products and the respect of directly applicable European legislation[413].

2-ter. CONSOB and IVASS agree on the ways to exercise their supervisory powers, according to their respective duties, so as to reduce the burden for supervised entities[414].

2-quater. The supervisory body and keeper of the single register of financial advisors exercises the powers stipulated in Article 31, paragraph 4, with respect to financial advisors authorised to conduct door to door selling, listed in section e) of the single register of insurance intermediaries envisaged in Article 109 of Italian Legislative Decree no. 209 of 7 September 2005 which distribute investment insurance products on behalf of parties authorised for insurance distribution[415].

2-quinquies. IVASS, the body for the registration of financial intermediaries pursuant to Article 108-bis of Italian Legislative Decree no. 209 of 7 September 2005, and the supervisory body and keeper of the single register of financial advisors shall cooperate, including through the exchange of information, to facilitate the performance of their respective duties[416].

3. …omissis…[417]

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409 Article first inserted by Article 2 of Legislative Decree no. 129 of 3.8.2017 and then amended by Article 2 of Legislative Decree no. 68 of 21.5.2018 and Article 2 of Legislative Decree no. 165 of 25.11.2019 according to the terms indicated in the subsequent notes.

410 Heading thus replaced by Article 2 of Legislative Decree no. 68 of 21.5.2018.

411 Paragraph thus replaced by Article 2 of Legislative Decree no. 68 of 21.5.2018.

412 Paragraph thus replaced by Article 2 of Legislative Decree no. 68 of 21.5.2018.

413 Paragraph inserted by Article 2 of Legislative Decree no. 68 of 21.5.2018. Article 5 of Legislative Decree no. 68 of 21.5.2018 (Client profiling) provides as follows: "IVASS and CONSOB, after hearing the most representative associations of insurance intermediaries, insurance companies and consumers, may determine standard ways to ensure safer client profiling, also in view to provide, in the short term, for a system that guarantees unequivocal profiling, for an ever greater protection of clients, identifying a risk level that is tolerable to the client, with direct reference to the product risk grading scale set up by Regulation (EU) no. 1286/2014 and related implementing provisions (KID)".

414 Paragraph inserted by Article 2 of Legislative Decree no. 68 of 21.5.2018.

415 Paragraph inserted by Article 2 of Legislative Decree no. 165 of 25.11.2019.

416 Paragraph inserted by Article 2 of Legislative Decree no. 165 of 25.11.2019.

417 Paragraph repealed by Article 2 of Legislative Decree no. 68 of 21.5.2018.

4. …omissis…[418]

5. …omissis…[419]

6. …omissis…[420]

Article 25-quater
Bank bonds and other debt instruments

1. Any contract signed by retail clients for the provision of investment services, the subject matter of which are the instruments referred to in Article 12-ter of the Consolidated Law on Banking and issued by the subjects indicated in Article 2 of Legislative Decree no. 180 of 16 November 2015, the investment firms indicated in Article 55-bis, paragraph 1, or the banks or EU investment firms or undertakings of the group to which they belong, are void and null where the denomination per unit of said instruments is less than that provided for by the same Article 12-ter of the Consolidated Law on Banking and they are issued after the date of entry into force of the latter.

2. The provision laid down in paragraph 1 also applies to the contracts signed by retail clients for the provision of investment services, the subject matter of which are the instruments referred to in Article 12-ter of the Consolidated Law on Banking and issued by subjects having registered office in a third Country, which, had their registered office in Italy, would qualify as the subjects indicated in Article 2 of Legislative Decree no. 180 of 16 November 2015 or as the investment firms indicated in Article 55-bis, paragraph 1.

3. The nullity provided for by this article can only be invoked by retail clients and can be declared ex officio by a court of law. Article 23, paragraph 6, applies[421].

Chapter III
Cross-border operations

Article 26
Branches and free provision of services by investment firms

1. Investment firms, after communication to CONSOB and in conformance with what is provided for by paragraph 4, may provide investment services and activities, with or without additional services, in other states of the European Union, in the exercising of the right of establishment through branches or associate agents established on the soil of the hosting member country.

2. CONSOB, having consulted the Bank of Italy, proceeds, in conformance with what is provided for by paragraph 4, with communicating to the competent authority in the host member state, the information subject of the communication referred to in paragraph 1, unless there are reasons to doubt that the organisational structure or financial, economic or asset situation of the investment firm involved is sufficient.

418 Paragraph repealed by Article 2 of Legislative Decree no. 68 of 21.5.2018.

419 Paragraph repealed by Article 2 of Legislative Decree no. 68 of 21.5.2018.

420 Paragraph repealed by Article 2 of Legislative Decree no. 68 of 21.5.2018.

421 Article included by Article 3 of Legislative Decree no. 193 of 8.11.2021.

3. Investment firms, after notifying CONSOB and in conformance with what is provided for in paragraph 4, may provide investment services and activities, with or without additional services, in other states of the European Union under the free provision of services system, also through the use of associated agents established in Italy. CONSOB, having consulted the Bank of Italy, communicates to the competent authority of the hosting member state the use of associate agents in conformance with the provisions of paragraph 4.

4. The necessary conditions and the procedures that must be complied with so that the investment firms can provide in other states of the EU services admitted to the mutual recognition through the right of establishment or through the free provision of services are disciplined by CONSOB, in conformance with relative technical regulation and implementation regulations issued by the European Commission pursuant to directive 2014/65/EU.

5. Investment firms may provide the activity not admitted to mutual recognition in other states of the EU after authorisation of CONSOB, having consulted the Bank of Italy.

6. Investment firms, may operate in another non- EU State, even without having set up branches there after the authorisation of CONSOB after consulting the Bank of Italy.

7. In any case the existence of relevant collaboration agreements with the competent authorities in the host state constitute conditions for the issue of authorisations referred to the paras 5 and 6.

8. CONSOB, having consulted the Bank of Italy, establishes through the regulation:

a) the procedures provided for in the case where it does not proceed with the communication referred to in paragraph 2, if unless there are reasons to doubt that the organisational structure or financial, economic or asset situation of the investment firm involved is sufficient;

b) the conditions and the procedure for the issue of the Authorisation to investment firms to provide the activities not admitted to mutual recognition in other EU states and its services in non-EU states[422].

Article 27[423]
Investment companies of the European Union

1. The Investment companies of the EU may provide investment services and activities, with or without accessory additional services, in exercising the right of establishment through branches or associated agents on Italian soil. The first settlement is preceded by a communication to CONSOB by the competent authority of the state of origin, in conformance with what is provided for in the relative technical regulation and implementation regulations issued by the European Commission pursuant to directive 2014/65/EU. The branch or the associated agent begin the activity from the moment when they receive the relevant communication from CONSOB or, in the case of silence, after two months have elapsed from the communication to CONSOB from the authorities in the member state of origin.

2. The Investment companies of the EU may provide investment services and activities, with or

422 Article thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017. See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018).

423 Article previously amended by Article 5 of Legislative Decree no. 164 dated 17.9.2007, subsequently substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017 and then amended by Article 1 of Legislative Decree no. 201 of 5.11.2021 in the terms indicated in the following footnote. See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41 of 19.2.2018).

without additional services, in the Italy under the free provision of services system, also by using associated agents established in the member of state of origin, who may not hold money and/or financial instruments of the clients or potential clients of the party for whom they work, on condition that CONSOB has been informed by the competent authority of the state of origin, in conformance with what is contemplated by the relative technical regulation and implementation regulations indicated in paragraph 1.

3. CONSOB, having consulted the Bank of Italy, disciplines with regulation the procedures relative to any requests of amendment by CONSOB of the provisions concerning the branches to be established in Italy[424].

4. CONSOB, having consulted the Bank of Italy, disciplines with regulation authorisation to practice the activities not admitted to the mutual recognition any way affected by the investment companies of the EU in Italy.

4-bis. Departing from the foregoing paragraphs, Article 29-bis applies to the investment companies of the EU that fulfil the requirements provided for by Article 4, paragraph 1, point 1), letter b), of Regulation (EU) no. 575/2013. These companies are entered in a special section of the register provided for by Article 20[425].

Article 28[426]
Companies of non-EU countries other than banks

1. The establishment in Italy of branches by companies of non-EU countries other than banks is authorised by CONSOB, having consulted the Bank of Italy. Authorisation is subject:

a) to the existence, for the branch, of requirements corresponding to those provided for by article 19, paragraph 1, letters d) and f);

b) to the sending of all the information, including a programme of activities, that illustrate in particular the types of transactions planned for and the organisational structures of the branch, specified pursuant to paragraph 4;

c) to the authorisation, supervision and effective implementation in the state of origin of the investment services or activities and additional services that the applicant company intends to provide in Italy, as well as to the circumstance that the competent authority of the State of origin pays due attention to the recommendations of GAFI in the context of measures against money laundering the fight against the financing of terrorism;

d) to the existence of collaboration agreements among the Bank of Italy, CONSOB and the competent authorities in the State of origin, including provisions disciplining the exchange of information, for the purpose of preserving the soundness of the market and guaranteeing the protection of the investors[427];

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424 See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41 of 19.2.2018).

425 Paragraph included by Article 1 of Legislative Decree no. 201 of 5.11.2021.

426 Article previously amended by Article 5 of Legislative Decree no. 164 dated 17.9.2007, subsequently substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017 and then amended by Article 1 of Legislative Decree no. 201 of 5.11.2021 in the terms indicated in the following footnotes. See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41 of 19.2.2018).

427 Paragraph 17 of Article 10 of Legislative Decree no. 129 dated 3.8.2017 states that: “17. The companies of countries outside the European Union (formerly called non/ community investment companies) and banks of countries outside the European Union (formerly called non-community banks) that are authorised until January 2nd 2018 to the provide

e) to the existence of an agreement between Italy and the State of origin that fully respects the regulations referred to in article 26 of the OECD Model Tax Convention on Income and on Capital and ensures a proper exchange of tax-related information, including any multilateral tax agreements[428];

f) to the applicant company's adhesion to a recognised indemnity system to protect investors pursuant to article 60, paragraph 2.

2. The Authorisation referred to in paragraph 1 is denied if the capacity of the branch of the non-EU country company other than a bank to respect the obligations applicable to it pursuant to this decree or contained in directly applicable deeds of the European Union is not guaranteed.

3. The Companies of non-EU countries other than banks may provide investment services and activities, with or without additional services, to retail clients or to professional clients on request as specified pursuant to article 6, paragraph 2-quinquies, letter b), and paragraph 2-sexies, letter b), of this decree exclusively through the establishment of branches in Italy, in conformance with paragraph 1.

4. CONSOB, having consulted the Bank of Italy, may govern the conditions for the issue of the authorisation for the performance of the services and of the activities referred to in paras 1, 6 and 6-bis[429].

5. Title VIII of (EU) regulation no. 600/2014 applies to the provision in Italia of investment services and activities, with or without additional services, in accordance to the free provision of services system, for qualified counterparties or professional clients as specified pursuant to article 6, paragraph 2-quinquies, letter a), and paragraph 2-sexies, letter a), of this decree, by companies of non-EU countries other than banks. With regard to these companies, CONSOB and the Bank of Italy, according to their respective powers, are the national competent authorities pursuant to Article 46, paragraphs 6-bis and 6-ter, of the same regulation[430].

6. The Companies of non-EU countries other than banks may provide investment services and activities, with or without additional services, to qualified counterparties or professional clients as specified pursuant to article 6, paragraph 2-quinquies, letter a), and paragraph 2-sexies, letter a), of this decree, even without the establishment of branches in Italy, in the absence of a decision by the European Commission pursuant to article 47, section 1, of (EU) regulation no. 600/2014 or where said decision is no longer in force, providing the conditions contemplated by paragraph 1, letters b), c), d) and e) obtain, and a program concerning the activities that it is intended to perform in the country is produced. The authorisation is issued by CONSOB, having consulted the Bank of Italy.

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investment services and activities in Italy through branches, may continue to take advantage of the authorisation to provide these services through the branch until January 3rd 2021, even though the conditions contemplated by article 28, paragraph 1, letters d) and e), of Legislative Decree no. 58 dated February 24th 1998 as amended by this Legislative Decree".

428 Paragraph 17 of Article 10 of Legislative Decree no. 129 dated 3.8.2017 states that: "17. The companies of countries outside the European Union (formerly called non-community investment companies) and banks of countries outside the European Union (formerly called non-community banks) that at January 2nd 2018 are authorised to the perform investment services and activities in Italy through branches, may continue to take advantage of the authorisationto provide these services and activities through the branch until January 3, 2021, even if the conditions contemplated by article 28, paragraph 1, letters d) and e), of Legislative Decree no. 58 of February 24th 1998 as amended by this Legislative Decree have not yet been verified".

429 Paragraph thus amended by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: "in paras 1 and 6" with the words: "in paras 1, 6 and 6-bis".

430 Paragraph thus amended by Article 1 of Legislative Decree no. 201 of 5.11.2021, which added the last clause.

6-bis. Paragraph 6 also applies in the case of a decision issued by the European Commission pursuant to Article 47, paragraph, of Regulation (EU) no. 600/2014, strictly in reference to the investment services and activities not included therein[431].

7. CONSOB, having consulted the Bank of Italy, may indicate, in general terms, the services and the activities that, pursuant to paragraphs 6 and 6-bis, companies of non-EU countries other than banks may not provide in Italy without the establishment of Branches[432].

7-bis. Departing from the preceding paragraphs, Article 29-ter applies to third-country companies that fulfil the requirements laid down in Article 4, paragraph 1, point 1), letter b), of Regulation (EU) no. 575/2013. These companies are entered in a special section of the register provided for by Article 20[433].

Article 29
Italian banks

1. Italian banks may provide investment services or activities, with or without additional services, in other states of the European Union, in exercising the right of establishment, through branches or associate agents established in the host member country. The establishment of branches is governed by article 15 of the consolidated banking law. The Bank of Italy may prohibit, having consulted CONSOB, the use of associate agents for reasons regarding the adequacy of the organisational structure or the financial, economic or capital situation of the bank. The Bank of Italy, having consulted CONSOB, communicates the use of associate agents to the competent authority of the host member country in conformance with what is contemplated by the provisions of paragraph 4.

2. The Italian banks may provide investment services and activities, with or without additional services, in other countries of the European Union, under the free provision of services system, even through the use of associate agents established in Italy pursuant to the provisions referred to in paragraph 4.

3. Articles 15 and 16 of the consolidated banking law apply to the provision of investment services and activities, with or without additional services, by Italian banks in non-EU countries.

4. The Bank of Italy governs the methods and procedure for the provision of investment services pursuant to paras 1, 2 and 3, in conformance with the provisions contemplated by the Single Supervision Mechanism instituted pursuant to (EU) regulation no. 1024/2013[434].

Article 29-bis
Banks of the European Union

1. The banks of the European Union may provide investment services or activities, with or without additional services, in the exercise of the right of establishment through branches or associate agents

431 Paragraph added by Article 1 of Legislative Decree no. 201 of 5.11.2021.

432 Article thus amended by Article 1 of Legislative Decree no. 201 dated 5.11.2021, which replaced the words: “of paragraph 6” with the words: “of paragraphs 6 and 6-bis”.

433 Paragraph added by Article 1 of Legislative Decree no. 201 of 5.11.2021

434 Article first amended by Article 5 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

established in Italy. The establishment of branches is governed by article 15 of the consolidated banking law. The provision of investment services through associate agents is preceded by a communication to CONSOB, in conformance with the technical regulation and implementation regulations indicated in article 27, paragraph 1.

2. The banks of the European Union may provide investment services and activities, with or without additional services, in Italy under the free provision of services system pursuant to article 16, paragraph 3, of the consolidated banking law, also taking advantage of associate agents established in the member state of origin, who may not hold the money and/or financial instruments of the clients or potential clients of the party for whom he or she work. preceded by a communication to CONSOB, in conformance with the technical regulation and implementation regulations indicated in article 27, paragraph 1[435].

Article 29-ter[436]
Banks of non-EU countries

1. In the case where the performance of investment services or activities, with or without additional services is envisaged, the establishment of branches by banks by banks of non-EU countries in Italy is authorised by the Bank of Italy, having consulted CONSOB, when the conditions referred to in article 28, paragraph 1 obtain. This is without prejudice to the application of the articles 13, 14, paragraph 4, and 15, paragraph 4, of the consolidated banking law.

2. The Authorisation referred to in paragraph 1 is denied if the capacity of the branch of the bank of the non-EU country to respect the obligations applicable to it pursuant to this decree or contained in directly applicable deeds of the European Union is not guaranteed.

3. The banks of non-EU countries may provide investment services and activities, with or without additional services, to retail clients or professional clients on request as identified pursuant to article 6, paragraph 2-quinquies, letter b), and paragraph 2-sexies, letter b), exclusively through establishment of branches in Italy.

4. The Bank of Italy, having consulted CONSOB, may govern the conditions for the issue of the authorisation for the performance of the services and the activities referred to in paras 1, 6 and 6-bis[437].

5. The provisions of the Title VIII of (EU) regulation no. 600/2014 apply to the provision of investment services and activities, with or without additional services in Italy, under the free provision of services system for qualified clients or professional clients as specified pursuant to article 6, paragraph 2-quinquies, letter a), and paragraph 2-sexies, letter a) of this decree, by banks of non-EU countries. With regard to these banks, CONSOB and the Bank of Italy, according to their respective powers, are the national competent authorities pursuant to Article 46, paragraphs 6-bis and 6-ter, of the same regulation[438].

435 Article added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

436 Article first added by Article 2 of Legislative Decree no. 129 dated 3.8.2017 and then amended by Article 1 of Legislative Decree no. 201 of 5.11.2021 in the terms indicated in the following footnotes.

437 Paragraph thus amended by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: “in paras 1 and 6” with the words: “in paras 1, 6 and 6-bis”.

438 Paragraph thus amended by Article 1 of Legislative Decree no. 201 of 5.11.2021, which added the last clause.

6. The banks of non-EU countries may provide investment services and activities, with or without additional services, to qualified counterparties or professional clients as specified pursuant to article 6, paragraph 2-quinquies, letter a), and paragraph 2-sexies, letter a), of this decree even without the establishment of branches in Italy in the absence of a decision by the European Commission pursuant to article 47, section 1, of (EU) regulation no. 600/2014, or where this decision is no longer in force, providing the conditions obtain contemplated by article 28, paragraph 1, letters b), c), d) and e), and a programme of the activities that it is intended to carry out in Italy is presented. The authorisation is issued by the Bank of Italy, having consulted CONSOB.

6-bis. Paragraph 6 also applies in the case of a decision issued by the European Commission pursuant to Article 47, paragraph 1, of Regulation (EU) no. 600/2014, strictly in reference to the investment services and activities not included therein[439].

7. The Bank of Italy, having consulted CONSOB, may indicate, generally, the services and the activities that the banks of non-EU countries, pursuant to paras 6 and 6-bis, may not provide without the establishment of branches[440].

Chapter IV
Governing of door-to-door selling and supervision of its financial advisors[441]

Article 30
Door-to-door selling

1. Door-to-door selling shall mean the promotion and placement with the public of:

a) financial instruments in a place other than the registered office or the establishments of the issuer, the offeror or the person appointed to carry out the promotion or placement;

b) investment services and activities in a place other than the registered office or the establishments of the provider, promoter or seller of the service[442].

2. The following are not considered door-to-door selling:

a) an offer to professional customers, as identified by article 6, paragraphs 2-quinquies and 2-sexies;

b) an offer of an issuer's own financial instruments addressed to the members of the board of directors or of the supervisory board, to employees, and to collaborators who are not employees of the issuer, of the holding company or of its subsidiaries, made in the respective offices or branches;

b-bis) an offer of sale or subscription of an issuer's own shares or other financial instruments, which allow the acquisition or subscription of such shares, provided that these are issued by issuers with shares traded on regulated markets or multilateral trading facilities of Italy or EU countries, on condition that they are carried out by the issuers through their own managers or personnel with executive functions for subscription or purchase amounts higher than or equal to 250,000 euros. This subsection does not apply to the shares issued by SICAVs and SICAFs[443].

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439 Paragraph added by Article 1 of Legislative Decree no. 201 of 5.11.2021.

440 Paragraph thus amended by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: "to para 6" with the words: "to paras 6 and 6-bis".

441 Chapter thus replaced by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

442 Paragraph amended by Article 6 Legislative Decree no. 164 of 17.9.2007.

443 Paragraph replaced first by Article 6 of Legislative Decree no. 164 of 17.9.2007, by Article 1 of Legislative Decree no. 184 of 11.10.2012 and then amended by Article 1 of Law no. 21 of 5.3.2024, which included letter b-bis). See

3. Door-to-door selling of financial instruments may be carried on by:

a) persons authorised to perform the service referred to in Article 1 paragraph 5, paragraphs c) and c-bis) [444];

b) by asset management companies, EU management companies, SICAVs, SICAFs, EU and non-EU AIFMs, exclusively for UCI units or shares[445].

4. Investment firms, the EU investment companies, the companies of non-EU countries, banks, financial intermediaries in the register required by article 106 of the Consolidated banking law, Sgrs, EU management companies, EU and non-EU AIFMs may carry out door to door selling of its investment services and activities. Where the offer has as its object services and activities performed by other intermediaries, the investment firms, EU investment companies, the Companies of non-EU countries and the banks must be authorised for the performance of services provided for by article 1, paragraph 5, letters c) or c-bis) [446].

5. Investment firms, EU Investment companies, companies of non-EU countries other than banks engage in door-to-door selling of products, other than financial instruments and investment services and activities, the characteristics of which shall be established in a regulation issued by CONSOB after consulting the Bank of Italy.[447]

6. The enforceability of contracts for the placement of financial instruments or the management of individual portfolios concluded outside the registered office or sold using distance marketing techniques pursuant to Article 32 shall be suspended for a period of seven days beginning on the date of subscription by the investor. Within that period the investor may notify his withdrawal from the contract at no expense and without any compensation for the financial advisors authorised to make off-premises offers. This possibility shall be mentioned in the forms given to the investor. Without prejudice to the application of the discipline of the first and second sentence to the investment services referred to in article 1, section 5, letters c), c-bis) and d), for contracts undersigned as from 1 September 2013, the same discipline also applies to the investment services referred to in article 1, section 5, letter a). The same rules shall apply to contract proposals effected outside the registered office or using distance marketing techniques pursuant to Article 32[448].

7. Failure to indicate the right of withdrawal in forms shall result in the nullity of the related contracts,

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CONSOB regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018).

444 Heading amended by Article 6 Legislative Decree no. 164 of 17.9.2007.

445 Letter first replaced by Article 7 of Legislative Decree no. 274 of 1.8.2003 and subsequently by Article 3 of Legislative Decree no. 44 of 4.3.2014.

446 Paragraph formerly substituted first by Article 7 of Legislative Decree no. 274 dell'1.8.2003 and then by Article 6 of Legislative Decree no. 164 dated 17.9.2007, later amended by Article 3 of Legislative Decree no. 44 dated 4.3.2014 and in conclusion again substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

447 Paragraph first amended by Article 6 of Legislative Decree no. 164 of September 17, 2007 and then by Article 2 of Legislative Decree no. 129 of 3 August 2017, which replaced the words: "Investment firms" with the words "Investment firms, EU Investment companies, companies of non-EU countries other than banks". See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018).

448 Paragraph first amended by Article 6 of Legislative Decree no. 164 of 17.9.2007 has suppressed the words: "or placed by remote means pursuant to article 32" and the words: "or by remote means pursuant to article 32 and then by Legislative Decree no. 69 of 21.6.2013, converted with amendments by Law no. 98 of 9.8.2013 which has included the third sentence and lastly by Article 1, section 39 of Italian Law no. 208 of 28.12.2015 which has replaced the words: "financial advisors" with the words: "financial advisors authorised to make off-premises offers".

which may be enforced only by the customer.

8. Paragraph 6 shall not apply to public offerings of shares with voting rights or other financial instruments permitting such shares to be acquired or subscribed for, provided the shares or financial instruments are traded in regulated markets in Italy or other EU countries.

9. This article shall also apply to structured deposits and to financial products different from financial instruments[449].

Article 30-bis
Method of providing the investment consultancy service by
independent financial advisors and the financial advisory firms

1. The independent financial advisors, in the register referred to in article 31, paragraph 4, may promote and also provide the investment consultancy service in places other than the elected address for service. Financial advisory firms, on the register referred to in article 31, paragraph 4, may also promote and provide the investment consultancy service in places other than the registered office, through independent financial advisors.

2. The efficacy of the consultancy contract concluded in a place other than the address for service or the registered office is suspended for a period of seven days from the day the retail client signs it. Within this time the client may communicated his or her withdrawal without costs or payment to the financial consultant or financial advisory firms; this power is indicated on the forms given to the retail client.

3. Non indication of the power of withdrawal on the forms means the relative contracts are null and void, that may only be enforced by the retail customer[450].

Article 31
Financial advisors qualified for door-to-door selling and supervisory body
and keeping of the single register of financial advisors[451]

1. For door to door selling, securities firms, Italian banks, investment firms and EU banks, third-country businesses, asset management companies, EU management companies, SICAV, SICAF, EU and non-EU AIFMs, financial intermediaries listed on the register envisaged in Article 106 of the

449 Paragraph already replaced by Article 11, paragraph 2 of Law no. 262 of 28.12.2005, subsequently amended first by Article 3, paragraph 5 of Legislative Decree no. 303 of 29.12.2006 and then by Article 2 of Legislative Decree no. 129 of 3 August 2017, which after the words: “also applies”, inserted the words "to structured deposits and", and after the words: "financial instruments" inserted the words: “issued by banks”, by Article 2 of Legislative Decree no. 68 of 21.5.2018 which removed the words: “and, restricted to authorised persons, to financial products issued by insurance companies” and finally by Article 2 of Legislative Decree no. 165 of 25.11.2019 which removed the words “issued by banks”.

450 Article added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

451 Chapter first amended by Article 1, paragraph 39 of Law no. 208 dated 28.12.2015 that replaced the words: “financial promoters” with the words: “financial advisors qualified for door to door selling” and then thus replaced by Article 2 of Legislative Decree no. 129 dated 3.8.2017. Paragraph 4-bis of Article 17 of Legislative Decree no. 141 of 13.8.2010 introduced by Article 10 of Legislative Decree no. 169 of 19.9.2012 stipulates that: "4-bis The activity of an agency in financial activity is compatible with the activities of ... financial promoter, subject to the provisions of Article 12, paragraph 1-bis...". The fourth paragraph of Article 17 of Legislative Decree no. 141 of 13.8.2010 introduced by Article 10 of Legislative Decree no. 169 of 19.9.2012 stipulates that: "4-quinquies. The credit mediation activity is not compatible with (...) the financial promoter activity provided for by Legislative Decree 58 of 24 February 1998".

Consolidated Banking Act shall use financial advisors qualified for door to door selling, with no prejudice to the provisions of articles 27, paragraph 2, and 29-bis, paragraph 2. The financial advisors qualified for door to door selling established within Italy used by the EU investment companies, EU banks, third-country businesses, EU management companies, EU and non-EU AIFMs are equivalent, for the purposes of the application of the rules of conduct, to a branch established in Italy[452].

2. The activity of financial advisor qualified for door-to-door selling shall be conducted in the interests of an individual entity. Financial advisors qualified for door-to-door selling shall promote and market investment services and/or ancillary services to clients or potential clients, receive and send client instructions concerning investment services or financial products, promote and market financial products, provide investment advice to clients or potential clients with regard to said financial products or services. The financial advisor qualified for door-to-door selling may promote and market contracts concerning the granting of financing or provision of payment services on behalf of the party in whose interests it is conducting the door to door selling[453].

2-bis. The financial advisors qualified for door-to-door selling may not hold money and/or financial instruments of clients or potential clients of the party for whom they are Woking[454].

3. The party conferring the appointment shall be jointly and severally liable for losses caused to third parties by financial advisors authorised to make off-premises offers including cases where such losses are the consequence of a criminal offence resulting in conviction[455].

3-bis. The parties referred to in paragraph 1 guarantee that the financial advisors qualified for door-to-door selling shall immediately inform any client or potential client in what guise they are operating or which subject they are representing. The parties referred to in paragraph 1 shall adopt all necessary controls over the activities conducted by the financial advisors qualified for door to door selling to ensure they can continue to respect the provisions of this decree and the associated implementing provisions. The parties who use financial advisors qualified for door-to-door selling shall verify that they possess adequate knowledge and skills to be able to provide the investment services or ancillary services and accurately communicate all information concerning the services proposed to the client or potential client. Parties who nominate financial advisors qualified for door-to-door selling shall adopt adequate measures to prevent any negative impact of the activities of the latter which do not fall within the scope of application of Directive 2014/65/EU on the activities exercised by the latter on their behalf[456].

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452 Paragraph substituted first by Article 6 of Legislative Decree no. 164 dated 17.9.2007, subsequently by Article 3 of Legislative Decree no. 44 dated 4.3.2014, then amended by Article 1, paragraph 39 of Law no. 208 dated 28.12.2015 that replaced the words: “financial promotors” with the words: “financial advisors qualified for door-to-door selling”, then again replaced by Article 2 of Legislative Decree no. 129 of 3.8.2017 and Article 2 of Legislative Decree no. 165 of 25.11.2019.

453 Paragraph first substituted by Article 6 of Legislative Decree no. 164 dated 17.9.2007, subsequently amended by Article 1, paragraph 39 of Law no. 208 dated 28.12.2015 that replaced the words: “financial promotors” with the words: “financial advisors qualified for door-to-door selling” and in conclusion again substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017 and by Article 2 of Legislative Decree no. 165 of 25.11.2019.

454 Paragraph added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

455 As amended firstly by Article 1, section 39 of Italian Law no. 208 of 28.12.2015 which replaced the words: "financial advisors" with the words: "financial advisors authorised to make off-premises offers" and by Article 2 of Legislative Decree no. 165 of 25.11.2019 which replaced the words “authorised person” with the word “party”.

456 Paragraph firstly introduced by Article 2 of Legislative Decree no. 129 dated 3.8.2017 and then replaced by Article 2 of Legislative Decree no. 165 of 25.11.2019.

4. The single register of financial advisors is constituted with three distinct sections: the financial advisors qualified for door-to-door selling, independent financial advisors and financial advisory firms. The supervisory body sees to keeping the overall register and of the individual register of financial advisors which consists of the professional association representative of the financial advisors qualified for door-to-door selling, independent financial advisors, financial advisory firms and of the qualified parties. A representative of CONSOB may be present at the meetings of the body. The body is a legal personality and is set up in the form of an association with organisational and statutory autonomy, in respect of the principle of organisation by territory of its facilities and activities. The body exercises the precautionary powers referred to in article 7–septies and the sanctioning powers referred to in article 196. The provisions of the body are published on its Internet site. The bylaws and the internal regulations of the Body, and their later amendments, are sent to the Ministry of the Economy and Finance per approval, after consulting CONSOB. The Ministry of the Economy and Finance appoints the chairman of body's board of statutory auditors. Within the context of own financial autonomy the body determines and collects the contributions and the other sums due from the members, those applying for registration and those who intend to undergo the evaluation test referred to in paragraph 5, in to the extent necessary to guarantee the performance of their activities. The provision by which the body orders the payment of the contributions due has the effect of an enforcement order. After the term fixed for the payment has elapsed without result, the Body proceeds with the exaction of the due amounts on the basis of the regulation laid down for collection, through the role, of the state revenues, of the territorial agencies, of the public and social welfare agencies. It sees to entry onto the register after checking the necessary requirements, cancellation from the register in the cases established by CONSOB through the regulation referred to in paragraph 6, and it carries out every other activity necessary for keeping the register. The Body operates in compliance with the principles and criteria established through CONSOB regulations, and under the supervision of the said firms. The responsibility system, provided for the exercise of the monitoring functions by CONSOB pursuant to article 24, paragraph 6-bis, of the law 28 December 2005, no. 262 is applied to the Body, in the exercise of the supervision of the parties on the register[457].

457 Paragraph substituted first by Article 14 of Law no. 262 dated 28.12.2005, then by Article 1, paragraph 2 of Legislative Decree no. 101 dated 17.7.2009, later amended by Article 1, paragraph 37 of Law no. 208 dated 28.12.2015 (that has thus established: "The single register of financial promotors referred to in article 31, paragraph 4, of Legislative Decree no. 58 dated 1998 takes the name of «single register of financial advisors». Registered in three distinct sections of the register are financial advisors qualified for door to door selling, independent financial advisors and financial advisory firms. The references to the register of financial advisors in articles 18-bis, paragraph 1, and 18-ter, paragraph 3, of Legislative Decree no. 58 dated 1998 are meant as substituted by references to the single registered referred to in the first sentence of this paragraph.") and in conclusion again substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017. Paras 3, 4 and 6 of Article 10 of Legislative Decree no. 129 dated 3.8.2017 provide that: "The date the Single Register of Financial Consultants and the date of the coming into operation of the Supervisory Body and the keeping of the Single Register of Financial Consultants, referred to in article 31, paragraph 4, of Legislative Decree no. 24 February 1998, no. 58, were established by CONSOB through its resolutions pursuant to article 1, paragraph 41, last sentence of Law no. 208 dated December 28 2015, (Stability Law 2016). Effective from the date the single register of financial consultants, came into operation, established pursuant to paragraph 3: a) in the decree of the Ministry of the Treasury, Budget, and Economic Programming no. 472 of 11 November 1998 for «Single Register of Financial Promoters » and for «Register» the section of the Register referred to in article 31, paragraph 4, of Legislative Decree no. 58 of no. 24 February 1998, devoted to the financial consultants qualified for door-to-door selling; b) in the Decree of the Ministry of the Economy and Finance no. 206 dated December 24 2008, for «Register» the Section of the Register referred to in article 31, paragraph 4, of Legislative Decree no. 58 dated no. 24 February 1998, devoted to autonomous financial consultants must be understood and for «Body» the Body of supervision and keeping the single register of financial consultants referred to in article 31, paragraph 4, mentioned above must be understood; c) In the Decree of the Ministry of the Economy and Finance no. 66 of April 5 2012, «Register» must be understood as the Section of the Register referred to in article 31, paragraph 4, of Legislative Decree no. 24 February 1998, no. 58, devoted to financial advisory firms and «Body» must be understood as the Body of Supervision and keeping the register of the financial advisors referred to in article 31, paragraph 4, mentioned above. For the purposes of the entry on the Register referred to in article 31, paragraph 4, the independent financial consultants, the financial advisory firms and the personnel of the financial advisory firms that

5. The Minister of the Economy and Finance[458] shall establish the integrity and experience requirements for entry of the financial advisor qualified for door to door selling in the register referred to in paragraph 4 in a regulation adopted after consulting CONSOB. The experience requirements for entry in the register shall be verified on the basis of rigorous evaluation criteria that take account of validly documented previous professional experience or on the basis of examinations.[459]

6. CONSOB shall lay down in a regulation the principles and rules concerning:

a) the setting up of the register provided for in paragraph 4 and the related forms of publicity;

b) the representative requirements for the professional associations of authorised to make off-premises offers of independent financial advisors, financial advisory firms and qualified intermediaries;

c) entry in the register provided for in paragraph 4 and the grounds for suspension, striking off and readmission;

d) the grounds for incompatibility;

d-bis) the supervision exercised over the Body;

e) the precautionary measures and sanctions governed respectively by Articles 7-septies and 196 and the violations to which the sanctions provided for in Article 196(1) shall apply;

f) the examination by CONSOB itself of complaints against the decisions of the Body referred to in paragraph 4 regarding matters referred to in paragraph c);

g) the rules of presentation and conduct which financial advisors authorised to make off-premises offers, independent financial advisors and the financial advisory firms must comply with in their dealings with customers;

h) the arrangements for retaining the documentation regarding the activity performed by financial advisors authorised to make off-premises offer independent financial advisors and financial advisory firms;

i) the activities of the Body referred to in paragraph 4;

l) the method of professional development of the financial advisors qualified for door-to-door selling, of the independent financial advisors and of the parties that they perform, on behalf of the company referred to in article 18-ter, activities of Investment consultancy with regard to the clients[460].

6-bis. Per the financial advisory firms referred to in article 18-ter, CONSOB adopts the implementing

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perform the activities provided for in article 25, section 1, of directive 2014/65/EU the requisites of professional experience established therein and the relative implementing provisions also adopted by CONSOB are applied.

458 The former wording “Minister of the Treasury, Budget and Economic Planning” was replaced with the wording “Minister of the Economy and Finance” by Article 1 of Legislative Decree no. 37 of 6.2.2004.

459 Paragraph first amended by Article 14 of Law no. 262 of 28.12.2005 and then by Article 2 of Legislative Decree no. 129 of 3 August 2017 that, in the first period, after the words: "for entry of" have been inserted the words: "the financial advisor qualified for door to door selling". See Decree 472/1998 issued by the Minister of the Treasury, the Budget and Economic Planning (published in O.J. no. 7 of 11.11.1999). The words “held by CONSOB” were deleted by Article 14 of Law 262/2005.

460 Paragraph already replaced by Article 14 of Law no. 262 of 28.12.2005, subsequently amended first by Article 1, paragraph 39 of Law no. 208 of 28.12.2015 and then by Article 2 of Legislative Decree no. 129 of 3 August 2017, which after the words: "authorised to make off-premises offers", inserted the words: "independent financial advisors, financial advisory firm"; replaced the letter c); inserted the letter d-bis); in the letter e) replaced the word: "55" with the word: "7-septies"; in the letter f), replaced the word: "body" with the word: "Body"; after the words: "authorised to make off-premises offers", inserted the words: "independent financial advisors and financial advisory firms"; in the letter h), after the words: "authorised to make off-premises offer", inserted the words: ", by independent financial advisors and financial advisory firms" and replaced letters i) and l). See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018).

provisions of the article 4-undecies[461].

7. The Body may ask the financial advisors qualified for door-to-door selling or to the parties that making use of said firms, to the independent financial advisors and financial advisory firms to communicate data and information and transmit deeds and documents fixing the relative terms. It may also make inspections and require the exhibition of documents and performance of the acts considered necessary as well as conduct personal hearings. During inspections, the Body may make use of, after communication to CONSOB, by the Guardia di Finanza that acts under the powers invested in it for investigations into Value Added and Income Taxes, using structures and personnel in place in such a way as not to lead to further costs. The content and the means of collaboration between the Body and the Guardia di Finanza are defined in the relevant protocols of understanding[462].

Article 31-bis[463]
CONSOB supervision over the Body

1. CONSOB supervises the Body in the way that it established, in line with criteria of proportionality and inexpensiveness of the checks and with the purpose of verifying the adequacy of the internal procedures adopted by the Body for carrying out the tasks it has been entrusted with.

2. For the purposes indicated in paragraph 1, CONSOB may access the IT system that manages the register, ask the Body for periodic communication of the data and information and the transmission of acts and documents in the ways and under the terms it has established, carry out inspections, ask for the exhibition of documents and the completion of the actions considered necessary, as well as convene the members of the Body.

3. The Body promptly informs CONSOB of the deeds and the events of greatest significance relative to the exercise of its functions and by January 31 of each year transmits a detailed report on the activities carried out in the preceding year and the programme of activities for the year underway.

4. CONSOB, the other authorities indicated in article 4, paragraph 1 and the Body collaborate with each other in part through the exchange of information, for the purpose of streamlining the performance of the respective functions[464].

5. All the news, information and data in possession of the Body due to its supervision activities are covered by professional secrecy. Exceptions are the cases provided for by law for the investigations relative to infringements with criminal sanctions. the Body may not raise the objection of professional secrecy with the Bank of Italy, IVASS, Covip and The Minister of the Economy and Finance.

6. The Ministry of Economy and Finance at the proposal of CONSOB, may decree the dissolution of the bodies of management and control of the body referred to in article 31 if there are serious irregularities in the administration, or serious infringements of the legislative, administrative or

461 Paragraph added by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

462 Paragraph first amended by Article 1, paragraph 39 of Law no. 208 dated 28.12.2015 and then thus replaced by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

463 Article firstly added by Article 2 of Legislative Decree no. 129 of 3.8.2017 and then amended by Article 2 of Legislative Decree no. 165 of 25.11.2019 according to the terms indicated in the subsequent note.

464 Paragraph thus amended by Article 2 of Legislative Decree no. 165 of 25.11.2019 which, after the words “CONSOB” added the words “, the other authorities indicated in article 4, paragraph 1”.

statutory provisions governing their activities. The Ministry of the Economy and Finance sees to the provisions required for the reconstitution of the bodies for the management and checking of the body, ensuring them operational continuity, if necessary also through the appointment of a Commissar. CONSOB may order the removal of one or more members of the management and checking bodies in the case of serious non-compliances with the duties to be assigned to them by law, bylaws or specific provisions and other instructions imparted by CONSOB, or in the case of proven inadequacy, ascertained by CONSOB, in the exercise of the functions that they have been set up for.

Article 32
Promotion and remote marketing of
investment services and activities and financial instruments [465]

1. Distance marketing techniques shall mean techniques of contacting customers, other than advertising, which do not involve the simultaneous physical presence of the customer and the offeror or a person appointed by the offered.

2. CONSOB, after consulting the Bank of Italy, may issue a regulation, in conformity with the principles established in Articles 30 and 30-bis and in Legislative Decree no. 190 of 19th August 2005, on the distance marketing of investment services and activities and financial products[466].

Chapter IV-bis [467]
Protection of investors

Article 32-bis
Protection of investors' collective undertakings

1. Consumer associations entered on the list pursuant to Article 137 of Legislative Decree no. 206 of 6 September 2005 shall be entitled to protect investors' collective undertakings, relating to the provision of investment services and activities, accessory services and collective asset management services, in the forms pursuant to Article 139 and 140 of the aforementioned Legislative Decree.

465 Heading first amended by Article 6 of Legislative Decree no. 164 of 17.9.2007 and then replaced by Article 2 of Legislative Decree no. 165 of 25.11.2019.

466 Paragraph first amended by Article 3 Legislative Decree no. 303 of 29.12.2006, later replaced by Article 6 Legislative Decree no. 164 of 17.9.2007 and lastly thus replaced by Article 2 of Legislative Decree no. 165 of 25.11.2019 which replaced the words "in Article 30" with the words "in Articles 30 and 30-bis". Legislative Decree no. 190 of 19.8.2005 was repealed by Article 21, Legislative Decree no. 221 of 23.10.2007, which included regulations on "distance marketing of financial services to consumers" provided in Legislative Decree no. 206 of 6.9.2005. See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018).

467 Chapter first included by Article 7 of Legislative Decree no. 164 dated 17.9.2007 and then amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 according to the terms indicated in the following notes.

Article 32-ter[468]
Out-of-court dispute resolution

1. The parties for whom CONSOB carries out its supervisory activities, to be identified through the regulation referred to in paragraph 2, as well as independent financial advisors and financial consultancy firms shall adhere to out-of-court dispute resolution systems with investors other than professional clients referred to in article 6, paras 2-quinquies and 2-sexies, of this decree. In the case of non-adhesion, the sanctions referred to in article 190, paragraph 1 will apply to companies and bodies and those in article 187-quinquiesdecies, paragraph 1-bis to the natural persons referred to in article 18-bis. The sanctions envisaged in this paragraph are applied to independent financial advisors and financial consultancy firms in accordance with the procedure laid down in article 196, para. 2[469].

2. CONSOB determines, through its regulation, in respect of the principles, the procedures and the requirements referred to in part V, Title II-bis, of legislative decree no. 206 of September 6th 2005, and successive modifications, the criteria by which the dispute resolution procedures referred to in paragraph 1 are carried out as well as the criteria for the composition of the decision-making body, in such a way that its impartiality and the representation of the interested parties are guaranteed[470].

3. Steps are taken to cover the relative functioning expenses without new or greater cost to the public purse, with the resources referred to in article 40, paragraph 3, of law no. 724 of 23 December 23rd 1994, and subsequent modifications, as well as that with the amounts charged to the user of the said procedure.

Article 32-ter.1
Fund for the out of court protection of the savers and investors

1. For the purposes of streamlining access by the savers and investors to the widest protection within the context of their procedures for the out-of-court resolution of the disputes referred to in article 32-ter, CONSOB sets up the fund in its accounts for the out-of-court protection of the savers and the investors, hereinafter called the "Fund". The Fund is intended to guarantee the savers and investors other than the professional clients referred to in article 6, paras 2-quinquies and 2-sexies, of this decree, in the limits of the capacity of the said Fund, access to the out-of-court resolution procedure for the disputes referred to in article 32-ter of this decree, through the exoneration from the payment of the relevant amount for the administrative costs for initiating the procedure, as well as, for any residual parts, to permit the adoption of further measures in favour of the savers and of the investors, by CONSOB, also in with regard to financial education.

2. The Fund is financed with the deposit of half the amount of the pecuniary administrative sanctions collected for the infringement of the regulations governing the activities referred in part II of this

468 Article included by Article 2 of Legislative Decree no. 129 dated 3.8.2017 and then amended by Article 2 of Legislative Decree no. 165 of 25.11.2019 according to the terms indicated in the following note. Paragraph 12 of Article 10 of Legislative Decree no. 129 dated 3.8.2017 states that: "Legislative decree no. 179 of October 8, 2007, is repealed but continues to be applied until January 3, 2018. Starting from this date references to paras 5-bis and 5-ter of article 2, and al paragraph 2 of article 9, of Legislative Decree no. 179 of October 8th 2007, are considered implemented, in the paras 1, 2 and 3 of article 32-ter of Legislative Decree no. 58 of February 24th 1998, respectively; references to article 8 of Legislative Decree no. 179, of 8 October 2007, are considered implemented in article 32-ter.1 of Legislative Decree no. 58 of 24 February 1998.

469 Paragraph thus replaced by Article 2 of Legislative Decree no. 165 of 25.11.2019.

470 See CONSOB regulations approved by resolution no. 19602 of May 4, 2016 (published in G. No. 116 of 19 May 2016).

decree, as well as, in the limit of Euro 250,000 annually starting from 2016, with the resources entered in the relevant chapter of the estimate of the Ministry of the Economy and Finance in relation to the deposits made on the State budget revenue for the payment of the tax on the government concessions referred to in the decree of the President of the Republic no. 641 of October 26 1972, for entry in the register referred to in article 31, paragraph 4, of this decree. the use of funds channelled into the fund, with regard to those relative to the infringement of the regulations that discipline the activities referred to in part II of this decree, is conditioned on the investigation, with final judgement or with an arbitration award that can no longer be challenged of the sanctioned infringement. In the case of the fund's insufficiency the provisions of paragraph 3 of article 32-ter of this decree continue to apply. CONSOB adopts the necessary measures so that the amounts of the pecuniary administrative sanctions referred to in first sentence are channelled in due measure directly into CONSOBs accounts at the same time as the payment by the obliged party, to be destined for the Fund[471].

TITLE III
COLLECTIVE ASSETS MANAGEMENT

Chapter I[472]
Authorised subjects and contemplated businesses

Article 32-quater
Reserve assets

1. The professional practice of collective asset management is reserved to the asset management companies, the SICAVs, the SICAFs, the EU management companies which manage Italian UCITS, the EU and non-EU AIFMs which manage an Italian AIF, according to the provisions of this title.

2. The provisions of this title do not apply:

a) to the supranational institutions, such as the European Central Bank, the European Investment Bank, the European Investment Fund, the European Development Financial Institutions and bilateral development banks, the World Bank, the International Monetary Fund, and the other supranational institutions and similar international organisations, when such institutions or organisations manage AIFs for purposes of public interest;

b) to the national central banks;

c) to the States, the local public bodies and the other bodies which manage funds for the financing of social security and pension systems;

d) to holding companies, understood as companies which hold interests in one or more companies, with the purpose of executing entrepreneurial strategies to contribute to the increase of value in the long term, through the exercise of control, considerable influence and the rights deriving from their holdings and which:

1) operate on their own behalf and whose shares are traded on a regulated European Union

471 Article included by Article 2 of Legislative Decree no. 129 dated 3.8.2017. Paragraph 12 of Article 10 of Legislative Decree no. 129 dated 3.8.2017 states that: "Legislative decree no. 179 of October 8th 2007, is repealed but continues to be applied until January 3rd 2018. Starting from this date references to paras 5-bis and 5-ter of article 2, and al paragraph 2 of article 9, of Legislative Decree no. 179 of October 8th 2007, are considered implemented, in the paras 1, 2 and 3 of article 32-ter of Legislative Decree no. 58 of February 24th 1998, respectively; references to article 8 of Legislative Decree no. 179, of 8 October 2007, are considered implemented in article 32-ter.1 of Legislative Decree no. 58 of 24 February 1998.

472 Chapter thus replaced by Article 4 of Legislative Decree no. 44 of 4.3.2014. For the transitory provisions, see Article 15 of Legislative Decree no. 44 of 4.3.2014.

market; or

2) are not established with the main purpose of generating profit for their own investors by the disposal of their holdings in the companies they control or over which they have considerable influence or in which they hold interests, as proven by their financial statements and other company documents;

e) to employee participation systems or employee Assets systems;

f) to credit securitisation companies;

g) to the pension forms contemplated by Italian Legislative Decree no. 252 of 5 December 2005.

3. The Bank of Italy, after consulting CONSOB, adopts by its own regulations the enactment provisions of this article, in compliance with the European Union provisions.

Article 33
Contemplated businesses

1. Asset management companies manage the equity and risks of the UCIs and they provide for the administration and marketing of the UCIs which they manage.

2. Asset management companies also:

a) provide the portfolio management service;

b) set up and manage pension funds;

c) perform connected or instrumental activities;

d) provide services complementary to those of Annex 1, Section B, number (1), exclusively for the units of the UCIs managed[473];

e) provide investment advisory services;

f) market units and shares of UCIs managed by third parties, in compliance with the rules of conduct established by CONSOB after consultation with the Bank of Italy;

g) provide the service of the reception and transmission of orders, if authorised to practice the AIF management service.

3. The SICAVs and the SICAFs provide the collective asset management service and the activities contemplated by paragraph 1 relative to the capital collected by the offer of their own shares; they can also carry out connected and instrumental activities.

4. Asset management companies, SICAVs and SICAFs can delegate to third parties specific duties relative to the performance of the services referred to in this chapter. Delegation is by means which avoid the complete depletion of the company's activities and it is exercised in respect of the provisions on outsourcing contemplated in the implementation of article 6, paragraph 1, letter c-bis), number 8), and paragraph 2-bis), the asset management companies, the SICAVs and the SICAFs always remaining responsible towards the investors for the actions of the delegated subjects[474].

5. The Bank of Italy, after consulting CONSOB, dictates by its own regulations the enactment provisions of this article, in compliance with the European Union provisions.

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473 Letter thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «article 1, paragraph 6, Letter a)» with the words: «Annex I, Section B, number (1)».

474 Paragraph thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «6, paragraph. 2-bis » with the words: «6, paragraph. 1, Letter c-bis), number 8), and paragraph 2-bis)».

Chapter I-bis[475]
Discipline of authorised subjects

Section I
Asset management companies

Article 34
Authorisation of Italian asset management companies

1. The Bank of Italy, after consulting CONSOB, authorises the asset management companies to provide the collective asset management service for both UCITS and AIFs, and to perform the portfolio service, the investment advisory service and the service of the reception and transmission of orders, when the following conditions are fulfilled[476]:

a) the legal form adopted is that of a joint stock company;

b) the registered office and the head office of the company are in Italy;

c) the paid-up capital is not less than that established on a general basis by the Bank of Italy;

d) the persons performing administrative, management and control functions are suitable under Article 13[477];

e) the shareholders indicated in article 15, paragraph 1, have the requirements and meet the criteria laid down by Article 14 and the disqualification conditions contemplated by Article 15, paragraph 2, do not exist[478];

f) the structure of the group of which the company is part is not prejudicial to the effective supervision of the company and at least the information required pursuant to Article 15(5) is provided;

g) a programme of initial operations and a description of the organisational structure have been submitted together with the instrument of incorporation and the Articles of Association;

h) the name of the company contains the words asset management company.

2. Authorisation shall be denied where verification of the conditions indicated in paragraph 1 shows that sound and prudent management is not ensured.

3. The Bank of Italy, after consulting CONSOB, shall regulate the authorisation procedure and the cases in which authorisation shall lapse where the Italian management company fails to start or interrupts the provision of services authorised.

4. The Bank of Italy, after consulting CONSOB, shall authorise the merger or division of Italian asset management companies.

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475 Chapter first included by Article 4 of Legislative Decree no. 44 of 4.3.2014 and subsequently amended by Article 4 of Legislative Decree no. 72 of 12.5.2015 and Article 16 of Law no. 21 of 5.3.2024 within the terms indicated in the notes that follow.

476 Line first amended by Article 8 of Legislative Decree no. 164 of 17.9.2007 which replaced the words: “and the management service on an individual investment portfolio basis” with the words: “, of the portfolio management service and the investment advisory service” and subsequently thus replaced by Article 4 of Legislative Decree no. 44 of 4.3.2014.

477 Letter first replaced by Legislative Decree no. 37 of 6.02.2004 and then by Article 4 of Legislative Decree no. 72 of 12.5.2015.

478 Letter first replaced by Legislative Decree no. 37 of 6.2.2004, then by Article 2 of Legislative Decree no. 21 of 27.1.2010 and finally by Article 4 of Legislative Decree no. 72 of 12.5.2015.

Article 35
Register

1. The asset management companies are registered on a special list held by the Bank of Italy, separated into two sections for the management of UCITS and of AIFs. EU management companies and EU and non-EU AIFMs which have made the communication required by articles 41-bis, 41-ter and 41-quater, are listed in separate sections of a special list attached to the register.[479]

2. The Bank of Italy shall communicate entries in the register referred to in paragraph 1 to CONSOB[480].

3. The persons referred to in paragraph 1 shall indicate the details of the entry in the register in their documents and correspondence.

Section II[481]
SICAVs and SICAFs

Article 35-bis
Constitution

1. The Bank of Italy, after consulting CONSOB, authorises the constitution of the SICAVs and SICAFs if the following conditions are fulfilled:

a) the company is a joint stock company which complies with the provisions of this chapter;

b) the registered office and the general management of the company are located in the Italian Republic;

c) the share capital amounts to at least that determined as a general rule by the Bank of Italy;

d) the subjects which carry out administrative, management and control functions are suitable under Article 13[482];

e) the shareholders indicated in Article 15, paragraph 1, have the requirements and meet the criteria laid down by Article 14 and the disqualification conditions contemplated by Article 15, paragraph 2, do not exist[483];

f) for SICAVs, the articles of association contemplate, as the exclusive purpose, collective investment of the capital obtained by the offer of its own shares; for SICAFs, the articles of association contemplate, as the exclusive purpose, the collective investment of the capital obtained by the offer of its own shares and of the financial instruments of its equity holdings indicated in the said articles.

g) the structure of the group to which the company belongs is not such as to prejudice the effective supervision of the company and at least the information requested by article 15, paragraph 5, is given;

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479 Paragraph first replaced by Article 9 of Legislative Decree no. 274 of 1.8.2003 and subsequently by Article 4 of Legislative Decree no. 44 of 4.3.2014. See Bank of Italy instruction of 14.04.2005 (published in Ordinary Supplement no. 88, O.J. no. 109 of 12.05.2005).

480 Paragraph as amended by Article 9 of Legislative Decree 274/2003.

481 Section first included by Article 4 of Legislative Decree no. 44 of 4.3.2014 and subsequently amended by Article 4 of Legislative Decree no. 72 of 12.5.2015 and Article 16 of Law no. 21 of 5.3.2024, within the terms specified in notes that follow.

482 Letter thus replaced by Article 4 of Legislative Decree no. 72 of 12.5.2015.

483 Letter thus replaced by Article 4 of Legislative Decree no. 72 of 12.5.2015.

h) together with the deed of constitution and the articles of association, a programme is also presented concerning the initial activity, as well as a report on the organisational structure.

2. After consulting CONSOB, the Bank of Italy, by regulation:

a) disciplines the authorisation procedure contemplated by paragraph 1 and the cases of lapse of the same;

b) specifies the documentation that the founding shareholders must present together with the authorisation application and the content of the project of the deed of constitution and of the articles of association.

3. The Bank of Italy checks that the deed of constitution and articles of association project complies with the prescriptions of law and of regulations and, for SICAVs and SICAFs other than reserved AIFs, with the general criteria predetermined by the same.

4. The founding partners of the SICAVs or SICAFs proceed with the constitution of the company and make the deposits of the initial capital underwritten within thirty days from the issue of the authorisation. The initial capital must be entirely deposited.

5. The name of the SICAV must contain an indication that it is a variable capital joint stock investment company. The name of the SICAF must contain an indication that it is a fixed capital joint stock investment company. The name must appear on all the company's documents. Articles 2333, 2334, 2335 and 2336 of the Italian civil code do not apply to SICAVs or SICAFs; for SICAVs, conferment in nature is not allowed.

6. In the case of multi-segment SICAVs and SICAFs, each segment represents an independent capital separate to all effects from the other segments; for obligations assumed on behalf of an individual segment, the SICAVs or SICAFs exclusively respond with the capital of the segment itself. In relation to the capital of an individual segment, admission of shares of creditors of the company or in the interest thereof, or of shares of the depository or subdepository or in the interest thereof, is not allowed. Likewise, in relation to the capital of SICAVs or SICAFs, admission of shares of the creditors of the depository or subdepository or in the interest thereof is not allowed. The actions performed in relation to the management of an individual segment must bear express mention of the segment; failure to do so shall result in the SICAVs or SICAFs being responsible for that also with their own general capital. The assets of a single SICAV can be divided into segments composed exclusively of AIFs or of UCITS[484].

484 Paragraph thus amended by Article 16 of Law no. 21 of 5.3.2024, which, after the words: “from the other segments” added the words: “; for obligations assumed on behalf of an individual segment, the SICAVs or SICAFs exclusively respond with the capital of the segment itself. In relation to the capital of an individual segment, admission of shares of creditors of the company or in the interest thereof, or of shares of the depository or subdepository or in the interest thereof, is not allowed. Likewise, in relation to the capital of SICAVs or SICAFs, admission of shares of the creditors of the depository or subdepository or in the interest thereof is not allowed. The actions performed in relation to the management of an individual segment must bear express mention of the segment; failure to do so shall result in the SICAVs or SICAFs being responsible for that also with their own general capital. Article 16, paragraphs 2, 3 and 4, of Law no. 21 of 5.3.2024, provides that: “2. The amendments introduced by this article shall all apply to all the procedures relating to SICAVs and SICAFs under outsourced management in progress at the date of entry into force of this law. 3. The Bank of Italy shall order cancellation of the SICAVs and SICAFs under outsourced management from the register referred to in Article 35-ter of the consolidated law referred to in Legislative Decree no. 58 of 24 February 1998, within six months from the date of entry into force of this law. 4. SICAVs and SICAFs under outsourced management established before the date of entry into force of this law shall comply with the new provisions within twelve months from the same date of entry into force.”

6-bis. Each SICAV and SICAF segment constitutes to all effects a UCI[485].

6-ter. The distribution of proceeds from an individual segment may also occur in the absence of the company total profit; all losses relating of a given segment are exclusively allocated to the capital of the same segment and within the limit of its amount[486].

6-quater. Where the activities of SICAVs and SICAFs managed by other parties or of the segment, in the case of multi-segment SICAVs and SICAFs, do not enable the satisfaction of the respective obligations, while there are no reasonable prospects for improvement of the situation, Article 57, paragraph 6-bis, is applied[487].

Article 35-ter
Registers

1. SICAVs and SICAFs authorised in Italy are listed on special registers held by the Bank of Italy. The SICAV register is divided into two separate sections, according to whether the SICAV is in UCITS or AIF form.

2. The Bank of Italy communicates to CONSOB the registrations referred to in paragraph 1.

3. The subjects contemplated by paragraph 1 indicate their registration details in their deeds and correspondence.

Article 35-quater
SICAV capital and shares

1. The capital of the SICAV is always equal to the net equity held by the company, as determined pursuant to article 6, paragraph 1, letter c), no. 5).

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485 Paragraph included by Article 16 of Law no. 21 of 5.3.2024. Article 16, paragraphs 2, 3 and 4, of Law no. 21 of 5.3.2024, provides that: "2. The amendments introduced by this article shall all apply to all the procedures relating to SICAVs and SICAFs under outsourced management in progress at the date of entry into force of this law. 3. The Bank of Italy shall order cancellation of the SICAVs and SICAFs under outsourced management from the register referred to in Article 35-ter of the consolidated law referred to in Legislative Decree no. 58 of 24 February 1998, within six months from the date of entry into force of this law. 4. SICAVs and SICAFs under outsourced management established before the date of entry into force of this law shall comply with the new provisions within twelve months from the same date of entry into force."

486 Paragraph included by Article 16 of Law no. 21 of 5.3.2024. Article 16, paragraphs 2, 3 and 4, of Law no. 21 of 5.3.2024, provides that: "2. The amendments introduced by this article shall all apply to all the procedures relating to SICAVs and SICAFs under outsourced management in progress at the date of entry into force of this law. 3. The Bank of Italy shall order cancellation of the SICAVs and SICAFs under outsourced management from the register referred to in Article 35-ter of the consolidated law referred to in Legislative Decree no. 58 of 24 February 1998, within six months from the date of entry into force of this law. 4. SICAVs and SICAFs under outsourced management established before the date of entry into force of this law shall comply with the new provisions within twelve months from the same date of entry into force."

487 Paragraph included by Article 16 of Law no. 21 of 5.3.2024. Article 16, paragraphs 2, 3 and 4, of Law no. 21 of 5.3.2024, provides that: "2. The amendments introduced by this article shall all apply to all the procedures relating to SICAVs and SICAFs under outsourced management in progress at the date of entry into force of this law. 3. The Bank of Italy shall order cancellation of the SICAVs and SICAFs under outsourced management from the register referred to in Article 35-ter of the consolidated law referred to in Legislative Decree no. 58 of 24 February 1998, within six months from the date of entry into force of this law. 4. SICAVs and SICAFs under outsourced management established before the date of entry into force of this law shall comply with the new provisions within twelve months from the same date of entry into force."

2. Articles from 2438 to 2447-decies of the Italian civil code are not applicable to SICAVs.

3. The shares representing the SICAV capital must be entirely paid up and registered at the moment of their issue.

4. SICAV shares can be nominative or to bearer, as established by the articles of association. Shares to bearer attribute one vote only for each shareholder regardless of the number of such shares held.

5. The SICAV articles of association must indicate the method for determining the value of the shares and the issue and reimbursement prices, as well as the frequency at which they can be issued and reimbursed.

6. The SICAV articles of association must contemplate:

a) limits on the issue of nominative shares;

b) special restrictions on the transfer of nominative shares;

c) the existence of several investment segments for each of which a specific category of shares can be issued; in this case, the criteria for the division of the general expenses between the segments is also established;

d) the possibility of issuing fractions of shares, without prejudice to the fact that corporate rights and attributed and can be exercised only by those who hold at least one share, pursuant to the rulings of this chapter.

7. Articles 2346, paragraph six, 2348, paragraphs two and three, 2349, 2350, paragraphs two and three, 2351, 2352, paragraph three, 2353, 2354, paragraph three, numbers 3) and 4), 2355-bis and 2356 of the Italian civil code are not applied to SICAVs.

8. A SICAV cannot issue bonds or Assets shares, nor can it buy or hold treasury shares.

Article 35-quinquies
SICAF capital and shares

1. Articles from 2447-bis to 2447-decies of the Italian civil code are not applied to SICAFs.

2. SICAF shares can be nominative or to bearer, as established by the articles of association. Shares to bearer attribute one vote only for each shareholder regardless of the number of such shares held.

3. The SICAF articles of association must indicate the method for determining the value of the shares and of any participatory financial instruments issued.

4. The SICAF articles of association must contemplate:

a) limits on the issue of nominative shares;

b) special restrictions on the transfer of nominative shares;

c) the existence of several investment segments for each of which a specific category of shares can be issued; in this case, the criteria for the division of the general expenses between the segments is also established;

d) the possibility of issuing fractions of shares, without prejudice to the fact that corporate rights and attributed and can be exercised only by those who hold at least one share, pursuant to the rulings of this chapter.

e) in the case of reserved SICAFs and without prejudice to article 35-bis, paragraph 4, the possibility of making payments for the shares underwritten in several instalments, subsequent to the

shareholder's promise to make the payments requested by the SICAF on the basis of the investment needs.

5. Articles 2349, 2350, paragraphs two and three, 2351, paragraph two, last sentence, and 2353 of the Italian civil code are not applied to SICAFs. Article 2356 of the Italian civil code is not applied to SICAFs not reserved to professional investors or to the investor categories indicated by the regulation of article 39[488].

6. SICAFs cannot issue bonds.

Article 35-sexies
The SICAV shareholders' meeting

1. The SICAV ordinary and extraordinary shareholders' meeting on second convocation are regularly constituted and empowered to pass resolution regardless of the share capital represented at the meeting.

2. The vote can be expressed by correspondence if this is contemplated by the articles of association. In such a case, the convocation notice must contain the full resolution proposal. Votes expressed in such a way shall not be taken into consideration is the resolution subjected to the vote of the shareholders' meeting does not conform to that contained in the convocation notice, although the relative shares are counted for the purpose of the regular constitution of the extraordinary shareholders' meeting. By regulation of the Ministry of Economy and Finance, after consulting the Bank of Italy and CONSOB, the procedures for voting by correspondence are established.

3. The notice contemplated by article 2366, paragraph two, of the Italian civil code is also published in the manner contemplated by the articles of association for the publication of the value of the company's equity and the unit value of the shares, the term indicated in the same article 2366, paragraph two, is thirty days.

Article 35-septies
Amendments to articles of association

1. The Bank of Italy approves amendments to the articles of association of SICAVs and non-reserved SICAFs.

2. Resolutions involving amendments to the articles of association of SICAVs and non-reserved SICAFs cannot be registered pursuant to and by effect of article 2436 of the Italian civil code unless they have been approved according to the terms and procedures contemplated by paragraph 1. The resolution is sent to the Bank of Italy within fifteen days from the date of the meeting; the deposit contemplated by article 2436 of the Italian civil code must be made within fifteen days from the date of receipt of the Bank of Italy's approval provision. "Article 2376 of the Italian Civil Code does not apply.

Article 35-octies
Winding up and voluntary liquidation

1. Article 2484, paragraphs one, numbers 4) and 5) of the Italian civil code is not applied to SICAVs.

488 Paragraph thus amended by Article 16 of Law no. 21 of 5.3.2024, which, after the words: “Articles 2349, 2350, paragraphs two and three,” added the words: “2351, paragraph two, last sentence”.

If the SICAV capital falls below the measure determined pursuant to article 35-bis, paragraph 1, letter c), and remains so for a term of sixty days, the company shall be wound up. The term is suspended if a merger procedure is initiated with another SICAV or a SICAF.

2. For SICAVs and SICAFs, the deeds which must be publicised pursuant to article 2484, paragraphs three and four, of the Italian civil code, are also published by the methods contemplated by the articles of association for the publication of the company's equity value, and communicated to the Bank of Italy within ten days from entry on the companies register. The issue and reimbursement of shares are suspended, in the cases contemplated by article 2484, paragraph one, number 6), of the Italian civil code, from the date of the adoption of the resolution, in the cases contemplated by article 2484 of the Italian civil code and, for SICAVs, in the cases contemplated by paragraph 1 of this article, from the moment of the adoption of the board of directors' resolution of from the moment of the entry in the companies register, of the decree of the chairman of the court. The board of director's resolution is also transmitted to CONSOB within the same terms.

3. The appointment, revocation and replacement of the liquidators falls within the competence of the extraordinary shareholders' meeting. Article 2487 of the Italian civil code, except for paragraph one, letter c), are article 97 of the Consolidated Banking Law are applied.

4. The disposal plan and the plan for dividing the proceeds are communicated in advance to the Bank of Italy. The liquidators liquidate the company's assets in compliance with the provisions laid down by the Bank of Italy.

5. The financial statement of the liquidation is submitted to the judgement of the subject appointed to provide for the certified audit of the accounts, and it is published in the daily newspapers indicated in the articles of association.

6. The custodian, on the liquidators' instructions, provides for the reimbursement of the shares in the percentage contemplated by the final liquidation statement.

7. For everything not contemplated by this article, the provisions of Book V, title V, chapter VIII, of the Italian civil code are applied to SICAVs and SICAFs as far as compatible.

Article 35-novies
Transformation

1. A SICAV in the form of a UCITS cannot be transformed into anything other than an Italian UCITS. A SICAV in the form of an AIF or a SICAF cannot be transformed into anything other than an Italian UCI.

Section III[489]
Common provisions and exceptions

Article 35-decies
Rules of conduct and voting rights

1. Asset management companies, SICAVs and SICAFs[490]:

a) must operate diligently, correctly and with transparency in the best interests of the UCIs managed, the relative investors and the integrity of the market;

b) they must be organised in a manner which reduces to a minimum the risk of conflicts of interests also between the assets management and, in the case of a conflict of interests, they must act in order to ensure, in any case, fair treatment of the UCIs managed;

c) they must adopt appropriate measures to safeguard the rights of the investors of the UCIs managed and they must have adequate resources and appropriate procedures to ensure the efficient performance of the services;

d) they must ensure equal treatment to all the investors of the same UCI in respect of the conditions established by CONSOB, after consultation with the Bank of Italy, in compliance with the law of the European Union. In the case of reserved AIFs, preferential treatment to one or more investors or investor categories is allowed in respect of Directive 2011/61/EU and the relative enactment provisions;

e) they must provide, in the investors' interests, for the exercise of the voting rights inherent to the financial instruments of the UCI managed, unless otherwise ruled by law.

Article 35-undecies
Exceptions for Italian AIFMs

1. For the purposes indicated by article 6, paragraph 01, in the case of reserved Italian AIFs, if the total value of the assets managed does not exceed Euro 100 million, or Euro 500 million if the UCIs managed do not take avail of the financial lever and do not allow investors to exercise the reimbursement right for 5 years after the initial investment, the Bank of Italy and CONSOB, within the scope of their respective competence, may exempt the authorised managers from applying the enactment provisions of article 6, paragraphs 1, 2 and 2-bis.

1-bis. The simple investment companies (SiCs) do not apply the implementing provisions of Article 6, paragraphs 1, 2 and 2-bis). The system of governance and control is adequate to ensure both the sound and prudent management of the SiCs and the compliance with the provisions applicable to them. The SiCs enter into a professional civil liability insurance which is adequate to the risks deriving from the activity carried out. The SiCs apply the provisions set forth by Consob regarding the marketing of UCIs[491].

1-ter. By way of derogation from article 35-bis, paragraph 1, letter e), the shareholders indicated in article 15, paragraph 1, comply only with the requirements of integrity laid down in article 14. By

489 Section first included by Article 4 of Legislative Decree no. 44 of 4.3.2014 and subsequently amended by Article 1 of Legislative Decree no. 66 of 7.5.2015, by the Article 27 of the Decree Law no. 34 of 30.4.2019, converted with modifications by Law no. 58 of 28.6.2019, by Article 16 of Law no. 21 of 5.3.2024 and by Article 5 of Law no. 162 of 28.10.2024, within the terms specified in the following notes.

490 Line thus amended by Article 16 of Law no. 21 of 5.3.2024, which deleted the words: “which manage their own assets”.

491 Subsection included by the Article 27 of the Decree Law no. 34 of 30.4.2019, converted with modifications by Law no. 58 of 28.6.2019.

way of derogation from article 35-bis, paragraph 5, the corporate name of the SiC contains the indication of a simple investment company for fixed capital shares[492].

1-quater. The subjects that control a SiC, the subjects directly or indirectly controlled or controlling by them, or subjected to common control also by virtue of shareholders' agreements or contractual obligations pursuant to Article 2359 of the Civil Code, as well as the subjects performing administrative, management and control functions at one or more SiCs may establish one or more SiCs, in compliance with the overall limit of **€ 50 million**[493].

Article 35-duodecies
Assessment of credit rating

1. In order to assess the credit rating of the assets in which the UCITSs invest, the managers use systems and procedures that do not envisage the exclusive or mechanical reliance on the assessments of the credit ratings agencies.

2. Considering the nature, scope and complexity of the assets of the UCITSs, the Bank of Italy and CONSOB, each insofar as they are competent, verify the suitability of the systems and procedures adopted by the managers in accordance with paragraph 1 and assess whether or not, under the scope of the UCITS investment policies, references to credit ratings issued by the credit ratings agencies, are made in such a way as to reduce the exclusive or mechanical reliance on the same[494].

Chapter II[495]
Italian UCIs

Section I
Mutual investment funds

Article 36
Mutual investment funds

1. The mutual investment fund is managed by the asset management company which has set up the fund or by the management company which has taken over the management, in compliance with law and regulations.

2. The mutual investment fund participation agreement is disciplined by the fund regulation. The Bank of Italy, after consulting CONSOB, determined the general criteria for the drafting of the regulations of funds other than reserved AIFs and the minimum contents of the same, in addition to what is contemplated by article 39.

3. An asset management company which has set up the fund or the management company which has

492 Subsection included by the Article 27 of the Decree Law no. 34 of 30.4.2019, converted with modifications by Law no. 58 of 28.6.2019.

493 Subsection first included by the Article 27 of the Decree Law no. 34 of 30.4.2019, converted with modifications by Law no. 58 of 28.6.2019 and then amended by Article 5 of Law no. 162 of 28.10.2024 which replaced the words: "€ 25 million" with the words: "€ 50 million"..

494 Article included by Article 1 of Legislative Decree no. 66 of 7.5.2015.

495 Chapter thus replaced by Article 4 of Legislative Decree no. 44 of 4.3.2014 and subsequently amended by Article 4 of Legislative Decree no. 72 of 12.5.2015 and by Article 16 of Law no. 21 of 5.3.2024, within the terms indicated in the notes that follow.

taken over the management acts independently and in the fund investors' interests, assuming towards these latter the mandating party's obligations and responsibilities.

4. Each mutual investment fund or each segment of such a fund represents an independent capital, separate to all effects from that of the asset management company and from that of each investor, as well as from any other assets managed by the same company; with regard to the obligations undertaken on behalf of the fund, the asset management company answers only with the assets of that fund. Claims on such assets on the part of the creditors' of the asset management company or in the interests of the same, or on the part of the creditors of the custodian or sub-custodian or in the interests of the same are not admitted. Claims of creditors of a single investor are admitted only on the units held by said investor. Under no circumstances may the asset management company use the assets of the funds managed in its own interests or those of third parties.

5. The units in mutual funds are named or bearer, as established by the fund regulation. The Bank of Italy, after consulting CONSOB, can establish as a general rule the characteristics of certificates and the initial face value of the units, also in view of the need to ensure the portability of the units.

Article 37
Fund regulations

1. The regulations of each mutual investment fund define the features of the fund, discipline the functioning of the same, identify the manager and the custodian, define the division of tasks between such subjects, and regulates the relationships between such subjects and the fund investors.

2. More precisely, the regulations establish:

a) the name and the duration of the fund;

b) the procedures for participation in the fund, the terms and procedures for the issue of the certificates, for reimbursement of units and for the liquidation of the fund;

c) the bodies responsible for the investment choices and for the criteria for dividing the investments according to those choices;

d) the type of assets, financial instruments and other valuables in which the capital of the fund may be invested;

e) the criteria for the determination of the income and of the management results and any systems for the sharing and distribution of the same;

f) the expenses borne by the fund and those borne by the asset management company;

g) the measure or criteria for determining the commission due to the asset management company and the costs charged to investors;

h) the means for publishing the unit value;

i) whether the fund is a feeder fund.

3. Pursuant to the regulations of closed-ended funds other than reserved AIFs, general meetings of investors may be held only to decide on a change of manager. The meeting is called by the management company's board of directors, also at the request of investors representing at least 5 percent of the value of the units issued, and resolutions are approved with the favourable vote of the absolute majority of the units represented at the meeting. However, the quorum for resolution may not be less than 10 percent of the value of all the units issued.

4. The Bank of Italy approves the regulations of funds other than reserved AIFs, as well as relative amendments, assessing in particular the completeness of the same and the compatibility with the general criteria determined pursuant to articles 36 and 37.

5. The Bank of Italy indicates the cases in which, according to the object of the investment, the investor category and the fund functioning rules, the regulations and relative amendments are understood as approved in general. In other cases, the regulations are understood as approved when the Bank of Italy adopts no provision of non-approval within the term established in advance by the same.

Section II
SICAVs and SICAFs under outsourced management

Article 38
SICAVs and SICAFs which appoint an external manager

1. SICAVs and SICAFs under outsourced management meet the following conditions:

a) the company is a joint stock company;

b) the registered office and the general management of the company are located in the Italian Republic;

c) the share capital amounts to at least that provided for by Article 2327 of the Italian Civil Code;

d) the articles of association contemplate:

1) for a SICAV, the exclusive purpose is collective investment of the capital obtained by the offer of its own shares to the public; for a SICAF, the exclusive purpose is the collective investment of the capital obtained by the offer to the public of its own shares and of the financial instruments of its equity holdings indicated in the said articles;

2) the entire assets obtained are entrusted for the activities referred to in Article 33 to an external manager, and the designated company is identified;

e) the definition of adequate procedures which are suitable to ensure management continuity in the event of a change of the external manager;

f) the stipulation of agreements with the external manager, to enable the company's Board of Directors to have the necessary documents and information to verify that the manager obligations are duly fulfilled as well as to set deadlines and methods for the transmission of said documents and information;

g) the stipulation of an agreement between the manager, if other than an asset management company, and the custodian, which ensures this latter access to the information necessary for the performance of its duties, as contemplated by Articles 41-bis, paragraph 3, letter c), and 41-ter, paragraph 2, letter b).

2. The name of the SICAV under outsourced management must contain an indication that it is a variable capital joint stock investment company. The name of the SICAF under outsourced management must contain an indication that it is a fixed capital joint stock investment company. These indications must appear on all the company's documents. Articles 2333, 2334, 2335 and 2336 of the Italian civil code do not apply to SICAVs or SICAFs under outsourced management; for SICAVs under outsourced management, conferment in nature is not allowed.

3. In the case of multi-segment SICAVs and SICAFs under outsourced management, each segment represents an independent capital separate to all effects from the other segments. The assets of a single SICAV under outsourced management can be divided into segments composed exclusively of AIFs or of UCITS.

4. In the event of cancellation of the contract or liquidation of the external manager, the Board of Directors of the SICAVs and SICAFs under outsourced management promptly calls a shareholders' meeting to resolve on the replacement of the manager. Where the replacement of the manager is not

resolved within two months from occurrence of one of the aforementioned events, the company is dissolved.

5. Articles 35-quater, 35-quinquies, 35-sexies, 35-septies, 35-octies and 35-novies are applied.

6. The external manager is responsible for compliance by the managed SICAVs and SICAFs with the provisions applicable to them under this decree.

7. In order to verify compliance with paragraph 6, the Bank of Italy and CONSOB may, within the sphere of their respective powers and in accordance with the provisions of the European Union, ask for information from the external manager on the managed SICAVs and SICAFs as well as carry out inspections and request of these companies the exhibition of documents and the performance of actions deemed necessary.

8. For SICAVs and SICAFs under outsourced management and not reserved, the start of operations is subject to the approval of the articles of association by the Bank of Italy on request of the external manager. The Bank of Italy attests compliance of the articles with legislative and regulatory provisions and with the general criteria and the minimum content of the articles as required by the same and makes sure that the technical and organizational arrangement of the external manager assures its ability to manage the assets of the SICAVs and SICAFs in the investors' interest.

9. The external manager transmits to the Bank of Italy the articles of association of the SICAVs and SICAFs under outsourced management and reserved, and the related amendments, within ten days from fulfilment of the obligations set out in Articles 2330 and 2463 of the Italian Civil Code[496].

Section III
Common provisions

Article 39
Structure of Italian UCIs

1. The Ministry of Economy and Finance, with regulations adopted after consultation with the Bank of Italy and CONSOB, determines the general criteria which Italian UCIs must respect regarding:

a) the object of the investment;

b) the investor categories to which the offer of units and shares are destined.

c) whether the fund is open-ended or closed-ended, and the participation procedures, particularly the frequency of unit issue and reimbursement, and any minimum subscription amount and the procedures to be followed;

d) the minimum and maximum duration, if any;

e) the conditions and procedures for acquiring or conferring assets, both during and after the

496 Article first amended by Article 4 of Legislative Decree no. 72 of 12.5.2015 and then thus replaced by Article 16 of Law no. 21 of 5.3.2024. Article 16, paragraphs 2, 3 and 4, of Law no. 21 of 5.3.2024, provides that: "2. The amendments introduced by this article shall all apply to all the procedures relating to SICAVs and SICAFs under outsourced management in progress at the date of entry into force of this law. 3. The Bank of Italy shall order cancellation of the SICAVs and SICAFs under outsourced management from the register referred to in Article 35-ter of the consolidated law referred to in Legislative Decree no. 58 of 24 February 1998, within six months from the date of entry into force of this law. 4. SICAVs and SICAFs under outsourced management established before the date of entry into force of this law shall comply with the new provisions within twelve months from the same date of entry into force."

constitution of the fund[497].

2. The regulations contemplated by paragraph 1 also establish:

a) the non-professional investor categories to which the Italian reserved AIFs can be offered, according to the procedures contemplated by article 43;

b) the accounting registrations, the statement and the periodic prospectuses which the asset management company must draw up, in addition to those required of commercial enterprises, as well as the obligations to publish the statement and periodic prospectuses;

c) the cases in which the asset management company must request admission for the listing of the fund units on a regulated market;

d) the requisites and remuneration of the independent experts referred to in article 6, paragraph 1, letter c), number 5).

Section IV
Master-feeder structures

Article 40
Authorisation and operating rules of master-feeder structures

1. The Bank of Italy authorises the investment of the Italian feeder UCI in the master UCI in the following cases:

a) there are agreements between, respectively, the managers, the custodians and the certifying auditors or auditing firms of master UCIs and feeder UCIs, which allow access to the documents and information necessary for the performance of their respective duties;

b) the master UCI and the feeder UCI have the same manager and this latter adopts internal rules of conduct that ensure the same access to documents and information as per letter a);

c) the master UCI and the feeder UCI have the same characteristics as envisaged by the regulations contemplated by paragraph 2.

2. After consultation with CONSOB, the Bank of Italy regulates:

a) the authorisation procedure for the investment of the feeder UCI in the master UCI and the information and documents to be presented with the authorisation request;

b) the content of agreements and internal rules of conduct pursuant to paragraph 1;

c) the specific requirements of master UCIs and feeder UCIs and the rules applicable to the same;

d) the specific rules applicable to feeder UCIs, in the event of liquidation, merger, spin-off, temporary suspension of re-purchase, redemption or subscription of the master UCI units and the rules applicable to the feeder UCI and the master UCI to coordinate timing for the calculation and publication of their net asset value;

e) disclosure obligations and the exchange of information and documents between the manager, the custodian and the certifying auditor or auditing firm, of the master UCI and the feeder UCI respectively, and between these subjects and the Bank of Italy, CONSOB and the competent authorities of the EU and non-EU master and feeder UCIs.

3. As far as compatible, the provisions of sections I, II, III and III-ter of this chapter to master and feeder UCIs.

497 See Ministry of Economic and Finance decree no. 30 of 5.3.2015 (published in O.J. no. 65 of 19.3.2015).

4. EU master UCIs which do not offer their own units in Italy to subjects other than feeder UCIs, article 42, paragraphs 1, 2, 3 and 4 do not apply. EU and non-EU master AIFs are subject to the provisions of chapter II-ter.

5. Without prejudice to the provisions of article 9, the certifying auditor or certifying auditing firm appointed to audit the feeder UCI must specify in the audit report any irregularities pointed out in the audit report of the master UCIs and the impact of such irregularities on the feeder UCI. If the financial years of the master UCI and feeder UCI close on different dates, the certifying auditor or certifying auditing firm appointed to audit the master UCI must draw up a specific audit report at the closure of the financial year of the feeder UCI.

6. The Bank of Italy and CONSOB, in compliance with EU provisions, notify the feeder UCI manager or the competent authority of the harmonised EU feeder UCITS of the provisions taken, in the case of failure to comply with the provisions of this chapter, in respect of the subjects indicated in this article, and the information received pursuant to article 8, paragraph 4, relative to the master UCI manager and the master UCI.

7. The provisions of this article do not apply to Italian reserved AIFs.

Section V
Merger and spin-off of asset investment bodies

Article 40-bis
UCI merger and spin-off

1. The Bank of Italy notifies CONSOB and authorises the merger or spin-off of Italian UCIs on the basis of the relative projects, of the certificates of conformity issued by the custodians of the funds involved and of the information communicated to the investors which must enable them to prepare a justified opinion of the impact of the merger on the investment. The Bank of Italy may indicate the cases, according to the characteristics of the UCIs concerned by the operation or the content of the information to the investors, in which authorisation for the UCI merger or spin-off is generally issued.

2. The asset management companies make a report available to fund investors and the Bank of Italy, drawn up by the custodian or by an officially recognised auditor or auditing firm, which certifies the correctness of the criteria adopted to measure the fund's assets and liabilities, any monetary balance, the calculation method and the effective exchange ratio at the reference date of the said report.

3. As far as compatible, the articles contained in book V, title V, chapter X, sections II and III of the civil code are applied to SICAVs and SICAFs involved in merger or spin-off operations. The merger or spin-off project, drawn up according to the requirements of the Bank of Italy Regulation pursuant to paragraph 4 and any general meeting resolutions amending the relative projects must be authorised in advance by the Bank of Italy. Without the authorisation referred to in paragraph 1, such operations cannot be entered in the companies register.

4. After consultation with CONSOB, the Bank of Italy regulates:
   a) the authorisation procedure and the relative conditions;
   b) the date of effect of the operation and the criteria for the allocation of the relative costs;
   c) the information to be given to the investors;
   d) the forms for which mergers and spin-offs are admitted;
   e) the object of the certificates of conformity and the report contemplated by paragraphs 1 and 2;
   f) the rights of the investors.

5. The provisions of this article do not apply to Italian reserved AIFs.

Article 40-ter
Cross-border UCI merger

1. Mergers of EU UCITS and Italian UCITS and those which involve Italian UCITS whose units are marketed in another EU state pursuant to article 41, paragraph 2, letter a) a), are subject not only to the provisions of article 40-bis but also to the provisions contained in this article.

2. If the UCITS resulting from the merger or the incorporating UCITS is not Italian, the merger authorisation is issued by the Bank of Italy in accordance with the provisions of EU legislation.

3. If the UCITS resulting from the merger or the incorporating UCITS is Italian, the Bank of Italy may request the said UCITS to amend its disclosure to investors in accordance with the provisions of EU legislation.

4. The Bank of Italy, after consulting CONSOB, defines by regulation the enactment provisions of this article, in compliance with EU provisions.

Chapter II-bis[498]
Management company cross-border operations

Article 41
Cross-border operations of asset management companies

1. Asset management companies can operate, also without having a stable organisation, in an EU or non-EU state, in conformity with the regulation contemplated by paragraph 2.

2. The Bank of Italy, after consulting CONSOB, establishes by regulation the enactment rules of the EU provisions on the conditions and procedures which the asset management companies must respect for:

a) performing in EU States the activities for which they are authorised pursuant to Directive 2009/65/EC and the relative enactment provisions, including the institution of UCITS, as well as withdrawing the notification by which the marketing of UCITS in an EU State, other than Italy, has been previously communicated[499];

b) cross-border operations in EU and non-EU States, in conformity with the provisions of Directive 2011/61/EU and of the relative enactment provisions, without prejudice to those of chapter II-ter.

3. The Bank of Italy, in the regulation contemplated by paragraph 2, also lays down the conditions and procedures on the basis of which the asset management companies are authorised by the Bank of Italy, in accordance with CONSOB, for cross-border operations in EU and non-EU States in the cases excluded from the application of Directives 2009/65/EC and 2011/61/EU. For asset management

498 Chapter first substituted by Article 4 of Legislative Decree no. 44 dated 4.3.2014 and then amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 and Article 2 of Legislative Decree no. 191 dated 5.11.2021 under the terms indicated in the following notes.

499 Letter thus amended by Article 2 of Legislative Decree no. 191 dated 5.11.2021, which, after the word: "UCITS" added the words: "as well as withdrawing the notification by which the marketing of UCITS in an EU State, other than Italy, has been previously communicated".

companies to operate in a non-EU state, appropriate collaboration agreements must exist with the competent authorities of the host State.

4. The provisions of this article also apply to SICAVs and SICAFs which manage their own assets.

Article 41-bis
EU management companies

1. For the practice of the activities for which they are authorised pursuant to European Union provisions, the EU management companies may establish branches in the Italian Republic. The first establishment must be preceded by a communication to the Bank of Italy and CONSOB on the part of the competent authorities of the Home State. The branch can start operations two months after the communication.

2. Without prejudice to the provisions of article 42, EU management companies may perform the activities for which they are authorised pursuant to EU provisions in the Italian Republic without establishing a branch, providing the Bank of Italy and CONSOB are informed by the competent authority of the Home State.

3. EU management companies which intend to manage an Italian UCITS must respect the provisions of chapter II, as well as the enactment provisions of article 6, paragraph 1, letter c). The Bank of Italy approves the fund regulations pursuant article 37 or authorises the SICAV, providing:

a) the fund or the SICAV complies with the provisions of this paragraph;

b) the EU management company is authorised to manage a UCITS in the Home State with similar characteristics to that approved;

c) the EU management company has stipulated an agreement with the custodian which ensures that the custodian has access to the information necessary for the performance of its duties.

4. Should the Bank of Italy intend to refuse fund regulation approval of SICAV authorisation referred to in paragraph 3, it consults the competent authority of the Home State of the EU management company.

5. After consulting CONSOB, the Bank of Italy regulates the conditions and procedures with which the EU management companies must comply in order to carry out the activities mentioned under paragraphs 1, 2 and 3 in the Italian Republic by the establishment of branches or as the free provision of services, and the content of the agreement between the EU management company and the custodian envisaged by paragraph 3, letter c).

6. EU management companies that perform the activities referred to in paras 1 and 3 in the Italy, through the establishment of branches, are required to comply with the rules of conduct laid down in article 35-decies. The Bank of Italy and CONSOB may request EU management companies, within the context of their respective competences, for the communication of data and information and the transmission of deeds and documents in the ways and under the terms they have established. The Bank of Italy and CONSOB, within the context of their respective competences, may also request information from the personnel of the EU management company through the latter[500].

500 Paragraph thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

Article 41-ter
EU AIFMs

1. Without prejudice to the provisions of chapter II-ter, EU AIFMs can perform the collective asset management for which they are authorised pursuant to the EU provisions in the Italian Republic as the free performance of services or by the establishment of branches, providing the Bank of Italy is notified by the competent authority of the Home State. The Bank of Italy immediately transmits copy of said communication to CONSOB.

2. EU AIFMs which intend to manage an Italian AIF must respect the provisions of chapter II, as well as the enactment provisions of article 6, paragraph 1, letter c), and the following conditions:

a) they must be authorised in the Home State for the management of AIFs with the same characteristics as those they intend to set up and manage in Italy;

b) the must have stipulated an agreement with the custodian which ensures the latter access to the information necessary for the performance of its duties.

3. The Bank of Italy, after consultation with CONSOB, disciplines by regulation the content of the agreement between the management company and the custodian contemplated by paragraph 2, letter b).

4. EU AIFMs that perform the activities referred to in paragraph 1 and chapter II-ter in the Italy, through the establishment of branches, are required to comply with the rules of conduct laid down in article 35-decies and the relative regulation and implementation regulations. The obligations related to the management of the conflict of interests adopted in implementation of article 6, paragraph 2, letter b-bis), number 6), and paragraph 2-bis. The Bank of Italy and CONSOB may request EU GEIFAs, within the context of their respective competences, for the communication of data and information and the transmission of deeds and documents in the ways and under the terms they have established. The Bank of Italy and CONSOB, within the context of their respective competences, may also request information from the personnel of the GEIFA company through the latter.[501].

Article 41-quater
Non-EU AIFMs

1. The Bank of Italy, in accordance with CONSOB, authorises non-EU AIFMs to manage Italian and EU AIFs or to market in the EU the AIFs managed, when Italy, pursuant to Directive 2011/61/EU, is the State of reference. The Bank of Italy immediately transmits to CONSOB copy of the authorisation application of such companies. The Bank of Italy lists non-EU AIFMs in a special section of the register contemplated by article 35. The Bank of Italy notifies CONSOB of such registrations.

2. Non-EU AIFMs authorised in another EU state which intend to manage an Italian AIF as the free performance of services or through established branches are subject, as far as compatible, to article 41-ter.

3. Non-EU AIFMs that perform the activities referred to in paragraph 1 and chapter in Italy, through the establishment of branches, comply with the rules of conduct laid down in article 35-decies and the relative regulation and implementation regulations as well as the obligations related to the management of the conflict of interests adopted in implementation of article 6, paragraph 2, letter b-bis), number 6), and paragraph 2-bis. The Bank of Italy and CONSOB may request the Italian

501 Paragraph thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

branches of non- EU GEIFAs, within the context of their respective competences, for the communication of data and information and the transmission of deeds and documents in the ways and under the terms they have established. The Bank of Italy and CONSOB, within the context of their respective competences, may also request information from the personnel of the Italian branches of non-EU GEIFAs even through the latter[502].

4. After consulting CONSOB, the Bank of Italy lays down by regulation:

a) the conditions and the procedure for the issue of the authorisation referred to under paragraph 1;

b) the enactment provisions of the EU provisions concerning the conditions and procedures that the non-EU AIFMs authorised in Italy must respect in the case of cross-border operations in the EU states in conformity with the provisions of Directive 2011/61/EU and the relative enactment provisions, without prejudice to the provisions of chapter II-ter[503].

Chapter II-ter[504]
Pre-marketing and marketing of UCIs[505]

Article 42
Marketing in Italy of EU UCITS units and shares

1. The marketing in Italy of EU UCITS units and shares must be preceded by communication to CONSOB by the authority of the UCITS Home State, in accordance with the procedures set out by EU provisions and in compliance with the relevant enactment regulations adopted by CONSOB Regulation, after consulting the Bank of Italy. By the same regulation, CONSOB regulates the facilities that EU UCITS must provide in Italy, as provided for by Article 92 of Directive 2009/65/EU and, in particular:

a) determines the duties of the facilities in order for the investors to exercise their rights and have access to the information provided for by Article 92 of Directive 2009/65/EU;

b) determines the language through which these facilities must be provided;

c) governs the conditions whereby the duties referred to in letter a) can be carried out by a third party or EU UCITS together with a third party[506].

2. EU management companies intending to offer in Italy, without established branches, units of UCITS managed by the same are not subject to the provisions of article 41-bis.

3. After consulting CONSOB, the Bank of Italy, by regulation:

a) identifies the information to be given to the public within the sphere of the marketing of the

502 Paragraph thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

503 See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018).

504 Chapter first inserted by Article 4 of Legislative Decree no. 44 of 4 March 2014 and then amended by Article 2 of Legislative Decree no. 129 of 3 August 2017 and by Article 2 of Legislative Decree no. 191 of 5 November 2021 in the terms indicated in the following notes.

505 Heading thus replaced by Article 2 of Legislative Decree no. 191 of 5 November 2021.

506 Paragraph thus replaced by Article 2 of Legislative Decree no. 191 of 5.11.2021, which replaced the words: “determines the methods by which the investors’ rights shall be exercised in Italy concerning activities related to payment, repurchase and reimbursement of units” with the words: “governs the facilities that EU UCITS must provide in Italy, as provided for by Article 92 of Directive 2009/65/EU and, in particular: a) determines the duties of the facilities in order for the investors to exercise their rights and have access to the information provided for by Article 92 of Directive 2009/65/EU; b) determines the language through which these facilities must be provided; c) governs the conditions whereby the duties referred to in letter a) can be carried out by a third party or EU UCITS together with a third party.”

units or shares in the Italian Republic or of the shares in the Italian Republic and the means by which such information must be given;

b) determines the method by which the issue or sale, repurchase or reimbursement price of the units or shares must be published[507].

4. The Bank of Italy and CONSOB, within the sphere of their respective duties, may request the issuers and those who provide for the marketing of the units and shares indicated in paragraph one, the communication, also periodically, of data and news and the transmission of deeds and documents.

4-bis. Discontinuation of marketing in Italy of EU UCITS units and shares must be preceded by communication to CONSOB by the authority of the UCITS Home State, in accordance with the procedures set out by Directive 2009/65/EU and in compliance with the relevant enactment regulations adopted by CONSOB Regulation, after consulting the Bank of Italy[508].

4-ter. The Bank of Italy and CONSOB, in their capacity as competent authorities of the State in which marketing of the EU UCITS has been discontinued:

a) within the sphere of their powers, can ask of EU management companies communication of data and information and transmission of deeds and documents according to the methods and within the time limits set out by them;

b) continue to supervise compliance of the EU UCITS with the obligations deriving from the provisions of the Italian and EU law that are applicable to them on the subject matters of this decree;

c) can exercise vis-à-vis EU UCITS the powers indicated in Article 7-quinquies;

d) can exercise the other powers provided for by this decree vis-à-vis EU UCITS[509].

4-quater. The moment CONSOB receives the notification provided for by paragraph 4-bis, CONSOB and the Bank of Italy no longer require EU UCITS to prove their compliance with legislative, regulatory and administrative national provisions on marketing requirements, as provided for by Article 5 of Regulation (EU) no. 2019/1156[510].

Article 42-bis
Pre-marketing of reserved AIFs

1. The pre-marketing of reserved AIFs is the provision of information or communications, whether directly or indirectly, on investment strategies or ideas by an asset management company or EU AIFM, or on behalf thereof, to resident prospective professional investors or those with head office in the EU, in order to survey their interests in an Italian or EU AIF or sector yet to be instituted, or instituted and for which the notification procedure provided for by Article 43, paragraphs 2 and 8, is yet to be activated in the member State in which the prospective investors are resident or have their head office. In any case, under no circumstances can pre-marketing constitute an offer in accordance with Article 43, paragraph 1.

2. Asset management companies cannot perform in Italy and other EU States pre-marketing in the cases where the information provided to the prospective investors:

a) Is sufficient to allow the investors to commit to subscribe shares or units of a particular AIF;

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507 See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018).

508 Paragraph included by Article 2 of Legislative Decree no. 191 of 5.11.2021.

509 Paragraph included by Article 2 of Legislative Decree no. 191 of 5.11.2021

510 Paragraph included by Article 2 of Legislative Decree no. 191 of 5.11.2021

b) Is equivalent to subscription forms or similar documents, in draft or final form;

c) Is equivalent to the final version of the instrument of incorporation, prospectus or other documents related to a yet to be instituted AIF.

3. Where resident prospective professional investors or those with registered head office in Italy or other EU State are given by the asset management company a draft prospectus or draft offering documents, these do not contain sufficient information for the investors to make investment decisions and clearly state that:

a) They do not constitute an offering or invitation to subscribe shares or units of an AIF;

b) The information included therein is not complete and could be subject to changes, therefore investors should not rely on it.

4. An asset management company ensures that the investors do not subscribe shares or units of an AIF through pre-marketing and that, where contacted within the context of the pre-marketing of an AIF, they subscribe shares or units of such an AIF only within the context of the pre-marketing provided for by Article 43.

5. The asset management company transmits to CONSOB a communication containing:

a) A list of the member States, including possibly Italy, in which pre-marketing is taking or has taken place;

b) The period of time during which pre-marketing is taking or has taken place;

c) A brief description of the activity carried out within the context of pre-marketing, including the information on the presented investment strategies;

d) Where relevant, a list of AIFs or compartments that are or have been the subject matter of pre-marketing.

6. CONSOB immediately informs the competent authorities of the member State in which the asset management company performs or has performed pre-marketing.

7. Where an EU AIFM performs pre-marketing in Italy, CONSOB is informed of this circumstance by the competent authority of the EU AIFM and can request of this authority provision of further information on the pre-marketing that is performed or has been performed in the Italian national territory.

8. CONSOB regulates by regulation, having heard the Bank of Italy:

a) The terms and methods that the asset management company must observe to transmit the communication referred to in paragraph 5;

b) The cases whereby the subscription on the part of professional investors of shares and units of an AIF indicated in the information provided within the context of pre-marketing or instituted after pre-marketing, is considered a result of the pre-marketing performed by the asset management company and Article 43 applies.

9. Third parties can perform pre-marketing activities on behalf of an asset management company. CONSOB, by the regulation referred to in paragraph 8, indicates the third parties that can perform these activities, which are subject to the provisions of this article.

10. The provisions of this article related to asset management companies and EU AIFM also apply to Italian AIFs and EU AIFs that manage own assets[511].

511 Paragraph included by Article 2 of Legislative Decree no. 191 of 5.11.2021

Article 43
Marketing of reserved AIFs

1. The marketing of AIFs is the offer, also indirect, on the initiative or on behalf of the manager, of the AIF units and shares managed, addressed to resident investors or those with registered head office in the EU.

2. The marketing in Italy of units or shares of Italian reserved AIFs, EU AIFs and non-EU AIFs managed by an asset management company or by a non-EU AIFM authorised in Italy and the marketing in an EU state other than Italy, addressed to professional investors, of units and shares of Italian AIFs and non-EU AIFs managed by an asset management company or by a non-EU AIFM authorised in Italy, must be preceded no notification to CONSOB. CONSOB immediately transmits to the Bank of Italy the information contained in the notification and the documents attached to the same.

3. The notification shall contain:

a) the letter of notification accompanied by the business programme which identifies the AIF marketed and the Home State of the AIF;

b) the AIF regulations and articles of association;

c) the identity of the custodian of the AIF;

d) the description of the AIF and the other information made available to the investors pursuant to article 6, paragraph 2, letter a), no. 3-bis), and the relative enactment discipline;

e) indication of the Home State of the master UCITS if the UCITS marketed is a feeder UCITS;

f) if relevant, indication of the EU State other than Italy in which the AIF units or shares will be marketed;

g) the information on the procedures established to prevent the marketing of the AIF units or shares towards retail investors. For this purpose, the regulations or the statue and the documentation made available to investors contemplate that the AIF units or shares may be marketed only to professional investors;

g-bis) the necessary details, including address, for billing or communication of any regulatory costs and charges possibly applicable by the competent authorities of the EU State other than Italy in which the asset management company or EU/non-EU AIFM intends to market an AIF[512];

g-ter) information on the investor facilities provided for by Article 44[513].

4. If there is no reason for hindrance, CONSOB, in accordance with the Bank of Italy, within 20 working days from receiving the notification:

a) informs the asset management company or the non-EU AIFM that it can launch the marketing of the relative AIF units or shares in Italy. In the case of the marketing in Italy of an EU AIF, the notification is also transmitted to the competent authority of the AIF Home State;

b) transmits to the competent authority of the EU State other than Italy in which the asset management company or the non-EU AIFM intends to market the AIF, the notification dossier which includes the documentation contemplated by paragraph 3 and the certification referred to in paragraph 5. CONSOB immediately informs the manager of the transmission of the notification dossier.

The manager cannot start marketing before receiving this communication.

5. The Bank of Italy expresses its agreement on the profiles indicated in letters a), b), c) and e) of

512 Letter added by Article 2 of Legislative Decree no. 191 of 5.11.2021.

513 Letter added by Article 2 of Legislative Decree no. 191 of 5.11.2021

paragraph 3, and on the manager's adequacy for the management of the AIF in question. In the case of marketing in an EU State other than Italy, the Bank of Italy, when it issues its agreement, certifies that the manager is authorised to manage the AIF in question.

6. CONSOB, after consultation with the Bank of Italy, defines by regulation the procedures for the notification contemplated by paragraph 2.

7. In the case of relevant modifications to the information and documents indicated in paragraph 3, the manager communicates such modifications to CONSOB at least thirty days before entry into force or, in the case of modifications which cannot be planned in advance, as soon as they are issued. CONSOB immediately transmits to the Bank of Italy the information contained in the notification and the documents attached to the same. Within fifteen business days from receiving the communication, CONSOB and the Bank of Italy, within the scope of their respective competence, may ban the modification[514].

7-bis. The asset management companies that market units or shares of some or all of their AIFs in an EU member State other than Italy and that intend to discontinue marketing of such units or shares in said EU member State, send a notification to CONSOB by which they withdraw the previous notification referred to in paragraph 2[515].

7-ter. Having consulted the Bank of Italy, CONSOB sets out by regulation the implementing provisions of Directive 2011/61/EU concerning the conditions, procedures and obligations that asset management companies observe in the event of withdrawal of the notification related to marketing in an EU-member State[516].

7-quater. Having verified the completeness of the notification referred to in paragraph 7-bis, within fifteen business days from receipt of the same, CONSOB transmits it to the competent authority of the EU State other than Italy, in which the asset management company intends to discontinue marketing, and to ESMA. CONSOB immediately informs the asset management company of the transmission of the notification[517].

8. The marketing in Italy, to professional investors and to the categories of investors identified by the regulations referred to in article 39, of units of shares of Italian reserved AIFs, EU and non-EU AIFs managed by an EU AIFM or by a non-EU AIFM authorised in an EU State other than Italy, shall be preceded by a notification to CONSOB from the authority of the Home Member State for each AIF marketed. CONSOB immediately transmits to the Bank of Italy the information contained in the notification and the documents attached to the same. In the case of the marketing of Italian AIF units or shares, the provisions of article 41-ter, paragraphs 2 and 3 shall hold firm. CONSOB, after consultation with the Bank of Italy, defines by regulation the procedure for the notification contemplated by this paragraph.

8-bis. Discontinuation of marketing in Italy of shares or units of AIFs managed by an EU AIFM must be preceded by a notification to CONSOB by the authority of the State of origin of the EU AIFM, according to the procedures set out by Directive 2011/61/EU and in observance of the related

514 Paragraph thus amended by Article 2 of Legislative Decree no. 191 of 5.11.2021, which, in the last clause, replaced the words: “thirty days” with the words: “fifteen business days”.

515 Paragraph included by Article 2 of Legislative Decree no. 191 of 5.11.2021.

516 Paragraph included by Article 2 of Legislative Decree no. 191 of 5.11.2021.

517 Paragraph included by Article 2 of Legislative Decree no. 191 of 5.11.2021.

implementing provisions adopted by CONSOB by regulation, having consulted the Bank of Italy. CONSOB immediately transmits to the Bank of Italy the information contained in the notification and the documents attached to the same[518].

8-ter. The Bank of Italy and CONSOB, in their capacity as competent authorities of the State in which marketing of the EU AIFS has been discontinued:

a) within the sphere of their powers, can request the EU AIFS communication of data and information and transmission of deeds and documents according to the methods and within the time limits set out by them;

b) continue to supervise compliance of the AIFS with the obligations deriving from the provisions of the Italian and EU law that are applicable to them on the subject matters of this decree;

c) can exercise vis-à-vis the EU AIFS the powers indicated in Article 7-quinquies;

d) can exercise the other powers, including the power of sanction, provided for by this decree vis-à-vis the EU AIFS[519].

8-quater. The moment CONSOB receives the notification provided for by paragraph 8-bis, CONSOB and the Bank of Italy no longer require EU AIFS to prove their compliance with legislative, regulatory and administrative national provisions on marketing requirements, as provided for by Article 5 of Regulation (EU) no. 2019/1156[520].

9. The provisions of this article relative to asset management companies, EU AIFMs and non-EU AIFMs are also applicable to Italian AIFs and to EU and non-EU AIFs which manage their own assets.

Article 44
Marketing of non-reserved AIFs

1. The provisions of articles 35-bis, 37, 38 and 39 always holding firm, the marketing in Italy of units or shares of Italian non-reserved AIFs to the categories of investors referred to in article 43, is preceded by a notification forwarded by the manager to CONSOB for each AIF marketed.

2. The following documentation shall be attached to the letter of notification:

a) the prospectus destined for publication;

b) the regulations or the articles of association of the AIF to be marketed;

c) the document containing the additional information to be made available before the investment pursuant to article 6, paragraph 2, letter a), no. 3-bis), and the relative enactment provisions, which show the absence of preferential treatment to one or more investors or categories of investors.

3. CONSOB informs the manager that it can begin marketing to retail investors not falling within the categories of investors to which the reserved Italian AIFs can be marketed, the AIFs indicated in the notification within 10 working days from receiving the same when the completeness, coherence and comprehensibility of the information contained in the documentation attached to the letter of notification has been verified. The manager cannot begin marketing to the retail investors not included in the categories of investors to which the reserved Italian AIFs can be marketed, before receiving the communication.

4. Without prejudice to the provisions of Article 26 of Regulation (EU) no. 2015/760 of the European

518 Paragraph included by Article 2 of Legislative Decree no. 191 of 5.11.2021.

519 Paragraph included by Article 2 of Legislative Decree no. 191 of 5.11.2021.

520 Paragraph included by Article 2 of Legislative Decree no. 191 of 5.11.2021.

Parliament and of the Council of 29 April 2015, CONSOB, after consultation with the Bank of Italy, regulates:

a) the notification procedure contemplated by paragraph 1;

b) the facilities that the managers must provide in Italy, as required under Article 43-bis of Directive 2011/61/EU, intended for the retail investors that are not included in the investor categories to which the Italian reserved AIFs can be marketed and, in particular:

1) determines the duties of the facilities in order for the investors to exercise their rights and have access to the information provided for by Article 43-bis of Directive 2011/61/EU;

2) determines the language used by these facilities to perform the duties referred to in number 1);

3) governs the conditions whereby the duties referred to in number a) can be carried out by a third party or manager together with a third party[521].

5. The managers of EU and non-EU AIFs which market in the Home State of the said AIFs the relative shares or units to retail investors and which intend to market such AIFs in Italy to retail investors not included in the categories of investors to which the Italian reserved AIFs can be marketed, shall present to CONSOB application for authorisation. CONSOB, in accordance with the Bank of Italy on the profiles referred to under letters b) and c), authorises the marketing if the following conditions are respected:

a) the managers have completed the procedures contemplated by article 43;

b) the functioning schemes and the risk mitigation and fractioning provisions for said AIFs are compatible with those contemplated for Italian AIFs;

c) the discipline of the AIF custodian is equivalent to that applicable to Italian non-reserved AIFs;

d) the AIF regulations or articles of association do not allow for preferential treatment to one or more investors or categories of investors pursuant to article 35-decies, paragraph 1, letter d), and the EU provisions in force which discipline the subject;

e) without prejudice to the provisions of Article 26 of Regulation (EU) no. 2015/760 of the European Parliament and of the Council of 29 April 2015, the managers provide in Italy, as required under Article 43-bis of Directive 2011/61/EU, facilities for the retail investors that are not included in the investor categories to which the Italian reserved AIFs can be marketed, in compliance with the regulatory provisions issued by CONSOB, after consultation with the Bank of Italy, which, in particular:

1) determines the duties of the facilities in order for the investors to exercise their rights and have access to the information provided for by Article 43-bis of Directive 2011/61/EU;

2) determines the language through which these facilities must be provided;

3) governs the conditions whereby the duties referred to in number 1) can be carried out by a third party or manager together with a third party[522].

f) the information to be made available to retail investors before the investment must be complete, coherent and comprehensible;

6. CONSOB, after consultation with the Bank of Italy, defines by regulation the procedures for the issue of the authorisation contemplated by paragraph 5[523].

7. The offer to the public and the admission for the trading of the AIF units or shares marketed pursuant to this article are subject to the provisions contemplated by part IV, title II, chapter I and title III, chapter

521 Paragraph thus replaced by Article 2 of Legislative Decree no. 191 of 5.11.2021.

522 Letter thus substituted by Article 2 of Legislative Decree no. 191 of 5.11.2021

523 See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018).

I and the relative enactment provisions.

8. In the case of AIFs subject to the discipline contemplated by part IV, title II, chapter I, section I, for the offer of which Italy is the Home Member State, the notification contemplated by paragraph 3 shall be considered as made also for the purposes and effects of article 94, paragraph 1, and the verification of the completeness, coherence and comprehensibility of the information contained in the document referred to in paragraph 2, letter c), is carried out during the course of the procedure contemplated by article 95, paragraph 1, letter a). The communication contemplated by paragraph 3 is made with the provision of the approval of the prospectus[524].

9. CONSOB and the Bank of Italy exercise the powers provided for by articles 6-bis and 6-ter regarding foreign bodies indicated in paragraph 5 and relative managers. Article 8 also applies to said parties[525].

Chapter II-quater[526]
Obligations of the asset management companies the AIFs of which acquire relevant or or controlling interests of non-listed companies and of issuers

Article 45
Obligations relative to the acquisition of relevant or controlling interests of non-listed companies

1. The asset management companies inform CONSOB when they reach, exceed or reduce to below 10%, 20%, 30%, 50% and 75% the voting rights in a non-listed company consequent to the acquisition, holding or disposal of stakes in the share capital on the part of the Italian AIF or the EU or non-EU AIF managed by the same. The communication must be made within ten working days of the date of the operation.

2. The asset management companies whose Italian, EU or non-EU AIF acquire or hold, also indirectly through trust companies or proxies, the absolute majority of the voting rights which can be exercised in the shareholders' meeting of a non-listed company, shall report the acquisition of control within ten working days:

a) to the company;

b) to the shareholders whose identity and addresses are available to the asset management company or which can be made available through the non-listed company or through a register to which the asset management company may have access;

c) to CONSOB.

3. The provisions contained in paragraphs 1 and 2 also apply to:

a) the asset management companies whose AIFs acquire, also jointly, relevant interests in a non-listed company;

b) the asset management companies which manage one or more AIFs which, individually or jointly on the basis of an agreement, acquire control of a non-listed company;

c) the asset management companies which cooperate with other asset management companies or

524 Paragraph thus amended by Article 5 of Legislative Decree no. 191 of 5.11.2021, which replaced the words: “paragraph 1” with the words: “paragraph 3” and the words: “94-bis, paragraph 2” with the words: “95, paragraph 1, letter a)”.

525 Paragraph thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

526 Chapter included by Article 4 of Legislative Decree no. 44 of 4.3.2014.

with EU or non-EU AIFMs, on the basis of an agreement pursuant to which the AIFs managed by the same jointly acquire control of a non-listed company;

d) the SICAVs and the SICAFs which directly manage their own assets and which are in the situations contemplated by letters a), b) and c).

4. For the purposes of this article, non-listed companies are those with registered office in the European Union and which have no shares admitted for trading on a regulated market, other than:

a) micro, small and medium companies as defined by article 2, paragraph 1, of the annex to Recommendation 2003/361/EC of the European Commission, of 6 May 2003;

b) vehicle companies whose purpose is the acquisition, holding or management of fixed assets.

5. CONSOB, in compliance with the provisions of Directive 2011/61/EU, establishes by regulation:

a) the procedures for making the communications contemplated by paragraph 1;

b) the content and the procedures for compliance with the information obligations towards the subjects indicated in paragraph 2, and those of the workers' representatives of the non-listed company or, in their absence, the workers themselves;

c) the content of the additional information to be included in the annual report of the non-listed subsidiary, as well as the procedures and terms according to which said report is made available by the governing body to the workers' representatives or, in their absence, to the workers themselves;

d) the obligations that the asset management company must fulfil to guarantee the protection of the capital and to prevent the unbundling of the activities of the non-listed company for a period of twenty-four months from the acquisition of control in the part of the UCIs managed[527].

Article 46
Obligations relative to the acquisition of a controlling interest of an issuer

1. The asset management companies whose Italian, EU and non-EU AIFs acquire a controlling stake of an issuer's capital communicated the information established by CONSOB in its own regulation, according to the procedures and terms established therein, to:

a) the issuer;

b) the shareholders whose identity and addresses are available to the asset management company or which can be made available through the issuer or through a register to which the asset management company may have access;

c) CONSOB[528].

2. For the purposes contemplated by paragraph 1, the acquisition of a controlling stake refers to the acquisition, on the part of an asset management company, individually or jointly with other asset management companies, and also indirectly through trustees or proxies, of a stake which attributes voting rights equal to or more than thirty percent of the capital of an issuer with registered office in Italy, or the diverse threshold determined pursuant to article 5, paragraph 3, of Directive 2004/25/EC, concerning public acquisition offers, according to the law of the Member State where the issuer has its head office.

3. This article also applies to:

a) the asset management companies which manage one or more Italian, EU or non-EU AIFs which, individually or jointly on the basis of an agreement, acquire control of an issuer;

527 See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018).

528 See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018).

b) the asset management companies which cooperate with other asset management companies or with EU or non-EU AIFMs, on the basis of an agreement pursuant to which the Italian, EU or non-EU AIFs managed by the same jointly acquire control of an issuer;

c) the SICAVs and the SICAFs which directly manage their own assets and which are in the situations contemplated by letters a) and b).

4. CONSOB, in compliance with the provisions of Directive 2011/61/EU, establishes by regulation:

a) the content and the procedures for compliance with the information obligations towards the subjects indicated in paragraph 1, and those of the workers' representatives of the issuer;

b) or, in their absence, the workers themselves;

c) the obligations that the asset management company must fulfil to guarantee the protection of the capital and to prevent the unbundling of the activities of the issuer for a period of twenty-four months from the acquisition of control in the part of the UCIs managed[529].

5. For the purposes of this article, issuers are companies with shares admitted for trading on a regulated market, other than:

a) micro, small and medium companies as defined by article 2, paragraph 1, of the annex to Recommendation 2003/361/EC of the European Commission, of 6 May 2003;

b) vehicle companies whose purpose is the acquisition, holding or management of fixed assets.

Chapter II-quinquies[530]
UCITS credit

Article 46-bis
Direct issue of loans by Italian AIFs

1. Italian AIFs may invest in loans, against the equity of the same, in favour of subjects other than consumers, in line with the rules of this decree and the relative implementation provisions adopted pursuant to articles 6 paragraph 1, and 39.

Article 46-ter
Direct issue of loans by EU AIFs in Italy

1. EU AIFs may invest in loans, against the equity of the same, to subjects other than consumers, in Italy with the following conditions:

a) the EU AIF is authorised by the competent authority of the member states of origin to invest in loans, including those issued against the equity of the same, in its country of origin;

b) the EU AIF has a closed structure and the operating model of the same, particularly regarding investment methods, is the same as that of the Italian AIFs that invest in loans;

c) the regulations of the country of origin of the EU AIF regarding containment and portioning of risk, including financial leverage limits, are equivalent to the regulations established for Italian AIFs that invest in loans. Equivalence with respect to Italian regulations can be checked also with reference only to the provisions of the by-laws or regulations of the EU AIF, providing that the competent authority of the member state of origin assures their observance.

529 See CONSOB Regulation no. 20307 of 15.2.2008 (published in the Ord. Suppl. no. 7 of the Official Journal no. 41of 19.2.2018).

530 Chapter first inserted by paragraph 1 of Article 17 of D.L. no. 18 of February 14, 2016, converted with amendments by Law no. 49 of April 8, 2016 and subsequently amended by Article 2 of Legislative Decree no. 129 in the terms indicated in the following note.

2. The managers of EU AIFs which intend to invest in loans against the equity of the same in Italy inform Bank of Italy of this intention. The EU AIF may not begin operations until sixty days from this communication, within which time Bank of Italy may prohibit investment in loans against the equity of the same in Italy.

3. The Bank of Italy and CONSOB may request managers, within the context of their respective competences, to communicated data and information and transmit deeds and documents in the ways and under the terms they have established. The Bank of Italy and CONSOB, within the context of their respective competences, may request information from personnel of the managers, even through the latter. Article 8, paragraph 1 is applicable to the managers. Bank of Italy may provide for the participation of the EU AIFs at the Central Credit Register pursuant to paragraph 1 and may also provide that participation occurs via banks and intermediaries listed in the register pursuant to article 106 of Italian Legislative Decree no. 385 of 1 September 1993[531].

4. Italian provisions applicable to EU AIFs remain effective for the sale of shares and quotas and every other area not expressly regulated by this article.

5. Bank of Italy dictates the implementing provisions of the present article.

Article 46-quater
Other applicable provisions

1. Regarding loans issued in Italy by Italian AIFs and EU AIFs, against the equity of the same, the following find application: provisions on transparency of contractual terms and terms governing relationships with customers pursuant to Title VI, Chapters I and III, excluding article 128-bis, and the provisions on administrative sanctions pursuant to Title VIII, Chapters V and VI, of Italian Legislative Decree no. 385 of 1 September 1993, without prejudice to that provided for by article 23, paragraph 4 of this decree.

2. The AIF manager is bound to respect the obligations laid out by the provisions indicated in paragraph 1.

Chapter III[532]
Custodian

Article 47
Custodian mandate

1. For each UCI, the manager confers custodian mandate on a single subject, to which the assets of the UCI are entrusted as contemplated in this chapter.

2. The job of depositary may be performed Italian banks, Italian branches of EU banks and banks of non-EU countries, investment firms and Italian branches EU Investment companies UE and companies in non-EU countries, other than banks[533]

3. The Bank of Italy authorises the exercise of custodian functions and, after consulting CONSOB, the

531 Paragraph thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the first sentence.

532 Chapter thus replaced by Article 4 of Legislative Decree no. 44 of 4.3.2014.

533 Paragraph thus substituted by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

conditions for accepting the mandate.

4. The directors and auditors of the custodian report without delay to the Bank of Italy and CONSOB, each for its own competence, any irregularities found in the manager's management and in the management of the UCIs and, at the request of the Bank of Italy or CONSOB, gives information on facts and acts of which it gains knowledge in the performance of its custodian duties.

Article 48
The custodian's duties

1. The custodian acts independently and in the interests of the UCI investors. It adopts every appropriate measure to prevent potential conflicts of interests between the performance of its custodian duties and the other activities carried out.

2. The custodian fulfils the obligations of the custody of the financial instruments entrusted to the same and verification of ownership, and also the obligation to keep registers of other assets. Unless entrusted to other subjects, it also holds the available liquidity of the UCIs.

3. The custodian, in the performance of its duties:

a) verifies the legitimacy of the operations of sale, issue, repurchase, reimbursement and annulment of the fund units, as well as the destination of the revenues of the UCI;

b) ascertains the correctness of the calculation of the value on the part of the UCITS[534];

c) verifies, in operations relative to the UCI, that the counter-obligation is fulfilled within the established terms;

d) carries out the manager's instructions, providing they are not against the law, regulations or the prescriptions of the supervisory bodies;

e) monitors the UCI cash flows, if the liquidity is entrusted to the same.

3-bis. The custodian may carry out other activities for the provider, including the calculation of the value of the parties to the UCITS, without prejudice to the application of the law on outsourcing pursuant to article 6, paragraph 1, letter c-bis), number 8), and paragraph 2-bis and providing it separates, according to hierarchy and function, the execution of the duties of custodian from its other potentially conflicting duties and that the potential conflicts of interests are identified, managed, monitored and communicated to the UCITS investors[535].

4. The Bank of Italy, after consulting CONSOB, issues enactment provisions of this article, also with reference to the identification of subjects other than the custodian to which the available liquidity may be entrusted, the procedures for the deposit of such available liquidity, and the conditions for delegating custody and for the re-use of the UCI assets on the part of the custodian.

Article 49
The custodian's responsibilities

1. The custodian is responsible towards the UCI manager and investors for any prejudice they may suffer consequent to non-fulfilment of its obligations.

534 Paragraph thus amended by Article 1 of Legislative Decree no. 71 of 18.4.2016 which eliminated the words: "or, if Italian UCITSs, at the request of the manager, it provides for said calculation".

535 Paragraph first included by Article 1 of Legislative Decree no. 71 dated 18.4.2016 and then thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «article 6, paragraph 2-bis, letter k)» with the words: «article 6, paragraph 1, Letter c-bis), number 8), and paragraph 2-bis».

2. In the case of the loss of financial instruments in custody, unless the custodian can prove that the default was caused by accident or by force majeure, it shall be held to return, without undue delay, financial instruments of the same kind or a sum of the corresponding amount, and shall be held liable for any other loss sustained by the UCI or the investors consequent to failure to respect its obligations, whether intentional or due to negligence.

3. In the case of loss of financial instruments on the part of the third party to which custody has been delegated, the custodian shall always bear liability, unless written agreements have been stipulated between the manager, the custodian and the third party to which custody has been delegated, aimed at determining the exclusive assumption of liability on the part of the third party. For the possible stipulation of such agreements, the manager, the custodian and the third party shall adhere to the discipline, established by the Bank of Italy after consultation with CONSOB, which identifies the cases in which such agreements are allowed and their minimum content.

4. In the case of the exclusive assumption of liability on the part of the third party pursuant to paragraph 3, it shall answer pursuant to paragraph 2. The third party shall always remain liable if it, in turn, delegates the custody of the financial instruments to another subject, without prejudice to the possibility of agreements as contemplated in paragraph 3.

Article 50
Other applicable provisions

…omissis…[536]

Chapter III-bis[537]
Master-feeder structures

Article 50-bis
Authorisation and rules of operation of master-feeder structures

…omissis…[538]

Chapter III-ter[539]
Merger and spin-off of asset investment bodies

Article 50-ter
UCITS merger and spin-off

…omissis…[540]

536 Article repealed by Article 4 of Legislative Decree no. 44 of 4.3.2014.

537 Chapter included by Article 1 of Legislative Decree no. 47 of 16.04.12.

538 Article repealed by Article 4 of Legislative Decree no. 44 of 4.3.2014.

539 Chapter included by Article 1 of Legislative Decree no. 47 of 16.04.12.

540 Article repealed by Article 4 of Legislative Decree no. 44 of 4.3.2014.

Article 50-quater
Cross-border merger of harmonised UCITS

…omissis…[541]

TITLE III-BIS[542]
MANAGEMENT OF CROWDFUNDING PORTALS FOR SMALL AND MEDIUM-SIZED ENTERPRISES AND SOCIAL ENTERPRISES

Chapter I[543]
Management of crowdfunding portals for small and medium-sized enterprises and social enterprises

Article 50-quinquies
Management of crowdfunding portals for small and medium-sized enterprises and social enterprises

…omissis…[544]

TITLE IV
INJUNCTIVE REMEDIES AND CRISES

Chapter I
Injunctive remedies[545]

Article 51
Injunctive remedies vis-a-vis Italian and non-EU intermediaries

…omissis…[546]

541 Article repealed by Article 4 of Legislative Decree no. 44 of 4.3.2014

542 Title first inserted by Article 2 of Legislative Decree no. 165 of 25.11.2019 and then repealed by Article 1 of Legislative Decree no. 30 of 10.3.2023.

543 Chapter III-quater of Title III of Part II has been first renamed as Chapter I of Title II-bis of Part II by Article 2 of Legislative Decree no. 165 of 25.11.2019 and subsequently repealed by Article 1 of Legislative Decree no. 30 of 10.3.2023. This Chapter had firstly been introduced by Article 30 of Decree Law no. 179 of 18.10.2012 and subsequently amended by Article 4 of Decree Law no. 3 of 24.1.2015, converted with amendments into Law no. 33 of 24.3.2015, Law no. 232 of 11.12.2016, Article 18 of Legislative Decree no. 112 of 3.7.2017 and Article 2 of Legislative Decree no. 129 of 3.8.2017 according to the terms indicated in the following notes.

544 Article first inserted by Article 30 of D.L. no. 179 of 18.10.2012, subsequently amended by D.L. no. 3 of 24.1.2015, converted with amendments by Law no. 33 of 24.3.2015, by Law no. 232 of 11.12.2016, by Article 18 of Legislative Decree no. 112 of 3.7.2017, by Article 2 of Legislative Decree no. 129 of 3.8.2017, by Article 2 of Legislative Decree no. 165 of 25.11.2010 and finally repealed by Article 1 of Legislative Decree no. 30 of 10.3.2023.

545 Chapter repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

546 Article repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

Article 52
Special measures for EU intermediaries

…omissis…[547]

Article 53
Suspension of administrative bodies

…omissis…[548]

Article 54
Injunction orders on EU UCITS and EU and non-EU AIFs
with stakes or shares offered in Italy

…omissis…[549]

Article 55
Precautionary measures applicable to the financial advisors
authorised to make off-premises offers

…omissis…[550]

Chapter I-bis[551]
Recovery plans, group financial support and early intervention

Article 55-bis
Scope of application

1. This Chapter applies to the following[552]:

a) Class-1 investment firms[553];

b) Investment firms whose registered office is in Italy, other than those indicated in letter a), and which provide trading on own account or underwriting of financial instruments and/or placing of

547 Article first amended by Article 21 of Legislative Decree no. 274 of 1.8.2003; by Article 9 of Legislative Decree no. 164 dated 17.9.2007; by Article 1 of Legislative Decree no. 47 dated 16.4.2012, by Article 5 of Legislative Decree no. 44 dated 4.3.2014, by Article 4 of Legislative Decree no. 72 dated 12.5.2015 and in conclusion repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

548 Article first amended by Article 1 of Legislative Decree no. 47 dated 16.4.2012 and by Article 5 of Legislative Decree no. 44 dated 4.3.2014 and in conclusion repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

549 Article first amended by Article 1, section 39 of Italian Law no. 208 of 28.12.2015 and then repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

550 Article first amended by Law no. 208 dated 28.12.2015 no. 208 and then repealed by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

551 Chapter first included by Article 2 of Legislative Decree no. 181 dated 16.11.2015 and then amended of Article 2 of Legislative Decree no. 129 dated 3.8.2017, by Article 1 of Legislative Decree no. 193 dated 8.11.2021 and Article 1 of Legislative Decree no. 201 dated 5.11.2021 under the terms indicated in the following notes.

552 Paragraph thus amended by Article 1 of Legislative Decree no. 201 dated 5.11.2021, which replaced the words: “to the investment firms whose registered office is in Italy and which provide one or more of the following services or investment activities:” with the words: “to the following:”.

553 Letter thus replaced by Article 1 of Legislative Decree no. 201 dated 5.11.2021.

financial instruments on a firm commitment basis towards the issuer[554];

c) …omissis…[555]

2. For the purposes of this Chapter, the definitions contained in article 69-bis of the Consolidated Law on Banking are applicable.

2-bis. The Bank of Italy applies the provisions of this Chapter towards Class-1 investment firms, in accordance with the provisions of Article 6-bis of the Consolidated Law on Banking and in observance of the powers attributed to the European Central Bank and the Single Resolution Board. For the purpose of the application of this Chapter, in the case of Class-1 investment firms, the provisions referred to the group contemplated by Article 11 are intended as referred to the group pursuant to Article 60 of the Consolidated Law on Banking and the provisions referred to the leading company of the group as contemplated by article 11 are intended as referred to the company heading the group pursuant to Article 60 of the Consolidated Law on Banking[556].

3. The Bank of Italy adopts provisions for the implementation of this Chapter, also to take into account the guidelines of the EBA.

Article 55-ter
Recovery plans

1. The investment firms shall adopt an individual recovery plan in compliance with article 69-quater of the Consolidated Law on Banking. The investment firms belonging to a banking group or to a group identified pursuant to article 11 are not held to provide themselves with an individual recovery plan unless they are specifically requested to do so by the Bank of Italy. For investment firms subject to surveillance consolidated in another Community State, the request for individual plans is made in compliance with article 69-septies of the Consolidated Law on Banking.

2. The leading company of a group as contemplated by article 11 shall adopt a group recovery plan in the cases and in the manner contemplated by article 69-quinquies of the Consolidated Law on Banking.

3. The Bank of Italy, after consulting CONSOB for the aspects of its competence, assesses the recovery plans indicated under paragraphs 1 and 2 according to the provisions of articles 69-sexies and 69-septies of the Consolidated Law on Banking. It may provide for simplified methods of fulfilling the obligations established by this article as contemplated by article 69-decies of the Consolidated Law on Banking.

4. Articles 69-octies and 69-novies of the Consolidated Law on Banking shall be applied.

Article 55-quater
Group financial support

1. Investment firms belonging to a group as contemplated by article 11 may conclude agreements with other members of the group for the supply of financial support if the conditions for early

554 Letter first replaced by Article 1 of Legislative Decree no. 193 dated 8.11.2021 and then by Article 1 of Legislative Decree no. 201 dated 5.11.2021.

555 Letter repealed by Article 1 of Legislative Decree no. 201 dated 5.11.2021.

556 Paragraph included by Article 1 of Legislative Decree no. 201 dated 5.11.2021.

intervention pursuant to article 55-quinquies are met for one of them. The agreements are subject, as far as compatible, with articles 69-duodecies, 69-terdecies, 69-quaterdecies, 69-quinquiesdecies, 69-sexiesdecies and 69-septiesdecies of the Consolidated Law on Banking.

Article 55-quinquies
Early intervention

1. The Bank of Italy, after consulting CONSOB for the aspects of its competence, may issue the measures indicated under articles 69-noviesdecies and 69-vicies-semel of the Consolidated Law on Banking towards an investment firm or a company at the head of a group pursuant to article 11 in the case of the conditions indicated by article 69-octiesdecies of the Consolidated Law on Banking. For this purpose the Bank of Italy exercises the powers indicated by articles 6-bis, paras 1, 2, 3, 11; 6-ter, paras 1, 5, 6, 7, 8; and 12, paragraph 5. The measures are adopted at the proposal of CONSOB when the infringements concerns provisions that it supervises. The measures are adopted by CONSOB proposal when the infringements regard provisions for which it supervises compliance[557].

2. The investment firms disciplined by this Chapter are not subject to article 56-bis.

Article 55-sexies
Participation in the Single Supervisory Mechanism and Single Resolution Mechanism

1. The Bank of Italy applies the provisions of this Chapter to Class-1 investment firms in accordance with the provisions of Article 6-bis of the Consolidated Law on Banking and Article 6-bis of Legislative Decree no. 180 of 16 November 2015, and in observance of the powers attributed to the European Central Bank and the Single Resolution Board[558].

Chapter II
Crisis procedures

Article 56
Special administration

1. The Bank of Italy, on its own initiative or on a proposal formulated by CONSOB within the sphere of its competence, may order the dissolution of the bodies which direct and control the investment companies, the asset management companies, the SICAVS [open-end investment companies] and the SICAFS [closed-end investment companies] when:

a) serious irregularities are found in the administration or serious breaches of the legislative, administrative or statutory provisions which discipline the activity, always if the action indicated by articles 55-quinquies or 56-bis, when applicable, are not sufficient to remedy the situation;

b) the company's capital has suffered serious losses;

c) winding up is requested with a reasoned request by the administrative bodies or by the extraordinary shareholders' meeting or by the commissioner appointed pursuant to article 7 sexies[559].

557 Paragraph as amended by Article 2 of Legislative Decree no. 129 of 3.8.2017 replacing the second period.

558 Article included by Article 1 of Legislative Decree no. 201 of 5.11.2021.

559 Paragraph first amended by Article 9 of Legislative Decree no. 164 dated 17.9.2007 and by Article 5 of Legislative Decree no. 44 dated 4.3.2014; subsequently substituted by Article 2 of Legislative Decree no. 181 dated 16.11.2015 and in conclusion thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that in the Letter c) has substituted the words: «article 53» with the words: «article 7-sexies».

2. The measure provided for in paragraph 1 may also be adopted with respect to the Italian branches of non-EU investment companies other than banks and of non-EU AIFMs authorised in Italy. In this case the administrator and the oversight committee assume the powers of the company's administrative and control bodies with respect to such branches[560].

3. The Bank of Italy shall be responsible for the direction of the procedure and all the related formalities. Insofar as they are compatible, articles 70, paragraphs 2, 3, 4 and 5, 71, 72, 73, 74, 75, 75-bis and 77-bis of the Consolidated Law on Banking are applicable, where such provisions shall be understood to refer to investors instead of depositors and to Italian investment companies, non-EU companies other than banks, asset management companies and to SICAVs, SICAFs and non-EU AIFMs authorised in Italy instead of banks; and the term "financial instruments" shall refer to financial instruments and cash [561].

3. The Bank of Italy shall be responsible for the conduct of the procedure and for all the related obligations. Articles 70, 2, 3, 4 and 5, 71, 72, 73, 74, 75, 75-bis and 77-bis of the Single Banking Act, as they are compatible, apply, as these are referred to investors in depositors, Sims, non-EU companies other than banks, savings management companies, Sicav, Sicaf and non-EU AIFM authorized in Italy in place of banks, and the term "financial instruments" referred to financial instruments and money.

4. Title IV of the Bankruptcy Law shall not apply to Italian investment companies or asset management companies or SICAVs and SICAFs[562].

4-bis. The procedure disciplined by this article is also applicable to the companies heading a group of investment firms pursuant to Article 11 and the other members of the group, as well as, in the case of Class-1 investment firms, to the company heading the group pursuant to Article 60 of the Consolidated Law on Banking and other members of the group. Articles 98, 100, 102, 103, 104 and 105 of Italian Legislative Decree no. 385 of 1 September 1993 are applicable, the said provisions being understood as referring to investment firms instead of banks, as well as, in the case of investment firms other than those of Class 1, to the leading company of the group pursuant to Article 11 in lieu of the company heading the group. Except for Class-1 investment firms, the reference to Article 64 of Italian Legislative Decree no. 385 of 1 September 1993, contained in Article 105 of Italian Legislative Decree no. 385 of 1 September 1993, should be intended as made to Article 11 of this decree[563].

560 Paragraph amended first by Article 5 of Legislative Decree no. 44 dated 4.3.2014 and then by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «non-community investment » with the words: «countries outside the European Union other than banks» and the words: «investment company» with the words: «company».

561 Paragraph amended first by Article 5 of Legislative Decree no. 44 dated 4.3.2014, subsequently by Article 2 of Legislative Decree no. 181 dated 16.11.2015 and in conclusion by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «non-EU investment companies» with the words: «non-EU companies other than banks».

562 Paragraph thus amended by Article 5 of Legislative Decree no. 44 of 4.3.2014 which replaced the words: "and to the SICAVs" with the words: ", to the SICAVs and to the SICAFs".

563 Paragraph first added by Article 2 of Legislative Decree no. 181 of 16/11/2015 and then thus amended by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: “group. Articles” with the words: “group, as well as, in the case of Class-1 investment firms, to the company heading the group pursuant to Article 60 of the Consolidated Law on Banking and other members of the group. Articles”; the words: “and to the company” with the words: “as well as, in the case of investment firms other than those of Class 1, to the leading company” and the words: “the reference” with the words: “Except for Class-1 investment firms, the reference”.

Article 56-bis[564]
Collective removal of the members of administrative and control bodies

1. The Bank of Italy after consulting CONSOB may order the removal of all members of bodies that administer and control SIMs, asset management companies and SICAVs and related parent company under the conditions specified in Article 56, paragraph 1, letter a). The provision is published in extract form in the Official Journal of the Italian Republic.[565]

2. The provision sets the date of removal of members of bodies. The Bank of Italy convenes the shareholders' meeting of the SIM, asset management company, SICAV or parent company with the renewal of the administrative and control bodies on the agenda.

3. The possibility remains of, at any time, having special administration in the cases provided for in Article 56, in the manner and with the effects laid down in this Title.

Article 57
Compulsory administrative liquidation

1. The Minister of the Economy and Finance,[566] acting on a proposal from the Bank of Italy or CONSOB to the extent of their duties, may issue a decree withdrawing authorisation to carry on business and ordering the compulsory administrative liquidation of Italian investment companies, asset management companies, SICAVs and SICAFs, even when special administration or liquidation under ordinary rules is already in effect, where the administrative irregularities or the violations of laws, regulations or Articles of Association or the losses referred to in Article 56 are exceptionally serious. In the case of the investment companies indicated under article 55-bis, paragraph 1, liquidation is ordered in the case of the conditions indicated legislative decree 16 November 2015, no. 180, but that indicated under article 20 of the same decree for ordering the winding up does not exist[567].

2. Compulsory liquidation may be ordered in the manner provided for in paragraph 1 upon a reasoned request by the administrative bodies, the extraordinary shareholders' meeting, the provisional administrator appointed pursuant to article 7-sexies, the special administrators or the liquidators[568].

3. The Bank of Italy is responsible for directing the procedure and for fulfilling all the procedures connected to the same. As far as compatible, Article 80, paragraphs from 3 to 6, and Articles 81, 82, 83, 84, 85, 86 except for paragraphs 6 and 7, 87 paragraphs 2 and 3, 88, 89, 90, 91 except for paragraphs 1-bis and 11-bis, 92, 92-bis, 93, 94 and 97 of the Consolidated Law on Banking are applied, the above provisions being understood as referring to investment companies, asset

564 Article first included by Article 4 of Legislative Decree no. 72 dated 12.5.2015 and then amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 under the terms indicated in the following note.

565 Paragraph thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that, after the words: «the Bank of Italy» has included the words: «after consulting CONSOB».

566 The preceding words: "Ministry of the Treasury, Budget and Economic Planning" was replaced by the words: "Ministry of Economy and Finance" by Article 1 of Legislative Decree no. 37 of 6.2.2004.

567 Paragraph amended first by Article 9 of Legislative Decree no. 164 dated 17.9.2007, subsequently by Article 5 of Legislative Decree no. 44 dated 4.3.2014, by Article 2 of Legislative Decree no. 181 dated 16.11.2015 and in conclusion by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: “decree implementing directive 2014/59/EU” with the words: “Legislative Decree 16 November 2015, no. 180”.

568 Paragraph thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: “article 53” with the words: “article 7-sexies”.

management companies, SICAVS and SICAFS in place of banks, and the expression “financial instruments” is understood as referring to financial instruments and to cash. For the purposes of the application of Article 92-bis of the Consolidated Law on Banking to asset management companies, the provisions contained therein relative to customers entered in the separate section refer to funds or compartments managed by the company[569].

3-bis. If the compulsory liquidation is arranged of an asset management company, the liquidators appointed with liquidate or dispose of the funds it manages and the related compartments, to this end exercising the relevant administrative powers. Insofar as they are compatible, Articles 83, 84, paragraph 3, 86, with the exception of paragraphs 6 and 7, 87, paragraphs 2 and 3, 88, 89, 90, 91, with the exception of paragraphs 1-bis, 2, 3 and 11-bis, 92, 92-bis, 93 and 94 of the Consolidated Law on banking and paragraphs 4 and 5 of this Article shall apply. Investors in funds or compartments have the exclusive right to the allocation of the net residue from liquidation proportionally to the respective investment shares held; from the date on which the compulsory administrative liquidation decree is issued, the functions of the fund bodies shall cease[570].

4. The liquidators, within thirty days of the expiry of the limitation period referred to in Article 86(5) of the Consolidated Law on Banking and after consulting the superseded directors, shall file the lists of admitted creditors, indicating the existence and order of rights of preference, of holders of rights referred to in paragraph 2 of such article and of persons belonging to the same categories whose request for allowance of their claims has been denied with the Bank of Italy and, for inspection by those having entitlement, with the clerk of the court of the place where the Italian investment company or management company or the SICAV and the SICAF has its registered office. Customers entitled to the restitution of financial instruments and funds in connection with services and activities referred to in this decree shall be entered in a special section of the statement of liabilities. This paragraph shall apply in the place of Articles 86(6) and 86(7) of the Consolidated Law on Banking[571].

5. Persons whose claims have not been allowed in whole or in part may present objections to the statement of liabilities regarding their own position and to the recognition of rights in favour of persons included in the lists referred to in paragraph 4, within fifteen days of receipt of the communication referred to in Article 86(8) of the Consolidated Law on Banking, and persons whose claims have been admitted may present objections within the same time limit starting from the publication of the notice referred to in paragraph 8 of such article. This paragraph shall apply in the place of Article 87(1) of the Consolidated Law on Banking[572].

6. If the compulsory administrative settlement regards a SICAV or a SICAF, the commissioners shall

569 Paragraph thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: “article 53” with the words: “article 7-sexies”.

570 Paragraph first added by Article 1 of Legislative Decree no. 47 of 16.4.2012 and then amended by Article 2 of Legislative Decree no. 181 of 16.11.2015 which replaced the words: “Insofar as they are compatible, Articles 83, 86, with the exception of paragraphs 6 and 7, 87, paragraphs 1, 2 and 4, 88, 89, 90, 91, with the exception of paragraphs 2 and 3, 92, 93 and 94 of the Consolidated Law on Banking” with the words: “Insofar as they are compatible, Articles 83, 86, with the exception of paragraphs 6 and 7, 87, paragraphs 2 and 3, 88, 89, 90, 91, with the exception of paragraphs 1-bis, 2, 3 and 11-bis, 92, 92-bis, 93 and 94 of the Consolidated Law on banking” and by Article 3 of Legislative Decree no. 193 of 8.11.2021, which after the words: “Articles 83,” added the words: “84, paragraph3,”.

571 Paragraph first amended by Article 9 of Legislative Decree no. 164 of 17.9.2007 and subsequently by Article 5 of Legislative Decree no. 44 of 4.3.2014, which replaced the words: "and the SICAV" with the words: ", the SICAV and the SICAF".

572 Paragraph amended first by Article 2 of Legislative Decree no. 181 of 16/11/2015 which replaced the word: "recommended" with the word: "communication".

inform shareholders within thirty days of appointment of the number and type of shares pertaining to each in accordance with company records and documents[573].

6-bis. Should fund or compartment activities not enable their obligations to be met and should there be no reasonable prospects that this situation will be overcome, one or more creditors or the asset management company may request the liquidation of the fund before the court of the place in which the asset management company has its registered office. The court, having consulted with the Bank of Italy and the legal representatives of the asset management company, where the risk of damages is considered grounded, orders the liquidation of the fund with sentence resolved in the council chamber. In this event, the Bank of Italy shall appoint one or more liquidators who will order in accordance with the provisions of paragraph 3-bis, as well as a supervisory board composed of three members, which elects their chairman with a majority of votes; asset management companies or entities may also be appointed liquidators. The provision of the Bank of Italy is published in extract form in the Official Journal of the Italian Republic. Insofar as it is compatible, Article 84, with the exception of paragraph 5, of the Consolidated Law on Banking shall apply to liquidators. If the asset management company managing the fund is subsequently subjected to compulsory administrative liquidation, the liquidators of the asset management company shall administer the fund on the basis of a situation of the accounts prepared by the fund's liquidators. The indemnities for the liquidators and the members of the supervisory board are determined by the Bank of Italy on the basis of criteria set out by it and are borne by the liquidation[574].

6-bis1. When the fund or the compartment subjected to liquidation pursuant to paragraph 6-bis is without liquid resources or these are estimated by the liquidators as insufficient to satisfy the credits subject to pre-deduction before the closure of the liquidation, the liquidators pay, with priority in respect of all the other pre-deductible credits, the expenses necessary for the execution of the liquidation, the indemnities and expenses for fulfilling the liquidators' mandates, and the expenses for ascertaining the deficit, for maintaining and selling the assets, for the execution of the divisions and returns and for the closure of the liquidation itself, using first any liquid resources that may be available to the liquidation and then the sums made available by the asset management company which manages the fund or the compartment. The sums advanced by the asset management company are recovered from the liquid resources of the procedure that subsequently become available, after payment of the other pre-deductible credits. If the asset management company is subjected to compulsory administrative liquidation and is without liquid resources or these are estimated by the liquidators as insufficient to satisfy the expenses and indemnities referred to in the first clause of this paragraph, Article 92-bis of the Consolidated Law on Banking, insofar as it is compatible, shall apply to the fund or compartment[575].

6-bis.2. The procedure laid down in paragraph 6-bis also applies to SICAVs and SICAFs under outsourced management or to the related compartments, the aforementioned provisions being understood to refer to the SICAVs and SICAFs under outsourced management or to the related compartments in lieu of the funds or compartments, and to the external manager, designated in

573 Paragraph thus amended by Article 5 of Legislative Decree no. 44 of 4.3.2014 which after the words: "a SICAV" has introduced the words: "or a SICAF".

574 Paragraph first introduced by Article 1 of Legislative Decree no. 47 of 16.4.2021, subsequently amended by Article 2 of Legislative Decree no. 181 of 16.11.2015 and finally thus replaced by Article 2 of Legislative Decree no. 193 of 8.11.2021.

575 Paragraph added by Article 3 of Legislative Decree no. 193 of 8.11.2021.

accordance with Article 38, in lieu of the asset management company[576].

6-ter. The procedure disciplined by this article is also applicable to the leading company of a group of investment firms pursuant to Article 11 and other members of the group, as well as, in the case of Class-1 investment firms, to the company heading the group pursuant to Article 60 of the Consolidated Law on Banking and other members of the group. Compulsory administrative liquidation of the company heading the group is ordered when the irregularities in the administration or the violations of legislative, administrative or statutory provisions or the losses provided for by Article 56 are exceptionally serious and when the instances of non-compliance in the management of the activity provided for by Article 61, paragraph 4, of the Consolidated Law on Banking are exceptionally serious. In the case of groups that include an investment firm indicated in Article 55-bis, paragraph 1, compulsory administrative liquidation of the company heading the group is ordered if the requirements referred to in Article 99, paragraph 2, of the Consolidated Law on Banking are fulfilled, and Article 102-bis of the Consolidated Law on Banking also applies to the other members of the group. In any case, Articles 99, paragraphs 3, 4 and 5, 101, 102, 103, 104 and 105 of the Consolidated Law on Banking are applicable, the said provisions being understood as referring to investment firms instead of banks, as well as, in the case of investment firms other than those of Class 1, to the leading company of groups pursuant to Article 11 in lieu of the company heading the group. Except for Class-1 investment firms, the reference to Article 64 of the Consolidated Law on Banking, contained in Article 105 of the Consolidated Law on Banking, is intended as made to Article 11 of this decree[577].

Article 58[578]
Branches in Italy of foreign investment companies and managers

1. In the case of the revocation of the authorisation for the business practice of a Community EU investment company, an EU management company, or an EU or non-EU AIFM authorised in a Member State of the EU other than Italy, on the part of the competent authority, the Italian branches may be subjected to enforced liquidation pursuant to the provisions of article 57, as far as compatible[579].

2. Italian branches of non-EU investment companies other than banks and of non-EU AIFMs

576 Paragraph added by Article 16 of Law no. 21 of 5.3.2024. Article 16, paragraphs 2, 3 and 4, of Law no. 21 of 5.3.2024, provides that: “2. The amendments introduced by this article shall all apply to all the procedures relating to SICAVs and SICAFs under outsourced management in progress at the date of entry into force of this law. 3. The Bank of Italy shall order cancellation of the SICAVs and SICAFs under outsourced management from the register referred to in Article 35-ter of the consolidated law referred to in Legislative Decree no. 58 of 24 February 1998, within six months from the date of entry into force of this law. 4. SICAVs and SICAFs under outsourced management established before the date of entry into force of this law shall comply with the new provisions within twelve months from the same date of entry into force.”

577 Paragraph first added by Article 2 of Legislative Decree no. 181 of 16.11.2015, subsequently replaced by Article 3 of Legislative Decree no. 193 of 8.11.2021 and finally amended by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: “of the other members of the group” with the words: “of the other members of the group as well as, in the case of Class-1 investment firms, towards the company heading the group pursuant to Article 60 of the Consolidated Law on Banking and the other members of the group”; the words: “as well as, to the leading company” with the words: “as well as, in the case of investment firms other than those of Class 1, to the leading company” and the words: “the reference” with the words; “Except for Class-1 investment firms, the reference”.

578 Paragraph added by Article 2 of Legislative Decree no. 181 of 16/11/2015.

579 Paragraph thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the word: «community» with the word: «EU».

authorised in Italy are subject to the provisions of article 57, as far as compatible[580].

Article 58-bis[581]
(Investment firms operating in the European Union) [582]

1. The recovery provisions and the liquidation procedures of investment companies indicated under article 55-bis, paragraph 1, and of EU investment companies which perform the activities indicated by the same article, are subject to the application of articles 95-bis, 95-ter, 95-quater, 95-quinquies and 95-septies of the Consolidated Law on Banking, the said provisions being understood as referring to investment companies and EU investment companies instead of banks[583].

2. For the purposes of paragraph 1:

a) the reference to article 79, paragraph 1, of the Consolidated Law on Banking contained in article 95-bis, paragraph 1-bis, of the same decree is understood as referring to article 7-quater, paragraph 1, of this decree[584];

b) the request referred to by article 95-quater, paragraph 2, of the Consolidated Law on Banking can be carried out subsequent to a CONSOB report in the case of the conditions contemplated by article 56, paragraph 1, letter a);

c) the Bank of Italy can issue provisions for the implementation of this article pursuant to article 95-sexies of the Consolidated Law on Banking.

Article 59
Compensation systems

1. The issue of authorisation for the provision of investment services and activities shall be subject to membership of a compensation system for the protection of investors recognized by the Minister of the Economy and Finance[585] after consulting the Bank of Italy and CONSOB[586] [587].

2. The Minister of the Economy and Finance,[588] after consulting the Bank of Italy and CONSOB, shall adopt a regulation on the organisation and operation of compensation systems.[589]

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580 Paragraph thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «non-community investment companies» with the words: «non-EU investment companies other than banks».

581 Article first included by Article 2 of Legislative Decree no. 181 dated 16.11.2015 and then amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 under the terms indicated in the following notes.

582 Chapter thus replaced by Article 2 of Legislative Decree no. 129 dated 3.8.2017.

583 Paragraph thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «European» with the words: «EU».

584 Letter thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «article 52» with the words: «article 7-quater».

585 Article added by article 2 of Legislative Decree no. 181 of 16/11/2015.

586 The compensation system was approved by a decree issued by the Minister of the Treasury, the Budget and Economic Planning on 30.6.1998 and 29 March 2001, and by the Ministry of the Economy and Finance on 19 June 2007.

587 Paragraph amended by Article 9 Legislative Decree no. 164 of 17.9.2007 which replaced the words: “The provision of investment services” with the words: “The issue of authorisation for the provision of investment services and activities”.

588 The former wording “Minister of the Treasury, Budget and Economic Planning” was replaced with the wording “Minister of the Economy and Finance” by Article 1 of Legislative Decree no. 37 of 6.2.2004.

589 Pending issue of the implementing provision referred to in this paragraph, Decree 485 of 14.11.1997 issued by the

3. The Bank of Italy, after consulting CONSOB, shall issue a regulation on the coordination of the operation of compensation systems with the compulsory administrative liquidation procedure and supervisory activity in general.

4. Compensation systems shall succeed to the rights of investors up to the amount of payments made to them.

5. The bodies of the insolvency procedure shall verify and certify whether claims admitted to the statement of liabilities arise from the provision of investment services and activities covered by compensation systems[590].

6. The competent court for legal actions involving requests for compensation shall be the court of the place in which the registered office of the compensation system is located.

Article 60
Foreign intermediaries' membership of compensation systems

1. Branches of EU investment companies, of EU management companies and EU and non-EU AIFMs authorised in an EU State other than Italy or EU banks established in Italy may join a recognized compensation system, with reference exclusively to the activity carried on in Italy, in order to supplement the protection provided by the compensation system in force in their home country[591]

2. Unless they are members of an equivalent foreign compensation system, branches of non-EU companies established in Italy must join a recognized compensation system, with reference exclusively to the activity carried on in Italy. The Bank of Italy shall verify whether the protection provided by foreign compensation systems to which branches of non-EU companies operating in Italy belong can be considered equivalent to that provided by recognized compensation systems[592]

Article 60-bis [593]
Responsibilities of investment companies, asset management companies, SICAVs and SICAFs for administrative offences depending on crime[594]

1. Public prosecutors who enter an administrative offence involving an Italian investment company or management company or a SICAV or a SICAF in the register of suspected crimes pursuant to Article 55 of Legislative Decree 231/2001 shall notify the Bank of Italy and CONSOB. The Bank of

Minister of the Treasury, the Budget and Economic Planning (published in O.J. no. 13 of 17.1.1998) shall apply. Also see the operating regulations approved in decrees issued by the Ministry of the Treasury, the Budget and Economic Planning on 30 June 1998 and 29 March 2001, and by the Ministry of the Economy and Finance on 19 June 2007.

590 Paragraph amended by Article 9 Legislative Decree no. 164 of 17.9.2007.

591 Paragraph formerly substituted by Article 23 of Legislative Decree no. 274 of 1.8.2003, subsequently amended first by Article 5 of Legislative Decree no. 44 dated 4.3.2014 and then by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that before the words: «investment companies» and «banks» has included the word: «EU».

592 Paragraph thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «investment and of non-community banks» with the words: «non-EU companies».

593 Article first included by Article 10 of Legislative Decree no. 197 of 9.7.2004 and subsequently amended by Article 5 of Legislative Decree no. 44 of 4.3.2014 and by Article 2 of Legislative Decree no. 129 dated 3.8.2017 within the terms specified in the following notes.

594 List thus replaced by Article 5 of Legislative Decree no. 44 of 4.3.2014.

Italy and CONSOB may be heard during the proceedings at the request of the public prosecutor; they may submit written briefs[595].

2. In every court concerned with the merits of the case, the judge, proceeding on his own authority or otherwise, shall provide for the acquisition from the Bank of Italy and CONSOB of updated information on the situation of the intermediary, with special reference to its organisational structure and internal control system.

3. An unappealable sentence that imposes interdictive sanctions referred to in Articles 9(2)(a) and 9(2)(b) of Legislative Decree 231/2001 on an Italian investment company or management company or a SICAV, or a SICAF shall be transmitted, upon expiration of the time limit for the conversion of the sanctions, by the judicial authority to the Bank of Italy and CONSOB for enforcement. To this end CONSOB or the Bank of Italy, within the scope of their respective authority, may propose or adopt the measures referred to in articles 7-ter, 7-quater, 7-quinquies, 7-sexies and Title IV, taking account of the nature of the sanction imposed and the primary aim of safeguarding stability and protecting the rights of investors[596].

4. The interdictive sanctions referred to in Articles 9(2)(a) and 9(2)(b) of Legislative Decree 231/2001 may not be applied on a precautionary basis to Italian investment companies or asset management companies or SICAVs and SICAFs. Neither shall Article 15 of Legislative Decree 231/2001 apply to such intermediaries[597].

5. This article shall apply to the Italian branches of EU investment companies and non-EU companies other than banks, of EU management companies, EU and non-EU AIFMs authorised in Italy and non-EU AIFMs authorised in an EU Member State other than Italy insofar as it is compatible[598].

Chapter II-bis[599]
Winding up of investment companies

Article 60-bis.1
Scope of application

1. This Chapter is applied to the investment companies indicated under article 55-bis, paragraph 1, and to the Italian branches of non-EU companies other than banks which perform the activities indicated by the same article, unless included within the scope of application of the legislative decree no. 180 of 16

595 Paragraph thus amended by Article 5 of Legislative Decree no. 44 of 4.3.2014 which replaced the words: "or of a SICAV" with the words: ", of a SICAV or a SICAF".

596 Paragraph amended first by Article 5 of Legislative Decree no. 44 dated 4.3.2014 and then by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that after the words: «referred to in» ha included the words: «articles 7-ter, 7-quater, 7-quinquies, 7-sexies and».

597 Paragraph thus amended by Article 5 of Legislative Decree no. 44 of 4.3.2014 which replaced the words: "and SICAVs" with the words: ", SICAVs and SICAFs".

598 Paragraph amended first by Article 5 of Legislative Decree no. 44 dated 4.3.2014 and then by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «EU and non-EU investment companies» with the words: « EU investment companies and non-EU companies other than banks».

599 Chapter first added by article 2 of Legislative Decree no. 181 of 16.11.2015 and subsequently amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017, by Article 3 of Legislative Decree no. 193 of 8.11.2021 and by Article 1 of Legislative Decree no. 201 of 5.11.2021 under the terms specified in the following footnotes.

November 2015[600].

2. The investment companies which fall within the scope of application contemplated by article 2 of legislative decree no. 18O of 16 November 2015 are equivalent to banks for the purposes of the application of the said decree[601]

3. In relation to what is disciplined by this Chapter, and also in derogation from articles 1, 2, 3, 4, 4-bis and 4-ter, articles 3, 4, 5 and 6 of legislative decree no. 18O of 16 November 2015 are applied as well as the definitions contained in article 1 of the same decree[602].

4. When reference is made in this Chapter to provisions of legislative decree no. 180 of 16 November 2015, the provisions referring to banks are understood as referring to investment firms and, except for Class-1 investment firms, those referring to the company heading the group are understood as referring to the leading company of the group pursuant to Article 11[603].

4-bis. The Bank of Italy applies the provisions of this Chapter towards Class-1 investment firms, in accordance with the provisions of Article 6-bis of Legislative Decree no. 180 of 16 November 2015 and in observance of the powers attributed to the European Central Bank and the Single Resolution Board. For the purpose of the application of this Chapter, in the case of Class-1 investment firms, the provisions referred to the group contemplated by Article 11 are intended as referred to the group pursuant to Article 60 of the Consolidated Law on Banking and the provisions referred to the leading company of the group as contemplated by Article 11 are intended as referred to the company heading the group pursuant to Article 60 of the Consolidated Law on Banking[604].

Article 60-bis.2
Winding up plans

1. The Bank of Italy, after consulting CONSOB for the aspects of its competence, prepares:

a) an individual winding up plan for each investment firm not subject to surveillance on a consolidated basis as contemplated by article 7 of Legislative Decree no. 180 of 16 November 2015; or[605]

b) a winding up plan for the groups indicated by Article 11, as contemplated by Articles 8, 9 and 10 of the Legislative Decree no. 180 of 16 November 2015[606].

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600 Paragraph thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «non-European investment companies » with the words: «non-EU companies other than banks» and the words: «decree implementing Directive 2014/59/EU» with the words: «Legislative Decree no. 180 of 16 November 2015».

601 Paragraph thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: decree implementing Directive 2014/59/EU» with the words: «Legislative Decree no. 180 of 16 November 2015».

602 Paragraph thus amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: decree implementing Directive 2014/59/EU» with the words: «Legislative Decree no. 180 of 16 November 2015».

603 Paragraph first amended by Article 2 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «decree implementing Directive 2014/59/EU» with the words: «Legislative Decree no. 180 of 16 November 2015» and then by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: “to investment firms and” with the words: “to investment firms and, except for Class-1 investment firms,”.

604 Paragraph included by Article 1 of Legislative Decree no. 201 of 5.11.2021.

605 Letter thus amended by Article 3 of Legislative Decree no. 193 of 8.11.2021, which replaced the words: “[implementing Directive 2014/59/EU]” with the words: “Legislative Decree no. 180 of 16 November 2015”.

606 Letter thus amended by Article 3 of Legislative Decree no. 193 of 8.11.2021, which replaced the words: “[implementing Directive 2014/59/EU]” with the words: “Legislative Decree no. 180 of 16 November 2015”.

2. The winding up plans are communicated to CONSOB.

3. Title III, Chapter I, of Legislative Decree no. 180 of 16 November 2015 and the provisions referred to therein are applicable as they are not in conflict [607].

Article 60-bis.3
Winding-up possibility

1. The Bank of Italy assesses whether an investment company not belonging to a group can be wound up as contemplated by Article 12 of Legislative Decree no. 180 of 16 November 2015 and by the provisions referred to therein[608].

2. The Bank of Italy assesses whether a group identified pursuant to Article 11 can be wound up, when it is the authority for group winding up, in the cases and as contemplated by article 13 of Legislative Decree no. 180 of 16 November 2015 and by the provisions referred to therein [609].

3. If, subsequent to the assessments carried out pursuant to paragraphs 1 and 2, substantial impediments are found against the winding-up of an investment company or a group, the Bank of Italy proceeds as contemplated by articles 14, 15 and 16 of Legislative Decree no. 180 of 16 November 2015, adopting, when opportune, the measures disciplined therein, after hearing CONSOB for the aspects of its competence[610].

3-bis. The discipline provided for by Title II, Chapter II-bis of Legislative Decree no. 180 of 16 November 2015 is applicable to the investment firms[611].

3-ter. For the purpose of paragraph 3-bis, with regard to investment firms having their registered office in Italy other than those of Class 1 and Class 1 minus:

a) the references to the requirements under Article 92, paragraph 1, letter c) of Regulation (EU) no. 575/2013, set out in Legislative Decree no. 180 of 16 November 2015, are understood as made to those under Article 11, paragraph 1 of Regulation (EU) no. 2019/2033;

b) the references to risk exposure calculated in accordance with Article 92, paragraph 3, of Regulation (EU) no. 575/2013, contained in Legislative Decree no. 180 of 16 November 2015, are understood as made to the requirements under Article 11, paragraph 1 of Regulation (EU) no. 2019/2033, multiplied by 12.5;

c) the references to the Tier 2 capital requirements laid down in accordance with the implementing provisions of Article 104-bis of Directive 2013/36/EU are understood as made to those laid down in accordance with Article 40 of Directive (EU) 2019/2034[612].

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607 Letter thus amended by Article 3 of Legislative Decree no. 193 of 8.11.2021, which replaced the words: "[implementing Directive 2014/59/EU]" with the words: "Legislative Decree no. 180 of 16 November 2015".

608 Letter thus amended by Article 3 of Legislative Decree no. 193 of 8.11.2021, which replaced the words: "[implementing Directive 2014/59/EU]" with the words: "Legislative Decree no. 180 of 16 November 2015".

609 Letter thus amended by Article 3 of Legislative Decree no. 193 of 8.11.2021, which replaced the words: "[implementing Directive 2014/59/EU]" with the words: "Legislative Decree no. 180 of 16 November 2015".

610 Letter thus amended by Article 3 of Legislative Decree no. 193 of 8.11.2021, which replaced the words: "[implementing Directive 2014/59/EU]" with the words: "Legislative Decree no. 180 of 16 November 2015".

611 Paragraph added by Article 3 of Legislative Decree no. 193 of 8.11.2021.

612 Paragraph included by Article 1 of Legislative Decree no. 201 of 5.11.2021.

Article 60-bis.4
Winding up and other crisis management procedures

1. Investment firms are subject to Titles IV and VI and to Articles 99, 102, 103, 104 and 105 of Legislative Decree no. 180 of 16 November 2015. Class-1 investment firms are also subject to Title V of the same legislative decree. The provisions indicated under Article 20 of the same legislative decree, which indicate the reduction or the conversion of shares, of other stakes and capital instruments, or the start-up of the enforced administrative winding up or liquidation are adopted after consulting CONSOB for the aspects of its competence[613].

1-bis. Departing from the provisions of Articles 19, paragraph 2, and 20, paragraph 2 of Legislative Decree no. 180 of 16 November 2015, the existence of the conditions provided for the Article 17, paragraph 1, letters a) and b), and of the public interest referred to in Article 20, paragraph 2, of the same decree is assessed by the Bank of Italy[614].

2. For the purposes of paragraph 1, the references contained in Legislative Decree no. 180 of 16 November 2015 to the discipline laid down by the Consolidated Law on Banking on extraordinary administration and enforced administrative liquidation and, except for Class-1 investment firms, purchase of qualified participation, are understood as made to the corresponding provisions of this Legislative Decree[615].

Article 60-bis.4-bis[616]
Second level unsecured debt instruments and minimum denomination per unit[617]

1. The investment firms indicated in Article 55-bis, paragraph 1, may issue second-level unsecured debt instruments pursuant to Article 12-bis of the Consolidated Law on Banking. Article 91, paragraph 1-bis, letter c-bis), of the Consolidated Law on Banking is applicable.

1-bis. The investment firms indicated in Article 55-bis, paragraph 1, and the companies of the group defined under Article 11 are subject to Article 12-ter of the Consolidated Law on Banking[618].

613 Paragraph first replaced by Article 3 of Legislative Decree no. 193 of 8.11.2021 and then thus amended by Article 1 of Legislative Decree no. 201 of 5.11.2021, which, after the first clause, added the following: “Class-1 investment firms are also subject to Title V of the same legislative decree”.

614 Paragraph included by Article 3 of Legislative Decree no. 193 of 8.11.2021.

615 Paragraph first amended by Article 3 of Legislative Decree no. 193 of 8.11.2021, which replaced the words: “[implementing Directive 2014/59/EU]” with the words: “Legislative Decree no. 180 of 16 November 2015” and then by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: “discipline laid down by the Consolidated Law on Banking on the purchase of qualified participation, extraordinary administration and enforced administrative liquidation” with the words: “discipline laid down by the Consolidated Law on Banking on extraordinary administration and enforced administrative liquidation and, except for Class-1 investment firms, purchase of qualified participation”.

616 Article first included by Article 1, paragraph 1104, of Law no. 205 of 27.12.2017 and then amended by Article 3 of Legislative Decree no. 193 of 8.11.2021 according to the terms indicated in the following footnotes.

617 Title thus substituted by Article 3 of Legislative Decree no. 193 of 8.11.2021.

618 Paragraph added by Article 3 of Legislative Decree no. 193 of 8.11.2021.

PART III
REGULATION OF MARKETS[619]

TITLE I[620]
COMMON PROVISIONS

Article 61
Definitions

1. This part gives the following definitions:

a) "Market making strategy": for the purposes of Articles 65-sexies and 67-ter, the strategy pursued by those carrying out algorithmic trading when, acting on own account as a member or participant of one or more trading venues, the strategy involves the issue of irrevocable and simultaneous purchase and sale, comparable and competitive prices relating to one or more financial instruments on a single trading venue or on several trading venues, with the result of providing regular and frequent liquidity to the market;

b) “Exchange-traded funds-ETF): UCIs with at least one particular category of shares or stakes traded for the full day in at least one trading venues, within the context of which one market-maker intervenes to ensure that the price of his or her shares or stakes in the trading venue has not deviated significantly from the respective net asset value nor, if it is the case from the indicative net asset value calculated in real time;

c) “certificates”: the tradable securities as defined in article 2, section 1, point 27), of (EU) regulation no. 600/2014;

d) “structured financial instruments”: structured financial instruments as defined in article 2, section 1, point 28), of (EU) regulation no. 600/2014;

e) “wholesale trading venues”: state bonds or private and public debentures, other than state bonds, as well as of money market instruments and financial instruments derivatives on public bonds, on rates of interest and on foreign exchange that, on the basis of the rules adopted by the manager of the centre, exclusively allow trading between operators that use their own positions or , in the case of qualified parties, those in which the operator carries out orders of professional clients with their own positions;

f) “main operator”: the parties indicated in article 2, section 1, letter n), of (EU) regulation no. 236/2012, relative to short sales and some aspects of the derivative contracts the subject is which the hedging of risks of non-fulfilment of the issuer (credit default swap);

g) “growth market for small and medium-sized enterprises”: a multilateral trading facility registered as a growth market for small and medium-sized enterprises in compliance with article 69[621];

h) “small or medium-sized enterprise”: an enterprise defined by article 2, section 1, letter (f), of (EU) regulation 2017/1129.

Article 61-bis
Principles of regulation

1. The Bank of Italy and CONSOB exercise the regulatory powers provided for by in this part in the observance of the principles referred to in article 6, paragraph 01.

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619 Title thus substituted by Article 2 of Legislative Decree no. 176 of 12.8.2016.

620 Title firstly substituted by Article 3 of Legislative Decree no. 129 dated 3.8.2017 and then amended by Article 3 of Legislative Decree no.165 of 25.11.2019 according to the terms indicated in the following notes.

621 Letter thus replaced by Article 3 of Legislative Decree no. 165 of 25.11.2019.

TITLE I–BIS[622]
RULES GOVERNING TRADING VENUES AND SYSTEMATIC INTERNALISATIONS

Chapter I
Purpose and recipients for supervision

Article 62
Supervision over trading venues

1. CONSOB supervises trading venues and, without prejudice to the powers and the attributions of CONSOB and the Bank of Italy pursuant to part II of this decree, the relative managers, ensuring for the purpose the transparency, the ordered conduct of the trading and the protection of the investors.

2. CONSOB makes sure that the regulation of the regulated market and the rules of the other trading venues, adopted by the relative managers, are suitable for ensuring the effective achievement of market transparency, the ordered conduct of the trading and the protection of the investors and may request the managers of the trading venues for the appropriate amendments suitable for eliminating the dysfunctions encountered.

3. In the case of need and urgency, CONSOB adopts the necessary provisions even taking the place of the operator of the regulated market, with relation to regulated markets and for the purpose indicated in paragraph 1.

4. The Provisions provided for by paragraph 3 may be adopted by the Chairman of CONSOB or by those who replace him in the case of his absence or inability to attend. These are immediately enforceable and are subject to the approval of the Commission that takes resolutions in the space of five days; the provisions lose their effect if not approved in this term.

Article 62-bis
Wholesale government securities trading venues and main operators

1. The Minister of the Economy and Finance, having consulted with the Bank of Italy and CONSOB, may by regulation establish specific requirements for the wholesale government securities trading venues and the relative managers, identifying further trading methods and/or types of operators admitted to said venues, as well as defining criteria for attributing the qualification of main operator to the parties operating on government securities trading venues.

Article 62-ter
Supervision over wholesale trading venues

1. Without prejudice to the competences and the powers of CONSOB pursuant to this decree, the Bank of Italy supervises the wholesale trading venues and, without prejudice to the powers and the attributions of CONSOB and of the Bank of Italy pursuant to part II of this decree, the relative managers, paying attention to the overall efficiency of the market and the ordered conduct of the

622 Title first introduced by Article 3 of Legislative Decree no. 129 dated 3.8.2017 and then amended by Article 19-ter of Legislative Decree no. 22 of 25.3.2019 (converted by Law no. 41 of 20.5.2019), Article 3 of Legislative Decree no. 165 of 25.11.2019, Article 75 of Decree Law no. 104 of 14.8.2020, Article 1, paragraph 267, of Law no. 178 of 31.12.2020, Article 1 of Legislative Decree no. 31 of 10.3.2023 and Article 8 of Law no. 21 of 5.3.2024, according to the terms indicated in the following notes.

trading.

2. The Bank of Italy ensures that the regulation of the regulated wholesale state bond market and the rules of the other wholesale state security trading venues, adopted by the relative managers, are suitable for ensuring correct and ordered trading and an efficient execution of the orders and may request the managers of the trading venues for the appropriate amendments suitable for eliminating the dysfunctions encountered.

3. In the case of need and urgency, the Bank of Italy adopts, with regard to the regulated markets and for the purpose indicated in paragraph 1, the provisions necessary, even replacing the operator of the regulated market.

4. The Bank of Italy and CONSOB, for the purpose of coordinating the exercise of their functions of supervising and of reducing the charges to the wholesale trading venues to the minimum, stipulate a protocol of understanding with as object the tasks of each of them and the methods of cooperation and exchange of information in the performance of their respective competences, even with reference to the operation in Italy of trading venues of other Member states that exchange state bonds wholesale, as well as the irregularities found and the provisions assumed in the exercising of supervision. The protocol of understanding is made public by the Bank of Italy and by CONSOB in the way they establish.

Article 62-quater
Supervision of the regulation and information of wholesale trading venues

1. The Bank of Italy with its own provision points up the obligations of information and communication of the managers of the wholesale state bond trading venues towards them, indicating also content, terms and methods of communication.

2. Per the wholesale trading venues of state bonds:

a) the regulatory powers provided for in the articles 64, paragraph 4; 64-bis, paragraph 6; 64-ter, paragraph 9; 65, paragraph 2; 65-quater, paragraph 5; 65-sexies, paragraph 7; 74, paragraph 2 and 76, paragraph 2, are exercised by CONSOB, in agreement with the Bank of Italy;

b) the attributions of CONSOB referred to in articles 64, paragraph 5; 64-quater, paras 1, 6, 7 and 9 and 64-quinquies, paragraph 1, are exercised by the Ministry of the Economy and Finance, having consulted with the Bank of Italy and CONSOB;

c) the attributions of CONSOB referred to in articles 64, paragraph 7; 64-bis, paras 5, 8 and 9; 64-ter, paragraph 7; 64-quinquies, paras 2, 4, 5 and 6; 65-sexies, paragraph 6; 67, paras 8 and 11 and 67-bis, paragraph 2, lie with the Bank of Italy; the right of access al book of Trade, pursuant to article 65-septies, paragraph 2, is attributed, as well as to CONSOB, to the Bank of Italy;

d) the information, communication and reporting provided for in articles 64-bis, paras 3 and 4; 64-ter, paragraph 8; 64-quater, paragraph 8; 65-bis, paragraph 3; 65-septies, paragraph 3; and 66-ter, paragraph 3, are transmitted to the Ministry of the Economy and Finance, the Bank of Italy and CONSOB;

e) the information and the communications provided for in the provisions included in the chapter II are transmitted to the Bank of Italy instead of CONSOB, with the exception of the communications provided for by article 65-septies, paras 4 and 5.

3. For the wholesale private and public debenture other than state bond trading venues, as well as of money market instruments and financial instruments derivatives on public securities, on rates of interest and on foreign exchange, the powers and the attributions referred to in articles 64, paras 4, 5 and 7; 64-bis, paras 5, 6, 8 and 9; 64-ter, paras 7 and 9; 64-quater, paras 1, 6, 7 and 9; 64-quinquies

paragraph 1, 2, 4, 5 and 6; 65, paragraph 2; 65-quater, paragraph 5; 65-sexies, paragraph 7, are exercised by CONSOB, having consulted the Bank of Italy.

4. The Bank of Italy and CONSOB exchange the information and the communications acquired regarding the wholesale private and public debenture trading venues with each other including state bonds, as well as money market instruments and financial instruments derivatives on public securities, rates of interest and foreign exchange in accordance with the method established in the protocol of understanding referred to in article 62-ter, paragraph 4.

Article 62-quinquies
Supervision over compliance with directly applicable provisions of the European Union

1. CONSOB and the Bank of Italy supervise, each as per their competences, pursuant to this part, compliance with the provisions dictated by (EU) regulation no. 600/2014 as well as delegated acts, technical regulation and implementation regulations of the aforementioned regulation and of the directive 2014/65/EU.

Article 62-sexies
Supervision over energy and gas financial instrument trading venues

1. The provisions of this title are applied to the regulated markets for the Trade of financial instruments electricity and gas derivatives and companies that organise and manage said markets are applied, without prejudice to what is indicated in paras 2, 3, 4, 5 and 6.

2. The Provisions referred to in articles 62, paragraph 2; 64-bis, paras 5 and 8; 64-quater, paras 1, 2 and 6; 64-quinquies, paras 1 and 5; 67, paragraph 9; 70, paras 1 and 2; 90-quinquies, paragraph 2, letter b), and 90-sexies, paragraph 2, are adopted by CONSOB, in agreement with the electricity, gas and waterworks authorities.

3. The powers and the attributions of CONSOB provided for by article 67, paragraph 10, are exercised by CONSOB, having consulted the electricity, gas and waterworks authorities.

4. The electricity, gas and waterworks authorities exercise the powers provided for in this article according the general needs of stability, economic viability and ability to compete of the electricity and gas markets, as well as of the safety and efficient functioning of the national electricity and gas transport network.

5. In the exercise of the functions provided for by this article, CONSOB and the electricity, gas and waterworks authorities provide each other with help and work with each other partly through exchange of information, without conflicting with professional secrecy. CONSOB and the electricity, gas and waterworks authorities act in a coordinated manner, for this purpose stipulating appropriate protocols of understanding.

6. The electricity, gas and waterworks authorities inform the Ministry of Economic Development about the supervision carried out and irregularities encountered that may affect the functioning of the underlying physical markets of the products as well functioning of the national electricity and gas transport network.

Article 62-septies
Supervision of multilateral monetary deposit exchange in Euros

1. The Bank of Italy oversees the efficiency and proper functioning of the multilateral monetary deposit exchange systems in Euro, as well as the managers, and may request the appropriate amendments to the rules of the system suitable for eliminating the dysfunctions encountered.

2. The Bank of Italy, in the ways and under the terms it has, may request the communication, periodic or otherwise, of data, information, deeds and documents from the managers of the multilateral monetary deposit exchange systems in Euro and from the operators that participate in them. The Bank of Italy may carry out inspections at the same manager's premises and request the exhibition of documents and the fulfilment of the deeds considered necessary. The same powers may be exercised with regard to other parties involved in the activities of the manager. To this end, the Bank of Italy may also hold personal auditions. The Bank of Italy may authorise the auditors of the accounts or experts to make checks at the manager's premises; the relative costs are charged to the party inspected.

3. The Bank of Italy with its own provision specifies the managers information and communication obligations towards it, also indicating contents, terms and methods of communication.

4. The provisions dictated in this part for multilateral trading facilities are not applied to the swaps provided for by l paragraph 1.

Article 62-octies
Informative and investigatory powers

1. CONSOB and the Bank of Italy, within the context of their respective competences and in the pursuit of the purpose provided for in articles 62, paragraph 1, and 62-ter, paragraph 1, may:

a) request anyone to communicate data and information and transmit deeds and documents in the ways and under the terms they have established, even periodically;

b) conduct personal hearings with anyone who may be in possession of pertinent information;

c) request to the legal auditors or auditing firms of the trading venues to provide information.

2. In the case provided for in letter b) of paragraph 1, a report is drawn up of the data, information acquired and declarations made by the interested parties, who are asked to sign the report and have the right to have a copy of it.

3. CONSOB, within the context of its competences and in the pursuit of the purpose provided for by article 62, paragraph 1, may exercise the further powers provided for by article 187-octies with regard to anyone in accordance with the methods provided for therein.

4. For the purpose referred to in articles 62, paragraph 1, and 62-ter, paragraph 1, CONSOB and the Bank of Italy may with regard to the operators admitted to the trading venues, other than qualified parties, and distance investors, exercise the powers referred to in paragraph 1. In the case of distance investors, the competent authority of the member state of origin of the distance investor is informed.

Article 62-novies
Inspectional powers

1. Within the context of their respective competences and in the pursuit of the purpose provided for in articles 62, paragraph 1, and 62-ter, paragraph 1, CONSOB and the Bank of Italy may carry out

inspections and request the exhibition of documents and fulfilment of the deeds considered necessary with regard to the managers of the trading venues and those to which the said managers have externalised essential or important operating functions and to their personnel. In the exercise of said powers by CONSOB paras 12 and 13 of article 187-octies are applied.

2. CONSOB may request the parties tasked with the legal auditing of the accounts of the regulated markets to provide information. When there are particular necessities and it is not possible act using its own resources, CONSOB may also authorise legal auditors or auditing firms to carry out checks or inspections on its behalf. The party authorised to carry out checks or inspections acts in the capacity of a public official.

3. The Bank of Italy may request the parties tasked with the legal auditing of the accounts of the wholesale state bond trading venues to provide information. When there are particular necessities and it is not possible act using its own resources, Bank of Italy may also authorise legal auditors or auditing firms to carry out checks or inspections on its behalf. The party authorised to carry out checks or inspections acts in the capacity of a public official.

4. For the purpose referred to in articles 62, paragraph 1, and 62-ter, paragraph 1, CONSOB and the Bank of Italy may, with regard to the operators admitted to the trading venues, other than qualified parties, and of the distance investors, exercise the respective powers referred to in paras 1, 2 and 3. In the case of distance investors, the competent authority of the member state of origin of the distance investor is informed.

5. In the cases provided for in this article, CONSOB draws up a report of the data, information acquired, and declarations made by those involved, who are asked to sign the report and have the right to have a copy. The results of the inspections made by the Bank of Italy pursuant to this article are communicated in writing to the parties involved in the ways established by the Bank of Italy through its own provision.

Article 62-decies
(Powers of intervention)

1. For the purpose of ensuring compliance with the provisions of this part, CONSOB and the Bank of Italy, within the context of their respective competences and in the pursuit of the purposes provided for in articles 62, paragraph 1, and 62-ter, paragraph 1, may:

a) publish warnings to the public on the CONSOB or Bank of Italy websites;

b) instruct the managers of the trading venues not to make use, while carrying out their activities and for a period of no more than three years, of the professional labours of a subject where it might prejudice for the transparency, ordered conduct of trading, protection of the investors and the overall efficiency of the market;

c) order the removal of one or more corporate officers of the manager of a regulated market or, having consulted the other authority, of investment firms or the Italian bank that manages a multilateral trading facility or an organised trading facility, if by remaining in office is prejudicial to the pursuit of the purposes provided for in articles 62, paragraph 1 and 62-ter, paragraph 1; the removal is not order where there are the conditions to pronounce the fall pursuant to article 64-ter, unless there is an urgency to act;

d) the temporary or permanent ceasing of practices of or behaviour contrary to the provisions of this part against anyone including the operators, other than qualified parties, admitted to the trading venues, even as distance investors, order, even by way of precaution;

In the case of intervention with regard to distance investors, the competent authority of the member

state of origin of the distance investor is informed.

2. In the case of need and urgency, CONSOB and the Bank of Italy may also adopt, within the context of their respective competences and in the pursuit of the purposes provided for in articles 62, paragraph 1, and 62-ter, paragraph 1, any measure suitable for the maintenance of ordered conditions of trade on the regulated markets, on multilateral trading facilities and on organised trading facilities.

Chapter II
The trading venues

Article 63
Multilateral Trading Facilities in financial instruments

1. Each multilateral trading facility in financial instruments operates as a regulated market, multilateral trading facility (MTF) or organised trade facility (OTF), in respect of the relative provisions of this part.

Section I
Authorisation of the regulated markets and operator requirements

Article 64
The activities of organisation and management of regulated markets

1. The activity of organisation and management of regulated markets of financial instruments is carried on by joint stock companies for or not for profit (operator of the regulated market).

2. The operator of the regulated market:

a) prepares the structure, provides the services of the market and establishes the payments due to it;

b) ensures and verifies compliance with the requirements of the regulated market provided for in this title;

c) orders the admission, exclusion and the suspension of the financial instruments from the listing and from the trading and operators from trading;

d) adopts all the deeds necessary for the ordered functioning of the regulated market;

e) adopts the provisions and deeds necessary for preventing and identifying insider trading and manipulation of the market;

f) under take any other tasks entrusted to it by the competent authority.

3. The operator of the regulated market exercises the rights that correspond with the regulated market and is responsible for guaranteeing the market managed meets, at the time of the authorisation and continuously, the requirements established by this part even if the carrying out of the essential operative functions is entrusted to other parties.

4. CONSOB, with a regulation:

a) specifies the connected and instrumental activities that may be carried out by the operator of the regulated market;

b) establishes the general organisational requirements of the operator of the regulated market;

c) adopts the implementing provisions of article 4-undecies[623].

5. CONSOB verifies that the statutory amendments of the managers of the regulated markets do not contrast with the requirements provided for by this chapter. The procedure for entering into the company register may not be started if this verification is not done.

6. The provisions of the part IV, title III, chapter II, section VI, with the exception of articles 157 and 158 are applied to the managers of the regulated markets.

7. The operator of the regulated market may manage a multilateral trading facility or an organised trading facility, after verifications by CONSOB that it complies with the pertinent provisions contained in the part III.

Article 64-bis
Obligations concerning those who exercise a significant influence
over the management of the regulated market

1. Those who are in the position of directly or indirectly exercising significant influence over the management of the regulated market must respect the requirements of integrity established through the regulation of the Minister of the Economy and Finance, having consulted CONSOB and the Bank of Italy.

2. Acquisitions of stakes in the capital of the operator of the regulated market and the subsequent variations, made directly or indirectly, even by through subsidiary companies, trust companies or middleman, must be communicated by the purchasing party within twenty-four hours to the market operator. In the case where the purchase means the possibility of the exercising of a significant influence, the purchaser transmits, also to the operator of the regulated market, the documentation certifying possession of the requirements specified pursuant to paragraph 1.

3. The managers of the regulated markets:

a) send CONSOB and make public the information on the ownership of the operator of the regulated market, and in particular the identity of the parties that are able to exercise a significant influence over its management and the size of their interests;

b) communicates to CONSOB and makes public any transfer of ownership that determines a change in the identity of those who exercise a significant influence over the functioning of the regulated market.

4. Anyone who, for any reason, directly or indirectly intends to acquire or transfer:

a) an investment in the capital of the market operator or in the subject that, whether directly or indirectly, controls the market operator, in such a way that the share of voting rights or capital reaches or exceeds, upwards or downwards, 10 per cent, 20 per cent, 30 per cent or 50 per cent, and in any event when changes result in the acquisition or loss of control of the company;

b) the control of the market operator;

gives prior communication to CONSOB.

623 See CONSOB regulation no. 20249 of 28.12.2017 (published in the O.J. no. 1 of 2.1.2018).

Control materializes in the cases envisaged by Article 2359 (1) and (2) of the Italian Civil Code[624].

4-bis. For the purpose of par 4, control is presumed existent in the form of a significant influence, unless proven otherwise, in the event of occurrence of one of the situations indicated by art 23 (2), Legislative Decree no. 385 of 1 September 1993, if applicable[625].

5. CONSOB may oppose the acquisition of the investment referred to in par 4 or the change in the control framework within ninety days of the communication specified in paragraph 4, when there are objective and demonstrable reasons to believe that a healthy and prudent management of the market is put at risk, evaluating, among other things, the quality of the prospective buyer and the financial solidity of the acquisition project, on the basis of the criteria indicated by art 15 (2), if applicable[626].

6. CONSOB disciplines with its regulation:

a) the criteria for the establishment of the cases and thresholds of investment that establish a significant influence pursuant to para 1;

b) contents, terms and methods of the communications specified in paras 3 and 4;

c) contents, terms and methods of publication by the operator of the regulated market of the information relative to the investors in the capital and of every subsequent change in the identity of those who own an investment that entails the possibility of exercising a significant influence[627].

7. In the absence of the requirements of integrity or in the absence of the communications specified in paras 2 and 4, as well as in the case of opposition pursuant to para 5, the voting right inherent in the shares exceeding the thresholds specified pursuant to para 4, or to the investment purchased in infringement of the paras 4 and 5, and the other rights enabling influence over the market operator, cannot be exercised at a shareholders' meeting of the same[628].

8. In the case of non-compliance with the prohibition specified in paragraph 7, article 14, paragraph 6 is applied. The challenge may also be proposed by CONSOB within the period specified in article 14, paragraph 7.

9. CONSOB may lay down that the shares for which the voting right may not be exercised pursuant to paragraph 7 must be sold, fixing a term.

624 Paragraph thus amended by Article 75 of Decree Law no. 104 of 14.8.2020 (converted with amendments by Law no. 126 of 13.10.2020).

625 Paragraph supplemented by Article 75 of Decree Law no. 104 of 14.8.2020 (converted with amendments by Law no. 126 of 13.10.2020).

626 Paragraph thus amended by Article 75 of Decree Law no. 104 of 14.8.2020 (as amended by conversion Law no. 126 of 13.10.2020), adding, after the words: «Consob may oppose», the words: «the acquisition of the investment referred to in par 4 or»; replacing the words: «said changes put» with the words: «is put»; and adding after the words: «healthy and prudent management of the market» the words: «evaluating, among other things, the quality of the prospective buyer and the financial solidity of the acquisition project, on the basis of the criteria indicated by art 15 (2), if applicable».

627 See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1 of 2.1.2018).

628 Paragraph thus amended by Article 75 of Decree Law no. 104 of 14.8.2020 (converted with amendments by Law no. 126 of 13.10.2020), which replaced the words: «cannot be exercised» with the words: «cannot be exercised at a shareholders' meeting of the same»; replacing the words: «6 (a),» with the word: «4»; and adding after words: «in infringement of the paras 4 and 5» the words: «and the other rights enabling influence over the market operator».

Article 64-ter
Requirements of the corporate bodies of the operator of the regulated market

1. The entities that perform the functions of administration, direction and control in the operator of the regulated market must possess the requirements of integrity, professionalism and independence required by the Ministry of the Economy and Finance with its regulation, having consulted CONSOB and the Bank of Italy. With the same regulation, The Ministry of the Economy and Finance, after consulting CONSOB and the Bank of Italy, specifies the reasons that constitute the failure to comply with the requirements provided for in this article and that establish the temporary suspension or the loss of office.

2. The administrative body possesses adequate knowledge, competences and experience, has a composition such as to guarantee a sufficiently large addition of experience and the relative members devote enough time to the exercise of their functions.

3. The operator of the regulated market allocates human and financial resources that are adequate for the preparation and the training of the members of the administrative body.

4. The operators of significant regulated markets on the basis of their dimensions, internal organisation, and typology, reach and complexity of the activities, institute a committee for making appointments consisting of members of the administrative body that do not exercise executive functions with the operator of the regulated market involved.

5. The administrative body of an operator of the regulated market defines and monitors the application of corporate governance measures, also related to separation of the company functions and prevention of the conflicts of interest that guarantee healthy and prudent management and promote the integrity of the market. the administrative body monitors and periodically assesses the efficacy of the corporate governance measures of the operator of the regulated market and adopts suitable measures to remedy any shortcomings.

6. The parties that perform functions of administration and monitoring have adequate access to the information and the documents necessary to monitor and periodically assess the management's decision-making process.

7. The suspension or the loss of the corporate officers for the reasons specified in the regulation referred to in paragraph 1 are declared by the body belonged to within thirty days of the appointment or the knowledge of the cause that has occurred. For the parties that are not components of a body the declaration of the suspension or of the loss is made by the body that nominated it. In the case of inertia CONSOB will take the measures.

8. For the purposes of the verifications of the compliance with the requirements provided for in this article, the operator of the regulated market sends CONSOB the information relating to the corporate officers and the parties that effectively direct the activities and the transactions of the regulated market and of every subsequent change.

9. CONSOB, through its own regulation:

a) specifies the requirement provided for by i paras 2, 3 and 4, also regarding the number of tasks that the members of the administrative board can take on and the functions performed by the appointment committee;

b) establishes content, terms and methods of the communications specified by para 8[629].

Article 64-quater
Authorisation of the regulated markets

1. CONSOB issues the authorisation to operate in the capacity of regulated market to facilities that fulfil the previsions of this Title.

2. CONSOB creates a list of the regulated markets, making sure the relevant provisions of the European Union are complied with.

3. Authorisation is also subject to the ascertainment that:
a) The market operator complies with the requirements provided for in this title;
b) The regulation of the market complies with the government of the European Union and is suitable for ensuring the transparency of the market, the ordered conduct of the trading and the protection of the investors.

4. The regulation of the market establishes at least:
a) the conditions and the method of admission to the trading and exclusion from suspension by the trading of the operators;
b) the conditions and the methods of admission to the listing and trading and of exclusion and suspension from the listing and trading of financial instruments;
c) the conditions and the methods for the performance of the trading and any obligations of the operators and the issuers;
d) the method of ascertainment, publication and dissemination of the prices;
e) the types of contract admitted to the trading as well as the criteria for the establishment of the minimum quantities that can be traded;
f) the conditions and the methods for the offsetting and the regulation of the transactions concluded on the markets;
g) the methods of issuing the provisions of implementation of the regulation by the manager.

5. The regulation of the market is resolved by the ordinary shareholders' meeting or by the surveillance council of the operator of the regulated market or, where it is so specified by the bylaws, the administrative body. If the shares of the operator of the regulated market are listed in a regulated market, the regulation of the market is resolved by the board of directors or by the management council of the said company.

6. CONSOB approves the amendments to the regulation of the regulated market.

7. Without prejudice to what is specified in paras 1 and 3, CONSOB also refuses authorisation if:
a) the parties that perform functions of administration, direction and control in the market operator do not respect requirements provided for by article 64-ter; or
b) there are objective and demonstrable reasons to believe that the administrative body of the market operator may jeopardise the effective, healthy and prudent management, and the integrity of the market.

8. The market operator provides CONSOB with all the information, including a program of activities

629 See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1 of 2.1.2018).

that shows the type of activities provided for and the organisational structure necessary for checking that the regulated market has installed everything necessary for respecting the obligations established by this Title.

9. CONSOB pronounces the loss of authorisation issued to a regulated market when it does not use the authorisation within twelve months.

Article 64-quinquies
Revocation of the authorization, extraordinary provisions to protect
the market and the crisis of the regulated market operator

1. CONSOB may revoke the authorisation of the regulated market when:

a) authorisation has been obtained by presenting false declarations or any other irregular means;

b) the conditions to which the Authorisation is subject no longer exist;

c) the provisions of this title relative to the regulated market or market manager have been infringed in a serious and systematic way;

d) it has ceased to function for more than six months or expressly forgoes the authorisation.

2. In the case of serious irregularities in the management of the regulated market or in the administration of the operator of the regulated market and anyway when the protection of the investors requires it, the Ministry of the Economy and Finance, at CONSO B's proposal, orders the dissolution of the administrative bodies and the control of the market operator. The powers of the dissolved administrative bodies are attributed to a commissioner appointed with the same provision, that is exercised, based on the directives and under the control of CONSOB, up to the reconstitution of the bodies. The indemnity to which the commissioner is entitled is established by decree of the Ministry and is the responsibility of the operator of the regulated market. In as far as they are compatible, articles 70, paras 2, 3, 4 and 5, 72 with exception of paras 2, 2-bis and 8, and 75 of the consolidated banking law are applied, meaning the above-mentioned provisions referring to CONSOB instead of the Bank of Italy, to the investors instead of the of the depositors and operator of the regulated market instead of the banks.

3. The procedure indicated al paragraph 2 may establish the revocation of the Authorisation specified in paragraph 1.

4. Within thirty days of the communication of the provision the revocation of the authorisation of the market, the administrators of the market operator or the commissioner appointed in paragraph 2 convene the assembly to amend the company purpose or to resolve the voluntary winding up of the market operator. If the convocation does not occur within this term or the meeting does not pass a resolution within three months of the communication of the provision of revocation, The Ministry of the Economy and Finance, at the proposal of CONSOB, may order the dissolution of the operator of the regulated market and appoint the receivers. The provisions regarding the liquidation of the joint stock company, referred to in book V, title V, chapter VIII, of the civil code, with the exception of those concerning the revocation of the receivers.

5. In the cases provided for in paras 1 and 2, CONSOB promotes the agreements necessary for ensuring the continuity of the trading. For this purpose, it may order the temporary transfer of the management of the market to another manager, after the consent of the latter. The definitive transfer of the management of the market may also occur in derogation of the provisions of title II, chapter VI, of the bankruptcy law.

6. The initiatives for the declaration of bankruptcy or for the admission to the procedures of settlement

with creditors or controlled receivership and the relative provisions of the court are communicated within three days to CONSOB by the registrar.

Section II
Organization and functioning of the trading venues

Article 65
Organisation requirements of the regulated markets

1. The regulated market orders:

a) measures to clearly identify and manage the potential negative consequences, for the functioning of the regulated market or for its members or investors, of any conflict among the interests of the regulated market, of the its owners or of the market operator and the its ordered functioning, in particular when said conflicts may be prejudicial for the performance of any function delegated to the regulated market by the competent authority;

b) procedures for managing the risks to which they are exposed, adequate devices and systems for identifying all the risks that may compromise its functioning and effective measures for lessening said risks;

c) measures to guarantee a healthy management of the technical operations of the system, including effective emergency measures to face up to the risks of system dysfunction;

d) transparent and non-discretional rules and procedures that guarantee and order and proper trading process as well as objective criteria that allow the orders to be carried out properly;

e) effective measures for streamlining the efficient regulation of the transactions carried out within the context of their system;

f) financial resources sufficient for making its ordered functioning possible the functioning ordinate, bearing in mind the nature and entity of the transactions concluded in the market, as well as of the scope and degree of the risks to which it is exposed.

2. CONSOB may further detail, through its regulation, the organisational requirements of the regulated market and may dictate the methodology of establishing the entity of the financial resources specified in para 1, letter f)[630].

3. Per the transactions concluded on a regulated market, the members and the investors are not required to mutually apply the obligations specifically indicated pursuant to article 6, paragraph 2. The members or the investors of a regulated market apply said obligations in as far as it concerns their clients when, while operating on behalf of the latter, orders are carried out on regulated market.

Article 65-bis
Requirements of the multilateral trading facilities and of the organised trading facilities

1. The operator of a multilateral trading facility or of an organised trading facility orders:

a) transparent rules and procedures that guarantee the correct and ordered trading process and as well as the objective criteria that allow the efficient execution of the orders;

b) measures to guarantee the sound management of the system's operations, including effective emergency provisions for confronting the risks of system dysfunction;

c) measures suitable for promptly intervening and managing the potential negative

630 See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1 of 2.1.2018).

consequences of the operation of the systems managed by it or for their members or investors and clients of any conflicts between the interests of the multilateral trading facility, the organised trading facility, their owners, the operator of the multilateral trading facility or the organised trading facility and the healthy functioning of the systems;

d) at least three members or investors or clients concretely active, each of who with the possibility of interacting with all the others over price formation.

2. The operator of a multilateral trading facility or of an organised trading facility also adopts the measures necessary to facilitate the efficient regulation of the transactions concluded in the multilateral trading facility or organised trade system and clearly informs the members or investors or clients of their respective responsibilities as far as the regulation of the transactions effected in the system are concerned.

3. The operator of a multilateral trading facility or of an organised trading facility provides CONSOB with:

a) a detailed description of the functioning of the system including, without prejudice to what is specified by article 65-quater, paras 2, 3 and 4, any links or the investment of a regulated market, a multilateral trading facility, an organised trading facility or a systematic internaliser owned by the said operator;

b) a list of the members, investors or clients.

Article 65-ter
Specific requirements for multilateral trading facilities

1. The operator of a multilateral trading facility, in addition to meeting the Requirements referred to in article 65-bis, orders of:

a) non-discretionary rules for the execution of orders in the system;

b) procedures for managing the risks to which the system exposed, mechanisms and systems for identifying the risks that could jeopardise the functioning of the system and effective measures for lessening said risks;

c) sufficient financial resources for assuring the ordered functioning, having taken into account the type of transactions concluded on the market and the relative volumes, as well as of the scope and the degree of risk to which the system is exposed.

2. The obligations identified pursuant to article 6, paragraph 2, are not applied to the transactions concluded on the basis of the regulations that govern a multilateral trading facility between the members of the same or the its investors or between the multilateral trading facility and its members or investors in relation all use of the multilateral trading facility. The members of the multilateral trading facility or its investors comply with said obligations with regard to their clients when, on acting on their behalf, carry out their orders through the systems of a multilateral trading facility.

Article 65-quater
Specific requirements for organised trading facilities

1. Without prejudice to what is ordered by article 65-bis and in respect of the obligations identified pursuant to article 6, paragraph 2, letter b), number 2), in an organised trading facility the orders are carried out on a discretionary basis. The operator of an organised trading facility exercises its power of discretion when deciding whether:

a) place or withdraw an order on its facility; or

b) not to bundle the specific order of a client with the other orders available in the facility in a given moment, providing this happens in compliance with the specific instructions received by the

client, as well as the obligations seen pursuant to article 6, paragraph 2, letter b), number 2).

1-bis. The operator of an organised trading facility that bundles the clients' orders may decide whether, when and to what extent to bundle two or more orders in the system. Without prejudice to the compliance with what is specified in this article and by article 65-quinquies, the operator of an organised trading facility may make trading between clients easier, in such a way as to make two or more potentially compatible trading interests coincide in one operation.

2. The operator of an organised trading facility may not also operate as a systematic internaliser. An organised trading facility is not connected to a systematic internaliser in such a way as to allow the interaction between its orders and the orders or quotations in a systematic internaliser, nor is it connected with another organised trading facility in such a way as to allow the interaction between the orders of the different systems.

3. The operator of an organised trading facility may use an investment company to perform the activities market maker in such a system on an independent bias on the condition that there are no strict links with the said operator.

4. The operator of an organised trading facility establishes mechanisms for prevent clients' orders in the system in direct exchange with the operator or with an entity of the same group as the operator.

5. CONSOB establishes through its regulation the information that an investment firm or an Italian bank or an operator of the regulated market can provide, to demonstrate compliance with the specific requirements dictated by this article, at the time of authorisation for the management of an organised trading facility or for the purposes of the verifications required by article 64, paragraph 7[631].

6. The relevant obligations seen pursuant to article 6, paragraph 2 are applied to transactions concluded in an organised trading facility.

Article 65-quinquies
«Matched principal» trading

1. The operator of an organised trading facility may carry out «matched principal» trading only in the case where:

a) the client has consented to it; and

b) trading occurs on debentures, structured financial instruments, issue stakes and derivative instruments not belonging to a category of declared derivatives subject to the obligation of off-setting in conformance of the article 5 of (EU) regulation no. 648/2012.

2. The performance of «matched principal» trading must not generate conflicts of interest between the operator and its clients.

3. The operator of an organised trading facility may carry on trading in its own account other than «matched principal» trading with regard to sovereign debt securities without a liquid market.

4. For the purposes of paragraph 3, liquid market means the market of a financial instrument or a category of financial instruments in which there are sellers and buyers ready and available on a continuous basis, evaluated in conformance with the criteria listed below, having taken account of

631 See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1 of 2.1.2018).

the specific market structures of the particular financial instrument or of the particular category of financial instruments:

a) the frequency and average sizes of the transactions in a set of market conditions, having taken into account the nature and life cycle of the products of the category of financial instruments;

b) the number and type of investors in the market, including the relationship between the investors in the market and the traded instruments in relation a given product;

c) the average dimensions of the differentials between the buying and selling, where available.

5. The operator of a regulated market or a multilateral trading facility may not carry out the orders in direct exchange in the system, nor carry out «matched principal» trading.

Article 65-sexies
Operational requirements of the trading venues

1. The regulated markets and the operators of a multilateral trading facility or of an organised trading facility have facilities, procedures and effective mechanisms for ensuring that the trading facilities:

a) are resilient and have a sufficient capacity for managing the peaks of volume of orders and messages;

b) are able to guarantee ordered trading in critical market conditions;

c) are fully tested to guarantee compliance with the conditions referred to in letters a) and b);

d) are subject to effective provisions related to operating continuity to guarantee the continuity of the services in the case of malfunctioning.

2. The regulated markets and the operators of a multilateral trading facility or an organised trading facility have effective facilities, procedures and mechanisms:

a) to guarantee that the algorithmic trading facilities used by the members investors or clients cannot create not contribute to creating abnormal trading conditions on the trading venue and for managing any abnormal trading condition caused by the same;

b) to identify, through the reporting of members or investors or clients, the orders generated through algorithmic trade, the different algorithms used for the creation of the orders and the corresponding people that initiate said orders;

c) to refuse orders that exceed pre-established price and volume limits or are clearly wrong;

d) to suspend or temporarily limit trading if a significant swing is detected in the price of a financial instrument in the managed market or in a market correlated in a short space of time;

e) in exceptional cases, to cancel, amend or correct any operation;

f) to check the orders inserted, including the cancellations and the transactions carried out by their members or investors or clients, to identify the infringements of the rules of the system, the abnormal trading conditions or the deeds that may indicate behaviour prohibited by (EU) regulation no. 596/2014 or the dysfunctions of the system in relation to a financial instrument.

3. The regulated markets and the operators of a multilateral trading facility or an organised trading facility sign binding written agreements with the members or investors or clients that pursue market making strategies on the system, and work until a sufficient number of parties adhere to said agreements, by virtue of which they are required to send irrevocable quotations at competitive prices, with the result of providing liquidity to the market on a regular and foreseeable basis, if this requisite is enough for the nature and sizes of the trading in the trading venues in question.

4. The regulated markets and the operators of a multilateral trading facility or of an organised trading facility have effective measures and procedures, including the necessary resources, for the regular checking of compliance with its rules.

5. The regulated markets and the operators of a multilateral trading facility or an organised trading facility:

a) synchronise, together with their members or investors or clients, the clocks use to record the date and time of the events that may be subject of trading;

b) adopt transparent, fair and non-discriminatory rules related to services of co-placement;

c) adopt a committee structure, including the transaction execution committees, the accessory commissions and transparent, fair and non-discriminatory reimbursements;

d) adopt facilities related to dimensions of the trading tick for shares, receipts of deposit, quoted exchange traded funds, certificates and other similar financial instruments.

6. CONSOB approves the agreements that the operator of a trading venue intends to conclude for the externalisation to third parties of all or part of the critical operating functions relative to the facilities of the centre it manages that allow algorithmic trading, critical operating functions meaning those indicated by article 65, paragraph 1, letters b), c) and e).

7. CONSOB specifies with its own regulation the specific operational requirements which the trading venues must equip themselves with concerning:

a) The minimum content of the written agreements required pursuant to para 3 and the checking obligations of the operator of the trading venue regarding the same;

b) the facilities, the procedures and the devices related to algorithmic trading facilities provided for in l paragraph 2, letters a) and b);

c) the criteria on the basis of which to fix the parameters for the suspension of trading and the relative methods of management;

d) requirements per the direct electronic access to the trading venues;

e) the requirements of the structure of the commissions referred to in paragraph 5, letter c);

f) the parameters to calibrate the facilities relating to dimensions of the tick trading indicated in paragraph 5, letter d)[632].

8. The provisions referred to in paragraph 7, letter b), are adopted by CONSOB, having consulted the Bank of Italy, for multilateral trading facilities and the organised trading facilities that are managed by investment firms and Italian banks.

Article 65-septies
Informative and communication obligations

1. CONSOB, with its own regulation, specifies the information and communication obligations with regard to the operators of the trading venues, indicating their content, terms and methods of fulfilment[633].

2. The trading venues place at CONSOB's disposal, if so requested, the data relative to the trade book, even through access to it.

3. Without prejudice to the obligations provided for by l paragraph 1, the operators of the trading venues tell CONSOB immediately of the significant infringements of the rules of the market or abnormal trading conditions or dysfunctions of the system in relation to a financial instrument, as well as the consequent measures taken.

632 See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1 of 2.1.2018).

633 See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1 of 2.1.2018).

4. The operators of the trading venues also immediately tell CONSOB of actions that may indicate prohibited behaviour pursuant to (EU) regulation no. 596/2014.

5. The operators of the trading venues tell CONSOB immediately of pertinent information for the investigations and enquiries into market abuses in the facilities managed, and offer full assistance in relation to market abuses committed in their facilities or through them.

6. The operators of the trading venues place at the public's disposal at least once a year and free of charge, data relative to the type of transactions executed, including data concerning the price, the costs, speed and probability of the execution for the individual financial instruments.

Section III
Admission, suspension and exclusion of financial instruments from listing and trading

Article 66
General criteria for admission to the listing and trading

1. The regulated markets:

a) are equipped with clear and transparent rules concerning the admission of the financial instruments to the listing and to trading;

b) adopt and maintain effective mechanisms per checking that the issuer of the securities admitted to the trading in the regulated market comply with the obligations to which they are parties pursuant to the European Union law related to initial, continuous and specially issued information;

c) have mechanisms suitable for making it easier for their members and their investors to access the information published on the basis of European Union law.

2. The rules referred to in paragraph 1, letter a), ensure that the financial instruments admitted to trading a regulated market can be traded correctly be, in an orderly and efficient way and, in the case of securities, can be freely traded. In the case of derivative instruments, said rules ensure in particular that the characteristics of the derivative contract are compatible with an ordered process of formation of its price as well as with the effective regulation conditions.

3. The operators of a multilateral trading facility or of an organised trading facility:

a) institute transparent rules concerning the criteria for the determination of the financial instruments that may be traded within the context of their own system;

b) supply or ascertain that the public has access to enough information to allow their clients to make a judgement about investments, bearing in mind both the category of the clients and the types of instruments negotiated.

4. The trading venues are equipped with the mechanisms necessary for regularly checking compliance with the requirements for admission for financial instruments admitted to the listing and to trading.

5. A transferrable security, once admitted to trading in a regulated market and in compliance with the pertinent provisions of regulation 2017/1129/EU may be admitted to the trading, even without the consensus of the issuer, in other regulated markets, which inform the issuer thereof.

6. When a financial instrument that has been admitted to trading in a regulated market it is also traded in a multilateral trading facility or in an organised trading facility without the consent of the issuer, said issuer is not subject to any obligation regarding this system as far as it concerns the initial, continuous or specially issued financial information.

Article 66-bis
Conditions for listing of certain companies

1. The regulation of the regulated market may establish that the shares of parent companies, the assets of which are largely made up of direct or indirect stakes in one or more companies with shares quoted in regulated markets, are traded in a distinct segment of the market.

2. CONSOB establishes with its own regulation:

a) …omissis…[634];

b) the conditions which when present mean the shares in subsidiary companies subjected to the activities of direction and coordination of other companies cannot be listed;

c) …omissis…[635].

Article 66-ter
Provisions for the admission, suspension and exclusion of financial instruments from the listing and the trading adopted by the operator of the trading venues

1. Without prejudice to CONSOB's power referred to in article 66-quater, paragraph 1, to request the suspension or the exclusion of a financial instrument from the trades, the operator of a trading venue may suspend or exclude the financial instruments that cease to comply with the rules of the system from trading, unless said suspension or exclusion risks causing significant damage to the interests of the investors or the ordered functioning of the market.

2. The operator of a trading venue that suspends or excludes financial instrument from the trading, also suspends or excludes the derivative financial instruments referred to in Annex I, Section C, points 4 to 10, relative or referring to said financial instrument, if necessary for supporting the purpose of the suspension or the exclusion of the underlying financial instrument.

3. The operator of a trading venue makes the decisions of admission to the listing and the trading public, as well as the suspension and exclusion from the listing and the trading, of financial instruments and communicates them immediately to CONSOB.

4. …omissis…[636]

5. …omissis…[637]

6. CONSOB:

a) may order the revocation of decision to suspend the financial instruments from trading, within five open market days from the receipt of the communication referred to in paragraph 3 if, based on the information different from that assessed, pursuant to the regulation of the market, by the market managing the course of its discovery, considers the decision contrary to the purpose referred to in article 62, paragraph 1[638];

634 Letter repealed by Article 8 of Law no. 21 of 5.3.2024.

635 Letter repealed by Article 8 of Law no. 21 of 5.3.2024. See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1 of 2.1.2018).

636 Paragraph repealed by Article 8 of Law no. 21 of 5.3.2024.

637 Paragraph repealed by Article 8 of Law no. 21 of 5.3.2024.

638 Letter thus amended by Article 8 of Law no, 21 of 5.3.2024, which deleted the words: "prohibit the enforcement of decisions for admission to the listing and exclusion from the trading referred to in paragraph 4, or."

b) may request the operator of the regulated market to provide all the information that it considers useful for the purposes referred to in letter a).

Article 66-quater
Provisions of suspension and exclusion of financial instruments
from trading at CONSOB's initiative

1. CONSOB may suspend or exclude a financial instrument from trading or request that the operator of a trading venue do it. For this purpose, CONSOB may request the said operator for all the information that it considers useful. For the wholesale state bond trading venues, the powers referred to in this paragraph are exercised by the Bank of Italy, that gives timely communication of the fact to CONSOB, for the purposes of CONSOB'S exercising the point of contact functions pursuant to article 4 of this decree[639].

1-bis. CONSOB may also exercise the powers stipulated in paragraph 1 with respect to systematic internalisers[640].

2. In the case where an operator of a trading venue suspends or excludes a financial instrument from trading, pursuant to article 66-ter, paras 1 and 2, CONSOB orders that the other trading venues and the systematic internalisations that trade said financial instrument or the derivative financial instruments referred to in Annex I, Section C, points from 4 to 10, relative or referring to said financial instrument, also suspend or exclude said financial instrument or said derivative instruments from trading , if the suspension or the exclusion is due to presumed market abuses, a public purchase offer or to the failure to divulge inside information about the issuer or the financial instrument in infringement of articles 7 and 17 of (EU) regulation no. 596/2014, unless said suspension or exclusion could cause damage relevant to the interests of the investor or the ordered functioning of the market.

3. Unless this could cause damage to the interests of the investors or ordered functioning of the market, CONSOB orders the trading venues and systematic internalisations to suspend or exclude a financial instrument from trading in cases where said financial instrument has been the subject of a suspension or exclusion provision by competent authorities of other member states or a decision taken by competent authorities of other Member states in relation to the suspension and exclusion decisions adopted by the operators of the trading venues they supervise, if the suspension or the exclusion is due to presumed market abuse, a purchase offer or the failure to divulge inside information or the financial instrument in infringement of the articles 7 and 17 of (EU) regulation no. 596/2014.

4. If the suspension or the exclusion pursuant to paragraph 3 has to be ordered with regard to a wholesale public and private debenture other than state bond trading venue as well as money market instruments and derivative financial instruments on public securities, rates of interest and foreign exchange, CONSOB's decision is adopted having consulted the Bank of Italy. If the suspension or the exclusion pursuant to paragraph 3 has to be ordered with reference to a wholesale state bond trading venue, the decision is adopted by the Bank of Italy; For this purpose, CONSOB informs the Bank of Italy of the decisions taken by the competent authorities of the other member states.

5. Paras 2, 3 and 4 are also applied in the case the suspension from the trading of a financial instrument or of the derivative financial instruments referred to in Annex I, Section C, points 4 to 10, relative or

639 Paragraph thus modified by Article 3 of Legislative Decree no. 165 of 25.11.2019 which replaced the words "the communications specified by paragraph 3" with the words "of CONSOB'S exercising the point of contact functions pursuant to article 4 of this decree".

640 Paragraph introduced by Article 3 of Legislative Decree no. 165 of 25.11.2019.

referring to said financial instrument.

6. …omissis…[641]

Article 66-quinquies
Trade of financial instruments issued by the operator of the regulated market

1. CONSOB orders the admission, the exclusion and the suspension from the listing and from the trading of the financial instruments issued by a market operator in a regulated market managed thereby.

2. CONSOB determines the amendments to make to the regulation of the regulated market to ensure the transparency, ordered conduct of the trading and protection of the investors, as well as to regulate the hypotheses of conflict interests. Admission to listing and Trading is subject to the adjustment to the regulation of the regulated market.

3. CONSOB oversees the respect of the provisions of the regulation of the market regarding the financial instruments referred to in paragraph 1 by the operator of the market.

Section IV
Access to the trading venues

Article 67
General operator access criteria

1. The operator of a regulated market or a multilateral trading facility or an organised trading facility establishes, implements and maintains transparent and non-discriminatory rules, based on objective criteria, that discipline access in the capacity of members or investors or clients.

2. Investment firms, Italian banks, EU Investment Companies, EU banks and the companies of non-EU countries authorised to provide trading services or activities on their own account or executing orders on behalf of the clients pursuant to articles 28 and 29-ter may access the regulated markets and multilateral trading facilities in the capacity of members or investors.

3. EU Investment companies, EU banks and companies of non-EU countries authorised to provide trading services or activities on their own account or executing orders on behalf of the clients pursuant to articles 28 and 29-ter may be admitted in the capacity of members or investors of the regulated markets or multilateral trading facilities established in Italy
in accordance with the following methods:

a) directly, by establishing a branch;

b) by becoming distance members or having distance access to the regulated market or multilateral trading facility, when the procedures and the trading facilities of the centre in question do not require a physical presence for the conclusion e of transactions.

4. the following may also access regulated markets and multilateral trading facilities, having regard to the rules adopted by the operator of the trading venue if:

a) they have a sufficiently good reputation;

b) they have a sufficient level of trading capacity, competence and experience;

641 Paragraph repealed by Article 3 of Legislative Decree no. 165 of 25.11.2019.

c) they have adequate organisational devices;

d) they have sufficient resources for the role they have to perform, having regard to the various finance provisions that might be fixed by the regulated market to guarantee the adequate regulation of the transactions.

5. The operator of a regulated market or of a multilateral trading facility specifies, within the context of their rules specified by para 1, criteria for the direct or distance investment in the regulated market and the obligations imposed on the members or investors deriving:

a) from the institution and management of the trading venue;

b) from provisions concerning transactions performed in the trading venue;

c) from professional standards imposed on the personnel of members or investors that operate on the trading venue;

d) from the conditions established, pursuant to paragraph 4, for members or investors other than investment firms, Italian banks, EU investment companies, EU banks and companies of non-EU countries authorised to exercise trading services or activities on their own account or in the execution of orders on behalf of the clients pursuant to the articles 28 and 29-ter;

e) from the regulations and procedures for the offsetting and regulation of transactions concluded in the regulated market.

6. The members or investors in the regulated markets and multilateral trading facilities and the clients of the organised trading facilities behave with diligence, honesty and transparency for the purpose of not compromising the integrity of the markets.

7. The Ministry of the Economy and Finance and the Bank of Italy are admitted to trading on the wholesale state bond trading venues.

7-bis. The entities referred to in Article no. 2, paragraph no. 5, points 3) to 22), of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013, can be admitted to trading on their own account on wholesale trading venues in government bonds, as members or participants[642].

8. The operator of a trading venue advises CONSOB of the Member state in which it intends to set up appropriate devices to facilitate access and trading for the members, investors or repose clients established there. CONSOB transmits said information to the member state in which it intends to set up said devices, within one month. At the request of the competent authority of the host member state, CONSOB gives timely communication of the identity of the members, investors or clients, the trading venue that has established its devices in the territory of the other member state.

9. The operator of a trading venue of another member state may equip itself with appropriate devices, in the Italy, to facilitate access and trading to its members, investors or distance clients established there, on the condition that CONSOB has received prior communication from the competent authority of the member state of origin of the trading venue. CONSOB may request the competent authority of the member state of origin to communicate the identity of the members, investors or clients of the trading venues that have their devices in Italy.

10. CONSOB, for the purpose of assuring transparency, ordered conduct of the trading and the protection of the investors, stipulates agreements with the supervisory authorities of the member state

642 Paragraph first added by Article 19-ter of the Decree Law no. 22 of 25.3.2019, introduced by the conversion Law no. 41 of 20.5.2019, then thus amended by Article 1, paragraph 267 of Law no. 178 of 30.12.2020, which replaced the words “paragraph 5, points 4) to 22)” with the words “paragraph 5, point 3) to 22)”.

of origin of the trading venues of other Member states referred to in paragraph 9 that have acquired a substantial importance for the functioning of the Italian financial market and the protection of the investors in Italy, suitable for ensuring the coordination of supervision and the exchange of information on a cross-border bias . Said agreements are stipulated by CONSOB together with Bank of Italy, after information is given to the Ministry of the Economy and Finance, If the trading venues of other Member states have acquired a substantial importance for the functioning of the Italian financial market as well as for the ordered conduct of the trading and the overall efficiency of the wholesale state bond trading venues. The Ministry of the Economy and Finance may request the Bank of Italy to give the information acquired pursuant to the aforementioned agreements.

11. CONSOB also stipulates the cited agreements of cooperation with the supervisory authorities of the host member state of Italian trading venues that have acquired a substantial importance for the functioning of the financial market of said member state and the protection of the investors therein.

12. When there are clear and demonstrable reasons for believing that a regulated market, a multilateral trading facility or an organised trading facility that are equipped with devices in Italy, pursuant to paragraph 9, infringe the obligations deriving from the provisions of this part, CONSOB informs the competent authority of the member state of origin of the trading venue. If, however the measures adopted by the competent authority of the member state of origin or by way of the inadequacy of said measures, the trading venue continues to act in a way that clearly jeopardises the interests of the domestic investors or the good functioning of the markets, CONSOB, after informing the competent authority of the member state of origin, adopts all the measures adequate and necessary for protecting the investors and ensuring the good functioning of the markets, that include the possibility of preventing said trading venue from making their devices accessible to the members or distance investors established in Italy. The measures adopted pursuant to this paragraph, that include sanctions or restrictions of the activities of an investment company or of a regulated market are suitably justified and communicated to the investment company or the regulated market involved.

Article 67-bis
Admission, suspension and exclusion of operators from a regulated market

1. The operator of the regulated market immediately notifies CONSOB of its decisions concerning the admission, exclusion and suspension of operators from trading.

2. CONSOB may:

a) order the revocation of a decision suspending operators from trading, within five days of the receipt of the communication referred to in paragraph 1 if, based on information different from that evaluated, pursuant to the regulation of the market, by the operator of the regulated market during its investigation, it believes the decision to be against the purpose of ensuring transparency, the ordered conduct of the trading and the protection of the investors;

b) ask the operator of the regulated market for all the information that it considers useful for the purposes referred to in the letter a);

c) ask the operator of the regulated market for the exclusion or suspension of operators from trading.

Article 67-ter
Algorithmic trading, direct electronic access, participation in central counterparties

1. The Investment firms and the Italian banks that perform algorithmic trade:

a) establish checks of the facilities and the effective risks and suitable in the light of the activities exercised on the trading venues, aimed at guaranteeing that the algorithmic trade facilities are resilient and have sufficient capacity, are subject to appropriate trading thresholds and limits, prevent wrong orders or anyway jeopardise the ordered conduct of the trading from being sent;

b) establish effective checks of the facilities and of risks in order to guarantee that the algorithmic trading facilities cannot be used for purposes that contradict (EU) regulation no. 596/2014 or the rules of the trading venue;

c) have effective operative continuity mechanisms to remedy malfunctions of the algorithmic trading facilities and take the steps necessary so that their facilities are subject to adequate verifications and monitoring to guarantee conformity with requirements of this paragraph.

2. The Investment firms and Italian banks that effect algorithmic trading notify it to CONSOB and, if different, to the competent authority of the member state of the trading venue in which the algorithmic trading is carried on as members or investors or clients of the trading venue. Notification is also given to the Bank of Italy for the wholesale state bond trading venues.

3. Without prejudice to the prudential supervision competence of the Bank of Italy, CONSOB supervise the compliance with the requirements provided for in this article by investment firms and Italian banks that perform algorithmic trading. To this end CONSOB may ask the above-mentioned parties on a regular or ad hoc basis:

a) for a description of the nature of the algorithmic trading strategies;

b) for details about the trading parameters or limits to which the system is subject;

c) for the checks of conformity and risks carried out to ensure that the conditions established in paragraph 1 are met;

d) for the details about the verifications of the facilities;

e) for further information about the algorithmic trade carried out and the facilities used

4. CONSOB sends the Bank of Italy the information that it receives pursuant to paragraph 3 either from the competent authority of the member state of origin of the EU bank or the EU investment company, when said information refers to members or investors or clients that carry out algorithmic trading in wholesale state bond trading venues.

5. Investment firms and Italian banks may provide direct electronic access to a trading venue on condition that set up effective checks of the facilities and risk.

6. CONSOB, having consulted the Bank of Italy, governs with its regulation:

a) the registration obligations to which the parties referred to in paragraph 1 that set up algorithmic trade technique are liable;

b) the conditions on the basis of which the investment firms and the Italian banks may provide direct electronic access to the trading venue and the characteristics of the conformity and of risks checks carried out to ensure that the conditions established in paragraph 1 are satisfied;

c) Obligations of notification, information and registration for which investment firms and the Italian banks that provide direct electronic access to trading venue are liable;

d) Obligations of investment firms and Italian banks that carry on algorithmic trade to pursue market making strategies are liable[643].

7. CONSOB, at the request of the competent authority of the trading venue of another member state in which investment firms or an Italian bank performs algorithmic trade or provides direct electronic

643 See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1 of 2.1.2018).

access, communicates in timely fashion to the same the information received pursuant to paragraph 3.

8. The provisions referred to in this article are also applied:

a) to the members or investors of regulated markets and multilateral trading facilities that are not required to be authorised pursuant to the article 4-terdecies, paragraph 1, letters a), e), g), i) and l) or that are operators of UCIs, Sicavs or Sicafs;

b) to the companies of non-EU countries authorised to provide trading services or activities on own account or by executing orders on behalf of the clients pursuant to articles 28 and 29-ter, as well as to operators from non-EU countries which access the trading venue and which have obtained an authorisation or permit pursuant to articles 26, paragraph 6, 29, paragraph 3 or 70, paragraph 2[644].

8-bis. CONSOB dictates with its regulation the requirements referred to in paragraph 6 applicable to parties referred to in paragraph 8 when they carry on algorithmic trade and/or provide direct electronic access to trading venues[645].

9. Investment firms and the Italian banks and the companies of non-EU countries authorised to carry out investment services and activities, with or without additional services, pursuant to the articles 28 and 29-ter, that act in the capacity of investors to central counterparties on behalf of their clients:

a) establish effective controls and facilities to guarantee that only people suitable can benefit from the offsetting services and that said people are subject to requirements appropriate for reducing the risks for investment firms or for the bank and for the market;

b) ensure that there is a binding written agreement between them and the person for whom they act with regard to the essential rights and obligations deriving from the provision of the service.

Section V
Position limits and controls over the management of the positions in derivatives on commodities

Article 68
Limits to the positions in derivatives on commodities

1. For the purpose of preventing abuses of the market and promote ordered conditions of price formation and regulation of the transactions, CONSOB establishes and supervises the application of the position limits on the size of a net position that may be held by a person at any moment for derivatives on agricultural commodities and critical or significant derivatives on commodities negotiated in trading venues, and for economically equivalent contracts traded off the list (EEOTC), according to what is specified in its regulation, conforming with the calculation methodology determined by ESMA in accordance with Article 57 (3) of Directive 2014/65/EU. Derivatives on commodities are considered critical or significant when the sum of all net positions of the holders of end positions constitutes the size of their open positions and is equal to at least 300,000 lots on average in a period of a year[646].

2. The position limits referred to in paragraph 1 shall not apply with reference to:

644 Paragraph thus amended by Article 3 of Legislative Decree no. 165 of 25.11.2019 which, after the words “28 and 29-ter”, added the words “, as well as to operators from non-EU countries which access the trading venue and which have obtained an authorisation or permit pursuant to articles 26, paragraph 6, 29, paragraph 3 or 70, paragraph 2”.

645 See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1of 2.1.2018).

646 Paragraph thus replaced by Article 1 of Legislative Decree no. 31 of 10.3.2023. See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1of 2.1.2018).

a) positions held by non-financial entities, or on behalf thereof, that have the objectively measurable capability of reducing the risks directly linked to the commercial activity of said non-financial entities;

b) positions held by financial entities, or on behalf thereof, belonging to a mainly commercial group that operates on behalf of a non-financial entity of the mainly commercial group, that have the objectively measurable capability of reducing risks directly relating to the commercial activity of said non-financial entity;

c) positions held by financial and non-financial counterparties, which are objectively measurable as deriving from transactions entered into to fulfil obligations to provide liquidity on a trading venue, pursuant to Article 2 (4), fourth paragraph, letter c) of Directive 2014/65/EU;

d) securities referred to in Article 1, paragraph 1-bis, letter c), referring to the commodities or underlying assets referred to in Annex I, Section C, point 10[647].

2-bis. In compliance with the technical regulatory standards determined by ESMA, CONSOB approves the requests for exemption from application of the position limits submitted in accordance with paragraph 2, letters a), b) and c)[648].

3. CONSOB informs AESFEM of the position limits that it intends to establish for the purpose receiving the opinion of the authorities with regard to the compatibility of the position limits with the purpose expressed in paragraph 1 and with the calculation methodology determined by AESFEM. If necessary CONSOB amends the position limits in conformance with the opinion of the AESFEM or provides the latter with reasons why it does not believe it necessary to modify them, making public in timely fashion the reasons for these decisions on its website.

4. If large quantities of derivative instruments on agricultural commodities having the same underlying assets and the same characteristics, or critical or significant derivatives on commodities having the same underlying assets and characteristics are traded at trading venues in several Member states, CONSOB, in the case where it is the competent authority of the venue in which the highest quantity is traded (central competent authority) specifies, according to what is with the regulation referred to in paragraph 1, the single limit position to be applied to all the trades relative to said derivative instrument. In this case, CONSOB consults the competent authority of the other venues in which a large number of such derivative instruments on agricultural commodities is traded or critical or significant derivative instruments on commodities are traded, regarding the single position limit to be applied and any review of said limit[649].

5. Following the reception, by CONSOB, of the communication of a central competent authority, regarding the position limits applicable to a critical or significant derivative instrument on commodities or a derivative instrument on agricultural commodities negotiated for large quantities in trading venues subject to its supervision, CONSOB, in the case of dissent, shows in writing the complete and detailed reasons for which it does not consider the requirements outlined in paragraph 1 met[650].

6. CONSOB concludes cooperation agreements with the other competent authorities of the venues on which derivative instruments on agricultural commodities having the same underlying assets and the same characteristics are traded for large quantities, critical or significant derivative instruments

647 Paragraph thus replaced by Article 1 of Legislative Decree no. 31 of 10.3.2023.

648 Paragraph added by Article 1 of Legislative Decree no. 31 of 10.3.2023.

649 Paragraph thus replaced by Article 1 of Legislative Decree no. 31 of 10.3.2023.

650 Paragraph thus replaced by Article 1 of Legislative Decree no. 31 of 10.3.2023.

on commodities having the same underlying assets and the same characteristics traded on a venue subject to its supervision, and with the competent authorities of the owners of positions in such derivative instruments, contemplating the reciprocal exchange of pertinent data for the purpose of verifying and enforcing the limit of the single position[651].

7. In exceptional cases, CONSOB may impose more restrictive limits than those adopted pursuant to paragraph 1 that are duly justified and proportioned, taking into account the liquidity and ordered functioning of the specific market. The decision to impose more restrictive position limits is valid for a period that may not exceed six months starting from the date of the relative publication on CONSOB's website and may be extended by six months in six months, if the reasons that led to the restriction continue to exist. In the absence of an express extension, once the period of six months has elapsed the more restrictive limits cease automatically.

8. On its website, CONSOB publishes the decisions adopted pursuant to para 7, including information on the more restrictive position limits and communicates them to AESFEM, together with the reasons leading to the adoption of the said decisions so that these authorities can express themselves on the need for the more restrictive position limits in the light of the exceptional nature of the case. If CONSOB imposes limits in contrast with the opinion of AESFEM, it immediately publishes a communiqué on its website in which it explains the reasons which have led it to taking said decision.

Article 68-bis
Checks by the trading venues operator regarding positions in derivatives on commodities

1. The operator of a trading venue that trades derivatives on commodities is equipped with a system of controls on the management of the positions that include at least the power of the operator to:

a) check the open positions of the people;

b) obtain from the people information, including all the relevant documentation, in relation to the extent and the purposes of a position or exposure taken, information about actual or underlying owners, any concerted measure and any assets and liabilities in the underlying market, including, if necessary, the positions held in derivative instruments on commodities having the same underlying assets and the same characteristics in other trading venues and in EEOTC contracts through the members and participants[652];

c) imposing on a person to close or reduce a position temporarily or permanently and to unilaterally adopt the appropriate measures to ensure closure or reduction of the position in the case where the person does not comply; and[653]

d) demand that the person temporarily put liquidity into the market again at an agreed price and in an agreed volume, with the explicit intent to attenuate the effects of a high or dominant position[654].

Article 68-ter
Characteristics of limits and checks on the management of the positions and information obligations

1. The position limits and the checks into the position management are transparent and non-discriminatory, they specify how they are applied to people and take into account the nature and composition of the members and investors in market and the use that they make of the contracts

651 Paragraph thus replaced by Article 1 of Legislative Decree no. 31 of 10.3.2023.

652 Letter thus replaced by Article 1 of Legislative Decree no. 31 of 10.3.2023.

653 Letter thus replaced by Article 1 of Legislative Decree no. 31 of 10.3.2023.

654 Letter thus amended by Article 1 of Legislative Decree no. 31 of 10.3.2023, which deleted the words: "if applicable,".

presented at the trade.

2. The operator of the trading venue gives CONSOB detailed information about checks made on position management, in accordance with the methods and in the terms established by this with its regulation[655].

Article 68-quater
Notification of holders of positions by category

1. The operator of a trading venue in which commodity derivatives or issue quotas of or derivative instruments are traded on the same publishes a weekly report indicating the aggregate positions held by the different categories of people for the different financial instrument derivatives on commodities or issue quotas or derivative instruments on the same, traded on the trading venue, when either the number of people or their open positions exceed minimum thresholds, distinguishing among the positions identified as suitable for reducing the risks directly connected with the commercial activities and the other positions in an objectively measurable way. This relationship is transmitted to CONSOB and AESFEM.

2. Investment firms and Italian banks that trade commodities derivatives or issue quotas or their derivative products outside a trading venue shall provide the central competent authority or, where such authority does not exist, the competent authority of the trading venue at which the commodities derivatives or issue quotas or derivative products are traded, at least once a day, with the disaggregated data of their positions and of those of their clients and their clients' clients down to the last clients, taken in EEOTC contracts and, if significant, in derivatives on commodities or issue quotas or derivatives thereof traded in a trading venue, distinguishing between the positions identified as suitable for reducing the risks directly connected with the commercial activities and the other positions, in an objectively measurable way[656].

2-bis. Paragraphs 1 and 2 shall not apply to the securities referred to in Article 1, paragraph 1-bis, letter c) referring to commodities or underlying assets referred to in Annex I, Section C), point 10[657].

3. The members or investors in the regulated markets and the multilateral trading facilities and the clients of the organised trading facilities give the manager of the trading venue detailed information regarding their positions held through contracts traded in the trading venue in question, on at least a daily basis, including the positions of their clients, and the clients of said clients, until reaching the final client.

4. With its own regulation CONSOB provides for:

a) the times and ways by which the operator of the trading venue sends the disaggregated data inherent in the positions of all the people, including the members or investors and the relative clients in the trading venue;

b) the methods of classification, by operators of the trading venues, for the purposes of the information to be given pursuant to this article, the people that hold commodity derivative positions or issue quotas or derivative instruments of the same[658].

655 See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1 of 2.1.2018).

656 Paragraph thus replaced first by Article 3 of Legislative Decree no. 165 of 25.11.2019 and then by Article 1 of Legislative Decree no. 31 of 10.3.2023.

657 Paragraph added by Article 1 of Legislative Decree no. 31 of 10.3.2023.

658 See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1 of 2.1.2018).

Article 68-quinquies
CONSOB's powers and obligations to collaborate

1. In performing the supervisory tasks pursuant to this section, CONSOB exercises the powers provided for by articles 62-octies, 62-novies, 62-decies and may also:

a) ask anyone for information, information, data or the exhibition of documents, in the original or as a copy, regarding the extent and the purpose of a position or open exposure through a derivative instrument on commodities and any assets and liabilities in the underlying market;

b) limit the possibility of anyone to conclude a derivative contract on commodities, even by the introduction of limits on the extent of a position said person may hold at any time pursuant to the article 68;

c) ask anyone to adopt measures to reduce the extent of a position or exposure in derivatives on commodities.

2. CONSOB provides the competent authorities of the other Member states with information relative to:

a) any requests for a reduction of the extent of a position or exposure, pursuant to para 1, letter c);

b) any limitations to the possibility of people to open a position in a derivative on commodities, pursuant to paragraph 1, letter b).

2-bis. The notification, if applicable, including detailed information regarding the request or application, pursuant to paragraph 1, letter a), including the identity of person or people to whom it has been addressed and the reasons adopted, as well as the scope of the limitations introduced pursuant to paragraph 1, letter b), including the person involved, the applicable financial instruments, any limits to the extent of the positions that any person may hold at any time, and exemptions granted pursuant to paragraph 2 and the reasons adopted. The notification is given at least twenty four hours before the planned coming into effect of the interventions or measures. In exceptional circumstances, the notification may be given less than twenty four hours before the measure comes into effect if it is not possible to respect that term. If the measures adopted pursuant to paragraph 1, letters b) or c) are relative to wholesale energy products, CONSOB also informs the agency for collaboration among the national energy regulations instituted pursuant to (EC) regulation no. 713/2009. CONSOB also sends notification in compliance with this paragraph when it intends to adopt the measures referred to in letters b) and c) of paragraph 1.

3. CONSOB, following the reception of a notification by competent authorities in other member states, of measures to reduce the extent of a position or exposure or limitation to the possibility of people of opening a position in a derivative in commodities, may adopt measures in compliance with paragraph 1, letters b) or c), when said measures are necessary for achieving the aim of the competent authority of another member state that has sent the notification.

Section VI
Growth markets for small and medium-sized enterprises[659]

Article 69
Growth markets for small and medium-sized enterprises [660]

1. CONSOB, on application by the operator of a multilateral trading facility, registers a system as a growth market for small and medium-sized enterprises if the requirements referred to in paragraph 2 are met[661].

2. Without prejudice to compliance with the other obligations of this decree relative to the management of a multilateral trading facility, the multilateral trading facility puts in place rules, facilities and effective procedures, suitable for guaranteeing that the following conditions are met, for the purposes of the registration referred to in paragraph 1:

a) at least 50 percent of the issuers whose financial instruments are admitted to trading on the system are small and medium-sized enterprises, either at the time of registration as a growth market for small and medium-sized enterprises or later, with reference to each calendar year;

b) appropriate criteria are established for admission to trading in financial facilities on the system and remaining there;

c) at the time of admission to trading a financial instrument on the market sufficient information has been published to allow investors to make an informed choice regarding the investment. Said information may consist of an appropriate admission document or a prospectus of the requirements referred to in regulation 2017/1129/EU are applicable with regard to the public offer presented together with admission to trading the financial instrument on the multilateral trading facility;

d) on the market there is adequate periodic financial information, made available by the issuer or by someone else on its behalf, that includes at least the annual financial report subject to review;

e) the issuers, the parties who exercise responsibility for management and the parties closely associated with them, as specified respectively in 21), 25) and 26) of article 3, section 1, of (EU) regulation no. 596/2014, Comply with the requirements applicable to them dictated by the said regulation;

f) the regulated information concerning the issuers is kept and publicly disseminated;

g) there are effective facilities and checks aimed at preventing and showing up market abuses pursuant to the provisions of (EU) regulation no. 596/2014[662].

3. The operator of a growth market for small and medium-sized enterprises may provide for additional regulations over and above those provided for by l paragraph 2[663].

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659 Heading thus modified by Article 3 of Legislative Decree no. 165 of 25.11.2019, which replaced the word “SME” with the words “small and medium-sized enterprises”.

660 Heading thus modified by Article 3 of Legislative Decree no. 165 of 25.11.2019, which replaced the word “SME” with the words “small and medium-sized enterprises”. Paragraph no. 2 of Article no. 44-bis of the Legislative Decree no. 76 of 16.7.2020, coordinated with the Conversion Law no. 120 of 11.9.2020 provides that: "2. Issuers who, on the date of entry into force of the law converting this decree, assume the qualification of SME on the sole basis of the turnover criterion continue to maintain this qualification for two years subsequent to the current one ".

661 Paragraph thus modified by Article 3 of Legislative Decree no. 165 of 25.11.2019, which replaced the word “SME” with the words “small and medium-sized enterprises”.

662 Paragraph thus modified by Article 3 of Legislative Decree no. 165 of 25.11.2019, which replaced the word “SME” with the words “small and medium-sized enterprises”.

663 Paragraph thus modified by Article 3 of Legislative Decree no. 165 of 25.11.2019, which replaced the word “SME” with the words “small and medium-sized enterprises”.

4. CONSOB may revoke the registration of a multilateral trading facility as a growth market for small and medium-sized enterprises at the request of the operator or when the system does not comply with paragraph 2[664].

5. A financial instrument of an issuer admitted to trading on a growth market for small and medium-sized enterprises may also be traded on another growth market for small and medium-sized enterprises only if the issuer has been informed beforehand and has not raised objections to the trading on another market. In this case the issuer is not subject to any obligation relative to the corporate governance or initial, continuous or ad hoc information with regard to this growth market for small and medium-sized enterprises[665].

Section VII
Market recognition

Article 70
Market recognition

1. CONSOB, upon stipulating agreements with the corresponding authorities, may recognise extra-EU financial instrument market, for the purpose of extending their operation in Italy.

2. The operators of the regulated markets that intend to extend market operations that it manages to non-EU States communicate the fact to CONSOB, that issues its clearance upon the stipulation of agreements with the corresponding authorities. For the regulated wholesale state bond markets communication is given to the Bank of Italy, that issues its clearance upon the stipulation of agreements with the competent foreign authorities and it informs CONSOB thereof.

3. In the cases referred to in paras 1 and 2, CONSOB or the Bank of Italy, according to their respective competences, check that the information regarding the financial instruments and the issuers, the methods of price formation, the methods of liquidation of the contracts, the regulations of supervision over markets and over intermediaries are equivalent to those provided for in the regulations currently in force in Italy with reference to the regulated markets, and anyway able to ensure adequate protection of the investors.

4. CONSOB may specify, with regulation, the methods and the conditions to recognise extra-EU financial instrument markets.

Chapter III
Systematic internalisations

Article 71
Obligations of the systematic internaliser

1. The investment company that exceeds the limits established in the delegated regulation (EU) 2017/565, in relation to the frequent, systematic and substantial method for the application of the systematic internalisation system or that anyway chooses to subject itself to that system informs CONSOB of the fact.

664 Paragraph thus modified by Article 3 of Legislative Decree no. 165 of 25.11.2019, which replaced the word “SME” with the words “small and medium-sized enterprises”.

665 Paragraph thus modified by Article 3 of Legislative Decree no. 165 of 25.11.2019, which replaced the word “SME” with the words “small and medium-sized enterprises”.

2. For the purposes of the verification for remaining of the characteristics required by the definition of systematic internaliser, CONSOB may request the systematic internalisations, in the ways and under the terms it has established to provide it with the communication periodic and otherwise of data, information, deeds and documents.

3. Article 65-septies, paragraph 6 applies to the systematic internalisations.

Chapter IV
Obligations of trading, transparency and signalling transactions in financial instruments

Article 72
Determination of the competent authority

1. The Ministry of The Economy and Finance, CONSOB and the Bank of Italy are the national authorities competent pursuant to article 2, section 1, point 18), of (EU) regulation no. 600/2014, pursuant to what is provided for under this Chapter.

Article 73
Supervision

1. CONSOB supervises compliance with the provisions referred to in the Titles II, III and IV of (EU) regulation no. 600/2014, the trading obligations provided for by the articles 23 and 28 of (EU) regulation no. 600/2014, as well as non-discriminatory access to the references indices and with reference to granting a licence for the same, according to what is specified by article 37 of the same regulation, as well as with reference to the compliance with the associated technical regulation and implementation regulations. To this end use is made of the powers provided for by the articles 62-octies, 62-novies and 62-decies.

Article 74
Exemptions from the pre-trade transparency requirements of trading venues

1. Without prejudice to what is specified in paragraph 4 and in conformance what is specified by articles 4, section 1, and 9, sections 1 and 2, of (EU) regulation no. 600/2014, CONSOB may exempt the operator of a trading venue from the obligations of publishing the pre-trade information pre-Trade established by articles 3 and 8 of the cited regulation as well as revoking the exemptions granted.

2. CONSOB governs through its own regulation the content and the methods for presenting the application for exemption by the operator of a trading venue[666].

3. CONSOB adopts the Provisions of suspension of exemptions granted, pursuant to article 5, sections 2 and 3, of the regulation indicated in the first paragraph.

4. The provisions for exemption from the pre-trade transparency obligations are adopted by CONSOB, in agreement with the Bank of Italy, with regard to the operators of the wholesale state bond trading venues. Said provisions are adopted by CONSOB, having consulted the Bank of Italy, with regard to the operators of the wholesale public and private debenture other than state bond

666 See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1 of 2.1.2018).

trading venues, as well as securities normally traded on the money market and derivative financial instruments on public bonds, on rates of interest and on foreign exchange.

5. The Ministry of the Economy and Finance and the Bank of Italy are informed by CONSOB of the applications for exemption from the pre-trade transparency obligations on state bonds received, as well as the adoption of the provisions of exemption from the pre-trade transparency obligations concerning state bonds.

Article 75
Provisions of temporary suspension
of the pre-trade transparency obligations

1. When the conditions specified by article 9, section 4, of (EU) regulation no. 600/2014 occur CONSOB adopts provisions for the temporary suspension of obligations to publish the pre-Trade information established in article 8 of the cited regulation, for financial instruments not representing capital.

2. Provisions referred to in paragraph 1 are adopted by the Ministry of the Economy and Finance, at the proposal of the Bank of Italy in agreement with CONSOB, relative to the obligations of publication concerning the state bonds. The same provisions are adopted by CONSOB, having consulted the Bank of Italy, relative to obligations of publication concerning the public and private debentures other than state bonds, as well as the securities normally traded on the money market and the derivative financial instruments on public securities, rates of interest and foreign exchange.

Article 76
Deferred publishing permissions

1. Without prejudice to what is specified in paragraph 3 and in conformance with what is specified in articles 7, 11, 20 and 21 of (EU) regulation no. 600/2014, CONSOB has the power to:

a) authorise the operator of a trading venue or an investment company that concludes, also as systematic internaliser, on its own account or on account of the clients, transactions in financial instruments, to defer the publication of the information post-Trade on transactions, established by articles 6 and 10 of the cited regulation;

b) apply the measures specified by article 11, section 3, of the said regulation;

c) revoke the authorisation granted pursuant to this paragraph.

2. CONSOB governs through its own regulation the content and the methods of presenting the application for authorisation to defer the publication[667].

3. The provisions of authorisation for deferred publication of the information post-Trade are adopted by CONSOB, in agreement with the Bank of Italy, with regard to the operators of the wholesale state bond trading venues. The same provisions are adopted by CONSOB, having consulted the Bank of Italy, with relation to the operators of the wholesale private and public debenture other than state bond trading venues, as well as securities normally traded on money markets and derivative financial instruments on public securities, rates of interest and foreign exchange.

4. The Ministry of the Economy and Finance and the Bank of Italy are informed by CONSOB of the

667 See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1 of 2.1.2018).

application for authorisation for deferred publication of information post-Trade on transactions in state bonds received, as well as the adoption of provisions for the authorisation for deferred publication of the information post-Trade concerning state bonds.

Article 77
Provisions of temporary suspension of the obligations
of transparency post-trade

1. When the conditions specified by article 11, section 2, of (EU) regulation no. 600/2014 occur CONSOB adopts the provisions of temporary suspension of the obligations to publish information post-Trade established by article 10 of the cited regulation, for financial instruments not representing capital.

2. The provisions referred to in paragraph 1 are adopted by the Ministry of the Economy and Finance, at the proposal of the Bank of Italy in agreement with CONSOB, relative to the obligations of publication of the information post-trade concerning state bonds. The same provisions are adopted by CONSOB, having consulted the Bank of Italy, relative to the obligations governing the publication of the information post-trade concerning the private and public debentures other than state bonds as well as the securities normally traded on the money market and the derivative financial instruments on public securities, rates of interest and foreign exchange.

Article 78
Information to be provided for the transparency and performance
of other calculations and publication obligations

1. For the purposes of the application of the requirements of transparency pre and post-Trade required under articles 3 to 11 and 14 to 21 of (EU) regulation no. 600/2014 and the implementation of the regime specified by article 32 of the same regulation in connection with the trading of derivative instruments obligation, as well as to establish whether an investment company is a systematic internaliser, CONSOB, with the methods and the terms it has established through its regulation, may request information:

a) from trading venues;
b) from the authorised publication devices; and
c) from the providers of a consolidated publication system.

2. Publication obligations imposed by the provisions contained in titles II and III of (EU) regulation no. 600/2014 and by the associated technical regulation and implementation regulations are carried out by CONSOB through the making data and information available on its website.

3. The information necessary for carrying out the functions assigned to the Bank of Italy under this Chapter, obtained pursuant to paragraph 1, are transmitted by CONSOB to the Bank of Italy in accordance with the content, the methods and times established in the protocol of understanding specified by article 62-ter, paragraph 4.

TITLE I-TER[668]
AUTHORIZATION AND SUPERVISION OF APA AND ARM[669]

Article 79
Determination of the competent authority

1. The management of an APA or an ARM is subject to prior authorization by CONSOB, in compliance with the provisions of Title IV-bis of Regulation (EU) no. 600/2014 and related delegated acts. CONSOB revokes the authorization granted pursuant to this paragraph when the conditions referred to in Article 27-sexies of Regulation (EU) no. 600/2014[670].

1-bis. CONSOB publishes on its website the list of authorized subjects pursuant to paragraph 1[671].

2. CONSOB supervises the subjects referred to in paragraph 1 and the managers of the trading venues that provide the services of an APA or an ARM to ensure that they comply with the operating conditions provided for by Regulation (EU) no. 600/2014 and related delegated acts. For these purposes, CONSOB exercises the powers provided for in articles 62-octies, 62-novies and 62-decies, paragraph 1, letters a), b) and d) [672].

2-bis. CONSOB may govern by regulation the authorization and revocation procedure referred to in paragraph 1[673].

Article 79-bis
Authorisation and revocation

…omissis…[674]

Article 79-ter
Requirements for subjects performing administrative functions at the data communication service provider

…omissis…[675]

668 Title first introduced by Article 3 of Legislative Decree no. 129 dated 3.8.2017 and then amended by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Italian Law no. 91 of 15.7.2022, in the terms indicated in the following notes.

669 Article 50 of the Law Decree n. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022, has replaced the heading of this Title from: "Data communication services" to: "Authorization and supervision of APA and ARM".

670 Paragraph thus replaced by Article 50 of the Law Decree n. 50 of 17.5.2022, converted with amendments by the Law. n. 91 of 15.7.2022.

671 Paragraph inserted by Article 50 of the Law Decree n. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022.

672 Paragraph thus replaced by Article 50 of the Law Decree n. 50 of 17.5.2022, converted with amendments by the Law. n. 91 of 15.7.2022.

673 Paragraph added by Article 50 of the Law Decree n. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022. See CONSOB Markets Regulation adopted with Resolution no. 20249 of 28.12.2017.

674 Article repealed by article 50 of the Law Decree n. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022.

675 Article repealed by article 50 of the Law Decree n. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022.

Article 79-ter.1
Organisational requirements of the data communication service providers

…omissis…[676]

TITLE II[677]
REGULATION OF CENTRAL COUNTERPARTIES[678]

Article 79-quater
Definitions

…omissis… [679]

Chapter I[680]
Central counterparties

Article 79-quinquies
Identification of the national competent authorities with regard to central counterparties

1. The Bank of Italy and CONSOB are the competent authorities for the authorisation and supervision of the central counterparties, pursuant to Article 22, sub-section 1, of Regulation (EU) no. 648/2012, pursuant to the provisions of the following paragraphs, of Article 79-sexies and of Article 79-novies.1[681].

1. The Bank of Italy and CONSOB are the competent authorities for the authorisation and supervision of the central counterparties, pursuant to Article 22, sub-section 1, of Regulation (EU) no. 648/2012, pursuant to the provisions of the following paragraphs and of Article 79-sexies.

2. CONSOB is the competent authority, pursuant to article 22, sub-section 1, of the regulation referred to in paragraph 1, for the coordination of the cooperation and of the exchange of information with the European Commission, the European Securities and Markets Authority (ESMA), the competent authorities of the other Member States, the European Banking Authority (EBA) and the relevant

676 Article repealed by article 50 of the Law Decree n. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022.

677 Title first substituted by Article 2 of Legislative Decree no. 27 of 27.1.2010 (published in the Ord. Suppl. no. 43/L of the Official Journal no. 53 of 5.3.2010) and then amended by Legislative Decree no. 91 of 18.6.2012, by Legislative Decree no. 72 of 12.5.2015, by Legislative Decree no. 176 of 12.8.2016 and by Legislative Decree no. 129 of 3.8.2017, in the terms specified in the subsequent notes.

678 Heading replaced by Article 2 of Legislative Decree no. 176 of 12/08/2016.

679 Article repealed by Article 2 of Legislative Decree no. 176 dated 12.8.2016. The repealed provisions have been adopted into Article 79-decies.

680 Chapter first replaced by Article 2 of Legislative Decree no. 176 of 12.8.2016 and then amended in the terms indicated in the subsequent notes.

681 Paragraph amended by Article 25 of Legislative Decree no. 224 of 6.12.2023 which replaced the words: «of the following paragraphs and of article 79-sexies» with the words: «of the following paragraphs, of Article 79-sexies and of Article 79-novies.1». See CONSOB/Bank of Italy amalgamated post-trading regulation laying down provisions on central counterparts, central depositories and centralised management activities of 13 August 2018.

members of the European system of central banks, pursuant to articles 23, 24, 83 and 84 of the regulation referred to in paragraph 1.

3. The Bank of Italy establishes, manages and controls the authorisation board contemplated by Article 18 of the regulation referred to under paragraph 1.

4. The Bank of Italy and the competent authority pursuant to Article 25, sub-section 3, letter a), of the regulation referred to under paragraph 1, within the sphere of the procedure for the recognition of the central counterparties of third countries. The Bank of Italy, in accordance with CONSOB, transmits the opinion to the ESMA.

Article 79-sexies[682]
Authorisation and supervision of central counterparties

1. The Bank of Italy authorises the performance of the clearance services in the capacity of central counterparty on the part of legal entities established in Italy, pursuant to articles 14 and 15 and according to the procedure contemplated by article 17 of Regulation (EU) no. 648/2012. The same authority revokes the authorisation to perform services on the part of a central counterparty in the case of the conditions indicated in article 20 of the said regulation. Article 79-octiesdecies shall apply[683].

2. The Bank of Italy, in the capacity of chairperson of the authorisation board contemplated by Article 18 of the regulation referred to under paragraph 1, can submit the question for the adoption of a common negative opinion on the authorisation of a central counterparty to the ESMA, as contemplated under Article 17, sub-section 4, of the same regulation, interrupting the terms of the authorisation procedure.

3. The supervision of the central counterparties is exercised by the Bank of Italy, taking into account the stability and the containment of the systemic risk, transparency and investor protection. For this purpose, the Bank of Italy and CONSOB, within the sphere of their respective duties and powers, can, in respect of the central counterparts and participants:

a) request the communication, including regular data and information and the transmission of records and documents, in the manner and within the time limits set out by it;

b) hold personal hearings;

c) carry out inspections;

d) request the exhibition of documents and the execution of deeds deemed necessary.

In the case contemplated under letter b) of this paragraph, the Bank of Italy and CONSOB draw up a report on the data, the information acquired and the statements rendered by the subjects concerned, who are invited to sign the report and who are entitled to receive copy of the same. CONSOB draws up the report also in the case contemplated by letter c) of this paragraph. The procedures for the exercise of the information supervisory powers are disciplined by regulations adopted by the Bank of Italy, in accordance with CONSOB; under the same regulations, additional requisites may be established for the execution of the central counterparty's services, pursuant to the regulation referred to under paragraph 1. The Bank of Italy and CONSOB, within the sphere of their respective duties

682 Article first included by Article 2 of Legislat.ive Decree no. 176 of 12.8.2016 and then amended by Article 3 of Legislative Decree no. 129 of 3.8.2017 and by Article 25 of Legislative Decree no. 224 of 6.12.2023 under the terms indicated in the following note.

683 Paragraph amended by Article 25 of Legislative Decree no. 224 of 6.12.2023 that replaced the words «Article 79-octiesdecies and 79-vicies shall apply» with the words «Article 79-octiesdecies shall apply».

and powers and in pursuit of the purposes contemplated by this paragraph, may oblige the counterparty to adopt the actions and measures necessary to assure respect for the regulation contemplated under paragraph 1, of the relative delegated deeds, of the technical regulation and implementation provisions, and this title.

4. In the case of need and urgency, the Bank of Italy, for the purposes indicated under paragraph 3, adopts the necessary provisions, also substituting the central counterparty. The Bank of Italy immediately informs CONSOB, the ESMA, the authorisation board referred to under paragraph 2, the relevant authorities of the European Central Banks System and the other authorities concerned of the provisions adopted, pursuant to Article 24 of the regulation referred to under paragraph 1.

5. The Bank of Italy exercises the powers and duties specifically indicated under Articles 41, sub-section 2, 49, sub-sections 1, and 54, sub-section 1, of the regulation referred to under paragraph 1 and adopts, in accordance with CONSOB, the provisions required pursuant to Articles 31, paragraphs 1 and 2, 35, paragraph 1, and 45-bis, paragraphs 1 and 2, of the same regulation[684].

6. Pursuant to Article 32, sub-section 4, of the regulation referred to under paragraph 1, the Bank of Italy and CONSOB identify and disclose the information necessary to carry out the assessment contemplated by the same article.

7. The Ministry of Economy and Finance, after consulting the Bank of Italy and CONSOB, determines by regulation the requisites of integrity, professional skill and independence of the subjects who perform the duties of administration, governance and control in the central counterparty, in accordance with the provisions of Article 13. The lack of the requirements shall result in disqualification from office. It is declared by the board of directors, the supervisory board or the management board within thirty days of the appointment or knowledge of the supervening defect. In the case of lack of action, disqualification is pronounced by the Bank of Italy or CONSOB.".

8. The regulation required by paragraph 7 shall establish the grounds for the temporary suspension from office and its duration. Paragraph 7, sentences three and four, apply.

9. In the case of violation of the provisions contemplated by Article 31 of the regulation referred to under paragraph 1 for the transfer of qualified shareholdings in the central counterparties, the voting rights inherent to the equity held cannot be exercised.

10. In case of non-compliance with the prohibition pursuant to the preceding paragraph, the resolution or diverse measure adopted by the vote or, in any case, the determining contribution of the shareholdings referred to under the sane paragraph, may be challenged under the provisions of the Italian Civil Code. The shares for which the voting right cannot be exercised are counted for the purposes of the regular constitution of the related shareholders' meeting.

11. The challenge may also be initiated by the Bank of Italy or CONSOB within one hundred and eighty days of the date of the resolution or, if this is subject to registration in the companies register, within one hundred eighty days of registration or, if it is subject only to filing at the companies register office, within one hundred and eighty days of the date of this.

11-bis. The Bank of Italy may adopt the provisions of article 4-undecies, paragraph 4 in agreement

684 Paragraph amended by Article 25 of Legislative Decree no. 224 of 6.12.2023 which replaced the words: «to Articles 31, paragraphs 1 and 2, and 35, paragraph 1,» with the words: «to Articles 31, paragraphs 1 and 2, 35, paragraph 1, and 45- bis, paragraphs 1 and 2,».

with CONSOB[685].

12. Unless otherwise specified by this decree, the powers contemplated by the regulation referred to under paragraph 1 on the supervision of central counterparties are exercised by the Bank of Italy and CONSOB, each within the sphere of its own competence.

13. The Bank of Italy and CONSOB, by a memorandum of understanding, establish the cooperation procedures for the performance of their respective duties, with particular reference to the positions represented within the sphere of the boards, the management of emergency situations, the adoption of measures regarding recovery plans and early intervention, and, more generally, the exercise of the powers provided for by the regulation referred to in paragraph 1 and by Regulation (EU) 2021/23 as well as the procedures for the reciprocal exchange of relevant information, also regarding the irregularities reported and the provisions adopted in the exercise of their respective functions, taking into account the need to reduce to a minimum the charges bearing on the operators and the economics of the action of the supervisory authority. The memorandum of understanding is rendered public by the Bank of Italy and CONSOB in the manner established by the same[686].

Article 79-septies
Guarantees acquired in the performance of the central counterparty's activity and prevalence of the provisions on the segregation and portability of the positions and of the customers' guarantees

1. The margins and the other performances acquired by a central counterparty as guarantee for fulfilment of the obligations deriving from the clearance activity carried out in favour of its own participants cannot be subject to executive or precautionary actions on the part of the creditors of the single participants or of the subject which manages the central counterparty, also in the case of the opening of insolvency procedures. The guarantees acquired may be used only as contemplated by Regulation (EU) no. 648/2012. The opening of an insolvency procedure against a participant does not prejudice the adoption and effectiveness of the measures contemplated under Article 48 of the aforesaid regulation by the central counterparty, in compliance with the same article, aimed at the management of the positions of the insolvent participant and in pursuit of the portability of the same or the return of the latter to the customers, as contemplated by the aforesaid regulation. Such measures cannot be declared ineffective in virtue of the application of other legal provisions.

2. In the case of the opening of an insolvency procedure against an Italian participant of a central counterparty authorised pursuant to the regulation referred to under paragraph 1 but established in another Member State, the enforceability against the procedure of the measures adopted by the central counterparty pursuant to article 48 of the regulation referred to under paragraph 1 is disciplined by the law which regulates the system, pursuant to Article 7 of Italian Legislative Decree no. 210 of 12 April 2001.

3. In the case of the opening of an insolvency procedure against an Italian participant of a central counterparty established in a third country but recognised pursuant to Regulation (EU) no. 648/2012, the protective measures contemplated under paragraph 1 apply.

685 Paragraph included by Article 3 of Legislative Decree no. 129 dated 3.8.2017.

686 Paragraph amended by Article 25 of Legislative Decree no. 224 of 6.12.2023 that replaced the words: «the management of emergency situations» with the words: «the management of emergency situations, the adoption of measures regarding recovery plans and early intervention, and, more generally, the exercise of the powers provided for by the regulation referred to in paragraph 1 and by Regulation (EU) 2021/23».

Chapter II[687]
Competent national authorities for the exercise of additional supervisory powers

Article 79-octies
Identification of the competent national authorities for the exercise of additional supervisory powers pursuant to Regulation (EU) no. 648/2012

1. CONSOB is the national authority with competence as regards compliance with the obligations pursuant to Article 4, sub-section 3, of Regulation no. 648/2012 and the relative technical regulatory provisions on the part of subjects that act in the capacity of participants of the central counterparties or as customers of the latter, as defined under Article 2, point 15), of the said Regulation, and the obligations pursuant to Article 38, sub-section 1, and Article 39, sub-sections 4, 5, 6 and 7 of the same Regulation, on the part of subjects that act as participants of the central counterparties.

Article 79-octies.1
Determination of the national authorities competent for the exercise of further supervisory powers pursuant to (EU) regulation no. 600/2014

1. CONSOB is the competent authority for compliance with the obligations referred to in article 29, sections 1 and 2, of (EU) regulation no. 600/2014 by trading venues, investment firms, Italian banks, as well as companies of the non-EU countries authorised pursuant to article 28 or of the article 29-ter of this decree, that operate in the capacity of participants with the central counterparties.

2. CONSOB is the competent authority for compliance with the Obligations connected with the agreements stipulated, pursuant to article 30 of the regulation referred to in paragraph 1, by parties that act in the capacity of participants with the central counterparties or in the capacity of clients of the latter, as defined by article 2, point 15), of (EU) regulation no. 648/2012.

3. CONSOB is the competent authority for compliance with obligations referred to in article 31, sections 2 and 3, of the regulation referred to in paragraph 1 by investment firms, Italian banks, as well as companies of the non-EU countries authorised pursuant to article 28 or the article 29-ter of this decree and the operators of regulated markets.

4. The Bank of Italy is the competent authority for compliance with the obligations referred to in paragraph 3 for wholesale state bond markets[688].

Article 79-novies
Supervisory powers

1. For the purposes of performing the functions attributed by this title, with regard to parties that act in the capacity of investors with the central counterparties or in the capacity of customers of the latter, CONSOB has the powers provided for in articles 6-bis, 6-ter and 7. With regard to the operators of the trading venues, CONSOB and the Bank of Italy have the powers provided for by articles 62-octies, 62-novies and 62-decies[689].

2. For the execution of the functions attributed by this title, against subject that act as participants of

687 Chapter thus substituted by Article 2 of Legislative Decree no. 176 of 12.8.2016.

688 Article included by Article 3 of Legislative Decree no. 129 dated 3.8.2017.

689 Paragraph thus substituted by Article 3 of Legislative Decree no. 129 of 3.8.2017.

central counterparties or as customers of the latter, CONSOB has the powers contemplated under Articles 7, 8 and 10.

Article 79-novies.1
Identification of the competent national authorities pursuant to Regulation (EU) 2021/23

1. Without prejudice to the specific powers of the competent authorities regarding the assessment of the conditions for resolution and the provisions of the following paragraphs, the functions assigned by Regulation (EU) 2021/23 to the competent authorities are exercised by the Bank of Italy and Consob in accordance with Article 79-sexies, paragraph 3, first sentence.

2. The Bank of Italy is the competent authority to fulfil the disclosure and notification obligations provided for in Regulation (EU) 2021/23 and to carry out the functions specifically indicated in the first sentence of Article 10, section 2, first sentence, Article 35, section 1, Article 38, sections 1, 2 and 3, and Article 39, section 2, of that Regulation.

3. The Bank of Italy, after consultation with Consob:

a) exercises the powers provided for in Article 9, section 7, second and third paragraphs, Article 8, second paragraph, Article 12, sections 1 and 6, first paragraph, Article 15, section 1, Article 16, sections 1, 4, last paragraph and 7, and Article 20, section 1, of Regulation (EU) 2021/23;

b) approves the new senior management or the new administrative body appointed pursuant to Article 19, section 2, first sentence of Regulation (EU) 2021/23, as well as the new supervisory body.

4. The Bank of Italy, after consultation with Consob or at its proposal:

a) adopts the measures provided for in Article 18, sections 1 and 6, second paragraph, first sentence, of Regulation (EU) 2021/23;

b) provides for the total or partial removal of senior management or the administrative and supervisory bodies of central counterparties, under the conditions laid down in Article 19, section 1, first paragraph of Regulation (EU) 2021/23.

5. The Bank of Italy is the competent authority to carry out, in agreement with Consob, the tasks indicated in Article 9, sections 9 and 10, Article 10, sections 2, second sentence, 6, 7, 8, 9 and 10, and Article 11, sections 4, first paragraph, and 5, of Regulation (EU) 2021/23.

6. For the purposes of exercising the functions assigned by Regulation (EU) 2021/23 to the competent authorities, the Bank of Italy may issue, in agreement with Consob, implementing provisions[690].

Chapter II-bis[691]
Crisis of central counterparties

Article 79-novies.2
Extraordinary administration

1. The Bank of Italy, on its own initiative, after consultation with Consob or upon a proposal made by the latter within the scope of its powers, may order the measures indicated in Article 19, section 2, second sentence, of Regulation (EU) 2021/23. In the cases and in the manner indicated in the first

690 Article inserted by Article 25 of Legislative Decree no. 224 of 6.12.2023.

691 Chapter inserted by Article 25 of Legislative Decree no. 224 of 6.12.2023.

sentence, the Bank of Italy may also order the dissolution of the supervisory body of the central counterparties.

2. Insofar as they are compatible, Articles 70, paragraphs 2 to 7, 71, 72, 73, 74, 75, 75-bis, paragraphs 1, second sentence, and 2, and 77-bis, paragraphs 1 to 3, of the Consolidated Law on Banking shall apply. For the purposes of Articles 72, paragraph 1-bis, and 74 of the Consolidated Law on Banking, the extraordinary members promote useful solutions in the interest of the stability of the financial system and sound and prudent management.

Article 79-novies.3
Compulsory administrative liquidation

1. The Minister of Economy and Finance, on a proposal from the Bank of Italy, after consultation with Consob, may order by decree the compulsory administrative liquidation of central counterparties, even when the extraordinary administration or the ordinary liquidation referred to in Article 79-novies.4 is in progress and even if no early intervention measures have previously been adopted:

a) when the conditions set out in letters a) and b) are met, but not those set out in letter c) of Article 22, section 1 of Regulation (EU) 2021/23;

b) when the CCP has applied or intends to apply recovery measures which, while able to avoid collapse, have significant adverse effects on the financial system of the Union or of one or more Member States, but resolution has not been initiated pursuant to Article 22, section 5, of Regulation (EU) 2021/23.

2. Insofar as they are compatible, Articles 80 shall apply, with the exception of paragraphs 1 and 2, 81 to 90, 91, with the exception of paragraphs 1-bis and 11-bis, 92, 92-bis, 93 and 94 of the Consolidated Law on Banking.

Article 79-novies.4
Ordinary liquidation

1. The central counterparties shall promptly inform the Bank of Italy and Consob of the occurrence of a cause for dissolution of the company.

2. In the event that, faced with the occurrence of a cause for dissolution of the company, the condition set out in Article 22, section 1, letter a), of Regulation (EU) 2021/23 is not met, the Bank of Italy, in agreement with Consob, shall verify the existence of the conditions for a regular conduct of the winding-up procedure.

3. It is not possible to proceed with the registration in the companies' register of the records that resolve on or declare the dissolution of the company without the assessment referred to in paragraph 2.

4. The registration referred to in paragraph 3 involves the revocation of the authorisation for the activity of the central counterparty from the deadline set by the Bank of Italy, in agreement with Consob.

5. In relation to the company in liquidation, all the powers of the Authorities remain unaffected.

6. If the winding-up procedure according to ordinary rules does not run regularly or swiftly, the Bank of Italy may, in agreement with Consob, arrange to replace the liquidators, as well as the members of the supervisory bodies, determining the relative remuneration to be paid by the company.

7. The replacement measure is published in the manner provided for in Article 81, paragraph 2, of the Consolidated Law on Banking.

8. The replacement of the liquidating bodies does not imply a change in the winding-up procedure.

TITLE II-BIS[692]
REGULATION OF CENTRAL DEPOSITORIES AND OF REGULATORY AND CENTRALISED MANAGEMENT ACTIVITIES

Article 79-decies
Definitions

1. In this Title:

a) "relevant authorities" are the authorities indicated in Article 12, sub-section 1, of Regulation (EU) no. 909/2014;

b) "intermediaries" are persons eligible to hold accounts on which financial instruments and related transfers can be recorded.

Chapter I
Competent and relevant national authorities

Article 79-undecies
Identification of the competent national authorities for central depositories

1. CONSOB and the Bank of Italy are the national competent authorities for the authorisation and supervision of the central depositories established in the Republic, pursuant to Article 11, sub-section 1, of Regulation (EU) no. 909/2014, pursuant to the provisions of chapters I and II[693].

2. CONSOB, in accordance with the Bank of Italy, authorises the performance of the services in the capacity of central depository on the part of legal persons established in the Republic, and the extension of the activities or the outsourcing of the services to third parties, pursuant to Articles 16 and 19 of Regulation no. 909/2014 and according to the procedure contemplated by Article 17 of the same Regulation. CONSOB, in accordance with the Bank of Italy, revokes the authorisation in the case of the circumstances contemplated by Article 20 of the Regulation referred to under paragraph 1.

3. CONSOB, in accordance with the Bank of Italy, authorises the central depositories established in the Republic to perform their accessory banking-type services, and to designate one or more Italian or EU banks and to extend the said services, pursuant to Articles 54 and 56 and according to the procedure contemplated under Article 55 of the Regulation referred to under paragraph 1. CONSOB, in accordance with the Bank of Italy, revokes the authorisation in the case of the circumstances

692 Title first introduced by Article 2 of Legislative Decree no. 176 of 12.8.2016 and then amended by Article 3 of Legislative Decree no. 129 of 3.8.2017 according to the terms indicated in the following notes.

693 See CONSOB/Bank of Italy amalgamated post-trading regulation laying down provisions on central counterparts, central depositories and centralised management activities of 13 August 2018.

contemplated by Article 57 of the said Regulation[694].

4. CONSOB informs the applicant of the result of the authorisation procedure referred to under paragraph 2 and 3.

5. CONSOB is the authority responsible for cooperation with the competent authorities and the relevant authorities of the other Member States, the ESMA and the EBA. The said authority is the point of information exchange and it involves the Bank of Italy for the aspects of this latter's competence.

6. CONSOB, in accordance with the Bank of Italy, adopts the provisions requested pursuant to Articles 18, sub-section 3, and 27, sub-section 8, of the Regulation referred to under paragraph 1.

7. CONSOB, in accordance with the Bank of Italy, exercises the powers indicated by Article 23 of the Regulation referred to under paragraph 1 in the capacity of the competent authority of the Member State of origin and the competent authority of the host Member State.

8. Without prejudice to the provision of paragraph 5, CONSOB and the Bank of Italy, within the sphere of their respective powers, collaborate with the authorities of the Member State of origin and of the host Member State, exchanging information, concluding the cooperation agreements contemplated under Article 24, sub-section 4, of the Regulation referred to under paragraph 1. The said authorities, within the sphere of their respective powers, adopt the measures contemplated by sub-section 5 of the same article and can carry out inspections at branches. Each authority communicates the inspections provided to the other authority, which can request to carry out checks on aspects of its own competence.

9. CONSOB, in accordance with the Bank of Italy, exercises the powers indicated under Article 25. sub-sections 6 and 7, of the Regulation referred to under paragraph 1.

9-bis. CONSOB may adopt the provisions of article 4-undecies, paragraph 4 in agreement with the Bank of Italy[695].

10. CONSOB, in accordance with the Bank of Italy, adopts the additional measures contemplated by the delegated deeds and the technical regulatory and implementation provisions of the Regulation referred to under paragraph 1.

Article 79-duodecies
Identification of the competent national authorities to carry out the additional functions contemplated by Regulation (EU) No 909/2014

1. The authorities empowered to supervise the application of the law on accounting records, contemplated under Article 3 of the Regulation (EU) no. 909/2014, are:

a) the Bank of Italy, for the obligations bearing on the counterparties of a financial, guarantee agreement and on the government securities wholesale trading venues;

b) CONSOB, for the obligations bearing on the other trading venues and issuers' head offices.

694 Paragraph thus amended by Article 3 of Legislative Decree no. 129 dated 3.8.2017 that replaced the word: «European» with the word: «EU».

695 Paragraph included by Article 3 of Legislative Decree no. 129 dated 3.8.2017.

2. The authorities empowered to supervise the application of the law on the date fixed for the regulation of securities contemplated under Article 5 of the Regulation (EU) no. 909/2014, are:

a) CONSOB and the Bank of Italy, as regards the obligations bearing on the participants of a securities regulation system;

b) the Bank of Italy, for the obligations bearing on the government securities wholesale trading venues;

c) CONSOB, for the obligations bearing on the other trading venues.

3. CONSOB is the competent authority to supervise compliance with the obligations contemplated under Article 6, sub-section 2, of the Regulation referred to under paragraph 1 on the part of the investment firms and the Italian banks authorised to perform investments services and activities.

4. The authorities empowered to supervise the application of the law on enforced takeovers, contemplated under Article 7 of the Regulation referred to under paragraph 1, are:

a) the Bank of Italy and CONSOB, for the obligations relative to transactions offset through a central counterparty, as under Article 7, sub-section 10, letter a), of the regulation referred to under paragraph 1;

b) the Bank of Italy, for obligations relative to transactions not offset through a central counterparty but carried out at a venue for the wholesale trading of government securities, and CONSOB, for transactions carried out at other trading venues, pursuant to Article 7, sub-section 10, letter b), of the regulation referred to under paragraph 1;

c) the Bank of Italy, for obligations relative to transactions on government securities not offset through a central counterparty but carried out outside a trading venue, and CONSOB for the obligations relative to transactions carried out on other financial instruments, pursuant to Article 7, sub-section 10, letter c), of the regulation referred to under paragraph 1.

5. CONSOB and the Bank of Italy receive the data transmitted by the regulation internalisers pursuant to Article 9, sub-section 1, first paragraph of the regulation referred to under paragraph 1.

6. CONSOB is the competent authority to supervise compliance with the obligations contemplated under Article 38, sub-sections 5 and 6, of the regulation referred to under paragraph 1 on the part of the participants of a securities regulation system.

Article 79-terdecies
Identification of relevant national authorities

1. The Bank of Italy and CONSOB are the relevant authorities pursuant to Article 12, sub-section 1, letter a), of the Regulation (EU) no. 909/2014.

Chapter II
Supervisory purposes and supervised subjects

Article 79-quaterdecies
Supervisory purposes and powers

1. The supervision of central depositories is exercised by CONSOB, as regards transparency, the ordered performance of the services provided by the central depositories, the integrity of the markets and investor protection, and Bank of Italy as regards the stability and containment of the systemic risk.

2. Unless otherwise specified by this decree, the powers contemplated by the Regulation (EU) no.

909/2014 on supervision are exercised by the Bank of Italy and CONSOB, each within the sphere of its their respective competence.

3. CONSOB and the Bank of Italy, within the sphere of their respective competence and in pursuit of the purposes contemplated under paragraph 1, may, in respect of central depositories, intermediaries and the other subjects held to apply the regulation referred to under paragraph 2:

a) request the communication, including regular data and information and the transmission of records and documents, in the manner and within the time limits set out by it;

b) hold personal hearings;

c) carry out inspections;

d) request the exhibition of documents and the execution of deeds deemed necessary.

4. In the case contemplated under paragraph 3, letter b), the Bank of Italy and CONSOB draw up a report on the data, the information acquired and the statements rendered by the subjects concerned, who are invited to sign the report and who are entitled to receive copy of the same. CONSOB draws up the report also in the case contemplated by letter c) of paragraph 3.

5. CONSOB and the Bank of Italy, within the sphere of their respective duties and powers and in pursuit of the purposes contemplated by paragraph 1, may oblige the central depositories to adopt the actions and measures necessary to assure respect for the regulation contemplated under paragraph 2, of the relative delegated deeds, of the technical regulation and implementation provisions, and this title.

6. CONSOB may exercise the additional powers contemplated by Article 187-octies, paragraph 4, letters a), c), d) and e-bis), and paragraph 6.

7. In the case of need and urgency, the Bank of Italy, for the purposes indicated under paragraph 1, adopts the necessary provisions, also substituting the central depositories.

8. CONSOB and the Bank of Italy can dictate instructions on the procedures for the exercise of the supervisory powers.

9. To coordinate the exercise of the functions referred to under this title, CONSOB and the Bank of Italy establish, by a memorandum of understanding, the cooperation procedures and the reciprocal exchange of relevant information, taking into account the need to reduce to a minimum the charges bearing on the supervised subjects and to assure that the supervisory authorities' action is not too costly. The memorandum of understanding is rendered public by the Bank of Italy and CONSOB in the manner established by the same.

Article 79-quinquiesdecies
Regulation of services

1. The central depositories issue regulations to discipline the services provided by the same, the relative procedures and the criteria for the admission of the participants.

2. CONSOB, in accordance with the Bank of Italy, on the occasion of the initial authorisation, approves the regulations referred to under paragraph 1, any successive amendment and can request amendments in order to eliminate any malfunctions encountered in the services performed.

Article 79-sexiesdecies
Internal systems of reporting infringements (Whistleblowing)

…omissis…[696]

Article 79-septiesdecies
Reporting of infringements to the Bank of Italy and to CONSOB

…omissis…[697]

Chapter III
Central depositories

Section I
The regulation of centralised depositories

Article 79-octiesdecies
Statutory audit of accounts

1. The central depositories established in the Republic are subject to Articles 155, paragraph 2, 156, paragraph 4 and 159, paragraph 1.

Article 79-noviesdecies
Modifications to the control framework

1. In the case of violation of the provisions of Article 27, sub-sections 7 and 8, of Regulation (EU) no. 909/2014 for the transfer of the shareholdings that give origin to changes in the identity of the persons that control the functioning of the central depository, the voting rights inherent to the equity held cannot be exercised. In case of non-compliance with the prohibition, the resolution or other measure adopted by the vote or, in any case, the determining contribution of the said shareholdings may be challenged under the provisions of the Italian Civil Code. The shares for which the voting right cannot be exercised are counted for the purposes of the regular constitution of the related shareholders' meeting.

2. The challenge may also be initiated by Consob or the Bank of Italy within one hundred eighty days of the date of the resolution or, if this is subject to registration in the companies register, within one hundred eighty days of registration or, if it is subject only to filing at the companies register office, within one hundred eighty days of the date of this.

Article 79-noviesdecies.1
Provisions applicable to the performance of investment services
and activities by central depositaries

1. Without prejudice to what is provided for in this title and title II-ter, the provisions of this decree governing the provision of investment services and activities, with the exception of articles 13, 14, 15, 16, 17, 18, 19, 20 and 20-bis, are applied to the central depositaries authorised pursuant to (EU) regulation no. 909/2014 and established on Italian soil or in another member state with branches in

696 Article repealed by Article 3 of Legislative Decree no. 129 dated 3.8.2017.

697 Article repealed by Article 3 of Legislative Decree no. 129 dated 3.8.2017.

Italy that perform investment services and activities in addition to the provision of services explicitly listed in Sections A and B of the Annex to the indicated regulation in conformance with what is provided for in article 73 of the aforementioned rule[698].

Section II
Crises of central depositories

Article 79-vicies
Crises

1. If serious irregularities are found, the Ministry of Economy and Finance, on proposal of CONSOB or the Bank of Italy, may order the revocation of the governing bodies of the central depositories established in the Republic, with decree published in the Official Journal of the Italian Republic. The said decree will appoint one or more special commissioners for the administration of the securities central depository and determines their fees, charged to the company itself. Articles 70, paragraphs from 2 to 5, 72, except for paragraphs 2 and 8, and 75 of Italian Legislative Decree no. 385 of 1 September 1993, apply, attributed the powers of the Bank of Italy to the authority that proposed the provision.

2. If a central depository is declared to be in a state of insolvency pursuant to Article 195 of the bankruptcy law or if revocation of the authorisation is ordered pursuant to Regulation (EU) no. 909/2014, the Ministry of Economy and Finance issues a decree ordering compulsory administrative liquidation with exclusion of bankruptcy, according to the provisions of Articles 80, paragraphs 3, 4, 5 and 6, 81, 82, 83, 84, except for paragraph 2, from 85 to 90, 91 except for paragraphs 1-bis e 11-bis, 92, 93 and 94, of Italian Legislative Decree no. 385 of 1 September 1993, inasmuch as compatible.

Article 80
Central depository activities in relation to financial instruments

…omissis…[699]

Article 81
Enactment regulation and service regulations

…omissis…[700]

Article 81-bis
Access to the central depository system

…omissis…[701]

698 Article included by Article 3 of Legislative Decree no. 129 dated 3.8.2017.

699 Article repealed by Article 2 of Legislative Decree no. 176 of 12.8.2016. The repealed provisions have been adopted into Article 82 (Activities and regulation of centralised management).

700 Article repealed by Article 2 of Legislative Decree no. 176 of 12.8.2016. The repealed provisions have been adopted into Article 82 (Activities and regulation of centralised management).

701 Article repealed by Article 2 of Legislative Decree no. 176 of 12.8.2016.

Chapter IV[702]
Centralised management of financial instruments

Article 82
Centralised management activities and regulation

1. Centralised management is performed by central depositories authorised by Regulation (EU) no. 909/2014 to perform the services contemplated under Section A, points 1) and 2), of the Annex to the said Regulation and the relative ancillary activities.

2. To ensure the pursuit of the purposes contemplated under Article 79-quaterdecies, paragraph 1, CONSOB, in accordance with the Bank of Italy, may indicate, by regulation in respect of the provisions of the Regulation referred to under paragraph 1 of Directive 2007/36/EC and the related implementing provisions[703]:

a) the methods for the practice and the features of the service referred to under Section A, point 1), and the non-banking ancillary services listed in Section B, points 2) and 3), of the Annex to the Regulation referred to under paragraph 1, and every other non-banking service ancillary to the services referred to under Section A, points 1) and 2), allowed but not explicitly listed in Section B of the Annex of the Regulation referred to under paragraph 1;

b) the categories of intermediaries that can hold securities accounts at the central depository and the activities, contemplated by this chapter, that the intermediaries are qualified to perform;

c) the features of the financial instruments indicated under Article 83-bis, paragraph 2, for the purpose of subjecting the same to the provisions of Section I of this chapter;

d) without prejudice to the provisions of Article 83-sexies, paragraph 4, the models, procedures, terms and the intermediary responsible for the issue and revocation of the certifications and for correcting the communications;

e) the criteria and methods for the practice of the activity indicated under Article 83-octies;

f) the terms within which the intermediaries and the central depositories, pursuant to Article 83-novies, paragraph 1, letters d), e), f) and g), and Article 89, respectively, must comply with the obligation to report to the issuers the names of those with rights on the shares and the registrations recorded pursuant to Article 83-octies;

g) terms and conditions of communication, on request, in cases and parties identified by the regulation itself, of the data identifying the principals of the financial instruments other than those referred to in article 83-duodecies and the intermediaries holding them, without prejudice to the possibility for principals of financial instruments to specifically prohibit communication of their identification data[704];

h) the requirements that must be met for the fees referred to under paragraph 3 and the fees requested by the intermediaries for keeping the accounts;

i) the other operating methods for the management of corporate transactions on the part of the intermediaries, central depositories and issuers and the further provisions necessary for the implementation of what is contemplated under this chapter and those aimed, in any case, at pursuing

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702 Chapter first included by Article 2 of Legislative Decree no. 176 of 12.8.2016 and then amended by Article 2 of Legislative Decree no. 107 of 10.8.2018, Article 2 of Legislative Decree no. 49 of 10.5.2019 and Article 4 of Law no. 21 of 5.3.2024, according to the terms indicated in the subsequent notes.

703 Sentence thus amended by article 2 of Legislative Decree no. 49 of 10.5.2019 which after the words “in respect of the provisions of the Regulation referred to under paragraph 1”, has included the following words “of Directive 2007/36/EC and the related implementing provisions”.

704 Letter thus replaced by article 2 of Legislative Decree no. 49 of 10.5.2019.

the purposes indicated in the first part of this paragraph[705].

3. CONSOB, in accordance with the Bank of Italy, can establish that the fees for the services referred to under Section A, points 1), 2) and 3), of the Annex of the Regulation referred to under paragraph 1, performed by the centralised depositories, and the fees requested by the intermediaries for the certifications, communications and reports contemplated by this chapter, are subject to approval by the said authorities.

4. The regulation contemplated under paragraph 2 can delegate to the regulations of the services contemplated under Article 79-quinquiesdecies, paragraph 1, the discipline of some of the delegated matters, pursuant to the same paragraph or other provisions of this chapter, to the regulatory power of CONSOB exercised in accordance with the Bank of Italy[706].

4-bis. CONSOB, in agreement with the Bank of Italy, identifies the following with a regulation:

a) the tasks that central depositories and intermediaries are required to carry out in compliance with articles 3-bis, 3-ter and 3-quater of Directive 2007/36/EC;

b) the parties involved in the process of identification of the shareholders referred to in article 83-duodecies and the related operational procedures;

c) the terms and conditions for the storage and processing of identification data, acquired by issuers pursuant to article 83-duodecies, paragraph 1;

d) operating methods for transmitting information and facilitating the exercise of shareholder rights;

e) the further provisions implementing the aforesaid Directive for the aspects related to the regulation of centralised management[707].

Section I[708]
Dematerialised centralised management

Article 83
Central depositories in crisis

…omissis…[709]

Article 83-bis
Scope of application

1. The securities regulated by Italian law admitted for trading or traded at an Italian trading venue or

705 Letter thus amended by article 2 of Legislative Decree no. 49 of 10.5.2019 which, after the words “management of corporate transactions on the part of the intermediaries” has included the following words”, central depositories and issuers”.

706 Article thus substituted by Article 2 of Legislative Decree no. 176 of 12.8. 2016..

707 Paragraph added by article 2 of Legislative Decree no. 49 of 10.5.2019.

708 Section first inserted by Article 2 of Legislative Decree no. 176 of 12.8.2016 and then amended by Article 3 of Legislative Decree no. 129 of 3.8.2017, and by Article 2 of Legislative Decree no. 49 of 10.5.2019 and Article 4 of Law no. 21 of 5.3.2024, in the terms indicated in subsequent notes.

709 Article repealed by Article 2 of Legislative Decree no. 176 of 12.8.2016. The repealed provisions have been adopted into Article 79-vicies.

that of another European Union country with the issuer's consent can exist only in written form[710].

1-bis. The obligation pursuant to paragraph 1 can be absolved by direct or de materialised issue, at a central securities depository established in the Republic, or with a central securities depository authorised to perform trans-border services in the Republic, pursuant to Article 23 of Regulation (EU) no. 909/2014[711].

2. The regulation indicated under Article 82, paragraph 2, can provide that the discipline of this section is also applicable to financial instruments without the features indicated under paragraph 1, in order to facilitate circulation[712].

3. The issuer of financial instruments other than those referred to under paragraph 1 may voluntarily impose on them the dematerialisation system at a central depository established in the Republic, according to the discipline of this section[713].

Article 83-ter
Issue of financial instruments

…omissis…[714]

Article 83-quater[715]
Powers of central depositories and of intermediaries[716]

1. Transfer of financial instruments subject to the provisions of this section, and the exercise of related ownership rights, may only be performed through intermediaries.

2. On request, central depositories take out for each intermediary to record movements of the financial

710 Paragraph first included by Article 2 of Legislative Decree no. 91 of 18.6.2012 and subsequently substituted by Article 2 of Legislative Decree no. 176 of 12.8. 2016.. Paragraph 3 of Article 5 of Legislative Decree no. 176 of 12.8.2016 rules that paragraph 1 of Article 83-bis applies until the date of application of Article 3, sub-section 1, of Regulation (EU) no. 909/2014. As of that date, paragraph 1 is repealed and paragraph 1-bis is replaced by the following and renumbered paragraph 1: "1. The obligation of representation in written form contemplated by Article 3, sub-section 1, of Regulation (EU) no. 909/2014 can be absolved by direct issue or dematerialised issue, at a central securities depository established in the Republic, or with a central securities depository authorised to perform trans-border services in the Republic, pursuant to Article 23 of the said Regulation".

711 Paragraph included by Article 2 of Legislative Decree no. 176 of 12.8.2016.

712 Paragraph first amended by Article 2 of Legislative Decree no. 91 of 18.6.2012, which replaced the words: "regulation referred to in Article 81" with the words "regulation indicated in Article 81" and the words: "the features pursuant to paragraph 1" with the words: "the features indicated under paragraph 1" and then by Article 2 of Legislative Decree no. 176 of 12.8.2016, which removed the words "Depending on their circulation among the public"; it substituted the words: "81, paragraph 1" with the words: "82, paragraph 2", and after the words "features indicated under paragraph 1", added, at the end, the following words: ", in order to facilitate circulation". **Article 5,** paragraph 4 of Legislative Decree no. 176 of 12.8.2016 provides that, from the date of application of Article 3, paragraph 1, of Regulation (EU) no. 909/2014, paragraph 2 of article 83-bis is replaced by the following: "2. The regulation indicated in article 82 may stipulate that financial instruments not subject to the application of Article 3, paragraph 1, of Regulation (EU) no. 909/2014 may be subject to the provisions of this section, in order to facilitate circulation".

713 Paragraph thus substituted by Article 2 of Legislative Decree no. 176 of 12.8.2016.

714 Article repealed by Article 2 of Legislative Decree no. 176 of 12.8.2016.

715 Article amended by Article 2 of Legislative Decree no. 176 of 12.8.2016 in the terms indicated in the following notes.

716 Title thus substituted by Article 2 of Legislative Decree no. 176 of 12.8.2016. The preceding version of the title was: "Powers of the management company and of the intermediary".

instruments deposited on that account[717].

3. For each financial instruments account holder, the intermediary, if appointed to perform this service, shall on each account – strictly separated by account holder and separate from any account in the intermediary's own name – record the financial instruments held, their transfer, the rights exercised and restrictions pursuant to Article 83-octies, as instructed by the owner or on their behalf. In all other circumstances the intermediary shall, for subsequent duties, inform the intermediary with whom the owner has opened an account of the transfer action taken. Registration of the transfers shall be performed by the intermediaries on settlement of the related transactions.

4. The registrations and disclosures prescribed by current regulations envisaging numeric identification of certificates shall indicate the type and quantity of instruments concerned.

Article 83-quinquies
Rights of the account holder

1. After registration, the account holder indicated in Article 83-quater, paragraph 3 shall legitimately have full and exclusive exercise of rights pertaining to the financial instruments registered on that account, in accordance with their individual regulations and the provisions of this Title. The account holder may dispose of financial instruments registered to the account in compliance with current regulations on such matters.

2. Any person for whom registration is performed on his or her behalf, based on entitlement and in good faith, shall not liable for claims or action taken by previous owners.

3. Without prejudice to the provisions of Article 83-sexies, entitlement to exercise the rights indicated under paragraph 1 is proven by the exhibition of certifications or communications to the issuer, issued or made by the intermediaries, pursuant to their own accounting records, in favour of the subject entitled to the right, and bearing indication of the corporate right that can be exercised, as contemplated by the Regulation pursuant to Article 82, paragraph 2[718].

4. The certifications and communications do not confer other rights except for the above-indicated entitlement. Individual rights for the aforesaid certifications are null and void[719].

4-bis. Except for the cases contemplated by Article 2352, last paragraph, of the Italian Civil Code, no financial instrument can have more than one certification or communication for the entitlement to the exercise of the same rights[720].

717 Paragraph thus amended by Article 2 of Legislative Decree no. 176 of 12.8.2016 which replaced the words: "the management company takes out" with the words: "the central depositories take out".

718 Paragraph first replaced by Article 2 of Legislative Decree no. 176 of 12.8.2016 and then amended by Article 3 of Legislative Decree no. 129 of 3.8.2017, which replaced the words “from the issuer” with the words “to the issuer”.

719 Paragraph thus substituted by Article 2 of Legislative Decree no. 176 of 12.8.2016.

720 Paragraph added by Article 2 of Legislative Decree no. 176 of 12.8.2016.

Article 83-sexies[721]
Right to attend shareholders' meetings and the exercise of voting rights

1. The legitimate attendance of shareholders' meetings and the exercise of voting rights is confirmed by a statement to the issuer from the intermediary, in compliance with intermediary accounting records, on behalf of the person with the right to vote.

2. For meetings of holders of financial instruments admitted for trading with the issuer's consent on regulated markets or in the Italian multilateral trading facilities or those of other European Union countries, the communication contemplated by paragraph 1 is made by the intermediary on the basis of the evidence of the accounts contemplated by article 83-quater, paragraph 3, relative to the term of the accounting day of the seventh market business day prior to the date established for the meeting. Credit and debit entries made on accounts after these terms are not relevant in terms of assuring the legitimate exercise of voting rights at the shareholders' meeting. For the purposes of this ruling, the date of the first convocation is considered providing the dates of any successive convocations are indicated in the convocation notice; otherwise the date of each convocation shall be considered[722].

3. For meetings other than those indicated in paragraph 2, the articles of association may require the financial instruments referred to in the communication to be entered in the accounts of the party with voting rights as from a pre-established date, potentially establishing that they may not be transferred until the end of the shareholders' meeting. Should the Articles of Association not prevent the transfer of shares, any transfer of such shall entail the obligation bearing on the intermediary to rectify the communication sent previously[723].

4. Communications indicated in paragraph 1 must reach the issuer by the third trading day prior to the date indicated in paragraph 2, last sentence, or within an alternative term established, in concert with the Bank of Italy, by a CONSOB regulation, or within a successive term established in the Articles of Association pursuant to paragraphs 3 and 5. This is without prejudice to legitimate attendance and voting if communication has reached the issuer beyond the terms specified in this paragraph, providing it has been received before the start of the works of the meeting works held pursuant to single convocation[724].

5. Paragraphs 1, 3 and 4 apply to the meetings of holders of financial instruments issued by cooperatives. With reference to meetings of holders of financial instruments admitted for trading, with the consent of the issuer, on regulated markets or Italian multilateral trading facilities or those of other countries of the European Union, the terms pursuant to paragraph 3 cannot exceed two working days[725].

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721 Paragraph 4 of Article 99 of Legislative Decree no. 180 of 16 November 2015 provides that: “4. to companies with shares listed on Italian regulated markets or of another Member State placed under resolution or with respect to whom is placed the write down or conversion of capital instruments, to bridge institution and to asset management vehicle - if their shares are listed on Italian regulated markets or of another Member State - shall not apply: a) Articles 2370, fourth paragraph, and 2372 of the civil Code; b) Articles 83-sexies, 125-bis, 125-ter, 125-quater, 126, 126-bis, 127, 127-bis, 127-ter, as well as Sections II-ter and III of Chapter II of Title III Part IV of the Consolidated Law on Finance”.

722 Paragraph thus replaced by Article 2 of Legislative Decree no. 91 of 18.6.2012.

723 Paragraph first replaced by Article 2 of Legislative Decree no. 91 of 18.6.2012 and then amended by Article 4 of Law no. 21 of 5.3.2024, which deleted the words: “In the case of shareholders' meetings of companies whose shares are widely distributed to a relevant extent, the term may not exceed two working days.”

724 Paragraph thus replaced by Article 2 of Legislative Decree no. 91 of 18.6.2012.

725 Paragraph thus replaced by Article 2 of Legislative Decree no. 91 of 18.6. 2012..

Article 83-septies
Opposable exceptions

1. On exercise of the rights attached to financial instruments by the person on whose behalf the registration was completed, the issuer may only oppose exceptions personal to the individual in question and those common to all other holders of the same rights.

Article 83-octies
Establishing restrictions

1. Restrictions of any kind on financial instruments governed by this section, including restrictions envisaged under special regulations on public debt securities, may be established only by registration in a special account held by the intermediary.

2. Specific accounts may be opened to allow restrictions to be established on all financial instruments registered to that account. In such cases the intermediary shall be responsible for complying with instructions received at the time the restriction is established in relation to preserving intact the value of the restriction and the exercise of rights attached to the financial instruments affected.

Article 83-novies
Duties of the intermediary

1. The intermediary:

a) in the name of and on behalf of the account holder, shall exercise rights attached to the financial instruments, provided the account holder has conferred mandate to do so;

b) at the request of the subject concerned, the communications and the certifications pursuant to Article 83-quinquies, paragraph 3, are issued when necessary for the exercise of the rights relative to the financial instruments[726];

c) at the request of the interested party, shall issue the statements envisaged in Article 83-sexies. The request may be made with reference to all shareholders' meetings of one or more issuers, until otherwise instructed. In such cases, the intermediary shall make all due arrangements without the need for further statement issue requests;

d) reports to the issuer the identification data of the subjects that have requested the certification contemplated by Article 83-quinquies, paragraph 3, and those who have been paid dividends and those who, exercising the stock option or another right, have acquired all the registered financial instruments, specifying the relative quantities for compliance with the obligations bearing on the issuer; without prejudice to the provision of letter f), if the communication is made, it must comply with the reporting obligations[727];

e) at the request of the interested party or where envisaged under current regulations, shall also inform the issuer of the identification data with rights on the financial instruments so that issuer obligations may be met[728];

f) if the persons with rights on the financial instruments are not the persons requesting certificates or are persons on whose behalf statements have been issued for attendance at shareholders'

726 Letter thus substituted by Article 2 of Legislative Decree no. 176 of 12.8.2016.

727 Letter thus substituted by Article 2 of Legislative Decree no. 176 of 12.8.2016.

728 Letter thus amended by Article 2 of Legislative Decree no. 176 of 12.8.2016 which replaced the word: "registered" with the word: "identification data".

meetings, shall inform the issuer the identification data so that issuer obligations may be met;

g) in cases in which statements pursuant to letters b) and c) reports pursuant to paragraphs d), e) and f) have been issued, notifies the issuer of the restrictions on financial instruments registered in accordance with article 83-octies.

g-bis) shall transmit the necessary information for exercising shareholder rights in the cases identified by the regulation referred to in article 82, paragraph 4-bis[731].

2. The filing of the certifications issued by the intermediary and the receipt of the communications on the part of the issuer substitute, to all effects of law, the deposit of the securities contemplated by provisions in force[732].

3. …omissis[733]…

Article 83-novies.1
Non-discrimination, proportionality and transparency of costs

1. Intermediaries and central depositories shall communicate to the public the fees for the services rendered pursuant to Chapter I-bis of Directive 2007/36/EC, separately for each service.

2. The fees that intermediaries and central depositories apply to shareholders, to issuers with shares admitted to trading on Italian regulated markets or those of other Member States of the European Union, and to other intermediaries, must be non discrimatory and proportional to the effective costs sustained in order to render the services. Any difference between the fees applied for the exercise of rights at the national and cross-border level is only permitted if duly justified and if this takes account of the variation of effective costs of rendering the related services[734].

Article 83-decies
Intermediary liability

1. The intermediary shall be liable:

a) to the account holder for damages deriving from the transfer of financial instruments performed on the account holder's behalf, for correct record-keeping and prompt compliance with obligations under the terms of this decree and the regulation referred to in Article 82, paragraph 2[735];

b) to the issuer for compliance with disclosure and reporting obligations imposed by this decree

729 Letter thus amended by Article 2 of Legislative Decree no. 176 of 12.8.2016 which replaced the word: "registered" with the word: "identification data".

730 Letter first amended by Article 2 of Legislative Decree no. 91 of 18.6.2012 which replaced the words: "the registrations pursuant to Article 83-octies" with the words: "the restrictions on the financial instruments registered pursuant to Article 83-octies" and then by Article 2 of Legislative Decree no. 176 of 12.8.2016 which has substituted the words: "under letter c)" with the words: "under letters b) and c)".

731 Letter added by article 2 of Legislative Decree no. 49 of 10.5.2019.

732 Paragraph thus substituted by Article 2 of Legislative Decree no. 176 of 12.8.2016.

733 Paragraph repealed by Article 2 of Legislative Decree no. 176 of 12.8.2016.

734 Article added by article 2 of Legislative Decree no. 49 of 10.5.2019.

735 Letter thus amended by Article 2 of Legislative Decree no. 176 of 12.8.2016 which replaced the words "81, paragraph 1" with the words "82, paragraph 2".

and by the regulation referred to in Article 82, paragraph 2[736].

Article 83-undecies
Issuer obligations

1. Issuers of shares update the shareholders' register in compliance with the communications and notifications made by the intermediaries in accordance with article 83-novies, paragraph 1, letters b), c), d), e), f) and g), of article 83-duodecies and, in the event of the demand for proxies promoted by the issuer, in compliance with the communications made by the intermediaries in accordance with article 144, paragraph 1, within thirty days of their receipt[737].

2. Without prejudice to Article 2421 of the Civil Code, even if the shareholders' register is not set up or maintained by electronic means, the results of that shareholders' register shall be made available to shareholders, on request, also on electronic support media in a commercially-used format[738].

3. Paragraph 1 does not apply to cooperatives[739].

4. All of the above without prejudice to the provisions of Article 7, Law no. 1745 of 29 December 1962.

Article 83-duodecies[740]
Shareholder identification

1. In order to facilitate issuers' communication with shareholders as well as the exercise of shareholder rights, including in a coordinated manner, on the part of shareholders, Italian issuers with shares admitted to trading on Italian regulated markets or those of other Member States of the European Union are entitled to request the parties indicated by the regulation referred to in article 82, paragraph 4-bis, the identification of the shareholders that hold shares amounting to more than 0.5% of the share capital with voting rights. The request for identification may also be made through a third party appointed by the issuer. The costs of the identification process shall be borne by the issuer[741].

2. …omissis…[742].

2-bis. Intermediaries and central depositories are entitled to fulfil requests for shareholders'

736 Letter thus amended by Article 2 of Legislative Decree no. 176 of 12.8.2016 which replaced the words "81, paragraph 1" with the words "82, paragraph 2".

737 Paragraph thus amended by Article 2 of Legislative Decree no. 91 of 18.6.2012 which replaced the words: "and f) and" with the words: ", f) and g)," and after the words: "of article 83-duodecies" included the words: "and, in the event of the demand for proxies promoted by the issuer, in compliance with the communications made by the intermediaries in accordance with article 144, paragraph 1".

738 Paragraph thus amended by Article 2 of Legislative Decree no. 91 of 18.6.2012 which after the words: "on electronic storage device" added the words: "in a commercially-used format".

739 Paragraph thus replaced by Article 2 of Legislative Decree no. 91 of 18.6.2012.

740 The modifications introduced by Legislative Decree no. 49 of 10.5.2019 will apply from the date of application of Implementing Regulation (EU) 2018/1212 of 3.9.2018.

741 As first amended by Article 2 of Legislative Decree no. 91 of 18.6.2012, then by Article 2 of Legislative Decree no. 176 of 12.8.2016 and finally thus replaced by Article 2 of Legislative Decree no. 49 of 10.5.2019.

742 Paragraph first amended by article 2 of Legislative Decree no. 91 of 18.6.2012 and later repealed by Article 2 of Legislative Decree no. 49 of 10.5.2019

identification data made by issuers with registered offices in another Member State of the European Union, with shares admitted to trading on Italian regulated markets or those of other Member States of the European Union[743].

3. The issuer is required to make the same request at the petition of as many shareholders as represent at least half of the minimum shareholding established by CONSOB pursuant to article 147-ter, paragraph 1. The related costs are distributed between the issuer and the requesting shareholders according to the criteria established by CONSOB with regulation, concerning the need to not incentivise the use of the instrument on the part of shareholders for purposes not in line with the objective of facilitating coordination between the shareholders themselves in order to exercise the rights that require a qualifying holding[744].

4. Issuers shall publish promptly, according to the procedures established by CONSOB in its regulations, a disclosure confirming that a request for identification has been made, providing reasons if the request is made pursuant to paragraph 1, or the identity and total investment of requesting shareholders for requests made pursuant to paragraph 3. The data received shall be made available to shareholders on a commonly-used electronic storage device free of charge, without prejudice to the obligation to update the shareholders' register[745].

5. The articles of association of Italian companies with shares admitted to trading with the consent of the issuer on Italian multilateral trading facilities or those of other countries of the European Union may require that this article be applied. This article shall not apply to cooperatives[746].

Article 83-terdecies
Payment of dividends

1. As an exception to article 4 of Italian Law no. 1745 of 29 December 1962, the legitimate payment of profits and other distributions relating to the financial instruments registered in the accounts specified under article 83-quater, paragraph 3, is determined with reference to the evidence of the accounts in relation to the end of the accounting day specified by the issuer, which also establishes the methods by which the related payment is made[747].

743 Paragraph included by article 2 of Legislative Decree no. 49 of 10.5.2019.

744 Paragraph first amended by article 2 of Legislative Decree no.91 of 18.6.2012 and then thus replaced by art.2 of Legislative Decree no. 49 of 10.5.2019. Article 7 of Legislative Decree no.27 of 27.1.2010 envisages that: "until the issue of the regulation provided for by article 83-duodecies, paragraph 3, the costs relating to the request for shareholder identification at the petition of shareholders are sustained by the requesting shareholders". CONSOB has implemented the delegation by introducing, with Resolution no. 17592 of 14.12.2010, art.133-bis to Regulation no.11971 of 14.5.1999. It is recalled that Legislative Decree no.27/2010 repealed art.84.

745 Paragraph first amended by Article 2 of Legislative Decree no. 91 of 18.6.2012, which, after the words: "available to shareholders" included the words: "on a commonly-used electronic storage device" and later by Article 2 of Legislative Decree no. 107 of 10.8.2018, which replaced the words: "according to the procedures and terms indicated in article 114, paragraph 1" with the words "promptly, according to the procedures established by CONSOB in its regulations" and finally by Article 2 of Legislative Decree no. 49 of 10.5.2019 which replaced the words "The companies" with the words "The issuers".

746 Paragraph thus replaced by article 2 of Legislative Decree no. 49 of 10.5.2019.

747 Article included by Article 2 of Legislative Decree no. 91 of 18.6.2012 (published in the O.J. no. 152 of 2.7.2012).

Article 83-quaterdecies
Issuers' access to a central depositary established in another Member State

1. The provisions contained in this section represent the discipline applicable, pursuant to Article 49, sub-section 1, second and third paragraphs, of Regulation (EU) no. 909/2014, also in the case of the direct issue or the issue of securities regulated by Italian law in a system of written accounting managed by a central depository established in another Member State[748].

Section II
Centralised management of securitised financial instruments[749]

Article 84
Identification and disclosures regarding centralised financial instruments (repealed)

Article 85
Central deposits

1. Where financial instruments consigned to the central system are represented by documents, the performance and the effects of central depository activity shall be governed by this section. Unless otherwise envisaged in this section, Articles 83-quater to 83-undecies shall apply[750].

2. The clause of the deposit contract concluded with intermediaries identified in the regulation pursuant to 82, paragraph 2, paragraph 1, referring to financial instruments identified in the that regulation, which authorises the depositary to subdeposit the financial instruments with a central securities depository must be approved in writing. In exercising such authority, depositaries shall have all the necessary powers, including that of endorsement to the central securities depository where the financial instruments in question are registered. Deposit may be performed directly by the issuer[751].

3. Financial instruments shall be consigned to the central systems as a non-fungible deposit. The central securities depository shall be authorised to carry out all transactions inherent to central depository activity in compliance with the regulation referred to in 79-quinquiesdecies, paragraph 1, and to take action as necessary following the destruction, loss or theft of the financial instruments[752].

748 Article included by Article 2 of Legislative Decree no. 176 of 12.8.2016.

749 List thus amended by Article 2 of Legislative Decree no. 91 of 18.6.2012 which replaced the words: "Central depository system for financial instruments in the form of securities" with the words: "Centralised management of securitised financial instruments".

750 Paragraph first amended by Article 2 of Legislative Decree no. 91 of 18.6.2012 which replaced the word “securities” with the word “documents” and then Article 2 of Legislative Decree no. 176 of 12.8.2016 which replaced the word “83-ter” with the word “83-quarter”.

751 Paragraph thus amended by Article 2 of Legislative Decree no. 176 of 12.8.2016 which replaced the words “81, paragraph 1” with the words “82, paragraph 2”, and the words “the centralised management company” with the words “a central securities depository”.

752 Paragraph thus amended by Article 2 of Legislative Decree no. 176 of 12.8.2016, which replaced the words “The centralised management company” with the words “The central securities depository”, the word “authorised” and the words “81, paragraph 2” with the words “79-quinquiesdecies, paragraph 1”.

Article 86
Transfer of rights attached to financial instruments on deposit

1. The person depositing financial instruments admitted to the system may, through the depositary and in accordance with the methods indicated in the services regulation envisaged in 79-quinquiesdecies, paragraph 1, request delivery of a corresponding quantity of financial instruments of the same type on deposit with the central securities depository[753].

2. The owner of financial instruments admitted to the system shall assume all rights and obligations deriving from the deposit should it be proved that the person depositing the instruments was not entitled to do so.

Article 87
Restrictions on centrally deposited financial instruments

1. Restrictions on financial instruments admitted to the system shall be transferred as-is to the rights of the depositing party, with endorsement to the central securities depository; annotations of restrictions on the certificates shall have no effect, and this shall be stated on the instrument[754].

2. In the event of withdrawal of financial instruments from the system, the depositary shall annotate the restrictions on the related certificates with an indication of the date on which they were established.

3. In the event of seizure of financial instruments admitted to the system, formalities regarding co-owner obligations as envisaged in Articles 599 and 600 of the Italian Code of Civil Procedure shall be completed on behalf of the depositaries.

Article 88
Withdrawal of centrally deposited financial instruments

1. The central securities depository shall make any financial instruments subject to a withdrawal request available to the depositary. Registered financial instruments shall be endorsed in the name of the depositary, who shall complete the endorsement with the name of the endorsee. Completion of the endorsement shall be validated with the stamp, date and signature of the depositary[755].

2. The central securities depository may authenticate the endorsing signature also when endorsed in its own favour. The central depository signature affixed to the instrument as endorsing party does not require authentication. The endorsement and registration in the name of the central securities depository of financial instruments to be admitted to the system shall specifically mention this decree[756].

753 Paragraph thus amended by Article 2 of Legislative Decree no. 176 of 12.8.2016, which replaced the words “81, paragraph 2” with the words “79-quinquiesdecies, paragraph 1” and the words “the centralised management company” with the words “the central securities depository”.

754 Paragraph thus amended by Article 2 of Legislative Decree no. 176 of 12.8.2016, which replaced the words “the centralised management company” with the words “the central securities depository”.

755 Paragraph thus amended by Article 2 of Legislative Decree no. 176 of 12.8.2016, which replaced the words “The centralised management company” with the words “The central securities depository”.

756 Paragraph thus amended by Article 2 of Legislative Decree no. 176 of 12.8.2016, which replaced the words “The centralised management company” with the words “The central securities depository”.

Article 89
Updating of the shareholders' register

1. For the purpose of updating the shareholders' register, the central securities depository shall inform issuers of registered shares endorsed in its favour.

Section III[758]
Centralised management of government securities

Article 90
Centralised management of government securities

1. The Ministry of Economy and Finance establishes by regulations the manner for the identification of the central depositories of government securities and the criteria for the supply of the relative services[759].

TITLE II-TER[760]
ACCESS TO THE POST-TRADING INFRASTRUCTURES AND BETWEEN TRADING VENUES AND POST-TRADING INFRASTRUCTURES

Chapter I
National competent authorities

Article 90-bis
Identification of competent national authorities for access to central depositories established in the Republic

1. CONSOB is the competent authority for receiving complaints and for exercising, in accordance with the Bank of Italy, the powers on access to the central depositories established in the Republic on the part of:

a) participants, pursuant to Article 33, sub-section 3, of Regulation (EU) no. 909/2014;
b) issuers, pursuant to Article 49, sub-section 4, of the same Regulation;
c) central depositories, pursuant to Article 52, sub-section 2, of the same Regulation.

Article 90-ter
Identification of competent national authorities for access between trading venues and post-trading infrastructures

757 Paragraph thus amended by Article 2 of Legislative Decree no. 176 of 12.8.2016, which replaced the words "The centralised management company" with the words "The central securities depository".

758 Chapter III of title II of part III has thus been substituted by Article 2 of Legislative Decree no. 176 of 12.8.2016. The preceding version of the Chapter III was entitled: "The discipline of the centralised management of government securities".

759 Article thus substituted by Article 2 of Legislative Decree no. 176 of 12.8.2016.

760 Title first inserted by Article 2 of Legislative Decree no. 176 of 12.8.2016 and then amended by Article 3 of Legislative Decree no. 129 of 3.8.2017, Article 3 of Legislative Decree no. 165 of 25.11.2019 and by Article 1 of Legislative Decree no. 84 of 14.7.2020 according to the terms indicated in the following notes. See CONSOB/Bank of Italy amalgamated post-trading regulation laying down provisions on central counterparts, central depositories and centralised management activities of 13 August 2018.

1. CONSOB is the competent authority for receiving complaints and, in accordance with the Bank of Italy, for performing the duties regarding the access of central counterparties and trading venues to the regulation services managed by central depositories, pursuant to Article 53, sub-section 1, second paragraph, and sub-section 3, of Regulation (EU) no. 909/2014.

2. On access to the trading venues, CONSOB is the competent authority to:

a) perform the duties contemplated by Article 8, sub-section 4, of Regulation (EU) no. 648/2012 and by article 36, section 4, of (EU) regulation no. 600/2014, when access requests are presented by central counterparties[761];

b) receive complaints and perform the duties indicated under Article 53, sub-section 1, paragraph 1, and sub-section 3, of Regulation (EU) no. 909/2014, when access requests are presented by central depositories.

3. The powers and duties under paragraph 2 are exercised by the Bank of Italy for wholesale government securities trading venues.

4. On access to central counterparties, the Bank of Italy, in accordance with CONSOB, is the competent authority to:

a) perform the duties contemplated by Article 7, sub-section 4, of Regulation (EU) no. 648/2012 and by article 35, section 4, of (EU) regulation no. 600/2014, when access requests are presented by trading venues[762];

b) receive complaints and perform the duties indicated under Article 53, sub-section 1, paragraph 1 and sub-section 3, of Regulation (EU) no. 909/2014, when access requests are presented by central depositories[763].

Chapter II
Access right and agreements

Article 90-quater
Access to central counterparties on a trans-border basis

1. Without prejudice to titles III, IV and V of Regulation (EU) no. 648/2012 EU investment companies and EU banks authorised to perform investment services or activities may have direct and indirect access to the central counterparties in the Republic, to finalise or to arrange the finalisation of transactions on financial instruments.

Article 90-quinquies
Access to transaction settlement services on financial instruments on a trans-border basis

1. Without prejudice to Article 33 of Regulation (EU) no. 909/2014, EU investment companies and EU banks, investment companies and the Community banks authorised to perform investment

761 Letter thus amended by Article 3 of Legislative Decree no. 129 dated 3.8.2017 that after the words: «648/2012» included the words: «and by article 36, section 4, of (EU) regulation no. 600/2014».

762 Letter as amended by Article 3 of Legislative Decree no. 129 of 3.8.2017, that after the words: «648/2012» included the words: «and by article 35, section 4, of (EU) regulation no. 600/2014».

763 Para. 2 of Article 5 of Legislative Decree no. 176 dated 12.8.2016 provides that "Until the date of application of the implementing provisions of Directive 2014/65 / EU and of adjustment to (EU) regulation no. 600/2014, the term «trading venues» refers to the regulated markets and to the multilateral trading systems and the term «managers» refers to the management companies, with regard to regulated markets, and to the parties that manage multilateral systems of negotiation, as far as the latter are concerned ".

services or activities may have direct and indirect access to the settlement services managed by central depositories established in the Republic, to finalise or to arrange the finalisation of transactions on financial instruments[764].

2. The market operators assure participants to the markets that they manage the right to designate a system for the clearance and settlement of transactions on financial instruments carried out on such markets, other than that designated by the market itself, if the following conditions are respected:

a) there are connections and devices between the designated settlement system and the systems and the structure of the regulated market to guarantee the effective and economic settlement of the transactions;

b) recognition, on the part of CONSOB, that the technical conditions for the settlement of the transactions concluded on the regulated market by a system other than that designated by the market itself are such to allow for the regular and ordered functioning of the markets. Operators of regulated markets for the wholesale trading of government bonds must be recognised by the Bank of Italy[765].

3. The market operators inform CONSOB of the designations of the market participants pursuant to paragraph 2. Said communications are made to the Bank of Italy in the case of markets for the wholesale trading of government bonds[766].

4. The recognition contemplated under paragraph 2, letter b), is made after consultation with the Bank of Italy, in the case of operators of regulated markets for the wholesale trading of private and public bonds other than government securities, and of operators of regulated markets for the trading of money-market instruments and derivatives on public securities, interest rates and currency [767].

Article 90-sexies
Agreements concluded by regulated market operators and multilateral trading facilities with central counterparties or with central depositories which manage regulation services

1. Without prejudice to Articles 7 and 8 and Title V of Regulation (EU) no. 648/2012, Article 53 of Regulation (EU) no. 909/2014, as well as Articles 35 and 36 of Regulation (EU) No 600/2014, the operators of a regulated market or of a multilateral trading facility can conclude agreements with the central counterparties or with the central depositories established in another Member State in order to provide for the settlement or for the regulation of some or all of the transactions concluded by the participants in the regulated market or the multilateral trading system[768].

2. CONSOB, can oppose the agreements set out under paragraph 1 if. also taking into account the

764 Paragraph thus amended by Article 3 of Legislative Decree no. 129 of 3.8.2017 which replaced the words “the investment companies and community banks” with the words “the EU investment companies and EU banks”.

765 Paragraph thus amended by Article 3 of Legislative Decree no. 165 of 25.11.2019, which replaced the words “management companies” with the word “operators” and the words “the management companies” with the words “the operators”.

766 Paragraph thus amended by Article 3 of Legislative Decree no. 165 of 25.11.2019, which replaced the words “the management companies” with the words “the operators”.

767 Paragraph first amended by Article 3 of Legislative Decree no. 165 of 25.11.2019, which replaced the words “management companies” with the word “operators”, and then by Article 1 of Legislative Decree no. 84 of 14.7.2020, which replaced the words: « instruments contemplated under Article 1, paragraph 2, letter d)» with the words: «money-market instruments».

768 Paragraph as amended by Article 3 of Legislative Decree no. 129 of 3 August 2017, that after the words: «909/2014» inserted the words: «as well as Articles 35 and 36 of Regulation (EU) No. 600/2014» and, after the words: «in the regulated market» added, in the end, the words: «or the multilateral trading system».

conditions contemplated by Article 90-quinquies, paragraph 2, it is necessary to maintain the ordered functioning of the regulated markets and the multilateral trading facilities.

3. The provisions under paragraph 2 are adopted by the Bank of Italy for regulated markets and multilateral government securities wholesale trading systems.

4. CONSOB and the Bank of Italy can issue regulations to discipline the disclosure obligations of the managers in the case of the agreements referred to under paragraph 1.

Chapter III
Supervision

Article 90-septies
Supervisory powers

1. For the performance of the functions attributed by this Title, CONSOB and the Bank of Italy exercise, towards the managers of the trading venues, the central counterparties and the central depositories, the powers contemplated respectively by Articles 62-octies, 62-novies, 62-decies, 79-sexies and 79-quaterdecies[769].

PART IV
REGULATION OF ISSUERS

TITLE I
GENERAL PROVISIONS

Article 91
CONSOB's powers

1. CONSOB shall exercise the powers provided for in this Part having regard to the protection of investors and the efficiency and transparency of the market in corporate control and the capital market.

Article 91-bis
Communication of the Member State of origin

1. In the cases contemplated by Article 1, paragraph 1, letter w-quater), the issuers communicate the Member State of origin in compliance with Article 113-ter and the provisions adopted by CONSOB by regulation. The same disclosure is made to the competent authorities of the Member State in which the issuer has its registered office, if applicable, and to the competent authorities of the Member State of origin and of the host Member States[770].

2. For the issuers indicated under Article 1, paragraph 1, letter w-quater), numbers 3), 4) and 4-bis), which have not made the disclosure of the Member State of origin within three months from the date on which the securities are admitted for trading, for the first time in the European Union, solely on

769 Paragraph thus amended by Article 3 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «7, 8, 10, 74,» with the words: «62-octies, 62-novies, 62-decies,». The reference to "central depositaries" is to be understood as "central depository management company" / "Liquidation services management company" until the latter is re-authorized as central depository in accordance with the CSDR Regulation.

770 See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the in Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

an Italian regulated market, the Member State of origin is Italy. For the issuers of securities admitted for trading on regulated markets of several Member States, including Italy, in the absence of the disclosure required by paragraph 1, both Italy and such other Member States are considered the Member State of origin, until the successive choice and relative disclosure[771].

Article 92
Equal treatment

1. Listed issuers and listed issuers with Italy as their home Member State shall guarantee the same treatment and with identical terms and conditions to all holders of the listed financial instruments.

2. Listed issuers and listed issuers with Italy as their home Member State shall guarantee the instruments and information necessary for the exercise of rights to all holders of the listed financial instruments.

3. By regulation and in compliance with EU law, CONSOB shall dictate the enactment provisions pursuant to paragraph 2, also envisaging the option to use electronic information transmission media[772].

Article 93
Definition of control

1. In this part, in addition to the companies indicated in paragraphs 1 and 2 of the first paragraph of Article 2359 of the Civil Code, the following shall also be considered subsidiaries:

a) Italian and foreign companies over which a person has the right, by virtue of a contract or a clause in the instrument of incorporation, to exercise a dominant influence, where the applicable law permits such contracts or clauses,

b) Italian and foreign companies where a shareholder controls alone, on the basis of agreements with other shareholders, enough votes to exercise a dominant influence in the ordinary shareholders' meeting.

2. For the purposes of paragraph 1, rights held by subsidiaries or exercised through trustees or nominees shall be considered, those held on behalf of third parties shall not be considered.

771 Article included by Article 1 of Legislative Decree no. 25 of 15.2.2016. The paragraphs 1 and 2 of the Article 2 of Legislative Decree no. 25 of 15.2.2016 provide that “1. For the issuers of securities admitted for trading on an Italian regulated market, which have not made the disclosure of the Member State of origin before 27 November 2015, the period of three months starts from the date of the entry into force of this decree 2. The issuers referred to under Article 1, letter w-quater), numbers 3), 4) and 4-bis), of Legislative Decree no. 58 of 24 February 1998, which have chosen Italy as the Member State of origin and which have made the disclosure before 27 November 2015, are exempted from the disclosure obligation, unless they choose another Member State of origin after that date.”.

772 Article thus replaced by Article 1 of Legislative Decree no. 195 of 6.11.2007

TITLE II
APPEAL TO PUBLIC SAVINGS

Chapter I[773]
Public offerings

Article 93-bis[774]
Definitions

1. In this Chapter, and in Chapter I of Title III:

a) "Prospectus Regulation" shall mean: Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017;

b) "implementing provisions" shall mean: the delegated acts adopted by the European Commission pursuant to Article 44 of the Prospectus Regulation and related technical governing and implementing rules adopted by the European Commission pursuant to Articles 10 and 15 of Regulation (EU) no. 1095/2010 of the European Parliament and of the Council of 24 November 2010;

b-bis) "Regulation (EU) no. 2019/1156 shall mean: Regulation (EU) no. 2019/1156 of the European Parliament and of the Council of 20 June 2019 on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013, (EU) No 346/2013 and (EU) No 1286/2014[775];

c) "securities" shall mean: tradable instruments as referred to by Article 2, paragraph 1, letter a), of the Prospectus Regulation, therein including closed-ended UCITS shares or units;

d) "placement organiser" shall mean: the person organising and establishing the placement syndicate, the placement coordinator or sole placement agent;

e) "home member state" shall mean:

1) in relation to the offering of securities, the home member state referred to by Article 2, paragraph 1, letter m) of the Prospectus Regulation;

2) in the relation to the offering of harmonized UCITS shares or units, the EU-member state in which the UCITS has been established;

f) "host member state" shall mean: the EU member state in which a public offering is implemented or where application to trading of EU financial instruments is made, if different from the home member state;

f-bis) "KIID" shall mean: the document established by Article 78 of Directive 2009/65/EC setting out key information on the essential characteristics of the UCITS to be supplied to investors in order that they can reasonably understand the nature and risks of the investment proposed and, consequently, take informed investment decisions, and prepared in compliance with Regulation (EU)

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773 The whole of Chapter I (articles 93*bis*-101) was initially replaced by Article 3 of Legislative Decree no. 51 of 28.3.2007 and later amended by Article 15, Legislative Decree no. 164 of 17.9.2007 and Article 1, Legislative Decree no. 101 of 17.7.2009, of Article 1 of Legislative Decree no. 47 of 16.4.2012 and of Article 1 of Legislative Decree no. 184 of 11.10.2012, by article 1 of Legislative Decree no. 224 of 14 November 2016; by Article 4 of Legislative Decree no. 165 of 25.11.2019; by Article 3 of Legislative Decree no. 17 of 2.2.2021, by Article 3 of Legislative Decree no. 191 of 5.11.2021, by Article 3 of Legislative Decree no. 191 of 5.11.2021; by Article 1 of Legislative Decree no. 29 of 10.3.2023 and Article 9 of Law no. 21 of 5.3.2024, according to the terms indicated in the following notes.

774 Article first replaced by Article 3 of Legislative Decree no. 51 of 28.3.2007; subsequently amended by Article 15 of Legislative Decree no. 164 of 17.9.2007; by Article 1 of Legislative Decree no. 47 of 16.4.2012; by Article 6 of Legislative Decree no. 44 of 4.3.2014; replaced again by Article 3 of Legislative Decree no. 17 of 2.2.2021 and finally amended by Article 3 of Legislative Decree no. 191 of 5.11.2021 and Article 1 of Legislative Decree no. 29 of 10.3.2021 according to the terms indicated in the following notes.

775 Letter included by Article 3 of Legislative Decree no. 191 of 5.11.2021.

no. 583/2010 and the related implementing provisions adopted in the European Union[776];

f-ter) "KID" shall mean: the key information document for packaged retail and insurance-based investment products provided for by Article 5 of Regulation (EU) no. 1286/2014[777].

Section I
Public offering of securities and financial products other than open-end UCITS units or shares[778]

Article 94[779]
Public offering of securities

1. The public offering of securities is governed by the Prospectus Regulation and implementing provisions, as well as by the provisions hereunder.

2. Consob is the competent national authority pursuant to Article 31 of the regulation referred to in paragraph 1.

3. Persons who intend to make a public offering shall file with CONSOB the application for approval of the prospectus, attaching a draft thereof. The deadlines for approval of draft prospectuses set forth in Article 20, paragraphs 2, 3 and 6 of the Prospectus Regulation start to run from the date of submission thereof. Where CONSOB determines that a draft prospectus does not fulfil the requirements of completeness, comprehensibility and coherence necessary for its approval, or that changes or supplementary information are required, the procedure and deadlines referred to in Article 20, paragraph 4, of the Prospectus Regulation are applied according to the proportionate approach set out in Article 41, Commission Delegated Regulation (EU) 2019/980 of 14 March 2019[780].

4. In order to ensure the efficiency of procedures for approval of prospectuses of bank securities, CONSOB shall stipulate cooperation agreements with the Bank of Italy.

5. The issuer or offeror, as applicable, and any guarantors and persons responsible for certain parts of the information contained in the prospectus, shall be liable, the latter in relation only to such parts, for damages caused to the investor placing reasonable faith in the truth and accuracy of information contained in the prospectus, and any supplement thereof, unless it is proved that all due diligence was adopted for the purpose of guaranteeing that the information in question complied with the facts and that no information was omitted that could have altered the sense thereof.

6. The persons responsible for the prospectus and any supplements thereof pursuant to paragraph 5, are clearly indicated in the prospectus with their names and functions or, in the event of legal persons, with the corporate name and registered office; furthermore, a statement is also included indicating that, to the best of their knowledge, the prospectus information complies with the facts and that no information was omitted that could have altered the sense thereof.

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776 Letter added by Article 1 of Legislative Decree no. 29 of 10.3.2023.

777 Letter added by Article 1 of Legislative Decree no. 29 of 10.3.2023.

778 Heading thus amended by Article 3 of Legislative Decree no. 17 of 2.2.2021, which replaced the words "European financial instruments" with the words "securities".

779 Article first replaced by Article 3 of Legislative Decree no. 17 of 2.2.2021 and then amended by Article 9 of Law no. 21 of 5.3.2024 according to the terms indicated in the subsequent notes.

780 Paragraph thus amended by Article 9 of Law no. 21 of 5.3.2024, which added the last two sentences.

7. …omissis….[781]

8. No person may be held liable solely on the basis of the securities note, drawn up in accordance with Article 7 of the Prospectus Regulation or with the securities note of an EU growth prospectus in accordance with Article 15, paragraph 1, second clause, of the same Regulation, including any translation, unless the securities note proves misleading, inaccurate or inconsistent if read together with other parts of the prospectus or, when read together with the other parts of the prospectus, it does not give the key information that can aid the investor to decide whether or not to invest in the financial products offered.

9. Claims for compensation may be brought within five years of publication of the prospectus, unless the investor can prove having discovered the false nature of the information or omissions in the two years prior to the financial year in which such action is taken.

Article 94-bis
Public offering of financial products other than securities and open-end UCITS units or shares

1. Persons who intend to make a public offering of financial products other than securities and open-end UCITS units or shares shall first publish a prospectus. To this purpose, they file with CONSOB the application for approval of the prospectus, attaching a draft thereof. A prospectus shall not be published until approval thereof by CONSOB, in accordance with Article 95, paragraph 1, letter b). The prospectus shall contain, in an easily analysable and comprehensible form, all the information that, depending on the characteristics of the financial products and the issuer, is necessary for investors to make an informed assessment of the assets and liabilities, profits and losses, financial position and prospects and of the issuer and any guarantors thereof, as well as of the related rights, reasons for issue and related impact on the issuer. The prospectus also contains a securities note, which briefly gives key information, in non-technical jargon. The format and content of the securities note, together with the prospectus, give adequate information on the fundamental features of the financial products in order to aid the investors to decide whether or not to invest in such products.

2. Where the prospectus is not governed by Article 95, paragraph 1, letter b), CONSOB shall establish, at the issuer's or offeror's request, the content of the prospectus referred to in paragraph 1.

3. Having verified the accuracy, consistency and comprehensibility of the information provided, CONSOB approves the prospectus within the terms and according to the modalities and procedures that it has set out in the regulation provided for by Article 95, paragraph 1, letter b). Failure to issue a decision by CONSOB within the set terms does not constitute approval of the prospectus.

4. Any significant new fact, relevant error or inaccuracy relating to the information contained in the prospectus that might influence the evaluation of the financial products and that occur or are reported between the time of approval of the prospectus and the end of the offering period shall be mentioned without undue delay in a supplement to the prospectus.

5. CONSOB shall publish at least a list of the prospectuses approved in accordance with this Article on its Internet site.

6. Where a prospectus does not indicate the final offer price or the final quantity of the financial

781 Paragraph repealed by Article 9 of Law no. 21 of 5.3.2024.

products offered to the public, the maximum price or the maximum quantity of financial products or the evaluation methods, and the criteria or conditions for determination of the final offer price, as well as an explanation of the evaluation methods used, acceptance of the purchase or subscription of the financial products can be cancelled until the term indicated in the prospectus and in any case within a term of at least two business days calculated as from the day in which the final offer price or the final quantity of financial products offered to the public are submitted.

7. The investors who have already accepted to purchase or subscribe the financial products prior to the publication of a supplement shall have the right – to be exercised within two business days from such publication – to cancel acceptance thereof, provided that the significant new fact, relevant error or inaccuracy have emerged or have been reported before the end of the offer period or delivery of the financial products, whichever is earlier. The deadline for exercising the withdrawal right is indicated in the supplement.

8. Article 94, paragraphs 5, 6, 7 and 9 shall apply to the public offering of financial products other than open-end UCITS units or shares. For the purpose of preparation of the securities note, the liability regime provided for by Article 94, paragraph 8 shall apply[782].

Article 95[783]
Implementing provisions

1. In compliance with the relevant European provisions, CONSOB shall issue a regulation with provisions implementing this Section, which may be differentiated according to the characteristics of the financial products, issuers and markets. The regulation shall establish in particular:

a) with reference to the offer of securities, the procedures for approval of the prospectus and any supplement thereof, as well as the content of the application for approval, to be filed with CONSOB, provided for by Article 94, paragraph 3;

b) with reference to the offer of financial products other than securities, the procedures and the terms for approval of the prospectus, and any supplements thereof, as well as the content of the application for approval, to be filed with CONSOB, provided for by Article 94-bis, paragraph 1; CONSOB can issue a regulation setting out the content of the prospectus in relation to particular categories of financial products;

c) the procedures for releasing news, performing market surveys and collecting promises to buy or subscribe, without prejudice to the provisions of Article 42-bis[784];

d) the procedures for making public offerings, inter alia with a view to ensuring the equal treatment of the persons solicited;

e) the internal organisational and decisional procedures for the adoption of the final deed of approval of the prospectus, even if by the assignment of responsibility to managerial personnel.

2. CONSOB shall lay down in a regulation the conduct-of-business rules to be observed by the offeror, the issuer and the financial intermediaries appointed as placing agents, as well as by persons in a control relationship with, or related to, such persons.

3. In accordance with a criterion of proportionality of the administration fees on the account of the

782 Article thus replaced by Article 3 of Legislative Decree no. 17 of 2.2.2021.

783 Article first replaced by Article 3 of Legislative Decree no. 17 of 2.2.2021 and then amended by Article 3 of Legislative Decree no. 191 of 5.11.2021 according to the terms indicated in the following footnote.

784 Letter thus amended by Article 3 of Legislative Decree no. 191 of 5.11.2021, which after the word: “subscription” added the words: “, without prejudice to the provisions of Article 42-bis”.

issuers, CONSOB can establish in a regulation the cases in which the replacement obligation applies, as referred to in Article 7, paragraph 7, second clause, of the Prospectus Regulation.

Article 95-bis
Cancellation of a purchase or subscription

…omissis…[785]

Article 96
Issuer financial statements

1. In public offers of financial products other than securities, the most recent separate or consolidated financial statements possibly prepared by the issuer, and the separate or consolidated financial statements possibly approved or prepared during the offer period shall be accompanied by audit reports in which a statutory auditor or independent statutory auditor entered in the register held by the Ministry of the Economy and Finance expresses their opinion. Any offering cannot be made if the statutory auditor or independent statutory auditors express an adverse opinion or disclaimer[786].

Article 97
Investigation and supervisory powers

1. Without prejudice to Title III, Chapter I, in order to ensure compliance with the provisions of this Chapter, the Prospectus Regulation and the implementing provisions, issuers and offerors shall be subject to Articles 114(5) and 114(6), and the issuers, the offerors, the entities controlling, or controlled by, them, the members of the boards of directors, the managers or the statutory auditors of the issuers and offerors, as well as the intermediaries appointed as placing agents shall be subject to Article 115.

2. CONSOB shall lay down in a regulation which of the provisions referred to in paragraph 1 shall apply to the other persons referred to in Article 95(2) and to persons who provide the ancillary services referred to in Annex I, Section B, number 6.

3. Where there are grounds for suspected violation of the provisions of this Chapter or of the related implementing provisions, CONSOB, for the purpose of obtaining details, may within one year of the purchase or subscription request information and the submission of records and documents from the buyers or subscribers of the securities and financial products other than securities referred to under this Section, establishing related deadlines. The power to request may also be exercised with regard to persons against whom there are grounds for suspicion that they implement, or have implemented, a public offering in contravention of the provisions of Articles 94 and 94-bis[787].

Article 98
Publication of prospectuses of closed-ended AIFs or closed-ended EU AIFs

1. In the case of a public offer of closed-ended AIF units or shares, for which Italy is the Home

785 Article first amended by Article 1 of Legislative Decree no. 184 of 11.10.2012, then repealed by Article 3 of Legislative Decree no. 17 of 2.2.2021.

786 Article first replaced by Article 40 of Legislative Decree no. 39 of 27.01.2010, then amended by Article 3 of Legislative Decree no. 17 of 2.2.2021, which replaced this paragraph.

787 Article thus replaced by Article 3 of Legislative Decree no. 17 of 2.2.2021.

Member State, or of a public offer of closed-ended EU AIF units or shares, for which Italy is the Host Member State, the prospectus is published on conclusion of the procedure respectively contemplated by article 43 and article 44 and the relative enactment provisions[788].

Article 98-bis
Issuers from non-EU countries

… omissis…[789]

Section II
Public offering of open-end UCITS units or shares

Article 98-ter[790]
KID and prospectus[791]

1. The public offer of open-ended Italian UCI units or shares or EU or non-EU AIFs is preceded by communication to CONSOB. In the case of the offer of Italian UCITS, the communication shall be accompanied by the KID and the prospectus for publication. In the case of the offer of open-ended Italian, EU and non-EU AIFs, the communication shall be accompanied by the offer documentation indicated by CONSOB pursuant to article 98-quater, letter a-bis)[792].

2. …*omissis*…[793]

3. The prospectus must enable investors to reasonably understand the nature and risks of the investment proposed and, consequently, make an aware choice on the investment. The prospectus is of a pre-contractual nature[794].

4. Article 94, paragraphs 5, 6, 7 and 9 apply[795].

5. If units or shares are offered of EU UCITS, the KID and the prospectus may be published in Italy once the notification procedure established under Article 42 has been completed[796].

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788 Article thus replaced by Article 3 of Legislative Decree no. 17 of 2.2.2021.

789 Article thus repealed by Article 3 of Legislative Decree no. 17 of 2.2.2021

790 Article first replaced by Article 1 of Legislative Decree no. 47 of 16.4.2012 and subsequently amended by Article 6 of Legislative Decree no. 44 of 4.3.2014, by Article 3 of Legislative Decree no. 17 of 2.2.2021 and by Article 1 of Legislative Decree no. 29 of 10.3.2023 according to the terms specified in the following notes.

791 Heading thus replaced by Article 1 of Legislative Decree no. 29 of 10.3.2023.

792 Paragraph first replaced by Article 6 of Legislative Decree no. 44 of 4.3.2014, and then thus amended by Article 1 of Legislative Decree no. 29 of 10.3.2023, which replaced the words: “the document containing key information for investors” with the words: “the KID”.

793 Paragraph repealed by Article 1 of Legislative Decree no. 29 of 10.3.2023.

794 Paragraph thus replaced by Article 1 of Legislative Decree no. 29 of 10.3.2023.

795 Paragraph first amended by Article 3 of Legislative Decree no. 17 of 2.2.2021, which replaced the words “paragraphs 8, 9 and 11” with the words “paragraphs 5, 6, 7 and 9”, and then by Article 1 of Legislative Decree no. 29 of 10.3.2023, which deleted the words: “No one can be called to answer exclusively on the basis of the document containing the key information for investors, including the related translation, unless it may be misleading, imprecise or not in line with the corresponding parts of the prospectus”.

796 Paragraph first amended by Article 6 of Legislative Decree no. 44 of 4.3.2014 which replaced the words: "harmonised

5-bis. In the case of a public offer of open-ended Italian, EU and non-EU AIF units or shares, the offer documentation is published on conclusion of the procedure contemplated by article 43 or by article 44 and the relative enactment provisions[797].

Article 98-ter.1
Offers to non-retail investors

1. Where offers of Italian UCITS are not intended for retail investors, the offerors determine whether they should draw up a KIID or KID. Where a KID is drawn up, Regulation (EU) 1286/2014 and the related implementing provisions adopted at European level shall apply.

2. The offers referred to in paragraph 1 shall be preceded by a communication to Consob enclosing the KIID or KID and the prospectus.

3. The KIID shall be drawn up in compliance with the European regulations governing the matter and the related implementing provisions adopted at European level.

4. The KIID must enable investors to reasonably understand the nature and risks of the investment proposed and, consequently, make an aware choice on the investment. The document containing the key information for investors and the prospectus are of a pre-contractual nature. The key information for investors is correct, clear, not misleading and in line with the corresponding parts of the prospectus.

5. No one can be called to answer exclusively on the basis of the KIID, including the related translation, unless it may be misleading, imprecise or not in line with the corresponding parts of the prospectus[798].

Article 98-quater[799]
Implementation provisions

1. CONSOB prepares a regulation setting out provisions for enacting this section; these may also differ depending on the characteristics of open-ended UCITS, issuers and markets. In compliance with European Union provisions, the regulation specifically establishes[800]:

a) the content of the communication to CONSOB and of the prospectus relative to the offer of Italian UCITS units or shares, and the methods and terms for the publication of the prospectus, the delivery schedule and possible updating of the KIID and prospectus[801];

a-bis) the content of the offer documentation of Italian, EU and non-EU AIF units or shares,

Community UCIs" with the words: "Community UCITS" and then thus replaced by Article 1 of Legislative Decree no. 29 of 10.3.2023.

797 Paragraph included by Article 6 of Legislative Decree no. 44 of 4.3.2014.

798 Article added by Article 1 of Legislative Decree no. 29 of 10.3.2023.

799 Article first replaced by Article 1 of Legislative Decree no. 47 of 16.4.2012 and subsequently amended by Article 6 of Legislative Decree no. 44 of 4.3.2014, by Article 3 of Legislative Decree no. 191 of 5.11.2021 and by Article 1 of Legislative Decree no. 29 of 10.3.2023 in the terms indicated in the following notes.

800 Paragraph as amended by Article 6 of Legislative Decree no. 44 of 4.3.2014 which replaced the words: «Community provisions» with the words «European Union provisions».

801 Letter first replaced by Article 6 of Legislative Decree no. 44 of 4.3.2014 and then by Article 1 of Legislative Decree no. 29 of 10.3.2023.

the relative delivery and publication schedule[802];

a-ter) the language regime of the KIID and the prospectus[803];

b) the methods with which to comply in disseminating news, carrying out market surveys and collecting intentions to buy or subscribe, without prejudice to the provisions of Article 42-bis[804];

c) methods by which to make the offer, also with a view to ensuring equal treatment of addressees[805].

2. Where the characteristics of the UCITS should so require, CONSOB may, at the behest of the offerors, permit the inclusion of additional or equivalent information in the offer documentation to that established by the regulation pursuant to paragraph 1.

Article 98-quinquies
Reporting obligations

1. Without prejudice to Title III, Chapter I, the following shall apply to offerors of open-end UCITS units or shares:

a) article 114, paragraphs 5 and 6, from the date of publication of the prospectuses until conclusion of the offering;

b) article 115, from the date of the notification pursuant to article 98-ter until one year after conclusion of the offering.

2. …omissis… [806]

3. Where there are grounds for suspected violation of the provisions of this Chapter or related enactment regulations, CONSOB, for the purpose of obtaining details, may within one year of the purchase or subscription request information and the submission of records and documents from the buyers or subscribers of the open-end UCITS units or shares, establishing related deadlines. The power to request may also be exercised with regard to persons against whom there are grounds for suspicion that they implement public offerings in contravention of the provisions of article 98-ter.

Article 98-sexies
Obligations relating to reporting violations

…omissis…[807]

Section III
Common provisions

Article 99

802 Letter thus replaced by Article 6 of Legislative Decree no. 44 of 4.3.2014.

803 Letter thus amended by Article 1 of Legislative Decree no. 29 of 10.3.2023, which replaced the words: “document containing the key information for investors” with the words: “KID”.

804 Letter thus amended by Article 3 of Legislative Decree no. 191 of 5.11.2021, which after the word: “subscription” added the words: “, without prejudice to the provisions of Article 42-bis”.

805 See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the in Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

806 Paragraph repealed by Article 6 of Legislative Decree no. 44 of 4.3.2014.

807 Article first included by Article 1 of Legislative Decree no. 71 dated 18.4.2016 and then repealed by Article 4 of Legislative Decree no. 129 dated 3.8.2017.

Powers of CONSOB

1. CONSOB may:

a) suspend as a precautionary measure, for maximum ten consecutive working days on each occasion, the public offering of securities, in the event of a well-founded suspicion of violation of the provisions of this chapter or related implementing provisions, as well as of the Prospectus Regulation and implementing provisions;

b) suspend as a precautionary measure, for a maximum of ninety days, the public offering of financial products other than those referred to in paragraph a), in the event of a well-founded suspicion of violation of the provisions of this chapter or related implementing provisions;

c) prohibit the public offering in the event of an ascertained violation or well-founded suspicion of violation of the provisions of this chapter or related implementing provisions, as well as of the Prospectus Regulation and implementing provisions;

d) prohibit the public offering in the event of an ascertained violation of the provisions referred to in paragraphs a) or b);

e) make public the fact that the public offering or issuer fails to meet obligations;

f) without prejudice to the powers envisaged under article 66-quater, paragraph 1, as a preventive measure, and for a period not exceeding ten consecutive working days on each occasion, suspend, or request that the stock exchange company suspend, trading on a regulated market, Multilateral Trading Facility or Organized Trading Facility, in the case of grounds for suspected violation of the provisions of this Chapter or related implementing provisions, as well as of the Prospectus Regulation and implementing provisions;

g) without prejudice to the powers envisaged under article 66-quater, paragraph 1 prohibits, or request that the stock exchange company prohibits, trading on a regulated market, Multilateral Trading Facility or Organized Trading Facility, in the case of confirmed violation of the provisions of this Chapter or related implementing provisions, or of the Prospectus Regulation and implementing provisions;

h) suspend the procedure for approval of the prospectus or suspend or limit the public offer of financial instruments in the event that the competent authority exercises the power to impose a ban or a restriction in accordance with Article 42 of Regulation (EU) no. 600/2014 of the European Parliament and of the Council of 15 May 2014, until such ban or restriction is lifted;

i) exercise the precautionary powers referred to in Article 37 of the Prospectus Regulation, in the cases provided therein;

l) demand that the issuer or offeror include in the prospectus supplementary information if necessary for the protection of investors;

m) without prejudice to the powers envisaged under article 66-quater, paragraph 1, suspend, or request that the regulated market facility, Multilateral Trading Facility or Organized Trading Facility, suspend trading if the situation of the issuer is detrimental to the investors' interest[808].

Article 100
Cases of inapplicability

1. The provisions of this chapter shall not apply to the public offerings referred to in Article 1, paragraph 2, letters b) to f), of the Prospectus Regulation.

2. if the conditions referred to in Article 3 (2) of the Prospectus Regulation are met, the offering of securities whose total amount does not exceed that indicated by CONSOB in the regulation referred to in paragraph 3, letter c) and, in any case, the monetary limits of a minimum of Euro 1 million and

808 Article thus replaced by Article 3 of Legislative Decree no. 17 of 2.2.2021.

a maximum of Euro 8 million, shall not be subject to the obligation to publish the prospectus.

3. The provisions of this chapter shall not apply to the public offerings of financial products other than securities and:

a) aimed exclusively at professional investors as defined by CONSOB in a regulation in accordance with the criteria set out by the European legislation;

b) aimed at a number of persons not exceeding that established by CONSOB in a regulation;

c) of a total amount not exceeding that established by CONSOB in a regulation;

d) related to money market instruments issued by banks with a less than 12-month maturity.

4. CONSOB may specify in a regulation the public offering of financial products other than securities to which the provisions of this chapter shall not apply in whole or in part[809].

Article 100-bis
Resale of securities or financial products other than securities

1. The buyers, who act for purposes extraneous to entrepreneurial or professional activities, may invoke invalidity of the contract whenever the securities or financial products other than securities offered to the public have previously formed the subject matter, in Italy or abroad, of an allocation reserved for qualified investors and, during the following twelve months, are systematically resold to people in the absence of a prospectus, unless this resale does not fall within any of the cases of exemption provided for by Article 1, paragraph 4, letters a) to d) of the Prospectus Regulation or by Article 100, paragraph 1 of this decree. The qualified entities at which the resale of the securities takes place shall be liable for all the damage caused. The provisions of Articles 2412 (2), 2483 (2) and 2526 (4) of the Italian Civil Code shall apply.

2. The provisions of Article 5 of the Prospectus Regulation, and the provisions of paragraph 1, shall apply to the subsequent resale of financial products other than securities[810].

Article 100-ter[811]
Crowdfunding offers

1. In derogation to what is specified in article 2468, first paragraph, of the civil code, the investments in limited liability companies constitute the subject of public offer to public of financial products, even through portals for the raising of capital, in the limits provided for by Regulation (EU) 2020/1503.

2. By way of alternative to what is established by article 2470, second paragraph, of the civil code and by article 36, paragraph 1-bis, of the decree-law no. 112 of 25 June 2008, converted, with amendments, by law no. 133 of 6 August 2008, as well as, in reference only to the units representing the capital of small and medium-sized enterprises, by article 26, paragraph 2-bis, of decree-law no. 179 of 18 October 2012, converted, with amendments, by law no. 221 of 17 December 2021, for the

809 Article thus replaced by Article 3 of Legislative Decree no. 17 of 2.2.2021.

810 Article thus replaced by Article 3 of Legislative Decree no. 17 of 2.2.2021.

811 Article first inserted by Article 30 of D.L. no. 179 of 18.10.2012, subsequently amended by Article 4 of D.L. no. 3 of 24.1.2015, converted with amendments by L. no. 33 of 24 March 2015, by Article 18 of Legislative Decree no. 112 of 3 July 2017, by Article 4 of Legislative Decree no. 129 of 3 August 2017, by Article 1, paragraph 238 of Law no. 145 of 30.12.2018, by Article 4 of Legislative Decree no. 165 of 25.11.2019, by Article 5 of Legislative Decree no. 191 of 5.11.2021 and finally by Article 1 of Legislative Decree no. 30 of 10.3.2023 and finally amended by Article 3 of Law no. 21 of 5.3.2024, within the terms specified in the following notes.

subscription and for the subsequent disposal of stakes representing the capital of companies with limited liability[812]:

a) subscription may be made through intermediaries qualified for the provision of one or more of the investment services provided for in article 1, paragraph 5, letters a), b), c), c-bis), and e); the qualified intermediaries make the subscription of investments for their own account and on behalf of subscribers or purchasers that have taken up the crowdfunding offer;

b) within the thirty days following the closure of the offer, the qualified intermediaries deposit in the company register a certification vouching for their ownership as shareholders on behalf of third companies, facing the relative cost; to this end, the take up conditions published on the crowdfunding portal must expressly contemplate that take of the offer, in the case of successful collection of the same and if the investor decides to make use of the alternative system referred to in this paragraph, entails the contextual and obligatory attribution of the mandate to the entrusted intermediaries in order for them to:

1) put the investment in their name and on behalf of the subscribers, keeping adequate evidence of the identity of the same and of the investments possessed;

2) issue, at the request of the subscriber or the subsequent purchaser, a certification proving the ownership of the holdings; this certification is solely a document of legitimisation for the exercise of the social rights, it is in the name of the subscriber, it is not transferrable, either temporarily or for any reason, to others and does not constitute a valid instrument for the transfer of the ownership of the holdings;

3) permit subscribers who so request to dispose of the stakes in accordance with what is specified in letter c);

4) give subscribers and subsequent purchasers the power to request, at any time, transfer into their own names of the investments belonging to them;

c) the disposal of the investments by a subscriber or late purchaser takes place through the simple entry of the transfer in the records kept by the intermediary.

3. The recording and transfer of the stakes referred to in paragraph 2 shall not imply any costs or fees, for the purchaser or the seller. The subsequent certification issued by the intermediary, for the purposes of the exercise of the rights of the shareholders, substitutes and exercises the formality referred to in article 2470, second paragraph, of the civil code.

4. The alternative share transfer arrangements referred to in paragraph 2 must be clearly indicated in the crowdfunding portal, where appropriate arrangements are also made to allow the investor to exercise the option or to indicate the intention to apply the ordinary scheme referred to in Article 2470, second paragraph, of the Italian Civil Code and Article 36, paragraph 1-bis of Decree-Law no. 112 of 25 June 2008, converted, with modifications, by Law no. 133 of 6 August 2008.

5. The execution of subscriptions, purchases and disposals of financial instruments issued by limited-liability companies or investments representing capital of the same, done according to the methods specified in letters b) and c) of paragraph 2, do not require the stipulation of a written contract. Any fee, expense or charge payable by the subscriber, buyer or seller must be indicated in the bid portal, with separate and clear information on the conditions practised by each intermediary involved, and this should also appear in a specific section of each intermediary's internet site. Failing which, nothing is payable to the intermediaries.

812 Subsection thus amended by Article 3 of Law no. 21 of 5.3.2024, which after the wrods: “by law no. 133 of 6 August 2008” added the wrods: “as well as, in reference only to the units representing the capital of small and medium-sized enterprises, by article 26, paragraph 2-bis, of decree-law no. 179 of 18 October 2012, converted, with amendments, by law no. 221 of 17 December 2021,”.

6. The key investment information sheet referred to in Articles 23 and 24 of Regulation (EU) 2020/1503 is made available to investors, as defined in Article 2 (1) letter i) of the same Regulation, according to the modalities set out by CONSOB.

7. In the cases envisaged by Article 23 (10) of Regulation (EU) 202/1503, the project owner shall be responsible for the information provided in a key investment information sheet, including any translations thereof.

8. In the cases envisaged by Article 24 (5) of Regulation (EU) 202/1503, the crowdfunding service provider is responsible for the information provided in a key investment information sheet at platform level, including any translations thereof.

9. Parties providing crowdfunding services other than those governed by Regulation (EU) 202/1503 shall publish on their websites, and include in the information to clients on the service rendered, the following warning: "This crowdfunding service is not subject to the authorization or supervision of the Bank of Italy or CONSOB. The rules and safeguards provided for by Regulation (EU) 2020/1503 on European crowdfunding service providers do not apply to this service". The warning shall also be activated in particular upon access to the website of the service provider and shall remain visible for the entire duration of the navigation.

10. Without prejudice to the provisions of this Article, the provisions of this Chapter shall not apply to crowdfunding offers.

Article 101[813]
Advertisements

1. CONSOB shall specify in a regulation, taking into account the need to contain the obligations for the supervised entities, and the provisions of Article 7 of Regulation (EU) no. 2019/1156, the methods and deadlines for receiving the documentation relating to any form of advertisement concerning a public offering effected in Italy[814].

2. Prior to the publication of the prospectus any form of advertisement concerning public offerings of financial products other than securities shall be prohibited.

3. Advertisements concerning public offerings of financial products other than securities and of shares or units of open-ended UCIs shall comply with the guidelines laid down by CONSOB in a regulation, in accordance with the European legislation and, anyway, having regard to the accuracy of the information and its consistency with the contents of the prospectus[815].

4. CONSOB may:

a) in reference to public offerings of securities, suspend advertisement thereof, as a precautionary measure, on each occasion for maximum ten working consecutive days, in the event of a well-founded suspicion of violation of the provisions in paragraphs 1, 2 and 3, or of the related

813 Article first replaced by Article 3 of Legislative Decree no. 17 of 2.2.2021 and then amended by Article 3 of Legislative Decree no. 191 of 5.11.2021 according to the terms indicated in the following footnotes.

814 Paragraph thus amended by Article 3 of Legislative Decree no. 191 of 5.11.2021, which after the words: "supervised entities" added the words: "and the provisions of Article 7 of Regulation (EU) no. 2019/1156".

815 Paragraph thus amended by Article 3 of Legislative Decree no. 191 of 5.11.2021, which after the words: "securities" added the words: "and of shares or units of open-ended UCIs".

implementing provisions, as well as of the Prospectus Regulation and implementing provisions and the provisions of Article 4 of Regulation (EU) no. 2019/1156[816];

b) in reference to public offerings of financial products other than those referred to in letter a), suspend advertisement thereof, as a precautionary measure, for maximum ninety days, in the event of a well-founded suspicion of violation of the provisions in paragraphs 1, 2 and 3, or of the related implementing provisions and the provisions of Article 4 of Regulation (EU) no. 2019/1156[817];

c) prohibit spread of the advertisement in the event of a well-established violation of the provisions or rules indicated in letters a) or b).

d) prohibit execution of the public offering, in the case of failure to comply with the provisions of paragraphs a), b) or c).

5. Regardless of the obligation to publish a prospectus, significant information provided by the issuer or offeror to qualified investors or special categories of investor, including information disclosed during meetings regarding the offering of financial products other than securities, must be disclosed to all qualified investors or all special categories of investor to whom the offering is exclusively addressed.

Chapter II
Public offers to buy or exchange financial instruments

Section I
General provisions

Article 101-bis[818]
Definitions and application environment

1. For the purposes of this chapter, “Italian listed companies” shall mean companies with registered office in Italy and with securities admitted to trading on an EU regulated market.

2. For the purposes of this chapter and article 123-bis, “securities” shall mean financial instruments carrying voting rights, also limited to specific topics, at ordinary or extraordinary shareholders' meetings.

3. Article 102 paragraphs 2 and 5, article 103 paragraph 3-bis, all other provisions of this decree imposing specific reporting obligations upon the offeror or issuer with respect to employers or their representatives, together with articles 104, 104-bis and 104-ter, shall not apply to:

a) takeover bids or exchange tender offerings involving financial products other than securities;

b) takeover bids or exchange tender offerings not involving securities that carry voting rights on the topics indicated in article 105 paragraphs 2 and 3;

c) takeover bids or exchange tender offerings launched by parties who, directly or indirectly, hold the majority of voting rights exercisable at ordinary shareholders' meetings of the company[819];

816 Paragraph thus amended by Article 3 of Legislative Decree no. 191 of 5.11.2021, which after the words: “implementing provisions” added the words: “and the provisions of Article 4 of Regulation (EU) no. 2019/1156”.

817 Paragraph thus amended by Article 3 of Legislative Decree no. 191 of 5.11.2021, which after the words: “implementing provisions” added the words: “and the provisions of Article 4 of Regulation (EU) no. 2019/1156”.

818 Article first included by Article 2, Legislative Decree no. 229 of 19.11.2007 and later amended by Article 1, Legislative Decree no. 146 of 25.09.2009 as indicated in the following footnotes.

819 Paragraph wording amended by Article 1, Legislative Decree no. 146 of 25.09.2009 IN THE ITALIAN VERSION ONLY; the changes have no effect on the English version.

d) takeover bids involving own shares.

3-bis. Without prejudice to the provisions of paragraph 3, by regulation CONSOB may identify takeover bids and exchange tender offerings, involving financial products other than securities, for which the provisions of this Section wholly or in part shall not apply, where there is no conflict with the aims of article 91[820].

4. "Persons acting in concert" shall mean persons cooperating together on the basis of a specific or tacit agreement, verbal or in writing, albeit invalid or without effect, for the purpose of acquiring, maintaining or strengthening control over the issuer or to counteract achievement of the aims of a takeover bid or exchange tender offering[821].

4-bis. In any event, persons considered to be acting in concert are:

a) parties to an agreement, even if void, envisaged in article 122, paragraph 1 and paragraph 5 paragraphs a), b), c) and d);

b) an entity, its parent company and its subsidiaries;

c) companies subject to joint control;

d) a company and its directors, members of the management board, or supervisory board or general managers[822].

4-ter. Without prejudice to paragraph 4-bis, by regulation CONSOB shall identify:

a) cases in which it is presumed that the parties involved are persons acting in concert pursuant to paragraph 4, unless they can prove that the conditions of said paragraph do not apply;

b) cases in which the cooperation between several persons does not qualify as acting in concert pursuant to paragraph 4[823].

Article 101-ter
Supervisory authority and applicable law

1. CONSOB shall supervise takeover bids or exchange tender offerings in compliance with the provisions of this chapter.

2. For the purposes of allocation of responsibilities between CONSOB and other EU Member State authorities with regard to takeover bids or exchange tender offerings involving securities of companies subject to the law of an EU Member State, and instrumental or subsequent to the acquisition of control under the national law of the issuer, the following provisions shall be observed.

3. CONSOB shall supervise the implementation of public offerings:

a) involving securities issued by a company with registered office in Italy and admitted to trading on one or more Italian regulation markets;

b) involving securities issued by a company with registered office in an EU Member State other than Italy and admitted to trading solely on Italian regulation markets;

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820 Paragraph added by Article 1, Legislative Decree no. 146 of 25.09.2009.

821 Paragraph as replaced by Article 1, Legislative Decree no. 146 of 25.09.2009.

822 Paragraph added by Article 1, Legislative Decree no. 146 of 25.09.2009.

823 Paragraph added by Article 1, Legislative Decree no. 146 of 25.09.2009. See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

c) involving securities issued by a company with registered office in an EU Member State other than Italy and admitted to trading on regulated markets in Italy and in EU Member States other than that in which the company is registered, if said securities were first admitted to trading on an Italian regulated market or, if the securities were simultaneously first admitted to trading on regulated markets in Italy and in other EU Member States, where the issuer adopts CONSOB as the competent supervisory authority, informing the aforementioned markets and their supervisory authorities on the first day of trading. By regulation, CONSOB shall establish the terms and conditions for the public disclosure of the issuer's decision regarding adoption of the authority responsible for supervision of the offering.

4. Where CONSOB is the competent supervisory authority pursuant to paragraph 3, paragraphs b) and c), matters concerning the price, procedure, with particular reference to reporting obligations on the decision of the bidder to proceed with the bid, content of the takeover bid document and disclosure of the bid shall be governed by Italian law. In matters relating to the information to be provided to employees of the issuer, matters relating to company law, in particular with regard to the threshold exceeded which a takeover bid becomes mandatory, to any derogation from such an obligation and the conditions under which the board of the issuer may undertake any action which might result in the frustration of the bid, the applicable rules and the competent authority shall be those of the Member State in which the issuer has its registered office.

5. Where the takeover bid involves securities issued by companies with registered office in Italy and admitted to trading solely on one or more regulated markets of other EU Member States, the matters indicated under paragraph 4, second paragraph, shall be governed under Italian law and the relevant supervisory authority shall be CONSOB[824].

Article 102[825]
Bidder obligations and prohibitive powers

1. The decision or occasion giving rise to the mandatorily promote a takeover bid or exchange tender offering shall be notified to CONSOB without delay and at the same time disclosed to the public. By regulation, CONSOB shall establish the content and publication terms of the notice[826].

2. As soon as the bid has been made public, the boards or control bodies of the issuer and of the bidder shall inform the representatives of their respective employees or, where there are no such representatives, the employees themselves.

3. Unless otherwise dictated by article 106, paragraph 2, the bidder shall take immediate action to make the bid, and in any event no later than twenty days from the notice pursuant to paragraph 1 and submit the takeover bid document for publication to CONSOB. Should said deadline not be met, the takeover bid document shall be declared inadmissible and the bidder may not make a further bid on the same financial products of the issuer in the twelve months thereafter.

4. Within fifteen days of submission of the takeover bid document, CONSOB shall issue its approval if the document allows receiving parties to form a reasoned opinion on the bid. On issue of approval,

824 Article included by Article 2 Legislative Decree no. 229 of 19.11.2007

825 Article first replaced by Article 2 of Legislative Decree no. 229 of 19.11.2007 and then amended by Article 1 of Legislative Decree no. 146 of 25.9.2009, and Article 4 of Law no. 21 of 5.3.2024, within the terms specified in the following notes.

826 See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

CONSOB may indicate to the bidder additional information to be included, specific means of publication of the takeover bid document and any special guarantees to be provided. The time limit for takeover bids involving unlisted financial products, or products traded through multilateral trading systems, shall be thirty days. Should it prove necessary to request additional information from the bidder, said time limits shall be suspended, once only, until such information is received. Such information shall be provided within the time limit established by CONSOB, in any event not exceeding fifteen days. If for takeover bid implementation purposes, sector regulations require authorisation from other authorities, CONSOB shall approve the takeover bid document within five days of notification by said authorities. On expiry of the time limits indicated in this paragraph, the takeover bid document shall be deemed approved[827].

4-bis. Limited to exchange tender offerings involving bonds and other debt securities, the bidder, also as an exception to the provisions of this chapter, may apply to CONSOB requesting that the offering be made subject to the provisions for public offerings for sale and subscription pursuant to Chapter I in this Title. Within fifteen days of receipt of such an application, CONSOB shall accept the request provided it does not conflict with the aims of article 91[828].

5. When the document is made public, the boards or controlling bodies of the issuer and of the bidder shall circulate the document to the representatives of their respective employees or, where there are no such representatives, to the employees themselves.

6. Pending the takeover bid, CONSOB may:

a) suspend the bid as a precautionary measure if there are grounds to suspect violation of the provisions of this chapter or of regulatory provisions;

b) suspend the takeover bid for a period not exceeding thirty days if new facts, or facts not previously known, come to light that would not allow receiving parties to form a reasoned opinion on the bid;

c) declare the takeover bid lapsed if violation of the provisions or regulations referred to under paragraph a) is confirmed;

7. For the purposes of its supervision of the observance of provisions referred to in this chapter, CONSOB shall exercise the powers envisaged by article 115, paragraph 1, paragraphs a) and b) against any party appearing to be aware of the facts. Where there are grounds to suspect violation of the provisions of this chapter or of regulatory provisions, article 187-octies shall apply.

8. Where indiscretions in any event spread to the public with regard to a possible takeover bid or exchange tender offering and there are irregularities in the market performance of the securities concerned, article 114, paragraphs 5 and 6 shall apply to the potential bidders.

Article 103
Implementation of offers

1. Offers shall be irrevocable. Any clause stating the contrary shall be null and void. The offer shall be made at the same conditions to all the holders of the financial products that are the object thereof.

2. Without prejudice to Title III Chapter I, article 114, paragraphs 5 and 6, and article 115 shall apply

827 Paragraph thus amended by Article 4 of Law no. 21 of 5.3.2024, which replaced the words: “or widely distributed among the public pursuant to article 116” with the words: “or products traded through multilateral trading systems”.

828 Paragraph included by Article 1 of Legislative Decree no. 146 of 25.9.2009.

to the issuers, bidders, persons acting in concert and the intermediaries appointed to collect bids from the date of notification indicated in article 102, paragraph 1 and until one year from closure of the takeover bid[829].

3. The board of directors of the issuer shall issue a notice containing all information useful to evaluating the bid and its own evaluation of the bid. For companies with a two-tier structure, the notice shall be approved, jointly if necessary, by the control body and supervisory council[830].

3-bis. The notice shall also contain an evaluation of the effects of eventual success of the takeover bid on the interests of the company, and on the employment conditions and location of business premises. At the same time as its disclosure, the notice shall be issued to representatives of the company's employees or, where there are no such representatives, directly to the employees. If received in time, the opinion of employee representatives regarding repercussions on employment conditions shall be attached to the notice[831].

4. By regulation, CONSOB shall dictate the enactment provisions of this section, in particular governing:

a) content of the takeover bid document, its publication terms and terms of implementation of the takeover bid;

b) correctness and transparency of transactions on the financial products concerned;

c) the effects on the takeover bid price of purchase of the financial products concerned, by the bidders or persons acting in concert with the bidders after issue of the notice pursuant to article 102, paragraph 1, pending the bid or in the six months following its closure;

d) amendments to the bid, increased and rival bids, without limiting the number of increased offers, that may be made prior to expiry of a maximum deadline;

e) acknowledgment of takeover bid documents approved by the supervisory authorities of other EU Member States or of non-EU countries with which cooperation agreements exist;

f) the publication terms of measures adopted by CONSOB pursuant to this section[832].

5. …omissis…[833]

Article 104[834]
Defensive measures

1. Unless approved by the ordinary or extraordinary shareholders' meeting, depending on the attributed level of decision-making powers, Italian listed companies whose securities are involved in the offering shall abstain from action or transactions that could counteract achievement of the aims

829 Paragraph first amended by Article 9, paragraph 1 of Law no. 62 of 18.04.2005 (2004 Community Law) and later replaced by Article 2, Legislative Decree no. 229 of 19.11.2007.

830 Paragraph replaced by Article 2 Legislative Decree no. 229 of 19.11.2007.

831 Paragraph included by Article 2 of Legislative Decree no. 229 of 19.11.2007.

832 Paragraph replaced by Article 2 Legislative Decree no. 229 of 19.11.2007. See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

833 Paragraph repealed by Article 2 of Legislative Decree no. 229 of 19.11.2007.

834 Article first amended by Article 3, Legislative Decree no. 37 of 6.2.2004 and by Article 2, Legislative Decree no. 229 of 19.11.2007, then replaced by Article 13, Decree Law no. 185 of 29.11.2008 converted to Law no. 2 of 28.1.2009, and again amended by Article 1 of Legislative Decree no. 146 of 25.9.2009 and by Article 3 of Legislative Decree no. 107 of 10.8.2018 according to the terms indicated in the subsequent notes.

of the offering. This abstention obligation shall apply from the date of notice pursuant to article 102, paragraph 1, until closure of the offering or until the offering expires. Mere research into other offerings shall not constitute an act or transaction in conflict with the aims of the offering. The liability of directors, members of the management board, supervisory board and general managers for action taken or transactions executed shall remain unchanged[835].

1-bis. The shareholders' meeting approval envisaged in paragraph 1 shall also be required for the implementation of any decision taken before the start of the period indicated in paragraph 1, not yet implemented wholly or in part, that does not fall within the normal business practices of the company and the implementation of which could counteract achievement of the aims of the offering[836].

1-ter. The articles of association may derogate, wholly or in part, from the provisions of paragraphs 1 and 1-bis. The company shall notify CONSOB and the supervisory authorities of any derogations approved pursuant to this paragraph for takeover bids in member countries in which their securities are admitted to listing on a regulated market or in which admission to listing has been requested. Such derogations shall also be promptly disclosed to the public in accordance with the procedures laid down by CONSOB in its regulations[837].

2. The notice of call to shareholders' meetings referred to under this article shall be published by the means indicated in Article 125-bis at least fifteen days prior to the date of the shareholders' meeting[838].

Article 104-bis[839]
Breakthrough

1. Without prejudice to the provisions of article 23, paragraph 3, the articles of association of an Italian listed company, other than a cooperative, may provide that, where a takeover bid or exchange tender offering is launched involving securities issued by that company, the regulations pursuant to paragraphs 2 and 3 shall apply[840].

2. In the takeover bid period, limitations on the transfer of securities as envisaged in the articles of association shall have no effect on the bidder. Likewise, limitations on voting rights envisaged in the articles of association or shareholders' agreement in cases where a shareholders' meeting is called to resolve upon the actions and transactions pursuant to article 104, shall have no effect on the bidder. At the same Shareholders' Meetings, the multiple-voting shares confer only one vote and the voting rights assigned pursuant to Article 127-quinquies[841] are not counted.

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835 Paragraph as replaced by Article 1, Legislative Decree no. 146 of 25.09.2009.

836 Paragraph as replaced by Article 1, Legislative Decree no. 146 of 25.09.2009.

837 Paragraph first replaced by Article 1, Legislative Decree no. 146 of 25.09.2009, in force since 1.7.2010, and later thus amended by Article 3 of Legislative Decree no. 107 of 10.8.2018, which replaced the last sentence.

838 Paragraph as replaced by Article 3, Legislative Decree no. 27 of 27.1.2010.

839 Article included by Article 2 of Legislative Decree no. 229 of 19.11.2007, later amended first by Article 13 of Italian Decree Law no. 185 of 29.11.2008 (converted by Italian Law no. 2 of 28.1.2009) and then by Article 20 of Italian Decree Law no. 91 of 24.6.2014 (converted, with amendments by Italian Law no. 116 of 11.8.2014), in the terms indicated in the following notes.

840 Paragraph replaced by Article 13 Decree Law no. 185 of 29.11.2008

841 Section thus amended by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014 which has added the last sentence.

3. If as a result of a takeover bid pursuant to paragraph 1 the bidder comes into possession of at least seventy-five per cent of the share capital with voting rights in relation to resolutions on the appointment or removal of directors or members of the controlling body or supervisory council, at the first shareholders' meeting following close of the bid, called to amend the articles of association or to remove or appoint directors or members of the controlling body or supervisory council, the multiple-voting shares confer only one vote and the following have no effect[842]:

a) limitations on voting rights as envisaged in the articles of association or shareholders' agreements;

b) any special right in relation to the appointment or removal of directors or members of the control body or supervisory council as envisaged in the articles of association.

b-bis) the additional votes due pursuant to article 127-quinquies[843].

4. The provisions of paragraphs 2 and 3 shall not apply to articles of association limitations on voting rights attributed to securities with capital privileges.

5. If the result of the bid pursuant to paragraph 1 proves positive, the bidder shall be obliged to pay a fair indemnity for any prejudice to share capital suffered by holders of rights the exercise of which is rendered null by application of the provisions of paragraphs 2 and 3, provided that provisions of the articles of association or contractual provisions constituting such rights were in force prior to issue of the notice pursuant to article 102, paragraph 1. The claim for indemnity must be submitted to the bidder, on penalty of lapse, within ninety days of the close of the bid or, where paragraph 3 applies, within ninety days of the date of the shareholders' meeting. Should no agreement be reached, the amount of the indemnity shall be decided by the court as a discretionary assessment with regard, inter alia, to a comparison between the average market price of the security in the twelve months prior to issue of the first notice concerning the bid and the price performance following the positive conclusion of the bid.

6. The indemnity referred to under paragraph 5 shall not be payable due to prejudice to share capital derives from the exercise of voting rights in conflict with a shareholders' agreement if, at the time of exercise of the voting right, the declaration of withdrawal pursuant to article 123 paragraph 3 had already been submitted.

7. The provisions regarding special powers pursuant to article 2 of Italian Decree Law no. 332 of 31 May 1994, converted with amendments to Law no. 474 of 30 July 1994 as amended, and on shareholding limitations and on voting rights pursuant to article 3 of said Decree Law, shall remain valid[844].

Article 104-ter[845]
Reciprocity clause

1. The provisions of article 104, paragraphs 1 and 1-bis and, if envisaged in the articles of association,

842 Line thus amended by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014, which has included the words: ", the multiple-voting shares confer only one vote and".

843 Letter included by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014.

844 Paragraph amended by Article 13, Decree Law no. 185 of 29.11.2008 which included the words: "and voting rights".

845 Article first included by Article 2, Legislative Decree no. 229 of 19.11.2007 and later amended by Article 1, paragraph 6, Decree Law no. 185 of 29.11.2008 (converted to Law no. 2 of 28.1.2009), by Article 1, Legislative Decree no. 146 of 25.09.2009 and by Article 3 of Legislative Decree no. 107 of 10.8.2018 according to the terms indicated in subsequent notes.

the provisions of article 104-bis, paragraphs 2 and 3, shall not apply to takeover bids or exchange tender offerings by entities not subject to such provisions or equivalent provisions, or by a company or entity controlled by such entities. Where launched by persons acting in concert, it is sufficient that such provisions do not apply to just one of the bidders involved[846].

2. …omissis…[847]

3. At the request of the bidder or issuer and within twenty days of submission of the request, CONSOB shall decide whether the provisions applicable to the parties indicated under paragraph 1 are equivalent to provisions to which the issuer is subject. By regulation, CONSOB shall establish the content and submission terms of such a request[848].

4. Any measure adopted by the issuer that could frustrate the bid under the terms of paragraph 1 must be expressly authorised by the shareholders' meeting, with regard to a possible takeover bid, in the eighteen months prior to disclosure of the decision to implement a takeover bid pursuant to article 102 paragraph 1. The authorisation provided for in this paragraph shall be disclosed to the market without delay in accordance with the procedures laid down by CONSOB in its regulations[849].

Section II
Mandatory public offers to buy

Article 105[850]
General provisions

1. Except for the provisions of article 101-ter, paragraphs 4 and 5, and the provisions of this section shall apply to Italian companies with securities admitted to trading on Italian regulated markets[851].

2. For the purposes of this section, shareholding shall mean a portion, held directly or indirectly through trust companies or nominees, of the securities issued by a company pursuant to paragraph 1 that give the right to vote in shareholders' meetings on resolutions concerning the appointment,

846 Paragraph as first amended by Article 13, Decree Law no. 185 of 29.11.2008 (converted to Law no. 2 of 28.1.2009) which replaced the words: "The provisions of article 104 and article 104-bis, paragraphs 2 and 3," with the words: "If envisaged in the articles of association, the provisions pursuant to article 104, paragraphs 1-bis, 1-ter, 2 and 3" and then, with effect from 1.7.2010, by Article 1, Legislative Decree no. 146 of 25.9.2009 which replaced the words: "If envisaged in the articles of association, the provisions pursuant to article 104, paragraphs 1-bis, 1-ter, 2 and 3" with the words: "The provisions of article 104, paragraphs 1 and 1-bis and, if envisaged in the articles of association, the provisions of article 104-bis, paragraphs 2 and 3".

847 Paragraph repealed by Article 13, Decree Law no. 185 of 29.11.2008

848 See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

849 Paragraph first replaced by Article 13 of Decree Law no. 185 of 29.11.2008 converted into Law no. 2 of 28.1.2009 and later thus amended by Article 3 of Legislative Decree no. 107 of 10.8.2018, which replaced the final sentence.

850 Article first replaced by Article 3, Legislative Decree no. 37 of 6.2.2004 and later amended by Article 3, Legislative Decree no. 229 of 19.11.2007 and by Article 2, Legislative Decree no. 146 of 25.09.2009 as indicated in the following footnotes.

851 Paragraph as amended by Article 3 Legislative Decree no. 229 of 19.11.2007 which replaced the words: "The provisions" with the words: "Except for the provisions of article 101-ter, paragraphs 4 and 5, the provisions" and the words: "with ordinary listed shares" with the words: "with securities admitted to trading".

removal of directors or members of the supervisory board[852].

3. CONSOB may issue a regulation whereby the relevant capital shall include security categories in the equity investment that give the right to vote on one or more different matters taking into account the nature of the influence their exercise, jointly or severally, may have on the management of the company. By regulation, CONSOB shall also decide upon the investment calculation criteria pursuant to paragraph 2 if the securities referred to therein are, as a result of legal or regulatory provisions, without voting rights or if the articles of association contemplate increased voting rights[853].

3-bis. By regulation CONSOB shall establish the cases and methods by which derivates held are counted in the investment pursuant to paragraph 2[854].

Article 106[855]
Global takeover bid

1. Anyone who, following acquisitions or increased voting rights, holds a stake greater than the thirty percent threshold or holds more than thirty percent of the voting rights of the same, promotes a takeover bid addressed to all security holders for the totality of the securities admitted for trading on a regulated market in their possession[856].

1-bis. In companies other than SMEs, the offer referred to in section 1 can be promoted also by anyone who, subsequent to acquisitions, comes to hold a stake greater than the threshold of twenty-five per cent, where there is no other shareholder with a higher stake[857].

1-ter. The articles of association of SMEs may contemplate a threshold different from that indicated in section 1, however not less than twenty-five percent nor greater than forty percent. If the articles of association are emended after the start of trading of the securities on a regulated market, the shareholders who have not participated in the relative resolution have the right to withdraw for all or part of their securities; articles 2437-bis, 2437-ter and 2437-quater of the Italian Civil Code shall be

852 Paragraph as amended by Article 3 Legislative Decree no. 229 of 19.11.2007 which replaced the words: “of the equity investment represented by shares” with the words: “of the shares issued by a company pursuant to paragraph 1” and removed the words: “or responsibility”.

853 Paragraph as amended by Article 3 Legislative Decree no. 229 of 19.11.2007 which replaced the words: “significant share categories in the share capital” with the words: “security categories in the equity investment” and at the end of the sentence added: “By regulation, CONSOB shall also decide upon the investment calculation criteria pursuant to paragraph 2 if the securities referred to therein are, as a result of legal or regulatory provisions, without voting rights”; and successively by Article 20 of Italian Decree Law no. 91 of 24.6.2014, converted with amendments by Italian Law no. 116 of 11.8.2014, which added the text: "or if the articles of association contemplate increased voting rights".

854 Paragraph added by Article 2, Legislative Decree no. 146 of 25.09.2009.

855 Article first amended by Article 3, Legislative Decree no. 37 of 6.2.2004 and later replaced by Article 3, Legislative Decree no. 229 of 19.11.2007, and lastly amended by Article 7, Law no. 33 of 9.4.2009 converting Decree-Law no. 5 of 10.2.2009, by Article 2, Legislative Decree no. 146 of 25.09.2009, by Article 20 Legislative Decree no. 91 of 24.6.2014, converted with amendments by Italian Law no. 116 of 11.8.2014, and Article 14 of Law no. 21 of 5.3.2024, as indicated in the following footnotes. Paragraph 6 of Article 99 of Legislative Decree no. 180 of 16 November 2015 provides that: “6. If, following the conversion of the capital instruments or the bail-in, a person owns a shareholding referred to in Article 106, paragraphs 1, 1-bis or 1-ter of the Consolidated Law on Finance, a takeover bid pursuant to Article 106 of the Consolidated Finance Act shall not be considered mandatory”.

856 Paragraph thus replaced by Article 20 of Italian Decree Law no. 91 of 24.6.2014, converted with amendments by Italian Law no. 116 of 11.8.2014.

857 Paragraph introduced by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014

applied[858].

2. For each class of securities, the takeover bid shall be made within twenty days at a price no less than the highest price paid by the bidder, and by persons acting in concert with the bidder, in the twelve months prior to issue of the notice pursuant to article 102 paragraph 1, to acquire securities of the same class. If no purchase against payment of securities of the same class was made in the period indicated, the takeover bid is implemented for that class of securities at a price no less than the weighted market average over the previous twelve months or shorter available period. The same price applies, in the absence of purchases at a higher price, if the threshold relative to voting rights is exceeded by effect of the additional voting rights pursuant to article 127-quinquies[859].

2-bis. The bid price may be constituted, wholly or in part, by securities. If the securities offered in payment of the bid price are not admitted to trading on a regulated market in an EU Member State or if, in the period indicated in paragraph 2 and until the close of the bid, the bidder or persons acting in concert with the bidder made a cash purchase of securities that confer at least five per cent of voting rights at the shareholders' meeting of the issuer of the securities involved in the takeover bid, the bidder must at least offer a cash payment to related investors as an alternative to payment in securities.

3. By regulation, CONSOB shall regulate situations in which:

a) the equity investment indicated in sections 1, 1-bis and 1-ter is acquired by the purchase of shareholdings or by increased voting rights, in companies in which the capital is mainly constituted by shares issued by other companies pursuant to article 105, paragraph 1[860];

b) the offer obligation follows acquisitions higher than 5% or the increase in voting rights of more than five percent of the same, on the part of those who already hold the stake indicated in sections 1 and 1-ter without holding the majority of voting rights in the ordinary shareholders' meeting[861];

c) subject to provision with just cause by CONSOB, the takeover bid is promoted at a price lower than the highest price paid, establishing criteria to determine said price and provided one of the following circumstances subsists:

1) the market prices were influenced by exceptional events or there are grounds to suspect they were subjected to manipulation;

2) the highest price paid by the bidder, or persons acting in concert with the bidder, in the period indicated under paragraph 2 is either the buy-sell price for the securities involved in the takeover bid applied under market conditions and as part of the normal business practices or is the price of buy-sell transactions that would have benefited from one of the exemptions pursuant to

858 Paragraph introduced by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014.

859 Paragraph thus amended by Article 20 of Italian Decree Law no. 91 of 24.6.2014, converted with amendments by Italian Law no. 116 of 11.8.2014, which included the last sentence.

860 Letter thus amended by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014, which replaced the words: "in paragraph 1" with the words: "in sections 1, 1-bis and 1-ter"and, after the words: "the acquisition of shareholdings", added the words: "or increased voting rights,".

861 Letter first replaced by Article 7 of Italian Law no. 33 of 9.4.2009 converting Italian Decree Law no. 5 of 10.2.2009 and subsequently amended by Article 2 of Legislative Decree no. 146 of 25.9.2009, which replaced the words: "have availability of" with: "hold" and by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014, which replaced the words: "in paragraph 1" with the words: "in sections 1 and 1-terand, after the words: "at 5%", introduced the words: "or the increase in voting rights of an amount greater than five percent of the same,".

paragraph 5[862];

d) subject to provision with just cause by CONSOB, the takeover bid is promoted at a price higher than the highest price paid, provided such a measure is necessary for investor protection purposes and at least one of the following circumstances subsists:

1) the bidder or persons acting in concert with the bidder have agreed to purchase securities at a price higher than that paid for the purchase of securities of the same category;

2) there is evidence of collusion between the bidder, or persons acting in concert with the bidder, and one or more of the sellers;

3) …omissis…[863];

4) there are grounds to suspect that the market prices were subjected to manipulation[864].

3-bis. By regulation and taking into account the characteristics of the financial instruments issued, CONSOB may establish situations in which a takeover bid becomes mandatory following purchases that result in a cumulative holding of securities and other financial instruments, with voting rights on matters indicated under article 105, to an extent that overall voting powers are equivalent to those of a party in possession of a holding indicated under in sections 1, 1-bis and 1-ter[865].

3-ter. The provisions of paragraphs c) and d) of paragraph 3 shall be disclosed to the public in accordance with the terms indicated in the regulation pursuant to article 103, paragraph 4, paragraph f).

3-quater. The offer obligation contemplated by paragraph 3, letter b), is not applicable to SMEs, providing that this is contemplated by the articles of association, until the date of the shareholders' meeting called for the approval of the financial statement for the fifth financial period after the listing[866].

4. A takeover bid shall not be considered mandatory where the shareholding indicated under in sections 1, 1-bis and 1-teris held as a result of a takeover bid or exchange tender offering involving all the holders of securities and for the total quantity of securities in their possession, provided that, in the case of an exchange tender offering, the securities offered in exchange are listed on a regulated market in an EU Member State or a cash payment is offered as an alternative[867].

5. By regulation, CONSOB shall establish cases whereby exceeding the shareholding indicated in

862 Indent amended by Article 2, Legislative Decree no. 146 of 25.09.2009 which replaced the words: “and” with the words: “is either” and, in the Italian version only, the words: “or is the price” (è il prezzo) with the words: “or is the price” (sia il prezzo).

863 Indent repealed by Article 2, Legislative Decree no. 146 of 25.09.2009.

864 Paragraph 6 of Article 8 of Legislative Decree no. 229 of 19.11.2007 states that: "The provisions referred to in Article 106, paragraph 3, letters c) and d) of the Consolidated Law on Financial Intermediation, as per Legislative Decree 24 February 1998, no. 58, as amended by this decree, shall apply as of the date of entry into force of the implementing provisions laid down therein". See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999). See CONSOB regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in Ord. Suppl. no. 100 in the O.J. no. 123 of 28.5.1999).

865 Paragraph thus amended by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014, which replaced the words: “in paragraph 1” with the words: “in paragraphs 1 and 1-bis”.

866 Paragraph introduced by Article 20 of Italian Decree Law no. 91 of 24.6.2014, converted with amendments by Italian Law no. 116 of 11.8.2014.

867 Paragraph thus amended by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014 which replaced the words: “in paragraph 1” with the words: “in paragraphs 1 and 1-bis”.

sections 1, 1-bis and 1-ter or 3 paragraph b) a takeover bid will not be considered mandatory if implemented in the presence of one or more majority shareholders or results from:

a) transactions to bail out a company in crisis;

b) transfer of the securities indicated under article 105 among parties linked by significant investment relationships;

c) causes not dependent upon the wishes of the buyer;

d) transactions, or rather, where the temporary threshold is exceeded;

e) mergers or spin-offs;

f) purchases free of charge.

5-bis. A takeover bid shall not be considered mandatory where the thresholds are exceeded as a result of voting rights that increase following a merger, cross-border conversion or proportional spin-off carried out in accordance with Legislative Decree no. 19 of 2 March 2023, where in each of the aforementioned cases there is no change in the direct or indirect control on the company resulting from the said operations[869].

6. By provision with just cause, CONSOB may establish that a takeover bid shall not be considered mandatory on exceeding the holding indicated under in sections 1, 1-bis and 1-ter or paragraph 3 paragraph b) in cases attributable to the situations referred to under paragraph 5, but which are not expressly indicated in the regulation approved pursuant to said paragraph[870].

Article 107
Prior partial bids

1. In addition to the cases referred to in Articles 106(4) and 106(5), the provisions regarding mandatory takeover bids provided for in Articles 106(1) and 106(3) shall not apply where the shareholding is owned as a result of a takeover bid or exchange tender offering on at least sixty per cent of the securities in each category and all the following conditions are satisfied:

a) the bidder and persons acting in concert with the bidder, have not acquired shareholdings exceeding one per cent, including shares acquired under forward contracts maturing at a later date, in the twelve months preceding the notice to CONSOB referred to in Article 102(1) nor during the bid period;

b) the validity of the bid is subject to approval of a number of shareholders which together possess the majority of the securities concerned, pursuant to article 120, paragraph 4, paragraph b) excluding securities held by the bidder, the major shareholder, also in relative terms, if that shareholding exceeds ten per cent, and by persons acting in concert with the bidder;

c) CONSOB shall grant the exemption after verifying satisfaction of the conditions specified in paragraphs a) and b)[871].

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868 Section thus amended by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014, which has replaced the words: “in paragraph 1” with the words: “in sections 1, 1-bis and 1-ter” and has replaced letter d). See CONSOB Regulation no. 11971 of 14.5.1999 and successive amendments and additions.

869 Paragraph included by Article 14 of Law no. 21 of 5.3.2024.

870 Paragraph thus amended by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014, which replaced the words: “in paragraph 1” with the words: “in sections 1, 1-bis and 1-ter”.

871 Paragraph first amended by Article 3, Legislative Decree no. 37 of 6.2.2004 and later by Article 3, Legislative Decree no. 229 of 19.11.2007 and lastly by Article 2, Legislative Decree no. 146 of 25.09.2009 which in indent a) replaced the words: “the offerer and the persons linked to it by one of the relationships referred to in article 101-bis, paragraph 4,” with the words: “the bidder and persons acting in concert with the bidder,” and in indent b) replaced the words: “the persons linked to them by one of the relationships referred to in article 101-bis, paragraph 4,” with the words: “persons acting in concert with the bidder”.

2. The approval procedures shall be laid down by CONSOB in the form of a regulation. Shareholders not subscribing to the bid may also express their opinion thereon in accordance with paragraph 1, paragraph b)[872].

3. The bidder is required to launch a takeover bid referred to in Article 106 where, in the twelve months subsequent to the close of the unsolicited bid:

a) the bidder, or persons acting in concert with the bidder, have acquired shareholdings exceeding one per cent, also by means of forward contracts maturing at a later date[873];

b) the issuing company has approved a merger or a spin-off[874].

Article 108[875]
Commitment to squeeze-out

1. If as a result of a global takeover bid, the bidder becomes holder of at least ninety-five per cent of the capital represented by securities in an Italian listed company, the bidder shall be committed to squeeze-out of the remaining securities should any other party so request. Where more than one class of securities is issued, the commitment to squeeze-out shall subsist only for classes of securities for which the ninety-five per cent threshold is reached[876].

2. With prejudice to the provisions of paragraph 1, any party becoming holder of a quota exceeding ninety per cent of capital represented by securities admitted to trading on a regulated market shall be committed to squeeze-out the remaining securities admitted to trading on a regulated market by any holder thereof unless a float sufficient to ensure regular trading performance is not restored within ninety days. Where more than one class of security is issued, the commitment to squeeze-out shall subsist only for classes of securities for which said ninety per cent threshold is reached.

3. Where the situation indicated under paragraph 1 applies, and in cases referred to under paragraph 2 in which the holding indicated is reached solely as a result of a global takeover bid, the price is equal to that of the previous global takeover bid provided that, in the case of a voluntary takeover bid, as a result of said bid the bidder has acquired securities that represent not less than ninety per cent of the share capital with voting rights included in the bid.

4. Over and beyond the cases indicated in paragraph 3, the price shall be established by CONSOB, also taking into account any previous price bid or the market price in the half-year prior to announcement of the bid pursuant to article 102, paragraph 1, or article 17 of Regulation (EU) no. 596/2014, or prior to the acquisition giving rise to the commitment[877].

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872 See CONSOB regulation no. 11971 of 14.5.1999, as amended.

873 Paragraph replaced by Article 3, Legislative Decree no. 37 of 06.02.2004.

874 Paragraph amended by Article 2, Legislative Decree no. 146 of 25.09.2009 which replaced the words: “the offerer or persons linked to it by one of the relationships referred to in article 109(1),” with the words: “the bidder or persons acting in concert with the bidder,”.

875 Article first replaced by Article 3, Legislative Decree no. 37 of 6.2.2004 and later by Article 3, Legislative Decree no. 229 of 19.11.2007, and lastly amended by Article 2, Legislative Decree no. 146 of 25.09.2009 and by Article 3 of Legislative Decree no. 107 of 10.8.2018 as indicated in the following notes.

876 Paragraph amended by Article 2, Legislative Decree no. 146 of 25.09.2009 which added the words: “in an Italian listed company”.

877 Paragraph first replaced by Article 2 of Legislative Decree no. 146 of 25.09.2009 and later thus amended by Article 3 of Legislative Decree 107 of 10.8.2018, which replaced the figure “114” with the words “17 of Regulation (EU) no.

5. Where the situation indicated in paragraph 1 applies, and in cases referred to under paragraph 2 in which the holding indicated is reached solely as a result of a global takeover bid, the price takes the same format as that of the takeover bid, but the holder of the securities may still demand full payment in cash, to the extent established by CONSOB, based on general criteria defined in this regulation[878].

6. If the takeover bid price is equal to that of the previous takeover bid, the commitment to squeeze-out may be effected by means of a reopening of the same terms.

7. By regulation, CONSOB shall dictate the enactment provisions of this section, in particular:

a) reporting obligations relating to the enactment of this article;

b) the time limits within which holders of securities may demand sale of the aforementioned securities;

c) the procedure to be followed in order to establish the price[879].

Article 109[880]
Squeeze-out in concert

1. Parties acting in concert shall be jointly obliged under the terms of articles 106 and 108 when, as a result of purchases made even by one only of the parties, they come into possession of a total holding exceeding the percentages indicated under the above articles. The same obligations exist for those who act in concert, subsequent to an increase in voting rights, also in favour of only one of the same, if they then hold voting rights greater than the percentage indicated in article 106[881].

2. Paragraph 1, first sentence, shall not apply when a holding exceeding the percentages indicated in articles 106 and 108 constitutes the effect of the stipulation of an agreement, including a null agreement, pursuant to article 122, unless parties to said agreement came into possession of a total holding exceeding the aforementioned percentages in the twelve months prior to stipulation of the agreement[882].

3. For the purposes of application of paragraph 1, the instances indicated in article 101-bis, paragraph 4-bis, become significant, including jointly, only to parties in possession of the holdings[883].

596/2014".

878 Paragraph amended by Article 2, Legislative Decree no. 146 of 25.09.2009 which replaced the words: "demand payment in cash, to the extent established by CONSOB, based on general criteria defined in this regulation." with the words: "demand full payment in cash, established according to general criteria defined as a regulatory measure by CONSOB.".

879 See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

880 Article first replaced by Article 3 of Legislative Decree no. 229 of 19.11.2007; subsequently amended by Article 2 of Legislative Decree no. 146 of 25.9.2009 and by Article 20 of Italian Decree Law no. 91 of 24.6.2014, converted with amendments by Italian Law no. 116 of 11.8.2014, in the terms specified in the following note.

881 Paragraph thus amended by Article 20 of Italian Decree Law no. 91 of 24.6.2014, converted with amendments by Italian Law no. 116 of 11.8.2014, which included the last sentence.

882 Paragraph thus amended by Article 20 of Italian Decree Law no. 91 of 24.6.2014, converted with amendments by Italian Law no. 116 of 11.8.2014, which after the words: "Paragraph 1" has added the words: ", first sentence,".

883 Paragraph amended by Article 2, Legislative Decree no. 146 of 25.09.2009 which replaced the words: "indicated in article 101-bis, paragraph 4", with the words: "indicated in article 101-bis, paragraph 4-bis"

Article 110
Failure to comply with obligations [884]

1. In the event of violation of the obligations laid down in this section, the voting rights attached to the whole shareholding owned shall not be exercisable and the securities exceeding the percentages specified in Articles 106 and 108 must be disposed of within twelve months. Where the voting rights are exercised, Article 14(5) shall apply. The challenge may also be initiated by CONSOB within the time limit specified in Article 14(6)[885].

1-bis. Without prejudice to the provisions of article 192, paragraph 1, as an alternative to the sale referred to under paragraph 1, CONSOB may, by provision with just cause and considering, inter alia, the reasons for failure to comply with obligations, the probable effects of the sale and any changes in the ownership structure, impose implementation of the global takeover bid at the price established by CONSOB, also taking into account the market price of the securities[886].

1-ter. The sale envisaged under paragraph 1 or takeover bid envisaged under paragraph 1-bis shall cancel the suspension of voting rights pursuant to paragraph 1[887].

Article 111
Right to squeeze-out

1. A bidder coming into possession following a global takeover bid of a holding of at least ninety-five per cent of the capital represented by securities in an Italian listed company shall have the right to squeeze-out on remaining securities within three months of expiry of the time limit for bid acceptance, if the intention to exercise said right was declared in the takeover bid document. Where more than one class of securities is issued, the right to squeeze-out shall subsist only for classes of securities for which the ninety-five per cent threshold is reached[888].

2. The amount and form of payment to be assumed shall be established pursuant to article 108, paragraphs 3, 4 and 5[889].

3. The transfer shall be effective from the moment notice of the deposit of the consideration with a bank is given to the issuing company, which shall make the consequent entries in the shareholders' register.

Article 112
Implementing provisions

1. CONSOB shall issue a regulation with provisions implementing this section[890].

884 Heading as replaced by Article 3 Legislative Decree no. 229 of 19.11.2007

885 Paragraph as amended by Article 3 Legislative Decree no. 229 of 19.11.2007 which replaced the words: “the shares” with the words: “the securities” and the word: “alienate (sold - f)” with the word: “alienati (sold – m)”

886 Paragraph included by Article 3 of Legislative Decree no. 229 of 19.11.2007

887 Paragraph included by Article 3 Legislative Decree no. 229 of 19.11.2007

888 Paragraph first replaced by Article 3, Legislative Decree no. 229 of 19.11.2007 and later amended by Article 2, Legislative Decree no. 146 of 25.09.2009 which added the words: “in an Italian listed company”.

889 Paragraph replaced by Article 3 Legislative Decree no. 229 of 19.11.2007.

890 Paragraph thus amended by Article 6 of Law no. 21 of 5.3.2024, which deleted the wrods: “; in a measure to be

TITLE III
ISSUERS

Chapter I
Company information

Article 113
Admission to trading of securities

1. Admission to trading of securities in a regulated market is governed by the Prospectus Regulation and implementing provisions, as well as this article. Article 94, paragraphs 3, 5, 6, 8 and 9, Article 95, paragraphs 1, letter a), and Article 95, paragraph 2, shall also apply for a person requesting admission to trading.

2. CONSOB may:

a) require issuers or persons requesting admission to trading in a regulated market to include supplementary information in the prospectus if necessary for the protection of the investors;

b) may suspend the procedure for approval of the prospectus or suspend or limit admission to trading on a regulated market if the competent authority exercises the power to impose a ban or restriction in accordance with Article 42 of Regulation (EU) no. 600/2014 of the European Parliament and the Council of 15 May 2014, until this ban or restriction is lifted;

c) exercise the precautionary powers referred to in Article 37 of the Prospectus Regulation, in the cases envisaged therein;

d) prohibit admission to trading on a regulated market in the event of a well-established violation or grounded suspicion of violation of the provisions of this article or related implementing provisions, or of the European provisions referred to in paragraph 1;

e) without prejudice to the powers envisaged under article 66-quater, paragraph 1, suspend, or request that the regulated market facility, Multilateral Trading Facility or Organized Trading Facility, suspend trading if the situation of the issuer is detrimental to the investors' interest;

f) exercise the powers envisaged by Articles 114(5) and (6), and 115, towards the issuer and the person requesting admission to trading, and the powers envisaged by Article 115 towards entities controlling, or controlled by, them, the statutory auditors and the managers of the issuer or person requesting admission to trading, as well as the intermediaries responsible for the application for admission to trading on a regulated market;

g) suspend admission to trading on a regulated market, on each occasion for maximum ten consecutive business days, in the event of a grounded suspicion of violation of the provisions of this article and related implementing provisions, or of the European provisions referred to in paragraph 1;

h) without prejudice to the powers envisaged under article 66-quater, paragraph 1, suspend, or request that the trading facility suspend, on each occasion for maximum ten consecutive business days, trading on a regulated market, Multilateral Trading Facility or Organized Trading Facility, in the event of grounded suspicion of violation of the provisions of this article, related implementing provisions or of the European provisions referred to in paragraph 1;

i) without prejudice to the powers envisaged under article 66-quater, paragraph 1, prohibit or request that the market operator prohibit, trading on a regulated market, Multilateral Trading Facility or Organized Trading Facility in the case of confirmed violation of the provisions of this article, related implementing regulations or the European provisions referred to in paragraph 1;

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published in the Italian Official Gazette it may, after consulting the stock exchange company, increase the percentage provided for in Article 108 for individual companies". See CONSOB Regulation no. 11971 of 14.5.1999, as subsequently amended and supplemented (Published in the Ordinary Supplement no. 100 of O.J. no. 123 of 28.5.1999).

l) make public the fact that the issuer or person requesting admission to trading has failed to meet obligations;

m) require, including in general terms, the intermediaries responsible for the application for admission to trading on a regulated market, to declare to CONSOB that to the best of their knowledge all the relevant information is contained in the prospectus for admission to trading of financial instruments.

3. For the advertising of an admission to trading of financial instruments on a regulated market, Article 101, paragraph 4 shall apply[891].

Article 113-bis[892]
Admission to trading of open-end UCITS units or shares

1. Prior to the established date for the start of trading of open-end UCITS units or shares on a regulated market, the issuer shall publish a prospectus containing the information pursuant to article 98-ter[893].

2. CONSOB:

a) shall by regulation determine the content of the prospectus, related publication methods, without prejudice to the need to arrange media publication through national daily newspapers, and updating of the prospectus, dictating specific measures in cases in which admission to listing on a regulated market coincides with the timing of the public offering[894] ;

b) may indicate information to be inserted by the issuer as integrations to the prospectus and specific advertising methods;

c) shall dictate provisions to coordinate stock exchange company functions with its own and, on request from said company, may assign tasks relating to control of the prospectus, also taking into account the characteristics of the individual markets.

3. The prospectus approved by the competent authority of another EU member state shall be recognised by CONSOB, under the terms and conditions established in paragraph 2 of the regulation, as a prospectus for admission to trading on a regulated market. Under paragraph 2 of the regulation, CONSOB may request the publication of a document for the listing.

4. For the advertising of an admission to listing of open-end UCITS units or shares on a regulated market, article 101 shall apply.

891 Article thus replaced by Article 3 of Legislative Decree no. 17 of 2.2.2021.

892 Article first inserted by Article 4 of Legislative Decree no. 51 of 28.3.2007 and later amended by Article 1, paragraph 6 of Legislative Decree no. 101 of 17.7.2009 and Article 3 of Legislative Decree no. 17 of 2.2.2021 according to the terms indicated in the following notes.

893 Paragraph thus amended by Article 3 of Legislative Decree no. 17 of 2.2.2021, which cancelled the words ", paragraph 2".

894 Letter thus amended by Article 1, paragraph 6 of Legislative Decree no. 101 of 17.7.2009. See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

Article 113-ter[895]
General provisions on regulated disclosures

1. Regulated disclosures shall mean disclosures published by listed issuers, listed issuers for which Italy is the home member state or their controlling bodies, pursuant to the provisions of Chapter 3 of Regulation (EU) no. 596/2014 in this Title, Chapters I and II, Sections 1, I-bis, and V-bis, and to related enactment regulations or provisions established by non-EU country authorities considered the equivalent of CONSOB[896].

2. Regulated disclosures shall be filed with CONSOB and the market operator for which the issuer has requested or approved admission to trading of its securities or closed-end funds, in order to guarantee that said market operator may exercise its functions pursuant to Part III, Title I-bis of this decree[897].

3. CONSOB, in exercising the powers attributed to the same by this Title, establishes the methods and terms for disclosure to the public of the regulated information, without prejudice to the required publication in national daily newspapers, taking into account the nature of said information, in order to ensure rapid, non-discriminatory access which can, with reasonable certainty, guarantee the effective disclosure throughout the European Community[898].

4. CONSOB shall:

a) authorise third parties to the issuer to provide disclosure services for regulatory information;

b) authorise centralised archive services for regulatory information;

c) organise and manage centralised information archive services in the absence of authorised persons pursuant to paragraph b).

5. By regulation and in relation to regulatory information, CONSOB shall establish:

a) filing terms and methods pursuant to paragraph 2;

b) requirements and conditions for the release of authorisation to exercise disclosure services, and measures for the provision of such services given the objectives of paragraph 3;

c) requirements and conditions for the release of authorisation to exercise archive services, and measures for the provision of such services to guarantee security, data source certainty, time and date stamps of the receipt of regulatory information, easy access for end users and filing procedures aligned with those of CONSOB;

d) the language to be used in the notices;

e) any exemptions from filing, disclosure and archiving obligations in compliance with EU law[899].

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895 Article first inserted by Article 1 of Legislative Decree no. 195 of 6.11.2007 and later amended by Article 1, paragraph 7 of Legislative Decree no. 101 of 17.7.2009, by Article 3 of Legislative Decree no. 27 of 27.10.2010 and by Article 3 of Legislative Decree no. 107 of 10.8.2018, according to the terms indicated in the following note.

896 Paragraph amended first by Article 3 of Legislative Decree no. 27 of 27.01.2010, which removed the words: ", II" and later by Article 3 of Legislative Decree no. 107 of 10.8.2018, which inserted the words “in Chapter 3 in Regulation (EU) no. 596/2014” before the words “in this Title”.

897 Paragraph thus substituted by Article 3 of Legislative Decree no. 107 of 10.8.2018.

898 Paragraph thus amended first by Article 1, paragraph 7, of Legislative Decree no. 101 of 17.7.2009 which included the text: “without prejudice to the required publication in national daily newspapers,”; subsequently by Article 20 of Italian Decree Law no. 91 of 24.6.2014 which deleted these words; and lastly by conversion Law no. 116 of 11.8.2014 which eliminated the provision of Italian Decree Law 91 of 24.6.2014 which abolished the expression in question.

899 See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

6. If a party has requested admission to trading of securities or closed-end funds on a regulated market, without permission from the issuer, disclosure obligations for regulatory information are observed by that party, except where the issuer, in accordance with provisions established in its home member state, discloses regulatory information to the public as required under EU law.

7. Parties obliged to disclose regulatory information to the public may not claim payment for such disclosure.

8. CONSOB may make public the fact that parties obliged to disclose regulatory information do not comply with such obligations.

9. Without prejudice to the provisions of article 66-quater, paragraph 1, CONSOB may:

a) suspend or demand that the regulated market concerned suspends the trading of securities or closed-end funds for a maximum ten days on each occasion, if there are grounds to suspect that disclosures regarding regulatory information have been violated by the party under obligation, pursuant to this article, to disclose such regulatory information;

b) prohibit trading on a regulated market if it is confirmed that the provisions of paragraph a) have been infringed[900].

Article 114[901]
Information to be provided to the public

1. Listed issuers shall publicly disclose inside information pursuant to article 17 of Regulation (EU) no. 596/2014, in accordance with the procedures established by the technical implementing regulations adopted by the European Commission pursuant to said article 17, paragraph 10. CONSOB shall prescribe provisions to coordinate the functions assigned to the market operator with its own functions, and may identify tasks to assign the same market operator for the correct performance of in the functions provided for by article 64, paragraph 2, letter d)[902].

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900 Paragraph thus modified by Article 3 of Legislative Decree no. 107 of 10.8.2018, which replaced the words “64, paragraph 1-bis” with the words “66-quarter, paragraph 1”.

901 Article first replaced by Article 9 of Italian Law no. 62 of 18.4.2005 (Community Law 2004) and then amended by Article 14, paragraph 1 of Italian Law no. 262 of 28.12.2005, by Article 1, paragraphs 8 and 9 of Legislative Decree no. 101 of 17.7.2009, by Article 20 of Italian Decree Law no. 91 of 24.6.2014, by article 4 of Legislative Decree no. 129 of 3.8.2017; by Article 3 of Legislative Decree 107 of 10.8.2018 and Article 10 of Law no. 21 of 5.3.2024, in the terms indicated in the following notes. Paragraph 5 of Article 99 of Legislative Decree no. 180 of 16 November 2015 provides that: “5. Public disclosure pursuant to Article 114 of the Consolidated Law on Finance on the existence of the conditions for the write down and conversion or for the entry into resolution in accordance with Article 20 [of Legislative Decree no. 180 of 16 November 2015], as well as on the action that has placed the write down and conversion pursuant to Article 29 [of Legislative Decree no. 180 of 16 November 2015] or the entry into resolution under Article 32 [of Legislative Decree no. 180 of 16 November 2015] is carried out simultaneously with the publication provided for in Article 32, paragraph 3 [of Legislative Decree no. 180 of 16 November 2015], although the existence of such conditions, even if not publicly disclosed, it is previously known by the issuer or by members of its administrative and control body. CONSOB may establish by its own regulation further cases where such disclosure may be postponed”. See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

902 Paragraph thus amended first by Article 1, paragraph 8, of Legislative Decree no. 101 of 17.7.2009 which included the text: “, without prejudice to the need for publication in the national daily newspapers,”; subsequently by Article 1 of Legislative Decree no. 184 of 11.10.2012 which deleted the words: "and the subjects which control them"; then by Article 20 of Italian Decree Law no. 91 of 24.6.2014 which cancelled the words: “, without prejudice to the need for publication in the national daily newspapers,”; by conversion Law no. 116 of 11.8.2014, which cancelled the provision of Decree Law 91 of 24.6.2014 which abolished the expression in question; by Article 4 Italian Legislative Decree no. 129 of 3

2. Listed issuers shall establish due provisions in order that subsidiaries provide all the information necessary to comply with the disclosure obligations established by the law and by Regulation (EU) no 596/2014. Subsidiaries shall transmit the information required in a timely manner[903].

3. In the event of delay in the public disclosure of inside information, listed issuers shall transmit, upon subsequent request by CONSOB, documents proving the fulfilment of the obligation provided for by article 17, paragraph 4 of the regulation (EU) no. 596/2014 and the relative technical implementing regulations[904].

4. ... omissis ...[905]

5. CONSOB, on a general basis or otherwise, may require to the issuers, to the subjects which control them, listed issuers for which Italy is the home Member State, the members of the board of directors, the members of the internal control body, managers and persons who hold a major holding pursuant to Article 120 or who are parties to a shareholders' agreement pursuant to Article 122 to publish, in the manner it shall establish, the information and documents needed to inform the public. Where such persons fail to comply, CONSOB shall publish the material at their expense.[906]

6. Where the issuers, the subjects who control them and listed issuers with Italy as their home member country submit justified claim to the effect that public disclosure of information pursuant to paragraph 5 could seriously damage the issuer, the disclosure obligations shall be suspended. Within seven days CONSOB may waive the requirement to disclose all or part of the information permanently or temporarily, provided this is not likely to mislead the public with regard to essential facts and circumstances. On expiry of said deadline, the claim shall be deemed accepted[907].

7. ... omissis ...[908]

8. ... omissis ....[909]

9. For the purpose of guaranteeing that the public is correctly informed, CONSOB may require the

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August 2017 replacing, in the second sentence, the words: "64, paragraph 1, letter b)" with the words: "64, paragraph 2, letter d)" and finally thus substituted by Article 3 of Legislative Decree no. 107 of 10.8.2018.

903 Paragraph thus replaced by Article 3 of Legislative Decree no. 107 of 10.8.2018.

904 Paragraph first amended by Article 1 of Legislative Decree no. 184 of 11.10.2012 and then replaced by Article 3 of Legislative Decree 107 of 10.8.2018.

905 Paragraph repealed by Article 3 of Legislative Decree no. 107 of 10.8.2018.

906 Paragraph already replaced by Article 14, paragraph 1 of Italian Law n° 262 of 28.12.2005; successively amended by Article 1 of Legislative Decree n° 195 of 6.11.2007 and then by Article 1 of Legislative Decree n° 184 of 11.10.2012 which has substituted the words: «to the subjects indicated in paragraph 1» with the words: to the issuers, to the subjects which control them.

907 Paragraph first amended by Article 1, paragraph 9, of Legislative Decree n° 101 of 17.7.2009 which has included the words: "and the listed issuers whose member state of origin is Italy" and then by Article 1 of Legislative Decree n° 184 of 11.10.2012 which has replaced the words: «the subjects indicated in paragraph 1» with the words: «the issuers, the subject which control them».

908 Paragraph first replaced by Article 3 of Legislative Decree no. 107 of 10.8.2018 and then repealed by Article 10 of Law no. 21 of 5.3.2024.

909 Paragraph first substituted by Article 14, paragraph 1 of Legislative Decree no. 262 of 28.12.2005 and later repealed by Article 3 of Legislative Decree no. 107 of 10.8.2018.

publication of the investment recommendations and other information recommending or advising an investment strategy by listed issuers, authorised parties as well as parties that control them, according to the procedures established with the regulations[910].

10. CONSOB shall assess, in advance and on a general basis, according to the procedures that it has established, the existence of the conditions indicated in article 20 paragraph 3, part 4 of the Regulation (EU) 596/2014 concerning the rules of self-regulation of journalists and communicate the relative outcome, as well as the said self-regulation rules, to the Ministry of the Economy and Finance[911].

11. ... omissis...[912]

12. The provisions of this article shall also apply to Italian and foreign persons who:

a) have requested or authorised the admission of self-issued financial instruments to trading on an Italian regulated market;

b) have requested or authorised the trading of self-issued financial instruments on an Italian multilateral trading facility;

c) have authorised the trading of self-issued financial instruments on an Italian organised trading facility[913].

Article 114-bis[914]
Information to be provided to the market concerning the allocation of financial instruments[915] to corporate officers, employees and collaborators

1. In listed issuers, compensation plans based on financial instruments in favour of members of the board of directors or the management board, employees and collaborators not linked to the company by an employment contract and of members of the board of directors or the management board, employees and collaborators of parent companies or subsidiaries shall be approved by the ordinary shareholders' meeting.

In accordance with the terms and conditions envisaged in Article 125-ter, paragraph 1, the issuer makes the report available to the public with information concerning the following[916]:

a) the reasons for the adoption of the plan;

b) the members of the Board of Directors, that is the management board of the company, of the controlling or controlled companies which benefit from the plan[917];

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910 Paragraph thus substituted by Article 3 of Legislative Decree no. 107 of 10.8.2018. See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the in O.S. no. 100 of O.J. no. 123 of 28.5.1999).

911 Paragraph thus substituted by Article 3 of Legislative Decree no. 107 of 10.8.2018.

912 Paragraph repealed by Article 3 of Legislative Decree no. 107 of 10.8.2018.

913 Paragraph thus substituted by Article 3 of Legislative Decree no. 107 of 10.8.2018.

914 Article first included by Article 16 of Law no. 262 of 28.12.2005 and then amended by Article 3 of Leg. Decree no. 303 of 29.12.2006 and Article 4 of Law no. 21 of 5.3.2024, in the terms of the following footnotes.

915 Heading amended by Article 3, paragraph 9 of Legislative Decree no. 303 of 29.12.2006 which replaced the word "shares" with the words "financial instruments".

916 Indent first amended by Article 3, paragraph 9, Legislative Decree no. 303 of 29.12.2006, subsequently by Article 3, Legislative Decree no. 27 of 27.01.2010, which replaced the words: "At least fifteen days prior to the date of the shareholders' meeting called to pass the resolutions referred to in this paragraph," with the words: "In accordance with the terms and conditions envisaged in Article 125-ter, paragraph 1," and finally by Article 4 of Law no. 21 of 5.3.2024, which replaced the words: "the compensation plans" with the words: " In listed issuers, the compensation plans".

917 Paragraph replaced by Article 3, paragraph 9 of Legislative Decree no. 303 of 29.12.2006.

b-bis) the categories of employees or collaborators of the company and controlling companies or controlled companies which benefit from the plan[918];

c) the procedures and clauses for the implementation of the plan, specifying whether its implementation is subject to the satisfaction of conditions and, in particular, to the achievement of specific results;

d) whether the plan enjoys any support from the special fund for encouraging worker participation in firms referred to in Article 4(112) of Law 350/2003;

e) the procedures for determining either the prices or the criteria for determining the prices for the subscription or purchase of shares;

f) the restrictions on the availability of the shares or options allocated, with special reference to the time limits within which the subsequent transfer of shares to the company or third parties is permitted or prohibited.

2. ... omissis…[919]

3. CONSOB shall lay down in its regulation information concerning matters specified in paragraph 1 which should be provided in relation to the various procedures for implementing the plan, providing more detailed information for plans of special importance.[920]

Article 115
Information to be disclosed to CONSOB

1. For the purposes of monitoring the accuracy of information provided to the public, CONSOB, on a general basis or otherwise, may:

a) require listed issuers, listed issuers with Italy as home Member State, the persons that control them and companies controlled by them to provide information and documents, establishing the related procedures[921];

b) gather information, including by means of hearings, from members of governing bodies, general managers, managers charged with preparing companies' financial reports and other managers, statutory auditors, independent statutory auditors and companies and persons referred to in paragraph a) [922];

c) carry out inspections at the offices of persons referred to in paragraphs a) and b) to check company documents and obtain copies thereof.[923]

c-bis) exercise the other powers provided by Article 187-octies.[924]

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918 Paragraph included by Article 3, paragraph 9 of Legislative Decree no. 303 of 29.12.2006.

919 Paragraph first amended by Article 3, paragraph 9 of Legislative Decree no. 303 of 29.12.2006 and then repealed by Article 4 of Law no. 21 of 5.3.2024.

920 Article amended by Article 3 of Legislative Decree No. 303 of 29.12.2006. See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

921 Paragraph as amended by Article 1 Legislative Decree no. 195 of 6.11.2007.

922 Paragraph first replaced by Article 14, paragraph 1, Legislative Decree no. 262 of 28.12.2005 and later amended by Article 40, Legislative Decree no. 39 of 27.01.2010 which replaced the words: "independent auditors" with the words: "statutory auditors, independent statutory auditors".

923 The words "in paragraph a)" were replaced by the words "in paragraphs a) and b) to check company documents and obtain copies thereof" by Article 14 of Law 262/2005.

924 Paragraph added by Article 9 of Law 62/2005 (the 2004 Community Law) See Bank of Italy-CONSOB memorandum of understanding of 31.10.2007.

2. The powers provided for in paragraph 1, paragraphs a), b) and c)[925] may be exercised with respect to persons who hold a major holding pursuant to Article 120 or who are parties to a shareholders' agreement pursuant to Article 122.

2-bis The provisions of paragraph 1 shall also apply to issuers that have asked for or authorised the trading of self-issued financial instruments on an Italian multilateral trading facility, as well as to issuers that have authorised the trading of self-issued financial instruments on an Italian organised trading facility[926].

3. CONSOB may also require companies or entities with direct or indirect holdings in companies with listed shares to provide, on the basis of the available information, the names of their members or, in the case of trust companies, of their beneficiaries.

Article 115-bis
Lists of persons having access to inside information

... omissis....[927]

Article 115-ter
Communications on emission allowances

1. Articles 114 and 115, paragraph 1 shall apply to participants in the emission allowance market, as defined by article 3, paragraph 1, no. 20 of the Regulation (EU) no. 596/2014

2. For the purposes of for the provisions of articles 18, paragraph 8 and article 19, paragraph 10 of Regulation (EU) no. 596/2014, articles 114, paragraphs 5 and 6 and 116, paragraph 1 shall also apply to auction platforms, auction commissioners and auction supervisers with regard to auctions of emission allowances or other related auctioned products held pursuant to Regulation (EU) no. 1031/2010[928].

Article 116
Financial instruments widely distributed among the public

… omissis….[929]

925 The words “in paragraphs a) and b)” were replaced by the words “in paragraphs a), b) and c)” by Article 14 of Law 262/2005.

926 Paragraph inserted by Article 3 of Legislative Decree no. 107 of 10.8.2018.

927 Article first introduced by Article 9, paragraph 1 of Italian Law no. 62 of 18.4.2005 (2004 Community Law), later amended by Article 1 of Legislative Decree no. 184 of 11.10.2012 and finally repealed by Article 3 of Legislative Decree no. 107 of 10.8.2018.

928 Article inserted by Article 3 of Legislative Decree no. 107 of 10.8.2018.

929 Article repealed by Article 4 of Law no. 21 of 5.3.2024.

Article 117
Accounting information

1. The exemptions from the obligation to prepare consolidated accounts provided in Article 27 of Legislative Decree 127/1991, Article 27 of Legislative Decree 87/1992 and Article 61 of Legislative Decree 173/1997 shall not apply to Italian companies with shares listed on regulated markets in Italy or other EU countries.

2. The Minister of Justice, in concert with the Minister of the Economy and Finance,[930] shall lay down in a regulation the internationally accepted accounting standards compatible with those laid down in Community accounting directives that issuers of financial instruments listed on regulated markets in Italy, other EU countries or non-EU countries may use, by way of derogation from the rules in force, in preparing their consolidated accounts, provided such principles are accepted by the markets of non-EU countries. The standards shall be identified on the basis of a proposal from CONSOB, to be formulated in agreement with the Bank of Italy for banks and the financial companies referred to in Article 1(1) of Legislative Decree 87/1992 and with Ivass for the insurance and reinsurance undertakings referred to in Article 1 of Legislative Decree 173/1997[931].

Article 117-bis
Mergers between listed and unlisted companies

…omissis…[932]

Article 117-ter[933]
Provisions concerning ethical finance

1. CONSOB, after consulting all the interested parties and consulting with the competent supervisory authorities, shall lay down in a regulation the specific disclosure and reporting obligations applicable to authorised subjects that promote products and services described as ethical or socially responsible.[934]

Article 118
Provisions not applicable

1. The provisions of this Chapter shall not apply to the financial instruments referred to in Article 1, paragraph 2, letters b), c) and d) of the Prospectus Regulation[935].

930 The former wording “Minister of the Treasury, Budget and Economic Planning” was replaced with the wording “Minister of the Economy and Finance” by Article 1 of Legislative Decree no. 37 of 6.2.2004.

931 Paragraph thus amended by Article 4 of Legislative Decree no. 72 of 12.5.2015 which replaced: "ISVAP" with: "IVASS".

932 Article first added by Article 14 paragraph 1 of Law 262 of 28.12.2005, then repealed by Article 3 of Legislative Decree no. 17 of 2.2.2021.

933 Article first included by Article 14, paragraph 1 of Law no. 262 of 28.12.2005 and then amended by Article 2 of Legislative Decree no. 68 of 21.5.2018 according to the terms indicated in the following note.

934 Paragraph as amended by Article 2 of Legislative Decree no. 68 of 21.5.2018 which removed the words: “and insurance companies”. See CONSOB Regulation no. 20307 of 15.2.2008 (published in Ord. Suppl. no. 7 in the Official Journal no. 41 of 19.2.2018).

935 Paragraph thus amended by Article 5 of Legislative Decree no. 191 of 5.11.2021, which replaced the words: “of this section” with the words: “of this Chapter” and the words: “Articles 100(1) (d) and 100(1) (e)” with the words: “Article 1, paragraph 2, letters b), c) and d) of the Prospectus Regulation”.

2. ...omissis....[936]

Article 118-bis[937]
Checking information provided to the public[938]

1. By regulation and taking into account international principles on the supervision of corporate disclosures, CONSOB shall establish the terms and conditions for its control over public disclosures issued in accordance with law, including information contained in accounting records and the sustainability reporting governed by the Legislative Decree adopted in accordance with Article 13 of Law no. 15 of 21 February 2024, by listed issuers and listed issuers with Italy as its home member country[939].

Chapter II
Listed companies

Article 119
Scope

1. Unless specified otherwise, the provisions of this chapter shall apply to Italian companies with shares listed on regulated markets in Italy or other EU countries (listed companies).

Section I
Ownership structures

Article 120
Notification requirements for major holdings

1. For the purposes of this section, the capital of joint stock companies shall mean that represented by voting shares. In companies whose articles of association allow for increased voting rights or which contemplate the issue of multiple-voting rights, capital refers to the total number of voting rights[940].

2. Persons who hold more than three per cent of the capital of a listed issuer with Italy as home

936 Paragraph first amended by Article 1, paragraph 11, Legislative Decree no. 101 of 17.7.2009, and then repealed by Article 4 of Law no. 21 of 5.3.2024.

937 Article first added by Article 14, paragraph 1 of Law no. 262 of 28.12.2005 and later modified by Article 3 of Legislative Decree no. 303 of 29.12.2006, Article 1, paragraph 12 of Legislative Decree no. 101 of 17.7.2009 and Article 12 of Legislative Decree no. 125 of 6.9.2024 in the terms indicated in subsequent notes.

938 Heading amended by Article 3, paragraph 10 of Legislative Decree no. 303 of 29.12.2006 which replaced the words: “Review of the” with the words: “Control of the”.

939 Paragraph first amended by Article 3, paragraph 10, Legislative Decree no. 303 of 29.12.2006, which added the words “taking into account international principles on the supervision of corporate disclosures,” and replaced the words: “periodic re-examination of” with the words “its control over”; later by Article 1, paragraph 12, Legislative Decree no. 101 of 17.7.2009 which added the words: “and listed issuers with Italy as its home member country”, and finally by Article 12 of Legislative Decreee no. 125 of 6.9.2024, which after the words: “accounting records” added the words: “and the sustainability reporting governed by the Legislative Decree adopted in accordance with Article 13 of Law no. 15 of 21 February 2024,”. See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

940 Paragraph thus amended by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014, which included the last sentence.

Member State shall notify the investee company and CONSOB. If the issuer is an SME, this threshold is five percent[941].

2-bis. CONSOB may, by means of measures justified by needs to protect the investors as well as corporate control market and capital market efficiency and transparency, envisage – for a limited period of time – thresholds lower than that indicated in paragraph 2 for companies with particularly extensive shareholding structure[942].

3. …omissis…[943].

4. CONSOB, taking account of the characteristics of the investors, shall lay down in a regulation:

a) the variations in the holdings referred to in paragraph 2 that must be notified;[944]

b) the criteria for the calculation of the stakes, also taking into account the shares held indirectly, if the voting right is held or attributed to a subject other than the shareholder or where there are increased voting rights[945];

c) the content of and procedures for notifications and public announcements and any exemptions applicable to the latter;

d) the terms for the communication and for disclosure to the public[946];

d-bis) the cases in which notifications are due from owners of financial instruments carrying the rights referred to in the last paragraph of Article 2351 of the Civil Code.[947]

d-ter) cases in which a holding of derivatives is subject to reporting obligations[948];

d-quater) situations exempt from the application of these provisions[949].

4-bis In the case of the purchase of a stake in quoted issuers equal or above the thresholds of 10%, 20% and 25% of the relevant share capital in listed companies, except as provided for in Article 106, subsection 1-bis, the entity carrying out the communications referred to in paragraphs 2 and 3 of this article shall state the objectives it intends to pursue in the following six months. The declaration shall state under the responsibility of the declarant:

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941 Paragraph thus amended first by Article 1 of Legislative Decree no. 195 of 6.11.2007 which replaced the words: "a listed company" with the words: "a listed issuer whose Member State of origin is Italy", then by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014 which included the last sentence and lastly by Article 1 of Legislative Decree no. 25 of 15.2.2016 which has replaced the word: "two" with the word: "three".

942 Paragraph first added by Article 7 of Law no. 33 of 9.4.2009 converting Decree Law no. 5 of 10.2.2009, then thus amended by Article 17 of Decree Law no. 23 of 8.4.2020 (converted with modifications by Law no. 40 of 5.6.2020) which repealed the following period: “an elevated current market value and”.

943 Paragraph first amended by Article 1 of Legislative Decree n° 195 of 6.11.2007 and then repealed by Article 1 of Legislative Decree no. 184 of 11.10.2012.

944 Letter thus amended by Article 1 of Legislative Decree n° 184 of 11.10.2012 which has replaced the words: «in paragraphs 2 and 3» with the words: «in paragraph 2».

945 Letter thus replaced by Article 20 of Italian Decree Law no. 91 of 24.6.2014, converted with amendments by Italian Law no. 116 of 11.8.2014.

946 Letter thus amended by Article 1 of Legislative Decree n° 184 of 11.10.2012 which has suppressed the words: «, which in the case contemplated by paragraph 3 may be of a periodic nature». See CONSOB regulation n° 11971 of 14.5.1999 and successive amendments and supplements.

947 Paragraph added by Article 3 of Legislative Decree 37/2004.

948 Paragraph added by Article 1 Legislative Decree no. 195 of 6.11.2007

949 Paragraph added by Article 1 Legislative Decree no. 195 of 6.11.2007. See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 in the Official Journal no. 123 of 28.5.1999).

a) the means of financing the acquisition;

b) whether acting alone or in concert;

c) whether it intends to stop or continue its purchases, and whether it intends to acquire control of the issuer or anyway have an influence on the management of the company and, in such cases, the strategy it intends to adopt and the transactions to be carried out;

d) its intentions as to any agreements and shareholders' agreements to which it is party;

e) whether it intends to propose the integration or revocation of the issuer's administrative or control bodies.

CONSOB can identify, with its own regulation, the cases where the aforementioned declaration is not due, taking into account the characteristics of the entity making the declaration or of the company whose shares have been purchased.

The declaration shall be transmitted to the company whose shares have been purchased and to CONSOB, as well declaration must be subject to public disclosure in accordance with the terms and conditions established by Consob Regulation issued pursuant to paragraph 4, letters c) and d).

Without prejudice to Article 185, if within six months of the communication of the declaration changes of intentions are made on the basis of objective circumstances that have occurred, a new reasoned statement must be addressed without delay to the company and CONSOB and brought to the knowledge of the public in the same manner. The new declaration shall resume the six-month period mentioned in the first paragraph of this paragraph.

CONSOB may, with a provision reasoned by investor protection needs as well as efficiency and transparency of the corporate control market and of the capital market, provide, for a limited period of time, in addition to the thresholds indicated in the first period of this paragraph, a threshold of 5 percent for companies with a particularly widespread shareholder base[950].

5. Voting rights attached to listed shares or to financial instruments which have not been notified pursuant to paragraph 2 or the declaration required by subsection 4-bis may not be exercised. In the event of non-compliance, Article 14(6) shall apply. The challenge may also be initiated by CONSOB within the time limit specified in Article 14(7) [951].

6. Paragraph 2 shall not apply to shares held by the Ministry of the Economy and Finance[952] through companies it controls. The related notification requirements shall be fulfilled by the companies controlled.

950 Paragraph firstly included by Article 13 of Italian Decree Law no. 148 dated 16.10.2017, converted with amendments by Italian Law no. 172 of 4.12.2017, then thus amended by Article 17 of Decree Law no. 23 of 8.4.2020 (converted with modifications by Law no. 40 of 5.6.2020) which added the last sentence.

951 Paragraph already amended by Article 3 of Legislative Decree 37/2004, then firstly by Article 13 of Decree Law no. 148 of 16.10.2017, converted with amendments by Italian Law no. 172 of 4.12.2017, that after words: "notified pursuant to paragraph 2" added the words : "or the declaration provided for by subsection 4-bis" and then by Article 4 of Legislative Decree no. 165 of 25.11.2019, which replaced the words "Article 14(5)" with the words "Article 14(6)" and the words "Article 14(6)" with the words "Article 14(7)".

952 The former wording "Ministry of the Treasury, Budget and Economic Planning" was replaced with the wording "Ministry of the Economy and Finance" by Article 1 of Legislative Decree no. 37 of 6.2.2004.

Article 121
Rules governing cross-holdings

1. Except for the cases contemplated by article 2359-bis of the civil code, in the case of reciprocal participation in excess of the limit indicated in article 120, paragraph 2, the company that has exceeded the limit successively cannot exercise its right to vote relative to the surplus shares and it must dispose of them within twelve months from the date on which it exceeded the limit. In the event of failure to make the disposal within such time limit, the suspension of voting rights shall apply to the entire shareholding. Where it is not possible to ascertain which of the two companies was the last to exceed the limit, the suspension of voting rights and the disposal requirement shall apply to both unless they have agreed otherwise.[953]

2. The limit referred to in paragraph 1 is increased to five percent or, in the cases contemplated by article 120, paragraph 2, second sentence, to ten percent if the threshold is exceeded by both companies subsequent to an agreement authorised in advance by the ordinary shareholders' meetings of the companies concerned[954].

3. Where a person owns a shareholding to more than the threshold indicated in paragraph 2 of a company with listed shares, the latter or the person that controls it may not acquire a shareholding that exceeds such limit in a company with listed shares controlled by the former. In the event of non-compliance, the voting rights attached to the shares in excess of the limit specified shall be suspended. Where it is not possible to ascertain which of the two persons was the last to exceed the limit, the suspension shall apply to both unless they have agreed otherwise[955].

4. The shareholdings shall be calculated by applying the methods laid down pursuant to Article 120 paragraph 4, paragraph b).

5. Paragraphs 1, 2 and 3 shall not apply where the limits indicated therein are exceeded following a takeover bid or exchange tender offering aimed at the acquisition of at least sixty per cent of the ordinary shares[956].

6. In the event of non-compliance with the prohibitions on the exercise of voting rights provided for in paragraphs 1 and 3, Article 14(6) shall apply. The challenge may also be initiated by CONSOB within the time limit specified in Article 14(7)[957].

Article 122
Shareholders' agreements

1. In whatever format they may be stipulated, agreements regarding the exercise of voting rights in companies with listed shares and their parent companies, within five days of stipulation shall be:

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953 Subjection thus amended by Article 1 of Legislative Decree n° 184 of 11.10.2012 which has replaced the first sentence.

954 Paragraph thus replaced by Article 20 of Italian Decree Law no. 91 of 24.6.2014.

955 Paragraph thus amended by Article 20 of Italian Decree Law no. 91 of 24.6.2014 which replaced the words: "more than two percent of the capital" with the words: "to more than the threshold indicated in paragraph 2".

956 Paragraph amended by Article 3, Legislative Decree no. 146 of 25.09.2009 which replaced the words: “a public offer” with the words: “a takeover bid or exchange tender offering”.

957 Paragraph thus amended by Article 4 of Legislative Decree no. 165 of 25.11.2019, which replaced the words “Article 145(5)” with the words “Article 145(6)” and the words “Article 145(6)” with the words “Article 145(7)”.

a) communicated to CONSOB;
b) published in extract form in the national daily newspapers;
c) filed at the Companies Register of the place where the company has its registered office;
d) communicated to listed companies[958].

2. CONSOB shall lay down in a regulation the contents of the notification, abridged form and publication and the related procedures[959].

3. Agreements shall be null and void in the event of non-compliance with the requirements laid down in paragraph 1.

4. Voting rights attached to listed shares for which the requirements laid down in paragraph 1 have not been satisfied may not be exercised. In the event of non-compliance, Article 14(6) shall apply. The challenge may also be initiated by CONSOB within the time limit specified in Article 14(7)[960].

5. This article shall also apply to agreements, in whatsoever form concluded, that:
a) create obligations of consultation prior to the exercise of voting rights in companies with listed shares or companies that control them;
b) set limits on the transfer of the related shares or of financial instruments that entitle holders to buy or subscribe for them;
c) provide for the purchase of shares or financial instruments referred to in paragraph b);
d) have as their object or effect the exercise, jointly or otherwise, of a dominant influence on such companies.
d-bis) which aim to encourage or frustrate a takeover bid or exchange tender offering, including commitments relating to non-participation in a takeover bid[961].

5-bis. Agreements referred to in this article shall not be subject to Articles 2341-bis and 2341-ter of the Civil Code.[962]

5-ter. The disclosure obligations pursuant to paragraph 1 of this article shall not apply to agreements, in whatever format they may be stipulated, regarding shareholdings totalling less than the threshold indicated in article 120, paragraph 2[963].

Article 123
Duration of agreements and right of withdrawal

1. Where agreements referred to in Article 122 are fixed term, they may not have a duration greater than three years and shall be deemed to have been concluded for such duration even if the parties provided for a longer term; agreements shall be renewable upon expiry.

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958 Section first replaced by Article 3 of Legislative Decree no. 146 of 25.9.2009; later amended by Article 20 of Italian Decree Law no. 91 of 24.6.2014 which has replaced letters b) and d); and by conversion Law no. 116 of 11.8.2014 which has eliminated the provision of Italian Decree Law 91 of 24.6.2014 which replaced the letters in question.

959 See CONSOB Regulation no. 11971 of 14.5.1999, as amended.

960 Paragraph thus amended by Article 4 of Legislative Decree no. 165 of 25.11.2019, which replaced the words “Article 145(5)” with the words “Article 145(6)” and the words “Article 145(6)” with the words “Article 145(7)”.

961 Paragraph added by Article 4 Legislative Decree no. 229 of 19.11.2007

962 Paragraph added by Article 3 of Legislative Decree 37/2004.

963 Paragraph added by Article 3, Legislative Decree no. 146 of 25.09.2009.

2. Agreements may also be concluded for an indeterminate period; in such case each party may withdraw on giving six months' notice. Articles 122(1) and 122(2) shall apply to withdrawal.

3. Shareholders who intend to accept a public offer to buy or exchange made pursuant to Articles 106 or 107 may withdraw from the agreements referred to in Article 122 without notice. The declaration of withdrawal shall not produce effects if the transfer of the shares has not been finalized.

Article 123-bis[964]
Report on corporate governance and ownership structures

1. The management report of issuers with securities admitted to trading on regulated markets shall contain a specific section entitled: «Report on corporate governance and ownership structures», providing detailed information on:

a) the capital structure, including securities not traded on a regulated market in an EU Member State, with an indication of the different classes of shares and, for each class of shares, the related rights and obligations and the percentage of total share capital represented;

b) any restriction on the transfer of securities, e.g. limitations in the possession of securities or the need to obtain consent from part of the company or other securities holders;

c) significant direct and indirect holdings, for example through pyramid structures and cross-holdings, as stated in reports submitted pursuant to article 120;

d) if known, the holders of any securities with special control rights and a description of such rights;

e) the mechanism for the exercise of voting rights in any employee share scheme where voting rights are not exercised directly by the employees;

f) any restrictions on voting rights, such as limitations of the voting rights of holders of a given percentage or number of votes, deadlines for the exercise of voting rights, or systems whereby, with the company's cooperation, the financial rights attached to the securities are separate from the holding of securities;

g) agreements known to the company pursuant to article 122;

h) any significant agreements to which the company is party and which take effect, alter or terminate upon a change of control of the company, and the effects thereof, except where their nature is such that their disclosure would be seriously prejudicial to the company; this exception shall not apply where the company is specifically obliged to disclose such information on the basis of other legal requirements;

i) agreements between companies and directors, members of the control body or supervisory council which envisage indemnities in the event of resignation or dismissal without just cause, or if their employment contract should terminate as the result of a takeover bid.

l) rules applying to the appointment and replacement of directors and members of the control body or supervisory council, and to amendments to the articles of association if different from those applied as a supplementary measure;

m) the existence of delegated powers regarding share capital increases pursuant to article 2443 of the Italian Civil Code or powers of the directors or members of the control body to issue security-related financial instruments or to authorise the purchase of own shares;

2. In the same section of the report referred to in paragraph 1, information shall be provided regarding:

a) adoption of a corporate governance code of conduct issued by regulated stock exchange companies or trade associations, giving reasons for any decision not to adopt one or more provisions,

964 Article first introduced by Article 4 of Legislative Decree no. 229 of 19.11.2007, successively replaced by Article 5 of Legislative Decree no. 173 of 03.11.2008 and lastly amended by Legislative Decree no. 254 of 30.12.2016 in the terms indicated in the following notes.

together with the corporate governance practices actually applied by the company over and above any legal or regulatory obligations. The company shall also indicate where the adopted corporate governance code of conduct may be accessed by the public;

b) the main characteristics of existing risk management and internal audit systems used in relation to the financial reporting process, including consolidated reports, where applicable;

c) the operating mechanisms of the shareholders' meeting, its main powers, shareholder rights and their terms of exercise, if different from those envisaged by legal and regulatory provisions applicable as supplementary measures;

d) the composition and duties of the administrative and control bodies and their committees.

d-bis) a description of the diversity policies applied regarding the composition of the administrative and control bodies in relation to aspects such as age, gender composition, disabilities or training/professional courses taken, with a description of the objectives, implementation methods and results of said policies. If no policy is applied, the company shall clearly and precisely indicate the reasons for said choice. If this information is included in the sustainability reporting referred to in Articles 3 and 4 of the Legislative Decree adopted in accordance with Article 13 of Law no. 15 of 21 Febrauary 2024, the obligations referred to in this subparagraph shall be deemed complied with on condition that reference thereto is made in the report on corporate governance[965].

3. The disclosures pursuant to paragraphs 1 and 2 may be issued in a report separate from the management report, approved by the board of directors and published with the management report. Alternatively, the management report may refer to a section of the issuer's web site in which such a report is published.

4. The independent auditors shall express opinion pursuant to article 14, paragraph 2, letter e) of Legislative Decree no. 39 of 27 January 2010 to under paragraph 1, paragraphs c), d), f), l) and m), and under paragraph 2 paragraph b), and shall confirm the information has been provided pursuant to paragraph 2, letters a), c), d) and d-bis), of this article.[966]

5. Companies that are not issuers of securities admitted to trading on regulated markets or multilateral trading facilities may omit publication of the disclosures pursuant to paragraphs 1 and 2, except those indicated under paragraph 2, paragraph b).

5-bis. Companies may omit the publication of the information pursuant to paragraph 2, letter d-bis) providing that, at the reference date for the closure of the financial period, they do not exceed more than two of the following parameters:

a) balance sheet total: € 20,000,000;

b) total net revenue from sales and services: € 40,000,000;

c) average number of employees during the financial period was two hundred and fifty[967].

965 Letter first added by Article 10 of Legislative Decree no. 254 of 30.12.2016 and later thus replaced by Article 12 of Legislative Decree no. 125 of 6.9.2024.

966 Paragraph thus amended by Article 10 of Legislative Decree no. 254 of 30.12.2016 which replaced the words: "pursuant to article 156, paragraph 4-bis, letter d)" with the words: "pursuant to article 14, paragraph 2, letter e) of Legislative Decree no. 39 of 27 January 2010" and the words: "a report has been carried out on the corporate governance and ownership structure" with the words: "the information has been provided pursuant to paragraph 2, letters a), c), d) and d-bis), of this article".

967 Paragraph added by Article 10 of Legislative Decree no. 254 of 30.12.2016.

Article 123-ter[968]
Report on the policy regarding remuneration and fees paid[969]

1. At least twenty-one days prior to the date of the shareholders' meeting established by article 2364, paragraph two, or the shareholders' meeting established by article 2364-bis second paragraph of the Italian Civil Code, companies with listed shares shall make a report on the policy regarding remuneration and fees paid available to the public at the company registered offices, on its internet website or in any of the other ways established by CONSOB regulation[970].

2. The report on remuneration shall be laid out in the two sections established by paragraphs 3 and 4 and shall be approved by the Board of Directors. In companies adopting the dualism system, the report shall be approved by the supervisory board, upon proposal, limited to the section established by paragraph 4, letter b), of the management board[971].

3. The first section of the report explains the following in clear and understandable terms[972]:

a) the company's policy on the remuneration of the members of the administrative bodies, general managers and executive with strategic responsibilities with reference to at least the following year and, without prejudice to the provisions of article 2402 of the Italian Civil Code, the members of control bodies[973];

b) the procedures used to adopt and implement this policy.

3-bis. The remuneration policy shall contribute to corporate strategy, the pursuit of long-term interests and the company’s sustainability and shall explain the way in which it makes this contribution. Without prejudice to the provisions of paragraph 3-ter, companies shall submit the remuneration policy defined pursuant to paragraph 3, letter a) to a shareholder vote, in any case at least every three years or at the time of making amendments to this policy. Companies shall only allocate fees in compliance with the remuneration policy most recently approved by the shareholders. In the presence of exceptional circumstances, the companies may temporarily derogate from the remuneration policy, provided that it envisages the procedural conditions that must be met in order for the derogation to be applied and specifies the policy elements that can be derogated from. Exceptional circumstances are to be understood as only those situations in which the derogation from the remuneration policy is necessary for the purposes of pursuit of long-term interests and the company’s sustainability as a whole and in order to ensure the ability to remain on the market[974].

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968 Article first included by article 1 of Legislative Decree no.259 of 30.12.2010 and then amended by Article 4 of Legislative Decree. no. 72 of 12.5.2015 and Article 3 of Legislative Decree. no. 49 of 10.5.2019 in the terms indicated in subsequent notes. See CONSOB Regulation Consob no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the O.J.. no. 123 of 28.5.1999).

969 Heading thus replaced by article 3 of Legislative Decree no. 49 of 10.5.2019.

970 Paragraph thus amended by article 3 of Legislative Decree no. 49 of 10.5.2019 which replaced the words “a report on remuneration” with the words “a report on the remuneration policy and fees paid”. See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

971 Paragraph thus amended by article 3 of Legislative Decree no. 49 of 10.5.2019 which removed the words: «on remuneration».

972 Sentence thus amended by article 3 of Legislative Decree no. 49 of 10.5.2019 which removed the words “on remuneration” and after the words “explains the following” included the words “in clear and understandable terms”.

973 Letter thus amended by article 3 of Legislative Decree no. 49 of 10.5.2019 which after the words “at least the following year” included the words “and, without prejudice to the provisions of article 2402 of the Italian Civil Code, the members of control bodies”.

974 Paragraph included by article 3 of Legislative Decree no. 49 of 10.5.2019.

3-ter. The resolution provided for by paragraph 3-bis is binding. If the shareholders' meeting does not approve the remuneration policy subject to a vote pursuant to paragraph 3-bis the company shall continue to pay remuneration compliant with the remuneration policy most recently approved by the shareholders' meeting or, in the absence of this, may continue to pay renumeration compliant with existing practice. The company shall submit a new remuneration policy to a shareholder vote at the latest on the occasion of the next shareholders' meeting provided for by article 2364, second paragraph, or by the shareholders' meeting provided for by article 2364-bis, second paragraph of the Civil Code[975].

4. The second section of the report, in a clear and understandable manner, and which is intended for the members of the administrative and auditing bodies, general managers and, in aggregate form, without prejudice to the provisions of the regulation issued in accordance with paragraph 8, for executives with strategic responsibilities[976]:

a) provides a suitable representation of each of the items comprising remuneration, including treatment provided for in the event of cessation of office or termination of employment, highlighting the coherence with the company's policy in terms of remuneration relating to the reference year[977];

b) analytically illustrates the fees paid during the financial year of reference, for any title and in any form by the company and by subsidiaries or associates, noting any components of said fees that refer to activities performed in years prior to that of reference, in addition to highlighting the fees to be paid in one or more subsequent years in exchange for the work performed in the year of reference, potentially specifying an estimated value for components that cannot objectively be quantified in the year of reference.

b-bis) illustrates how the company has taken account of the vote expressed the previous year on the second section of the report[978].

5. Fee plans established by article 114-bis are attached to the report, or the report specifies the section of the company's website where these documents can be viewed.

6. Without prejudice to the provisions of articles 2389 and 2409-terdecies, first paragraph, letter a) of the Italian Civil Code and article 114-bis, the shareholders' meeting called in accordance with article 2364, paragraph two or article 2364-bis, paragraph two, of the Italian Civil Code, resolves in favour or against the second section of the report established by paragraph 4. The resolution is not binding. The outcome of voting is made available to the public in accordance with article 125-quater, paragraph 2[979].

7. By regulation, adopted having first consulted with the Bank of Italy and Ivass as concerns the parties respectively supervised and considering sector Community regulations, CONSOB indicates the information to be included in the first section of the report and the characteristics of this policy in compliance with article 9-bis of Directive 2007/36/EC and in compliance with the provisions of paragraph 3 of the Recommendation 2004/913/EC and paragraph 5 of recommendation

975 Paragraph included by article 3 of Legislative Decree no. 49 of 10.5.2019.

976 Sentence thus amended by article 3 of Legislative Decree no. 49 of 10.5.2019 which after the words "the second section" has inserted the words "of the report, in a clear and understandable manner, and".

977 Letter thus amended by article 3 of Legislative Decree no. 49 of 10.5.2019 which has replaced the words "approved in the previous financial year" with the words "relating to the reference year".

978 Letter added by article 3 of Legislative Decree no. 49 of 10.5.2019.

979 Paragraph this replaced by article 3 of Legislative Decree no. 49 of 10.5.2019.

2009/385/EC[980].

8. By regulation adopted in accordance with paragraph 7, CONSOB also indicates the information to be included in the second section of the report, in compliance with the provisions of article 9-ter of Directive 2007/36/EC. CONSOB may:

a) identify the managers with strategic responsibilities for which information is supplied in nominative form;

b) differentiate the level of information detail according to company dimension[981].

8-bis. The party appointed to carry out the statutory audit of the financial statements shall verify that the directors have prepared the second section of the report[982].

8-ter. The above is without prejudice to the provisions regarding remuneration contained in sector regulations[983].

Article 124
Provisions not applicable

1. CONSOB may declare Articles 120, 121, 122 and 123 paragraph 2 second paragraph, inapplicable to Italian companies with shares listed only on regulated markets in other EU countries in consideration of the legislation applicable to such companies by virtue of their being listed.

Section I-bis[984]
Information on the adoption of codes of conduct

Article 124-bis
Disclosure obligations concerning codes of conduct

…omissis…[985]

Article 124-ter
Disclosures regarding codes of conduct

1. To the extent of its powers, CONSOB shall establish the disclosure formats for codes of conduct regarding corporate governance issued by stock exchange companies or trade associations[986].

980 Paragraph thus amended by Article 4 of Legislative Decree no. 72 of 12.5.2015 which replaced: "ISVAP" with: "IVASS" and later as replaced by Article 3 of Legislative Decree no. 49 of 10.5.2019.

981 Paragraph first replaced by article 2 of Legislative Decree no. 49 of 10.5.2019 and then thus amended by Article 3 of Legislative Decree no. 49 of 10.5.2019 which, in the section, replaced the first sentence.

982 Paragraph added by article 3 of Legislative Decree no. 49 of 10.5.2019.

983 Paragraph added by article 3 of Legislative Decree no. 49 of 10.5.2019.

984 Section added by Article 14 paragraph 1 of Law 262/2005.

985 Paragraph first added by Article 14, Law no. 262 of 28.12.2005 and later repealed by Article 5, Legislative Decree no. 173 of 3.11.2008.

986 Article first added by Article 14 Legislative Decree no. 262 of 28.12.2005, later amended by Article 3, Legislative Decree no. 303 of 29.12.2006 and then replaced by Article 5, Legislative Decree no. 173 of 3.11.2008.

Section I-ter[987]
Transparency of institutional investors, asset managers and proxy advisors

Article 124-quater
Definitions and scope of application

1. In this section the following definitions apply:

a) "asset managers": the SGRs, SICAVs and SICAFs that directly manage their own equity, and subjects authorised in Italy to provide the service referred to in article 1, paragraph 5, letter d);

b) "institutional investor": 1) an insurance or reinsurance undertaking as defined in letters u) and cc) of paragraph 1 of article 1 of Legislative Decree 7 September 2005, No. 209, including the secondary offices in Italy of companies having their registered office in a third State, authorised to carry out insurance or reinsurance activities in the life classes pursuant to Article 2, paragraphs 1 and 2, of the same decree, 2) pension funds with at least one hundred members, who are registered in the register held by COVIP and included among those referred to in Articles 4, paragraph 1, and 12 of Legislative Decree 5 December 2005, No. 252, or among those of Article 20 of the same decree having legal personality;

c) "proxy advisor": a subject that analyses, on a professional and commercial basis, the information disseminated by companies and, where appropriate, other information regarding European companies with shares listed on the regulated markets of a Member State of the European Union with a view to informing investors in relation to voting decisions by providing research, advice or voting recommendations related to the exercise of voting rights.

2. The provisions set forth in this section apply to institutional investors and asset managers who invest in companies with shares admitted to trading on an Italian regulated market or that of another EU Member State.

3. The provisions set forth in this section for voting consultants apply to the subjects:

a) with their registered office in Italy;

b) with a registered office, including secondary, in Italy, if they do not have their registered office or headquarters in another EU Member State.

Article 124-quinquies
Commitment policy

1. Except as provided by paragraph 3, institutional investors and asset managers shall adopt and communicate to the public a commitment policy that describes the ways in which they integrate the commitment as shareholders in their investment strategy. The policy shall describe the ways in which they monitor investee companies on important issues, including strategy, financial and non-financial results as well as risks, capital structure, social and environmental impact and corporate governance, interact with investee companies, exercise voting rights and other rights connected to shares, collaborate with other shareholders, communicate with the relevant stakeholders of the investee companies and manage the current and potential conflicts of interest in relation to their commitment.

2. Except as provided for by paragraph 3, institutional investors and asset managers shall communicate to the public, on an annual basis, how they implement this commitment policy, including a general description of voting behaviour, an explanation of the most significant votes and recourse to proxy advisory services. They shall communicate to the public which way they voted

987 Section included by article 3 of Legislative Decree no. 49 of 10.5.2019.

general meetings of the companies of which they are shareholders and may exclude the votes deemed insignificant in relation to the object of the vote or to the size of the shareholding in the companies.

3. Institutional investors and asset managers shall provide a clear and justified communication to the public of the reasons for any decision not to comply with one or more of the provisions of paragraphs 1 and 2.

4. Institutional investors and asset managers shall comply with the provisions relating to conflicts of interest envisaged by the sector regulations, including in the implementation of the commitment policy adopted by them and published pursuant to paragraph 1.

5. The information referred to in paragraphs 1, 2 and 3 shall be made available to the public free of charge on the website of the institutional investors or asset managers or through other easily accessible online means.

6. In the event that the asset managers implement the commitment policy with reference to the exercise of voting rights on behalf of institutional investors, the latter shall indicate where the asset managers have publicised the information regarding the vote.

Article 124-sexies
Investment strategy of institutional investors and agreements with asset managers

1. Institutional investors shall communicate to the public how the main elements of their equity investment strategy are consistent with the profile and duration of their liabilities, in particular long-term liabilities, and how they contribute to the medium and long-term returns of their assets.

2. Except as provided in paragraph 3, institutional investors who invest through asset managers, as defined in Article 2, letter f) of Directive 2007/36/EC, shall communicate to the public the following information concerning the management agreement, on an individual or collective basis, with the aforementioned asset manager:

a) the ways in which the agreement encourages the asset manager to align the strategy and investment decisions with the profile and duration of the liabilities of institutional investors, in particular long-term liabilities;

b) the ways in which the agreement encourages the asset manager to make investment decisions based on the assessments relating to the long and medium-term financial and non-financial results of the investee companies and to engage with these companies in order to improve the medium and long-term results;

c) the ways in which the method and the time horizon for assessing the results of the asset manager and its remuneration for the management activity are in line with the profile and the duration of the liabilities of the institutional investor, in particular long-term liabilities, and takes absolute long-term results into account;

d) the ways in which the institutional investor controls the portfolio turnover costs incurred by the asset manager, as well as the ways in which it defines and controls a predetermined portfolio turnover value and the related variation range;

e) the possible duration of the agreement with the asset manager.

3. If the agreement with the asset manager referred to in paragraph 2 does not include one or more of the elements indicated in the same paragraph, the institutional investor shall clearly explain the reasons for this choice.

4. The information referred to in this article is made available to the public free of charge on the

institutional investor's website or through other easily accessible online means and, subject to substantial changes, are updated on an annual basis.

5. The companies referred to in Article 124-quater, paragraph 1, letter b), no. 1), insert this information in the solvency and financial condition report referred to in article 47-septies of the Legislative Decree of 7 September 2005, no. 209. Articles 47-octies, 47-novies and 47-decies of the same legislative decree are also applied.

Article 124-septies
Transparency of asset managers

1. The asset managers shall communicate, on an annual basis, to the institutional investors indicated in Article 2, letter e) of Directive 2007/36/EC, with which they have concluded the agreements referred to in Article 124-sexies, how their investment strategy and its implementation comply with these agreements and contribute to the medium and long-term return of the assets of institutional investors or the funds.

2. The communication envisaged in paragraph 1 shall include:

a) reports on the main medium and long-term risks associated with investments, on the composition of the portfolio, on its turnover and on the related costs, on the use of proxy advisors for the purposes of commitment activities and, where applicable, on their policy for granting securities on loan as well as the way in which the latter is implemented in order to pursue their commitment activities, in particular at the general meetings of investee companies;

b) information on the possible adoption, and related procedures, of investment decisions based on an assessment of the medium and long-term results of the investee companies, including non-financial results;

c) i information on the possible occurrence of conflicts of interest in connection with the commitment activities and the measures taken by the asset managers to manage them.

3. Asset managers shall not carry out the communication referred to in this article, if the information requested is already available to the public.

4. The information referred to in paragraph 1 is communicated with the fund's annual report or, in the case of the portfolio management investment service, with the periodic report.

Article 124-octies
Transparency of proxy advisors

1. Proxy advisors, including for the purpose of adequately informing customers about the accuracy and reliability of their activities, shall publish a report on an annual basis that contains at least the following information in relation to the performance of their research, their advice and their voting recommendations:

a) the essential characteristics of the methods and models applied;

b) the main information sources used;

c) the procedures put in place to guarantee the quality of research, advice and voting recommendations as well as the qualifications of the personnel involved;

d) the ways in which, if necessary, they take into account the regulatory conditions and those of the national market as well as the specific conditions of companies;

e) the essential characteristics of the voting policies applied to each market;

f) the extent and nature of the dialogue, if any, held with the companies subject to their research, their advice or their voting recommendations and with the stakeholders of the company;

g) the policy concerning the prevention and management of potential conflicts of interest;

h) any adherence to a code of conduct or the explanation in a clear and justified manner of the reasons for the failure to adhere. Proxy advisors who adhere to a code of conduct shall also report on the application of this code, including with reference to the information required by the previous letters, specifying any failure to adhere to one or more provisions of the code, the reasons for the same and any alternative measures adopted.

2. The report indicated in paragraph 1 shall be made available to the public, free of charge, on the voting consultant's website and shall remain available to the public for at least three years starting from the date of publication.

3. Articles 114, paragraphs 5 and 6, and 115, paragraph 1, letters a), b) and c) apply to proxy advisors.

4. Proxy advisors, in carrying out the requested service, shall identify and communicate to their customers without delay any real or potential conflict of interest or business relationship that may influence the performance of their research, their advice or their voting recommendations and actions taken to eliminate, mitigate or manage any real or potential conflicts of interest.

Article 124-novies
Regulatory powers

1. CONSOB, having consulted with the Bank of Italy, IVASS and COVIP, shall regulates the terms and conditions of communication, provided for in article 124-septies, to institutional investors by asset managers.

2. CONSOB, having consulted with the Bank of Italy, establishes, by regulation, the terms and procedures for the publication of the asset managers' commitment policy, the procedures for its implementation and the additional information elements, referred to in Article 124-quinquies, paragraphs 1, 2 and 3.

3. IVASS and COVIP shall regulate, by their own regulation, according to the respective supervisory powers and with reference to the parties supervised by the same authorities, the terms and conditions for publication of the following information:

a) the commitment policy of institutional investors, the implementation methods and the additional information elements, referred to in article 124-quinquies, paragraphs 1, 2 and 3;

b) the elements of the equity investment strategy adopted by institutional investors or of the agreement stipulated with the asset manager and the information elements, referred to in article 124-sexies, paragraphs 1, 2 and 3.

4. CONSOB shall regulate the terms and conditions of publication by proxy advisors of the report indicated in article 124-octies.

Section II
Shareholder rights[988]

Article 125
Calling of shareholders' meetings at the request of minority shareholders

…omissis…[989]

Article 125-bis[990]
Notice of call to shareholders' meetings

1. The shareholders' meeting is convened by notice published on the company's website within thirty days of the date of the meeting and by other means and within the terms established by CONSOB with regulation issued in accordance with article 113-ter, paragraph 3, including the publication in extract form in the daily newspapers[991].

2. For shareholders' meetings called to appoint, by means of list voting, members of the board of directors and internal control bodies, the time limit for publication of the notice of call shall be at least forty days prior to the date of the meeting.[992].

3. For shareholders' meetings envisaged in Articles 2446, 2447 and 2448 of the Civil Code, the time limit indicated in paragraph 1 shall become at least twenty-one days prior to the date of the meeting.

4. The notice of call shall contain:

a) the indication of the day, time and place of the meeting and the list of matters on the agenda;

b) a clear, precise description of the procedures to be applied in order to attend and vote at the shareholders' meeting, including information concerning:

1) the terms for exercising the right to raise questions prior to the meeting and the right to have additional items placed on the agenda or to present further proposals on items already on the agenda and, also by reference to the company's website, any additional methods by which to exercise these rights;

2) the procedure for the exercise of the vote by proxy and, in particular, the methods for collecting the forms that can be used, optionally, for voting by proxy and the methods, including

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988 Heading as replaced by Article 3, Legislative Decree no. 27 of 27.01.2010.

989 Article repealed by Article 9, Legislative Decree no. 37 of 6.2.2004. Reference should now be made to Article 2367, Italian Civil Code.

990 Article first introduced by Article 3 of Legislative Decree no. 27 of 27.1.2010 and subsequently amended by Article 3 of Italian Decree Law no. 91 of 18.6.2012 and by Article 20 of Italian Decree Law no. 91 of 24.6.2014 in the terms specified in the following notes. Paragraph 4 of Article 99 of Legislative Decree no. 180 of 16 November 2015 provides that: "4. to companies with shares listed on Italian regulated markets or of another Member State placed under resolution or with respect to whom is placed the write down or conversion of capital instruments, to bridge institution and to asset management vehicle - if their shares are listed on Italian regulated markets or of another Member State - shall not apply: a) Articles 2370, fourth paragraph, and 2372 of the civil Code; b) Articles 83-sexies, 125-bis, 125-ter, 125-quater, 126, 126-bis, 127, 127-bis, 127-ter, as well as Sections II-ter and III of Chapter II of Title III Part IV of the Consolidated Law on Finance".

991 Section first replaced by Article 3 of Italian Decree Law no. 91 of 18.6.2012; successively amended by Article 20 of conversion Law no. 91 of 24.6.2014, which has cancelled the words: "including the publication in extract form in the national daily newspapers"; and lastly by conversion Law no. 116 of 11.8.2014 which cancelled the provision of Italian Decree Law 91 of 24.6.2014 which abolished the expression in question.

992 Paragraph thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which after the words: "for the election", has included the words: "by means of list voting".

electronic methods, for communicating any notification of voting by proxy;

3) the procedure for the conferral of proxy to the party appointed by the company in accordance with article 135-undecies, with the specification that the power of proxy shall have no effect for proposals for which no voting instructions have been given;

4) the procedures for voting by correspondence or using electronic means, if envisaged by the Articles of Association;

c) the date specified in article 83-sexies, paragraph 2, with the specification that those who become holders of shares only after that date shall not have the right to attend and vote at the shareholders' meeting;

d) the terms and conditions for collecting the full text of the proposed resolutions, together with the explanatory reports and documents to be submitted to the shareholders' meeting;

d-bis) the terms and conditions for presenting lists to elect the members of the board of directors and minority members of the board of auditors or the supervisory board;

e) the address of the website specified in article 125-quater;

f) the other information which must be indicated in the notice calling the meeting pursuant to other provisions[993].

Article 125-ter[994]
Disclosure of items on the agenda

1. Unless required under the terms of other legal provisions, by the date of publication of the notice of call to the shareholders' meeting envisaged by virtue of each of the items on the agenda, the board of directors shall make a report on each of the items on items of the agenda available to the public at the company's registered office, on the company web site and by other means envisaged by CONSOB regulation[995].

2. The reports prepared in accordance with law shall be made available to the public by the deadlines specified in such legal provisions, by the means envisaged in paragraph 1. The report pursuant to Article 2446, paragraph 1 of the Civil Code shall be made available to the public at least twenty-one days prior to the shareholders' meeting. The provisions of Article 154-ter, paragraphs 1, 1-bis, 1-ter and 1-quater shall remain valid[996].

3. In the event of shareholders' meetings convened in accordance with article 2367 of the Italian Civil Code, the report on the items on the agenda is prepared by shareholders requiring the convening of the meeting. The administrative body or auditors or supervisory board or management control

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993 Paragraph thus replaced by Article 3 of Legislative Decree n° 91 of 18.6.2012.

994 Article first included by Article 3 of Legislative Decree no. 27 of 27.1.2010 and subsequently amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 and Article 12 of Legislative Decree no. 125 of 6.9.2024, within the terms specified in the next few notes. Paragraph 4 of Article 99 of Legislative Decree no. 180 of 16 November 2015 provides that: “4. to companies with shares listed on Italian regulated markets or of another Member State placed under resolution or with respect to whom is placed the write down or conversion of capital instruments, to bridge institution and to asset management vehicle - if their shares are listed on Italian regulated markets or of another Member State - shall not apply: a) Articles 2370, fourth paragraph, and 2372 of the civil Code; b) Articles 83-sexies, 125-bis, 125-ter, 125-quater, 126, 126-bis, 127, 127-bis, 127-ter, as well as Sections II-ter and III of Chapter II of Title III Part IV of the Consolidated Law on Finance”.

995 Paragraph thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which after the words: "to the shareholder's meeting", included the words: "envisaged by virtue of each of the items on the agenda" and replaced the words: "on items" with the words: "on each of the items". See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

996 Paragraph thus amended by Article 12 of Legislative Decree no. 125 of 6.9.2024, which in the last clause replaced the words: “paragraphs 1, 1-bis and 1-ter” with the words: “paragraphs 1, 1-bis, 1-ter and 1-quater”.

committee, where they convened the meeting in accordance with article 2367, second paragraph, first sentence, of the Italian Civil Code, shall make available to the public the report, accompanied by their assessments if appropriate, at the same time as publishing the notice calling the shareholders' meeting in the ways set out by supervisory board 1[997].

Article 125-quater[998]
Web site

1. Without prejudice to the provisions of articles 125-bis and 125-ter, the following are made available on the company's website:

a) within the terms for the publication of the notice calling the meeting, as envisaged for each of the items on the agenda to which they refer, or subsequent terms as envisaged by the law for publication, the documents will be submitted to the shareholders' meeting;

b) within the terms for the publication of the notice calling the meeting, the forms that can be optionally used for voting by proxy and, where envisaged by the Articles of Association, for correspondence voting; where the forms cannot be made available in electronic format for technical reasons, the same website will specify how to obtain hard copies and, in this case, the company must send them free of charge, on request, by mail, also through the intermediaries;

c) within the terms of publication of the notice calling the meeting, information on the amount of the share capital specifying the number and categories of shares into which it is divided.

2. A summary report of the votes containing the number of shares represented at the shareholders' meeting and the shares on which a vote was expressed, the percentage of capital represented by those shares, the number of votes in favour and against the resolution and the number of abstentions, shall be made available on the company web site within five days the date of the meeting. The minutes of the shareholders' meeting pursuant to Article 2375 of the Civil Code shall in any event be made available on the web site within thirty days of the date of the meeting[999].

2-bis. The company shall transmit the information required by paragraph 1 and other information identified with the provisions adopted pursuant to Article 92, paragraph 3 to central depositories, with the methods indicated in the regulation adopted pursuant to Article 82, paragraph 4-bis[1000].

997 Paragraph thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which eliminated the words: "proposals concerning the" and has replaced the words: "The administrative body makes available to the public" with the words: "The administrative body or auditors or supervisory board or management control committee, where they convened the meeting in accordance with article 2367, second paragraph, first sentence, of the Italian Civil Code, shall make available to the public".

998 Article first included by Article 3 of Legislative Decree no. 27 of 27.1.2010 and subsequently amended by Article 3 of Legislative Decree no. 91 of 18.6.2012, within the terms specified in the next note. Paragraph 4 of Article 99 of Legislative Decree no. 180 of 16 November 2015 provides that: "4. to companies with shares listed on Italian regulated markets or of another Member State placed under resolution or with respect to whom is placed the write down or conversion of capital instruments, to bridge institution and to asset management vehicle - if their shares are listed on Italian regulated markets or of another Member State - shall not apply: a) Articles 2370, fourth paragraph, and 2372 of the civil Code; b) Articles 83-sexies, 125-bis, 125-ter, 125-quater, 126, 126-bis, 127, 127-bis, 127-ter, as well as Sections II-ter and III of Chapter II of Title III Part IV of the Consolidated Law on Finance".

999 Article added by Article 3, Legislative Decree no. 27 of 27.1.2010.

1000 Paragraph added by article 3 of Legislative Decree no. 49 of 10.5.2019.

Article 126[1001]
Notice of second and subsequent calls [1002]

1. ...omissis... [1003]

2. Where the Articles of Association envisage the possibility of second or subsequent callings, if the day for the second or subsequent calling is not specified in the notice convening the meeting, the meeting at a second or subsequent calling is held within thirty days. In this case, the terms established by article 125-bis, paragraphs 1 and 2 are reduced to twenty-one days as long as the agenda is not altered. In the case of a shareholders' meeting convened in accordance with article 125-bis, paragraph 2, the lists for the election of the members of the board of directors and the minority members of the board of auditors or supervisory board already deposited with the issuer are considered valid also with respect to the new calling. The presentation of new lists is permitted and the terms established by article 147-ter, paragraph 1-bis are reduced respectively to fifteen and ten days[1004].

3. ...omissis... [1005]

4. ...omissis... [1006]

5. ...omissis... [1007]

Article 126-bis[1008]
Integration of the agenda of the shareholders' meeting and presentation of new proposed resolutions

1. Shareholders, who individually or jointly account for one fortieth of the share capital may ask, within ten days of publication of the notice calling the shareholders' meeting, or within five days in

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1001 Paragraph 4 of Article 99 of Legislative Decree no. 180 of 16 November 2015 provides that: “4. to companies with shares listed on Italian regulated markets or of another Member State placed under resolution or with respect to whom is placed the write down or conversion of capital instruments, to bridge institution and to asset management vehicle - if their shares are listed on Italian regulated markets or of another Member State - shall not apply: a) Articles 2370, fourth paragraph, and 2372 of the civil Code; b) Articles 83-sexies, 125-bis, 125-ter, 125-quater, 126, 126-bis, 127, 127-bis, 127-ter, as well as Sections II-ter and III of Chapter II of Title III Part IV of the Consolidated Law on Finance”.

1002 Heading as replaced by Article 3, Legislative Decree no. 27 of 27.01.2010.

1003 Paragraph repealed by Article 9 of Legislative Decree 37/2004. Now see Articles 2368 and 2369 of the Civil Code.

1004 Paragraph first replaced by Article 3 of Legislative Decree no. 27 of 27.1.2010 and subsequently by Article 3 of Legislative Decree no. 91 of 18.6.2012.

1005 Paragraph repealed by Article 9 of Legislative Decree 37/2004. Now see Articles 2368 and 2369 of the Civil Code.

1006 Paragraph repealed by Article 9 of Legislative Decree 37/2004. Now see Articles 2368 and 2369 of the Civil Code.

1007 Paragraph repealed by Article 9 of Legislative Decree 37/2004. Now see Articles 2368 and 2369 of the Civil Code.

1008 Article already included by Article 5 of Law no. 262 of 28.12.2005, later substituted by Article 3 of Legislative Decree no. 27 of 27.1.2010 and then by Article 3 of Legislative Decree no. 91 of 18.6.2012, lastly amended by Article 23-quater of Decree Law no. 179 of 18.10.2012, coordinated with conversion Law no. 221 of 17.12.2012 as indicated in the note below. Paragraph 4 of Article 99 of Legislative Decree no. 180 of 16 November 2015 provides that: “4. to companies with shares listed on Italian regulated markets or of another Member State placed under resolution or with respect to whom is placed the write down or conversion of capital instruments, to bridge institution and to asset management vehicle - if their shares are listed on Italian regulated markets or of another Member State - shall not apply: a) Articles 2370, fourth paragraph, and 2372 of the civil Code; b) Articles 83-sexies, 125-bis, 125-ter, 125-quater, 126, 126-bis, 127, 127-bis, 127-ter, as well as Sections II-ter and III of Chapter II of Title III Part IV of the Consolidated Law on Finance”.

the event of calling the meeting in accordance with article 125-bis, paragraph 3 or article 104, paragraph 2, for the integration of the list of items on the agenda, specifying in the request, the additional items they propose or presenting proposed resolution on items already on the agenda. The requests, together with the certificate attesting ownership of the share, are presented in writing, by correspondence or electronically, in compliance with any requirements strictly necessary for the identification of the applicants indicated by the company. Those with voting rights may individually present proposed resolutions in the shareholders' meeting. For cooperatives the amount of the capital is determined by the statutes also in derogation of article 135[1009].

2. Integrations to the agenda or the presentation of further proposed resolutions on items already on the agenda, in accordance with paragraph 1, are disclosed in the same ways as prescribed for the publication of the notice calling the meeting, at least fifteen days prior to the date scheduled for the shareholders' meeting. Additional proposed resolutions on items already on the agenda are made available to the public in the ways pursuant to article 125-ter, paragraph 1, at the same time as publishing news of the presentation. Terms are reduced to seven days in the case of shareholders' meetings called in accordance with article 104, paragraph 2 or in the case of a shareholders' meeting convened in accordance with article 125-bis, paragraph 3.

3. The agenda cannot be supplemented with items on which, in accordance with the law, the shareholders' meeting resolved on proposal of the administrative body or on the basis of a project or report prepared by it, other than those specified under article 125-ter, paragraph 1.

4. Shareholders requesting integration in accordance with paragraph 1 shall prepare a report giving the reason for the proposed resolutions on the new items for which it proposes discussion or the reason relating to additional proposed resolutions presented on items already on the agenda. The report is sent to the administrative body within the final terms for presentation of the request for integration. The administrative body makes the report available to the public, accompanied by any assessments, at the same time as publishing news of the integration or presentation, in the ways pursuant to article 125-ter, paragraph 1.

5. If the administrative body, or should it fail to take action, the board of auditors or supervisory board or management control committee fail to supplement the agenda with the new items or proposals presented in accordance with paragraph 1, the court, having heard the members of the board of directors and internal control bodies, where their refusal to do so should prove to be unjustified, orders the integration by decree. The decree is published in the ways set out by article 125-ter, paragraph 1.

Article 127
Postal or electronic voting

1. By regulation CONSOB shall establish the methods for exercising votes and the procedures for shareholders' meeting in cases envisaged in Article 2370, paragraph 4 of the Civil Code[1010].

1009 Paragraph thus amended by Article 23-quater of Decree Law no. 179 of 18.10.2012, coordinated with conversion Law no. 221 of 17.12.2012, which has added the last sentence.

1010 Article as replaced by Article 3, Legislative Decree no. 27 of 27.01.2010. See CONSOB regulation no. 11971 of 14.5.1999, as amended. Paragraph 4 of Article 99 of Legislative Decree no. 180 of 16 November 2015 provides that: "4. to companies with shares listed on Italian regulated markets or of another Member State placed under resolution or with respect to whom is placed the write down or conversion of capital instruments, to bridge institution and to asset management vehicle - if their shares are listed on Italian regulated markets or of another Member State - shall not apply: a) Articles 2370, fourth paragraph, and 2372 of the civil Code; b) Articles 83-sexies, 125-bis, 125-ter, 125-quater, 126, 126-bis, 127, 127-bis, 127-ter, as well as Sections II-ter and III of Chapter II of Title III Part IV of the Consolidated Law on Finance".

Article 127-bis
Voidability of resolutions and right to withdrawal

1. For the purpose of Article 2377 of the Civil Code, any person on whose behalf shares are registered after the date indicated in Article 83-sexies, paragraph 2 and prior to opening of the shareholders' meeting, shall be considered absent from that meeting.

2. For the purpose of the right to withdrawal envisaged in Article 2437 of the Civil Code, any person on whose behalf shares are registered after the date indicated in Article 83-sexies, paragraph 2 and prior to opening of the shareholders' meeting, registration of those shares shall not be calculated for the approval of resolutions.

3. This provision shall also apply to Italian companies with shares admitted to multilateral trading facilities in Italy or in other EU countries with the consent of the issuer[1011].

Article 127-ter[1012]
Right to submit questions prior to the shareholders' meeting

1. All those with voting rights may submit questions on the items on the agenda even prior to the shareholders' meeting. Questions received before the meeting will be answered at the latest during the said meeting. The company may provide a single reply to questions with the same content.

1-bis. The notice calling the meeting shall specify the terms within which questions raised prior to the shareholders' meeting must reach the company. The terms must be no less than five days prior to the date of the first or only calling of the shareholders' meeting or on the date indicated in article 83-sexies, paragraph 2, if the notice of calling establishes that the company should provide a response to the questions received before the meeting. In this case, replies shall be provided at least two days prior to the shareholders' meeting also by publication in a specific section of the company website and the ownership of the right to vote can be attested even after sending of the questions provided that it is within the third day following the date indicated in article 83-sexies, paragraph 2[1013].

2. No reply is necessary, even in the shareholders' meeting, to questions raised prior to it, where the information required is already available in "FAQ" format in the section of the company's website specified in paragraph 1-bis or when the answer has been published in accordance with said

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1011 Article added by Article 3, Legislative Decree no. 27 of 27.1.2010. Paragraph 4 of Article 99 of Legislative Decree no. 180 of 16 November 2015 provides that: "4. to companies with shares listed on Italian regulated markets or of another Member State placed under resolution or with respect to whom is placed the write down or conversion of capital instruments, to bridge institution and to asset management vehicle - if their shares are listed on Italian regulated markets or of another Member State - shall not apply: a) Articles 2370, fourth paragraph, and 2372 of the civil Code; b) Articles 83-sexies, 125-bis, 125-ter, 125-quater, 126, 126-bis, 127, 127-bis, 127-ter, as well as Sections II-ter and III of Chapter II of Title III Part IV of the Consolidated Law on Finance".

1012 Article first included by article 3 of Legislative Decree no.27 of 27.1.2010, later replaced by art.3 of Legislative Decree no.91 of 18.6.2012 and finally amended by Article 3 of Legislative Decree no. 49 of 10.5.2019 in the terms indicated in the subsequent note. (as rectified with a notice published in the Official Journal no. 155 of 5.7.2012). According to the provisions of paragraph 4 of Article 99 of Legislative Decree no. 180 of 11.16.2015: "4. a) Articles 2370, fourth paragraph, and 2372 of the Italian Civil Code; b) Articles 83-sexies, 125-bis, 125-ter, 125-quater, 126, 126-bis, 127, 127-bis, 127-ter, as well as Sections II-ter and III of Chapter II of Title III of Part IV of the Consolidated Law on Finance do not apply to companies with shares listed on regulated Italian or other Member State markets subject to termination or against which the reduction or conversion of equity instruments is ordered, to the bridge institution and to the asset management vehicle if they have shares listed on Italian regulated markets or in another Member State".

1013 Paragraph thus replaced by article 3 of Legislative Decree no. 49 of 10.5.2019.

paragraph.

3. The reply attached to the minutes is considered as given during the meeting when is made available at the beginning of the meeting, by each of those entitle to vote.

Article 127-quater[1014]
Dividend increases

1. As an exception to paragraph 1 of article 2350 of the Italian Civil Code, the Articles of Association may order that each share held by the same shareholder for a continuous period indicated in the article, in any case of no less than one year or the lesser period running between two consecutive payment dates of the annual dividend, shall assign the right to an increase of no more than 10 percent of the dividend distributed to the other shares. The Articles of Association may envisage other conditions for granting such a benefit. The benefit may also be extended to shares allocated pursuant to Article 2442 of the Civil Code to a shareholder with right to the increase as indicated in paragraph 1[1015].

2. Should the same party, during the maturation of the period indicated in paragraph 1, have directly or indirectly through trustees, subsidiaries or third party, have held an investment in excess of 0.5 percent of the company capital, or lesser percentage specified by the Articles of Association, the majority may only be assigned for shares in total representing this maximum stake. The majority cannot be assigned to shares held by those who, during said period, even temporarily exercised a dominant, individual or jointly with other shareholders by means of a shareholders' agreement as envisaged by article 122, or significant influence over the company. In any event, the increase may not be granted on shares which during the period indicated in paragraph 1 were continuously or temporarily assigned to a shareholders' agreement as envisaged in Article 122 and in the same period, or part of that period, formed part of a total shareholding exceeding that indicated in Article 106, paragraph 1[1016].

3. Disposal of the share, against payment or free of charge, shall result in loss of the benefits envisaged in paragraph 1. Such benefits are retained in the event of universal succession, and in the event of merger or spin-off of the owner of the shares. In the event of merger or spin-off of the company issuing the shares indicated in paragraph 1, the benefits shall be transferred to shares issued by the resulting companies, without prejudice to the application of paragraph 2 in reference to such companies.

4. Shares on which the benefits indicated in paragraph 1 are granted shall not constitute a special category of shares pursuant to Article 2348 of the Civil Code.

4-bis. Those who have obtained assignment of the majority declare, at the request of the company, that there is no reason for hindrance established by paragraph 2 and show the certificates envisaged

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1014 Article first included by Article 3 of Legislative Decree no. 27 of 27.1.2010 and subsequently amended by Article 3 of Legislative Decree no. 91 of 18.6.2012, within the terms specified in the next few notes.

1015 Paragraph thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which replaced the words: "and in any event for not less than one year" with the words: "in any case of no less than one year or the lesser period running between two consecutive payment dates of the annual dividend".

1016 Paragraph thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which replaced the words: "held...even temporarily" with the words; "held" and the words: "even temporarily or jointly with other shareholders through a shareholders' agreement as referred to in article 122, has exercised a dominant or significant influence over the company" with the words: "even temporarily exercised a dominant, individual or jointly with other shareholders by means of a shareholders' agreement as envisaged by article 122, or significant over the company".

by article 83-quinquies certifying the duration the shares have been held for which benefits are requested and the certification relative to the existence of any additional conditions to which the Articles of Association subject assignment of the benefit[1017].

4-ter. The resolution to amend the Articles of Association as envisaged by paragraph 1 does not assign the right to withdrawal in accordance with article 2437 of the Italian Civil Code[1018].

Article 127-quinquies
Vote increase

1. The articles of association may specify that increased voting rights may be attributed, up to a maximum of two votes, for each share belonging to the same subject for an uninterrupted period of no less than twenty-four months starting from the date of registration in the list contemplated by paragraph 4.

2. The articles of association may also specify that an additional vote may be attributed upon expiry of each twelve-month period, subsequent to the maturity of the period referred to in paragraph 1, in which the share has been held by the same subject entered in the register contemplated by paragraph 4, up to a maximum of ten votes per share. For shareholders who have reached the increased voting right referred to in paragraph 1 and are registered in the list contemplated by paragraph 4 at the date of registration of the resolution of the shareholders' meeting that modifies the articles of association in accordance with this paragraph, the additional maturity period starts to run from such date.

3. The articles of association may also establish that those who have voting rights may irrevocably waive, in whole or in part, the increased voting right referred to in paragraphs 1 or 2.

4. The articles of association establish the methods for the attribution of the increased voting right contemplated by paragraphs 1 or 2 and for checking the relative conditions, contemplating, in any case, a specific list. CONSOB establishes with its own regulation the implementation provisions of this article in order to ensure the transparency of the ownership structures and observance of the provisions of Title II, Chapter II, Section II, of this part. Without prejudice to the communication obligations borne by the holders of relevant stakes.

5. The transfer of shares for a consideration or free of charge, or the direct or indirect sale of the majority interest of a company or body holding shares with increased voting rights, as contemplated by paragraphs 1 and 2, that exceed the threshold contemplated by Article 120, section 2, involves the loss of the increased voting right. Unless otherwise laid down by the articles of association, the increased voting right:

a) is maintained in the case of succession pursuant to death, as well as in the case of the merger or spin-off of the shares' holder;

b) extends to the newly issued shares in the case of a capital increase pursuant to Article 2442 of the Italian Civil Code.

6. The merger or spin-off project of a company whose articles of association rule an increase in voting rights as referred to in paragraph 1 and 2 can contemplate that the increased voting right is also due to the entitled shares in lieu of those to which the increased vote is attributed. This provision is also applied in the case of a merger, spin-off or cross-border conversion pursuant to Legislative Decree

1017 Paragraph added by Article 3 of Legislative Decree no. 91 of 18.6.2012.

1018 Paragraph added by Article 3 of Legislative Decree no. 91 of 18.6.2012.

no. 19 of 2 March 2023. The articles of association may rule that the increased voting right is extended proportionately to the shares issued in execution of a capital increase by means of new contributions.

7. The shares to which the benefit contemplated by paragraphs 1 and 2 is applied do not represent a special category of shares pursuant to Article 2348 of the Italian Civil Code.

8. Increased voting rights in accordance with paragraph 1 do not recognise the withdrawal right, whereas increased voting right in accordance with paragraph 2 recognise the withdrawal right as envisaged by Article 2437 of the Italian Civil Code.

9. If the resolution to amend the articles of association referred to in paragraph 8 is adopted during the procedure for the listing on a regulated market of the shares of a company not resulting from a merger involving a listed company, the relative clause can envisage that, for the purposes of the uninterrupted possession contemplated by paragraphs 1 and 2, it is also necessary to count the possession prior to the date of registration on the list contemplated by paragraph 4.

10. Unless otherwise ruled by the articles of association, the increased voting right is also calculated to determine the quorum for the constitution of the shareholders' meeting and for resolutions which regard the share capital quotas. The increase does not affect rights, other than voting rights, due pursuant to the possession of certain capital quotas.

11. In the case of merger, spin-off or cross-border conversion in accordance with Legislative Decree no. 19 of 2 March 2023, or Article 25, paragraph 3, of Law no. 218 of 31 May 1995, if the company resulting from said operations is a company with listed shares or shares in the process of being listed, the articles of association can envisage that, for the purposes of the calculation of the uninterrupted period contemplated by paragraphs 1, it is also necessary to count the uninterrupted possession period prior to the registration on the list contemplated by paragraph 4 of shares with voting rights of the merged, spun-off or converted company, proven by the attestation issued by an authorized intermediary or with other suitable means in accordance with the state laws that govern merged, spun-off or converted companies[1019].

Article 127-sexies
Multiple-voting shares

1. In derogation from Article 2351, section four, of the Italian Civil Code, the articles of association cannot contemplate the issue of multiple-voting shares.

2. Multiple-voting shares issued before the start of trading on a regulated market maintain their features and rights. Unless specified otherwise by the articles of association, in order to maintain unaltered the ratio between the various share categories, companies which have issued multiple-voting shares or companies resulting from the merger or spin-off of such companies may issue multiple-voting shares with the same features and rights of those already issued only in the following cases:

a) a share capital increase pursuant to Article 2442 of the Italian Civil Code or by new conferment without excluding or limiting option rights;

b) merger or spin-off.

3. In the case contemplated by section 2, the articles of association may not contemplate further

1019 Article first included by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014, and then thus replaced by Article 14 of Law no. 21 of 5.3.2024.

increases in voting rights in favour of single share categories nor pursuant to Article 127-quinquies.

4. If the company does not take avail of the faculty of issuing new multiple-voting shares pursuant to the second sentence of section 2, there is no need for approval of the resolutions, pursuant to Article 2376 of the Italian Civil Code, on the part of the Special Meeting of the holders of the multiple-voting shares[1020].

Article 128
Complaints to the board of auditors and the courts

...omissis... [1021]

Article 129
Company actions for liability

...omissis... [1022]

Article 130
Information for shareholders

1. Shareholders may consult all the documents filed at the company's registered office for shareholders' meetings that have already been called and may obtain a copy thereof at their own expense.

Article 131
Right of withdrawal from mergers and spin-offs

...omissis...[1023]

Article 132
Acquisition of own or parent company shares

1. Purchases of treasury shares under Articles 2357 and 2357-bis, paragraph 1, paragraph 1 of the Civil Code by companies with listed shares must be made so as to ensure equal treatment of shareholders, according to procedures established by CONSOB in a regulation.[1024]

2. Paragraph 1 shall also apply to purchases of listed shares made under Article 2359-bis of the Civil Code by a subsidiary.

3. Paragraphs 1 and 2 shall not apply to purchases of own or parent company shares held by employees of the issuing company, subsidiary companies or the parent company and allotted or

1020 Article included by Article 20 of Italian Decree Law no. 91 of 24.6.2014, as amended by conversion Law no. 116 of 11.8.2014.

1021 Article repealed by Article 9 of Legislative Decree 37/2004. Now see Articles 2408 and 2409 of the Civil Code.

1022 Article repealed by Article 9 of Legislative Decree 37/2004. Now see Article 2393-bis of the Civil Code.

1023 Article repealed by Article 9 of Legislative Decree 37/2004. Now see Article 2437-quinquies of the Civil Code.

1024 Paragraph as amended by Article 9 of Law 62/2005 (the 2004 Community Law). See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

subscribed for in accordance with Articles 2349 and 2441, eighth paragraph, of the Civil Code, or falling under the scope of the compensation plans approved in accordance with article 114-bis[1025].

3-bis. The provisions of this article shall also apply to the purchase of own shares by issuers that have requested or authorised the trading of self-issued shares on Italian multilateral trading facilities, or by subsidiaries[1026].

Article 133
Exclusion upon request from trading

1. Subject to approval by an extraordinary shareholders' meeting, Italian companies with shares listed on regulated markets in Italy may request that their own financial instruments be excluded from trading, in accordance with the provisions of the rules of the market, where they are admitted to listing on other regulated markets in Italy or another EU country, provided investors are ensured equivalent protection, according to standards established by CONSOB in a regulation[1027].

Article 134
Increases in capital

1. ...omissis...[1028]

2. ...omissis...[1029]

3. ...omissis...[1030]

Section II-bis[1031]
Cooperatives

Article 135
Capital percentages

1. For cooperatives, the capital percentages identified in the Civil Code and in this decree for the exercise of shareholder rights shall be a ratio of the total number of shareholders[1032].

1025 Paragraph thus amended by Article 3 of Legislative Decree no. 224 of 29.11.2010, which replaced the wording "Civil Code" with the wording "Civil Code, or taken from the compensation plans approved in accordance with article 114-bis.".

1026 Paragraph inserted by Article 3 of Legislative Decree no. 107 of 10.8.2018.

1027 See CONSOB regulation no. 11971 of 14.5.1999, as amended.

1028 Paragraph removed by Article 20 of Italian Decree Law no. 91 of 24.6.2014, converted with amendments by Italian Law no. 116 of 11.8.2014.

1029 Paragraph first amended by Article 3 of Legislative Decree n° 37 of 6.2.2004 and then repealed by Article 1 of Legislative Decree n° 184 of 11.10.2012.

1030 Paragraph repealed by Article 9 of Legislative Decree 37/2004.

1031 Section added by Article 3, Legislative Decree no. 27 of 27.01. 2010..

1032 Article first replaced by Article 3 of Legislative Decree n° 37 of 6.2.2004, then by Article 3 of Legislative Decree n° 27 of 27.1.2010 and finally amended by Article 3 of Legislative Decree n° 91 of 18.6.2012, which after the words: "identified in the Civil Code" has included the words: «and in this decree».

Article 135-bis
Regulation of cooperatives

1. Paragraph 2 of article 125-bis, and paragraph 4, paragraph b), number 1), relative only to the words: "the right to ask questions prior to the shareholders' meeting" and number 3 and letter c), of the same article. Articles 127-bis, 127-ter and 127-quater shall not apply to cooperatives.

2. All other exclusions specifically established by this decree shall hold firm.

3. The term contemplated by article 126-bis, paragraph 2, first sentence, is reduced to ten days[1033] .

Article 135-ter
Market disclosure on the attribution of financial instruments
to corporate officers, employees or collaborators

...omissis...[1034]

Article 135-quater
Extraordinary shareholders' meeting

...omissis...[1035]

Article 135-quinquies
Integration of the agenda of the shareholders' meeting

...omissis...[1036]

Article 135-sexies
Financial reports

...omissis...[1037]

Article 135-septies
Audit reports

...omissis...[1038]

Article 135-octies
Proposed share capital increase

...omissis...[1039]

1033 Article thus replaced by Article 3 of Legislative Decree n° 91 of 18.6. 2012..

1034 Article repealed by Article 3 of Legislative Decree n° 91 of 18.6. 2012..

1035 Article repealed by Article 3 of Legislative Decree n° 91 of 18.6.2012.

1036 Article repealed by Article 3 of Legislative Decree n° 91 of 18.6.2012.

1037 Article repealed by Article 3 of Legislative Decree n° 91 of 18.6. 2012..

1038 Article repealed by Article 3 of Legislative Decree no. 91 of 18.6.2012.

1039 Article repealed by Article 3 of Legislative Decree n° 91 of 18.6.2012.

Section II-ter[1040]
Proxies

Article 135-novies
Representation at the shareholders' meeting

1. Any person with the right to vote may indicate one representative for each shareholders' meeting, without prejudice to the right to specify one or more replacements[1041].

2. As an exception to paragraph 1, any person with the right to vote may appoint a different representative for each account, used to record financial instrument transactions, valid where the communication envisaged in Article 83-sexies has been issued.

3. As a further exception to paragraph 1, if the person indicated as owner of the shares in the communication envisaged in Article 83-sexies acts alone or through registered trustees on behalf of his or her customers, the person in question may indicate others on whose behalf he/she acts, or one or more third parties indicated by such customers, as their representative.

4. If the proxy form envisages such an option, the proxy may arrange for personal substitution by another person of his or her choice, without prejudice to compliance with Article 135-decies paragraph 3 and to the right of the person represented to indicate one or more substitutes[1042].

5. In place of the original, the representative may deliver or transmit a copy of the proxy, also in electronic format, confirming his or her liability in compliance of the proxy form to the original and the identity of the delegating party. The representative shall retain the original of the proxy form and keep track of any voting instructions received for a period of one year from closure of the shareholders' meetings concerned.

6. The appointment may be made with a document in an electronic format with a digital signature in accordance with article 21, paragraph 2 of Italian Legislative Decree 82 of 7 March 2005. The companies specify in the Articles of Association at least one way of electronic notification of the proxy[1043].

7. Paragraphs 1, 2, 3 and 4 shall also apply to cases of share transfer by proxy.

8. All of the above without prejudice to the provisions of Article 2372 of the Italian Civil Code. As

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1040 Section first included by Article 3 of Legislative Decree no. 27 of 27.1.2010 and subsequently amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 and Article 11 of Law no. 21 of 5.3.2024, within the terms specified in the next few notes. Paragraph 4 of Article 99 of Legislative Decree no. 180 of 16 November 2015 provides that: "4. to companies with shares listed on Italian regulated markets or of another Member State placed under resolution or with respect to whom is placed the write down or conversion of capital instruments, to bridge institution and to asset management vehicle - if their shares are listed on Italian regulated markets or of another Member State - shall not apply: a) Articles 2370, fourth paragraph, and 2372 of the civil Code; b) Articles 83-sexies, 125-bis, 125-ter, 125-quater, 126, 126-bis, 127, 127-bis, 127-ter, as well as Sections II-ter and III of Chapter II of Title III Part IV of the Consolidated Law on Finance".

1041 Paragraph thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which after the words: "right to specify", included the words: "one or more".

1042 Paragraph thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which replaced the words: "paragraph 4" with the words: "paragraph 3".

1043 Paragraph thus replaced by Article 3 of Legislative Decree no. 91 of 18.6.2012.

an exception to article 2372, second paragraph of the Italian Civil Code, asset management companies, SICAVs, harmonized management companies and non-EU parties providing collective investment management services may grant representation for more than one shareholders' meeting[1044].

Article 135-decies
Conflict of interest of the representative and substitutes

1. Conferring proxy upon a representative in conflict of interest is permitted provided that the representative informs the shareholder in writing of the circumstances giving rise to such conflict of interest and provided specific voting instructions are provided for each resolution in which the representative is expected to vote on behalf of the shareholder. The representative shall have the onus of proof regarding disclosure to the shareholder of the circumstances giving rise to the conflict of interest. Article 1711, second paragraph of the Italian Civil Code does not apply[1045].

2. In any event, for the purposes of this article, conflict of interest exists where the representative or substitute:

a) has sole or joint control of the company, or is controlled or is subject to joint control by that company;

b) is associated with the company or exercises significant influence over that company or the latter exercises significant influence over the representative[1046];

c) is a member of the board of directors or control body of the company or of the persons indicated in paragraphs a) and b);

d) is an employee or auditor of the company or of the persons indicated in paragraph a);

e) is the spouse, close relative or is related by up to four times removed of the persons indicated in paragraphs a) to c);

f) is bound to the company or to persons indicated in paragraphs a), b), c) and e) by independent or employee relations or other relations of a financial nature that compromise independence.

3. Replacement of the representative by a substitute in conflict of interest is permitted only if the substitute is indicated by the shareholder. In such cases, paragraph 1 shall apply. Disclosure obligations and related onus of proof in any event remain with the representative.

4. This article shall also apply in cases of share transfer by proxy.

Article 135-undecies
Designated representative of a listed company

1. Unless the Articles of Association decree otherwise, companies with listed shares designate a party to whom the shareholders may, for each shareholders' meeting and within the end of the second trading day prior to the date scheduled for the shareholders' meeting, including for callings subsequent to the first, a proxy with voting instructions on all or some of the proposals on the agenda. The proxy

1044 Paragraph thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which, at the end, added the following sentence: "As an exception to article 2372, second paragraph of the Italian Civil Code, asset management companies, SICAVs, harmonized management companies and non-EU parties providing collective investment management services may grant representation for more than one shareholders' meeting".

1045 Paragraph thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which, at the end, added the following sentence: "Article 1711, second paragraph of the Italian Civil Code does not apply.".

1046 Letter thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which, finally, added the following words: "or the latter exercises significant influence over the representative".

shall be valid only for proposals on which voting instructions are conferred[1047].

2. Proxy is conferred by signing a proxy form, the content of which is governed by a CONSOB regulation. Conferring proxy shall be free of charge to the shareholder. The proxy and voting instructions may be cancelled within the time limit indicated in paragraph 1[1048].

3. Shares for which full or partial proxy is conferred are calculated for the purpose of determining due constitution of the shareholders' meeting. With regard to proposals for which no voting instructions are given, the shares are not considered in calculating the majority and the percentage of capital required for the resolutions to be carried[1049].

4. The person designated as representative shall any interest, personal or on behalf of third parties, that he or she may have with respect to the resolution proposals on the agenda. The representative must also maintain confidentiality of the content of voting instructions received until scrutiny commences, without prejudice to the option of disclosing such information to his or her employees or collaborators, who shall also be subject to confidentiality obligations. The party designated as representative may not be assigned proxies except in compliance with this article[1050].

5. By regulation pursuant to paragraph 2, CONSOB may establish cases in which a representative failing to meet the indicated terms of Article 135-decies may express a vote other than that indicated in the voting instructions[1051].

Article 135-undecies
Participation in the shareholders’ meeting by the designated representative

1. The articles of association can rule that participation in the shareholders’ meeting and exercise of voting rights are exclusively performed by a representative designated by the company in accordance with Article 135-undecies. The party designated as representative may be assigned proxies or sub-proxies in accordance with Article 135-novies, departing from Article 135-undecies, paragraph 4.

2. Submission of resolution proposals at a shareholders’ meeting is not allowed. Without prejudice to the provisions of Article 126-bis, paragraph 1, first sentence, those who have voting rights can individually submit resolution proposals on the meeting’s agenda items or proposals whose submission is in any case allowed by the law not later than fifteen days prior to the date of the first or only call of the meeting. The resolution proposals are made public on the company Internet site within two days from expiry of the term. Legitimization to the individual submission of resolution proposals is subordinate to the receipt by the company of the communication contemplated by Article 83-sexies.

1047 Paragraph thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which replaced the words: "the date established on first or single call of the shareholders' meeting" with the words: "the date scheduled for the shareholders' meeting, including for callings subsequent to the first".

1048 See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

1049 Paragraph thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which eliminated the words: "of the shareholder concerned".

1050 Paragraph thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which, at the end, added the following sentence: "The party appointed as representative may not be assigned proxies except in compliance with this article.".

1051 Paragraph thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which replaced the words: "to meet the terms" with the words: "to meet the indicated terms".

3. The right to ask questions referred to in Article 127-ter is exclusively exercised before the meeting. The company provides at least three days prior to the meeting the answers to the questions received.

4. Paragraph1 is also applied to the companies admitted to trading in a multilateral negotiation system[1052].

Article 135-duodecies
Cooperatives

1. The provisions of this section shall not apply to cooperatives.

Section III[1053]
Solicitation of proxies[1054]

Article 136
Definitions

1. For the purposes of this section, the following definitions shall apply:

a) "proxy", means of representation conferred for the exercise of votes at shareholders' meetings;

b) "solicitation", a request to more than two hundred shareholders for proxy to be conferred in relation to specific voting proposals, or accompanied by recommendations, statements or other indications capable of influencing the vote;

c) "promoter", the person or persons, including the issuer, acting in concert to promote the solicitation[1055].

Article 137
General provisions

1. For the purposes of this section, Articles 135-novies and 135-decies shall apply to proxies[1056].

2. Articles of Association that in any way limit representation in shareholders' meetings shall not apply to proxies given pursuant to the provisions of this chapter.

3. The Articles of Association may contain rules aimed at facilitating voting by proxy by employee shareholders[1057].

1052 Article included by Article 11 of Law no. 21 of 5.3.2024.

1053 Paragraph 4 of Article 99 of Legislative Decree no. 180 of 16 November 2015 provides that: "4. to companies with shares listed on Italian regulated markets or of another Member State placed under resolution or with respect to whom is placed the write down or conversion of capital instruments, to bridge institution and to asset management vehicle - if their shares are listed on Italian regulated markets or of another Member State - shall not apply: a) Articles 2370, fourth paragraph, and 2372 of the civil Code; b) Articles 83-sexies, 125-bis, 125-ter, 125-quater, 126, 126-bis, 127, 127-bis, 127-ter, as well as Sections II-ter and III of Chapter II of Title III Part IV of the Consolidated Law on Finance".

1054 Heading as replaced by Article 3, Legislative Decree no. 27 of 27.01. 2010..

1055 Letter thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which after the words: "or persons", included the words: ", including the issuer,".

1056 Paragraph as replaced by Article 3, Legislative Decree no. 27 of 27.1.2010.

1057 Paragraph amended by Article 3, Legislative Decree no. 27 of 27.01.2010 which replaced the words: "the collection of proxies among employee shareholders" with the words: "voting by proxy by employee shareholders".

4. The provisions of this section shall not apply to cooperatives.

4-bis. The provisions of this section also apply to Italian companies with financial instruments other than shares admitted with the consent of the issuer to trading on regulated markets in Italy or other European Union Member States with regards to the conferral of representation to exercise voting rights in shareholders' meeting by the owners of the said financial instruments[1058].

Article 138
Solicitation

1. Solicitation is performed by the promoter through dissemination of a statement and a proxy form.

2. The vote relating to shares for which proxy is conferred is exercised by the promoter. The promoter may be substituted only by a person specifically indicated in the proxy form and in the solicitation statement[1059].

Article 139
Requirements for promoters

…omissis…[1060]

Article 140
Persons authorised to engage in solicitation

…omissis…[1061]

Article 141
Shareholders' associations

1. Requests for proxy are accompanied by recommendations, statements or other indications capable of influencing the vote shall not constitute solicitation pursuant to Article 136, paragraph 1, paragraph b) by shareholders' associations, targeting their own members, which:

a) are constituted by authenticated simple agreement;

b) do not exercise business activities other than those directly instrumental to the purpose of the association;

c) are composed of at least fifty natural persons, each of which owning a number of shares not exceeding 0.1 per cent of the share capital represented by shares with voting rights.

2. Proxy conferred upon the association by shareholders pursuant to paragraph 1 shall not be considered in calculating the limit of two hundred shareholders envisaged in Article 136, paragraph 1, paragraph b) [1062].

1058 Paragraph added by Article 3 of Legislative Decree no. 91 of 18.6.2012.

1059 Article as replaced by Article 3, Legislative Decree no. 27 of 27.01.2010.

1060 Article repealed by Article 3, Legislative Decree no. 27 of 27.01.2010.

1061 Article repealed by Article 3, Legislative Decree no. 27 of 27.01.2010.

1062 Article as replaced by Article 3, Legislative Decree no. 27 of 27.01.2010.

Article 142
Proxies

1. Proxies shall be signed by the givers, may be revoked and may be given only for one shareholders' meeting that has already been called, remaining effective for subsequent calls where applicable; they may not be given blank and shall show the date, the name of the appointee and the voting instructions.

2. Proxy may also be conferred for only a number of the voting proposals indicated in the proxy form or for only certain items on the agenda. The representative shall vote on behalf of the person conferring proxy also on items of the agenda for which he or she has received instructions, even if not included in the solicitation. Shares for which full or partial proxy is conferred are calculated for the purpose of determining due constitution of the shareholders' meeting[1063].

Article 143
Liability

1. The information contained in the proxy statement or the proxy form and any sent out during a solicitation or collection of proxies must enable shareholders to make an informed decision; its suitability for this purpose shall be the liability of the promoter[1064].

2. The promoter shall be liable for the completeness of information sent out during a solicitation[1065].

3. In actions for damages arising from violation of the provisions of this section and the related regulations the burden of proof of having acted with the due diligence required shall be on the promoter[1066].

Article 144
Performance of solicitations and collections of proxies

1. CONSOB shall issue a regulation on the transparency and correctness of solicitations and collections of proxies. In particular, the regulation shall lay down rules for:

a) the content of proxy statements and proxy forms and the procedures for their distribution;

b) the procedures for solicitation and the collection of proxies, and the conditions and procedures for casting proxy votes and revoking proxies;

c) the forms of cooperation between the promoter and the persons possessing the information on the identity of shareholders in order to permit the performance of solicitations[1067].

2. CONSOB may:

1063 Paragraph amended by Article 3, Legislative Decree no. 27 of 27.01.2010 which added the words: "or for only certain items on the agenda. The representative shall vote on behalf of the person conferring proxy also on items of the agenda for which he or she has received instructions, even if not included in the solicitation.".

1064 Paragraph amended by Article 3, Legislative Decree no. 27 of 27.01.2010 which removed the words: "or collection of proxies" and replaced the words: "the promoter and representatives of the shareholders' association" with the words: "the promoter".

1065 Paragraph amended by Article 3, Legislative Decree no. 27 of 27.01.2010 which replaced the words: "The intermediary" with the words: "The promoter".

1066 Paragraph amended by Article 3, Legislative Decree no. 27 of 27.01.2010 which replaced the words: "promoter, shareholders' associations and the intermediary" with the word: "promoter".

1067 Paragraph amended by Article 3, Legislative Decree no. 27 of 27.01.2010 which replaced the words: "the intermediary" with the words: "the promoter".

a) request that the statement and proxy form include additional information to establish their specific dissemination methods;

b) suspend solicitation activities in the event of a grounded suspicion of breach of the provisions of this section or prohibit it in the event of ascertained breach of said provisions[1068];

c) exercise the powers envisaged in Article 114 paragraph 5 and Article 115 paragraph 1 against the promoters[1069].

3. …omissis…[1070].

4. In cases in which the law envisages forms of control over investments in company share capital, a copy of the statement and proxy form must be sent to the competent supervisory authority prior to solicitation. The authorities shall prohibit any solicitation that compromises the purpose of the control of capital investments[1071].

Section IV
Assets shares and other classes of shares[1072]

Article 145
Issue of shares

1. Italian companies with ordinary shares listed on regulated markets in Italy or other EU countries may issue non-voting shares with preferential rights as regards the payment of dividends and the liquidation of assets.

2. The Articles of Association shall specify the substance of such preferential rights and the conditions and time and other limits for their exercise; they shall also establish the rights of holders of Assets shares where ordinary or Assets shares are excluded from trading.

3. The shares must carry, in addition to the information laid down in Article 2354 of the Civil Code, the words "azioni di risparmio" and an indication of the related privileges; the shares may be bearer shares, without prejudice to the second paragraph of Article 2354 of the Civil Code. The shares belonging to directors, members of the board of auditors and general managers must be registered shares.[1073]

4. ...omissis... [1074]

5. Where, as a consequence of a reduction in the capital owing to losses, the value of Assets shares and shares with limited voting rights exceeds half the share capital, the ratio referred to in paragraph 4 must be restored within two years through an issue of ordinary shares offered with the right of pre-emption to the holders of ordinary shares. However, where the capital represented by ordinary shares falls below one quarter of the share capital, it must be replenished to at least one quarter within six

1068 Letter thus replaced by Article 3 of Legislative Decree no. 91 of 18.6.2012.

1069 Paragraph as replaced by Article 3, Legislative Decree no. 27 of 27.1.2010.

1070 Paragraph repealed by Article 3, Legislative Decree no. 27 of 27.01. 2010..

1071 Paragraph as replaced by Article 3, Legislative Decree no. 27 of 27.1.2010.

1072 Title as amended by Article 6 Legislative Decree 37/2004.

1073 Paragraph as amended by Article 6 Legislative Decree 37/2004.

1074 Paragraph repealed by Article 6 Legislative Decree 37/2004.

months. Companies shall be dissolved where the ratio of ordinary shares to Assets shares and shares with limited voting rights is not restored within the aforementioned time limits.

6. The share capital represented by Assets shares shall not be counted for the purpose of establishing the due constitution of the shareholders' meeting and the validity of the resolutions adopted, nor for the purpose of calculating the ratios referred to in Articles 2367, 2393 paragraphs 5 and 6, 2393-bis, 2408 paragraph 2, and 2409 paragraph 1 of the Civil Code.[1075]

7. Assets shares may be issued as part of a share capital increase, in compliance with the provisions of article 2441 of the Italian Civil Code[1076], or on conversion of ordinary or other shares already in issue. Conversion rights shall be attributed to shareholders by resolution of the extraordinary shareholders' meeting.

8. Unless the instrument of incorporation and Articles of Association state otherwise, in the case of issues of new shares for cash where the right of pre-emption has not been excluded or limited, holders of Assets shares shall enjoy the right of pre-emption for Assets shares of the same class or, in the absence thereof or to make up the difference, for Assets shares of another class, preference shares or ordinary shares, in that order.

Article 146
Special shareholders' meetings

1. Special shareholders' meetings of holders of Assets shares shall resolve:

a) on the appointment and removal of the common representative and legal action for liability against such person;

b) on the approval of resolutions adopted by the shareholders' meeting of the company that prejudice the rights of the category, with the favourable vote of as many shares as represent at least twenty per cent of the shares of the class in question;

c) on the creation of a fund for the expenses necessary to protect common interests and the related statement of accounts; the fund shall be advanced by the company, which may recover the advance from the profits due to holders of Assets shares in excess of any amount guaranteed;

d) on the settlement of disputes with the company, with the favourable vote of shares representing at least twenty per cent of the shares of the class in question;

e) on other matters of common interest.

2. Special meetings of holders of Assets shares shall be called by their common representative or by the directors of the company or the board of directors or management board within sixty days of the issue or conversion of the shares and when they deem it necessary or it has been requested by holders of Assets shares representing at least one per cent of the Assets shares of the same class.[1077]

2-bis. In the case of omission or unjustified delay by the board of directors or management board, special meetings shall be called by the board of auditors or the supervisory board or, if requested by holders of Assets shares under paragraph 1, by the management control committee.[1078]

1075 Paragraph as amended by Article 3 Legislative Decree 37/2004 and subsequently by Article 3 of Law 262/2005, which replaced the words “2393, fourth and fifth paragraphs” with the words “2393, paragraphs 5 and 6”.

1076 As amended by Article 12, paragraph 11, Decree Law no. 185 of 29.11.2008

1077 Paragraph as amended by Article 3 Legislative Decree 37/2004.

1078 Paragraph added by Article 3 Legislative Decree 37/2004.

3. By way of derogation from the second paragraph of Article 2376 of the Civil Code, special shareholders' meetings, except in the cases referred to in paragraphs 1b) and 1d), shall adopt resolutions at the first and second calls with the favourable vote of shares representing at least twenty and ten per cent of the shares in circulation; at a third or single calling, the special shareholders' meetings shall adopt resolutions by simple majority of the persons present, regardless of the proportion of the capital they represent. Article 2416 of the Civil Code shall apply[1079].

Article 147
Common representatives

1. Common representatives shall be subject to Article 2417 of the Civil Code, where the term bondholders shall be understood to refer to holders of Assets shares.

2. ...omissis... [1080]

3. Common representatives shall have the obligations and powers referred to in Article 2418 of the Civil Code, where the term bondholders shall be understood to refer to holders of Assets shares; they may also examine the books referred to in paragraphs 1) and 3) of Article 2421 of the Civil Code, obtain extracts thereof, attend shareholders' meetings and challenge the resolutions they adopt. Their expenses shall be charged to the fund referred to in Article 146(1)(c).

4. The Articles of Association may assign the common representative additional powers to protect the interests of holders of Assets shares and must establish procedures to ensure the common representative receives adequate information on corporate transactions that may influence the price of shares of the class in question.

Article 147-bis
Meetings of classes of investors

1. Articles 146 and 147 shall apply to the special meetings referred to in Article 2376, first paragraph, of the Civil Code if the shares are listed on regulated markets in Italy or other EU countries.[1081]

1079 Paragraph thus amended by Article 3 of Legislative Decree no. 91 of 18.6.2012 which replaced the words: "at the third call" with the words: "at the third or single calling".

1080 Paragraph repealed by Article 3 Legislative Decree 37/2004.

1081 Article added by Article 3 Legislative Decree 37/2004.

Section IV-bis[1082]
Administration bodies

Article 147-ter[1083]
Election and composition of the Board of Directors

1. The Statute provides for members of the Board of Directors to be elected on the basis of the list of candidates and defines the minimum participation share required for their presentation, at an extent not above a fortieth of the share capital or at a different extent established by CONSOB with the regulation taking into account capitalization, floating funds and ownership structures of listed companies. The lists indicate which are the directors holding independent requisites established by law and by the Statute. The Statute may also provide that with regard to the sector for directors to be elected, what is not to be taken into account are the lists which have not reached a percentage of votes at least equal to half of the one required by the Statute for the presentation of same; for cooperatives the percentage is established by the statutes also in derogation from article 135. [1084]

1-bis. Lists are deposited with the issuer, also by means of remote communication, in compliance with any requirements strictly necessary to identify the applicants indicated by the company, by the twenty-fifth day prior to the date of the meeting called to resolve on the appointment of the members of the board of directors and made available to the public at the company's headquarters, on the company's website and in the other ways envisaged by CONSOB by regulation, at least twenty-one days prior to the date of the shareholders' meeting. Ownership of the minimum investment envisaged by paragraph 1 is determined concerning the shares recorded in favour of the shareholder on the day on which the lists are deposited with the issuer. Related certification may also be submitted after filing, provided submission is within the time limit established for publication of the lists by the issuer[1085].

1-ter. The Statute also stipulates that the division of directors to be elected should be made on the basis of a criterion that ensures a balance between genders. The less-represented gender must obtain at least two fifths of the directors elected. This division criterion shall apply for six consecutive mandates. If the composition of the board of directors resulting from the election does not comply

1082 Section first added by Article 1 of Italian Law no. 262 of 28.12.2005 and then amended by Article 3, paragraph 13 of Legislative Decree no. 303 of 29.12.2006, by Article 3 of Legislative Decree no. 27 of 27.1.2010, by Article 1 of Law no. 120 of 27.2.2011, by Article 3 of Legislative Decree no. 91 of 18.6.2012, by Decree Law no. 179 of 18.10.2012, coordinated with conversion law no. 221 of 17.12.2012, Italian Law no. 160 of 27.12.2019 (2020 Budget Law) in the text republished in the O.J. no. 13 of 17.1.2020 and Article 12 of Law no. 21 of 3.5.2024, in the terms indicated in the following notes.

1083 Article first of all included in Article 1 of Law no. 262 of 28.12.2005 and then amended by Article 3, paragraph 13, of Legislative Decree no. 303 of 29.12.2006, by Article 1 of Law no. 120 of 12.7.2011, by Article 3 of Legislative Decree no. 91 of 18.6.2012 and by Decree Law no. 179 of 18.10.2012, coordinated with conversion Law no. 221 of 17.12.2012 according to the terms indicated in the notes below.

1084 Paragraph thus amended first by Article 3, paragraph 13, of Legislative Decree no. 303 of 29.12.2006 which replaced the Italian word: “membri” with the Italian word: “componenti” (Translator’s note: in English the word is always translated as “members”) and lastly added the following words: “or at a different extent established by CONSOB with the regulation taking into account capitalization, floating funds and ownership structures of listed companies. The lists indicate which are the directors holding independent requisites established by Law and by the Statute. The Statute may also provide that with regard to the sector for directors to be elected, what is not to be taken into account are the lists which have not reached a percentage of votes at least equal to half of the one required by the Statute for the presentation of same” and then by Decree Law no. 179 of 18.10.2012, coordinated with conversion Law no. 221 of 17.12.2012 which has included the last sentence. See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

1085 Paragraph added by Article 3, Legislative Decree no. 27 of 27.1.2010.

with the division criterion provided for in this section, CONSOB shall warn the company concerned to comply with this criterion within the maximum term of four months from the warning. In the event of non-compliance with the warning, CONSOB shall impose a fine of between Euro 100,000 and Euro 1,000,000, depending on the criteria and methods laid down in its regulations and set a new term of three months for compliance. In the event of further non-compliance with respect to this new warning, the elected members shall lose their position. The statute regulates the methods of drawing up the lists and the cases of replacement during a mandate in order to ensure compliance with the division criterion provided for in this section. CONSOB shall lay down regulations on the infringement, application and observance of the rules on gender quotas, including with reference to the investigation phase and the procedures to be adopted, on the basis of its own regulations to be adopted within six months from the date of entry into force of the rules contained in this section. The rules of this section shall also apply to companies organised according to the monistic system[1086].

2. ...omissis...[1087]

3. Except as provided for in Article 2409-septiesdecies of the Civil Code, at least one member shall be elected from the minority slate that obtained the largest number of votes and is not linked in any way, even indirectly, with the shareholders who presented or voted the list which resulted first by the number of votes. In companies organised under the one-tier system, the member elected from the minority slate must satisfy the integrity, experience and independence requirements established pursuant to Articles 148(3) and 148(4). Failure to satisfy the requirements shall result in disqualification from the position. [1088]

4. In addition to what is provided for in paragraph 3, at least one of the members of the Board of Directors, or two if the Board of Directors is composed of more than seven members, should satisfy the independence requirements established for members of the board of auditors in Article 148(3) and, if provided for in the Articles of Association, the additional requirements established in codes of conduct drawn up by regulated stock exchange companies or by trade associations. This paragraph shall not apply to the boards of directors of companies organised under the one-tier system, which shall continue to be subject to the second paragraph of Article 2409-septiesdecies of the Civil Code. The independent director who, following his or her nomination, loses those requisites of independence should immediately inform the Board of Directors about this and, in any case falls from

1086 Paragraph already introduced by Article 1, para. 1 of Italian Law no. 120 of 12.7.2011 and then first replaced by Article 58-sexies, para. 1 of Decree Law no. 124 of 26.10.2019, converted with amendments into Law no. 157 of 19.12.2019 and then by Article 1, para. 302 of Law no. 160 of 27.12.2019 in the text republished in the O.J. no. 13 of 17.1.2020. Para. 304 of Article 1 of Law no. 160 of 27.12.2019, in the text republished in the O.J. no. 13 of 17.1.2020, states that: "The division criterion of at least two fifths envisaged in paras. 302 and 303 shall apply from the initial renewal of the management and control bodies of companies listed on regulatory markets after the entry into force of this law, with no prejudice to the division criterion of at least one fifth provided for in Article 2 of Law no. 120 of 12 July 2011 for the first renewal after the trading start date". Para. 305 of Article 1 of Law no. 160 of 27.12.2019, in the text republished in the O.J. no. 13 of 17.1.2020, states that: "CONSOB shall communicate the results of the checks of implementation of paras. 302 to 304 annually to the Department for Equal Opportunities of the Presidency of the Council of Ministers …".

1087 Paragraph repealed by Article 3 of Legislative Decree No. 303 of 29.12.2006.

1088 Paragraph amended by Article 3 of Legislative decree No. 303 of 29.12.2006 which replaced the word: "member" (Translator's note: in this case the Italian and the English word are similar 'membri' = 'members') with the word in Italian: "componenti" which in English remains "members"; it replaced the wording: "the list resulted first by number of votes" with the words: "the members/shareholders who presented or voted the list which resulted first by the number of votes", and replaced the word: in Italian "membro" with the Italian word "componente" (Translator's note: this word always remains "member" in English).

his/her office. [1089]

Article 147-ter.1
List of the Board of Directors

1. Without prejudice to the provisions of Article 147-ter, paragraphs 1-ter, 3 and 4, the Statute can rule that the leaving Board of Directors may submit a list of candidates for the election of the members of the Board. In this case:

a) the leaving Board of Directors resolves on the submission of the list with the vote in favor of two thirds of its number;

b) the list contains a number of candidates equal to the number of members to be elected plus one third.

2. The list referred to in paragraph1 is lodged and made public according to the methods contemplated by Article 147-ter, paragraph 1-bis, not later than forty days prior to the date of the meeting called to resolve on the appointment of the members of the Board.

3. In the case the list referred to in paragraphs 1 and 2 is submitted:

a) if the list of the leaving Board of Directors is the one that has received the highest number of votes, the number of eligible directors as specified in letter b) is drawn from the same list, according to the progressive number of the list of the candidates, in the following manner:

1) the meeting proceeds to an additional voting procedure for each individual candidate;

2) the candidates are listed in decreasing order on the basis of the number of votes they have received;

3) the candidates that receive the highest number of votes are considered elected in proportion to the posts to be assigned;

4) in case of a tie, the procedure follows the progressive listing order of the candidates;

b) if the list of the leaving Board of Directors is the one that has received the highest number of votes at the meeting, the members of the new Board, whose competence lies with the minorities, are drawn from the other lists in the following manner:

1) if the total number of votes received from the other lists, not to exceed two in order of votes received at the meeting, does not exceed 20 percent of the total number of votes cast, the aforementioned lists contribute to the distribution of the posts in the Board in proportion to the votes received by each of them at the meeting and in any case for a total of no less than 20 percent of the total number of the members of the same body. The remaining posts in the Board are attributed to the list that has received the highest number of votes and the related candidates are voted at the meeting in the manner referred to in letter a);

2) if the total number of votes received at the meeting from the other lists, not to exceed two in order of votes received at the meeting, exceeds 20 percent of the total number of votes cast, the members of the new Board, whose competence lies with the minorities, are assigned in propoprtion to the votes received from the minority lists that have reached a percentage of votes of at least 3 percent. For the purposes of calculating the distribution of the eligible directors pursuant to the first clause, the votes of the lists that have received a percentage of votes of less than 3 percent are assigned

1089 This paragraph was amended by Article 3 of Legislative Decree No. 303 of 29.12.2006 which replaced the wording: “whenever the Board of Directors, or two if the Board of Directors is formed by more than seven members, at least one of them should” by the following wording: “at least one of the members of the Board of Directors, or two if the Board of Directors is composed of more than seven members, should”, and lastly added the following words: “The independent director who, following his or her nomination, loses those requisites of independence should immediately inform the Board of Directors about this and, in any case falls from his/her office.”

in proportion to the votes received from the minority lists that have exceeded said threshold;

c) if the list of the leaving Board of Directors is the only one that has been submitted according to the procedure, the directors to be elected are drawn entirely from said list.

4. If the list of the leaving Board of Directors has contributed, in compliance with this article, to the distribution of the elected directors turning out to be the one that has received the highest number of votes at the meeting, the Statute rules that any internal committee of the Board to be elected for matters of internal control and risk management be nominated by the Board of Directors and chaired by an independent director chosen among the elected directors who had not been drawn from the list of the leaving Board of Directors[1090].

Article 147-quater[1091]
Composition of the management board

1. If the management board has more than four members, at least one of them must satisfy the independence requirements established for members of the board of auditors in Article 148(3) and, if provided for in the Articles of Association, the additional requirements established in codes of conduct drawn up by regulated stock exchange companies or by trade associations.

1-bis. If the management board has not less than three members, the rules of article 147-ter, paragraph 1-ter apply to it[1092].

Article 147-quinquies
Integrity requirements

1. Persons who perform an administrative or management role must satisfy the integrity requirements established for members of internal control bodies in the regulation issued by the Minister of Justice pursuant to Article 148, paragraph 4.

2. Failure to satisfy the requirements shall result in disqualification from the position.[1093]

1090 Article included by Article 12 of Law no. 21 of 5.3.2024. Article 12, paragraphs 2 and 3, of Law no. 21 of 5.3.2024 provide that: "2. The National Commission for Companies and the Stock Exchange (CONSOB) specifies with its own regulation the implementing provisions of the provisions referred to in Article 147-ter.1 of the consolidated law referred to in Legislative Decree no. 58 of 24 February 1998, introduced by paragraph1 of this article, within thirty days from the date of entry into force of this law. 3. The issuers are responsible for compliance of the statutes so as to enable application of the provisions of this article effective from the first meeting called on a date after 1 January 2025."

1091 Article first of all included in Article 1 of Law 262/2005 and then amended by Article 1, paragraph 2 of Law 120/2011 according to the terms indicated in the note below.

1092 Paragraph added by Article 1 Paragraph 2 of Law 120/2011.

1093 Article added by Article 1 of Law 262/2005.

Section V
Internal control bodies[1094]

Article 148
Composition

1. The Articles of Association of a company shall establish, for the board of auditors:
   a) the number, not less than three, of auditors;
   b) the number not less than two, of alternates;
   c) ...omissis...[1095]
   d) ...omissis...[1096]

1-bis. The Articles of Association of the company shall also state that the division of members pursuant to section 1 shall be made in such a way that the less-represented gender shall obtain at least two fifths of the regular members of the board of auditors. This division criterion shall apply for six consecutive mandates. If the composition of the board of auditors resulting from the election does not comply with the division criterion provided for in this section, CONSOB shall warn the company concerned to comply with this criterion within the maximum term of four months from the warning. In the event of non-compliance with this warning, CONSOB shall apply a fine of between Euro 20,000 and Euro 200,000 and set a new term of three months for compliance. In the event of further non-compliance with respect to this new warning, the elected members shall lose their position. CONSOB shall lay down regulations on the infringement, application and observance of the rules on gender quotas, including with reference to the investigation phase and the procedures to be adopted, on the basis of its own regulations to be adopted within six months from the date of entry into force of the rules contained in this section[1097].

2. CONSOB establishes the rules for the election procedure by list vote of a member of the Board of Auditors by minority shareholders, that are not directly or indirectly associated with the shareholders that submitted or voted the list qualifying as first for the number of votes received. Article 147-ter, paragraph 1-bis shall apply[1098].

2-bis. The chairman of the board of auditors shall be appointed by the shareholders' meeting from

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1094 Title as amended by Article 3 Legislative Decree 37/2004.

1095 Paragraph repealed by Article 2 of Law 262/2005.

1096 Paragraph repealed by Article 2 of Law 262/2005.

1097 Paragraph already introduced by Article 1, para. 1 of Italian Law no. 120 of 12.7.2011 and then first replaced by Article 58-sexies, para. 1 of Decree Law no. 124 of 26.10.2019, converted with amendments into Law no. 157 of 19.12.2019 and then by Article 1, para. 302 of Law no. 160 of 27.12.2019 in the text republished in the O.J. no. 13 of 17.1.2020. Para. 304 of Article 1 of Law no. 160 of 27.12.2019, in the text republished in the O.J. no. 13 of 17.1.2020, states that: "The division criterion of at least two fifths envisaged in paras. 302 and 303 shall apply from the initial renewal of the management and control bodies of companies listed on regulatory markets after the entry into force of this law, with no prejudice to the division criterion of at least one fifth provided for in Article 2 of Law no. 120 of 12 July 2011 for the first renewal after the trading start date". Para. 305 of Article 1 of Law no. 160 of 27.12.2019, in the text republished in the O.J. no. 13 of 17.1.2020, states that: "CONSOB shall communicate the results of the checks of implementation of paras. 302 to 304 annually to the Department for Equal Opportunities of the Presidency of the Council of Ministers …".

1098 Paragraph first replaced by Article 2, Law no. 262 of 28.12.2005 and later amended by Article 3, paragraph 14, Legislative Decree no. 303 of 29.12.2006, which added the words: ", by list voting," and at the end added the words: "that are not directly or indirectly associated with shareholders that submitted or voted on the list qualifying as first for the number of votes received", and lastly amended by Article 3, Legislative Decree no. 27 of 27.1.2010 which added the words: "Article 147-ter, paragraph 1-bis shall apply." See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

among the auditors elected by the minority shareholders.[1099]

3. The following persons may not be elected as auditors and, where elected, they shall be disqualified from office:

a) persons who are in the conditions referred to in Article 23 82 of the Civil Code;

b) spouses, relatives and the like up to the fourth degree of kinship of the directors of the company, spouses, relatives and the like up to the fourth degree of kinship of the directors of the companies it controls, the companies it is controlled by and those subject to common control;[1100]

c) persons who are linked to the company, the companies it controls, the companies it is controlled by and those subject to common control or to directors of the company or persons referred to in paragraph b) by self-employment or employee relationships or by other relationships of an economic or professional nature that might compromise their independence.[1101]

4. In a regulation adopted pursuant to Article 17(3) of Law 400/2003, in agreement with the Minister of the Economy and Finance,[1102] after consulting CONSOB, the Bank of Italy and Ivass, the Minister of Justice shall lay down the integrity and experience requirements for the members of the board of auditors[1103], the supervisory board or the management control committee. Failure to satisfy the requirements shall result in disqualification from the position[1104].

4-bis**.** Paragraphs 1-bis, 2 and 3 shall apply to supervisory boards.[1105]

4-ter. Paragraphs 2-bis and 3 shall apply to management control committees. The representative of the minority shareholders shall be the director elected pursuant to Article 147-ter(3).[1106]

4-quater. In the cases provided for in this article, disqualification shall be declared by the board of directors or, for companies organised according to the two-tier system or the one-tier system, by the shareholders' meeting within thirty days of the appointment or of its learning of subsequent failure. In the event of inaction by the competent body, CONSOB shall declare the disqualification, at the request of any interested party or if it learns of the existence of the grounds for disqualification.[1107]

1099 Paragraph added by Article 2 of Law 262/2005.

1100 Paragraph as amended by Article 3 Legislative Decree 37/2004.

1101 Paragraph first replaced by Article 3 of Legislative Decree 37 of 6.2.2004 and later amended by Article 2 of Law no. 262 of 28.12.2005 which included the words "or directors of the company and persons referred to under paragraph b)" and the words "or professional".

1102 The former wording "Minister of the Treasury, Budget and Economic Planning" was replaced with the wording "Minister of the Economy and Finance" by Article 1 of Legislative Decree no. 37 of 6.2.2004.

1103 See Minister of Justice Regulation no. 162 of 30.3.2000 (published in O.J. no. 141 of 19.6.2000).

1104 Paragraph first replaced by Article 2 of Legislative Decree no. 262 of 28.12.2005 and then thus amended by Article 4 of Legislative Decree no. 72 of 12.5.2015, which replaced the word: "ISVAP" with: "IVASS".

1105 Paragraph first added by Article 3 of Legislative Decree 37/2004, then replaced by Article 2 of Law 262/2005 and finally thus amended by Article 1, paragraph 3, of Law 120/2011 which included the words: "1-bis".

1106 Paragraph added by Article 3 Legislative Decree 37/2004 and subsequently amended by Article 2 of Law 262/2005.

1107 Paragraph added by Article 3 Legislative Decree 37/2004 and subsequently amended by Article 2 of Law 262/2005.

Article 148-bis[1108]
Limits on the cumulation of positions

1. CONSOB shall lay down in a regulation the limits to the cumulation of management and control positions that members of the control bodies of companies referred to in this chapter may hold in all the companies referred to in Book V, Title V, Chapters V, VI and VII of the Civil Code. CONSOB shall establish such limits taking into account the onerousness and complexity of each type of position, including in relation to the size of the company, the number and size of the firms included in the consolidation, and the extension and articulation of its organisational structure[1109].

2. Without prejudice to Article 2400, fourth paragraph, of the Civil Code, members of the control bodies of companies referred to in this chapter shall inform CONSOB and the public, within the time limits and in the ways prescribed by CONSOB in the regulation referred to in paragraph 1, of all the management and control positions they hold in companies referred to in Book V, Title V, Chapters V, VI and VII of the Civil Code. CONSOB shall declare the disqualification from positions taken on after the maximum number provided for in the regulation referred to in the first paragraph was reached[1110].

Article 149
Duties

1. The board of auditors shall check:

a) compliance with the law and the Articles of Association;

b) observance of the principles of correct administration;

c) the adequacy of the company's organisational structure for matters within the scope of the board's authority, the adequacy of the internal control system and the administrative and accounting system and the reliability of the latter in correctly representing the company's transactions;

c-bis) the arrangements for implementing the corporate governance rules provided for in codes of conduct drawn up by regulated stock exchange companies or by trade associations that the company, by means of public disclosures, declares it complies with;[1111]

d) the adequacy of the instructions imparted by the company to its subsidiaries pursuant to Article 114(2).

2. The members of the board of auditors shall attend the shareholders' meetings and the meetings of the board of directors and the executive committee. Members of the board of auditors who fail to attend shareholders' meetings without good cause or, in any one financial year, fail to attend two meetings of the board of directors or the executive committee shall be disqualified from office.[1112]

3. The board of auditors shall notify CONSOB without delay of irregularities found in the

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1108 Article first included by Article 2 of Law no. 262 of 28.12.2005 and then amended by Article 4 of Law no. 21 of 5.3.2024, in the terms indicated in the following notes.

1109 Paragraph thus amended by Article 4 of Law no. 21 of 5.3.2024, which deleted the words: “, and of companies with financial instruments widely distributed among the public in accordance with Article 116,”. See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

1110 Paragraph thus amended by Article 4 of Law no. 21 of 5.3.2024, which deleted the words: “and of companies with financial instruments widely distributed among the public in accordance with Article 116,”.

1111 Paragraph added by Article 2 of Law 262/2005.

1112 Paragraph as amended by Article 3 Legislative Decree 37/2004.

performance of its oversight activity and shall transmit the related minutes of the meetings and investigations conducted with all other relevant documentation.

4. Paragraph 3 shall not apply to companies with shares listed only on regulated markets in other EU countries.

4-bis. Paragraphs 1, 3 and 4 shall apply to the supervisory board. At least one member of the supervisory board shall participate in the meetings of the management board.[1113]

4-ter. Paragraphs 1(c-bis), 1(d), 3 and 4 shall apply to the management control committee.[1114]

Article 150
Information requirements

1. The directors shall promptly inform the board of auditors, in the manner laid down in the Articles of Association and at least every three months, of the activities carried out and the transactions of greatest significance for the company's profitability, financial position or assets and liabilities effected by the company or its subsidiaries; in particular, they shall report on any transactions in which they have an interest, for their own account or on behalf of third parties, or that are influenced by the person who performs the activity of direction and coordination.

2. The obligation referred to in the previous paragraph shall be fulfilled, in the two-tier system by the management board reporting to the supervisory board and, in the one-tier system, by the bodies with delegated powers reporting to the management control committee.

3. The board of auditors and the statutory auditor or independent statutory auditor shall promptly exchange data and information relevant to the performance of their respective duties[1115].

4. The persons assigned to internal control functions shall also report to the board of auditors at their own initiative or at the request of one or more members of the board of auditors.

5. Paragraphs 3 and 4 shall also apply to the supervisory board and the management control committee.[1116]

Article 151
Powers

1. Members of the board of auditors, jointly or severally, may at any time carry out inspections and controls, and require the directors to supply information, inter alia with reference to subsidiaries, on the performance of the business or on particular transactions or make the same requests for information directly to the management and control bodies of subsidiaries.[1117]

1113 Paragraph added by Article 3 Legislative Decree 37/2004.

1114 Paragraph added by Article 3 Legislative Decree 37/2004 and subsequently amended by Article 2 of Law 262/2005, which replaced the words “1(d)” with the words “1(c-bis), 1(d)”.

1115 Paragraph amended by Article 40, Legislative Decree no. 39 of 27.01.2010 which replaced the words: “and the independent auditors” with the words: “and the statutory auditor or independent statutory auditors”.

1116 Article as amended by Article 3 Legislative Decree 37/2004.

1117 Paragraph as amended by Article 3 Legislative Decree 37/2004 and Law 262/2005, which added the words “or make the same requests for information directly to the management and control bodies of subsidiaries”.

2. The board of auditors may exchange information with the corresponding bodies of subsidiaries concerning management and control systems and the general performance of the business. After notifying the chairman of the board of directors, it may also call the shareholders' meeting and meetings of the board of directors or the executive committee and use employees of the company in performing its duties. The right to call meetings and request collaboration may also be exercised individually by each member of the board of auditors, except for the right to call the shareholders' meeting, which may not be exercised by less than two members.[1118]

3. For the purpose of evaluating the adequacy and reliability of the administrative and accounting system, members of the board of auditors, on their own responsibility and at their own expense, may use, jointly or severally, their own employees and assistants who are not in any of the conditions referred to in Article 148(3). The company may deny such assistants access to confidential information.

4. Investigations carried out must be entered in the register of meetings and resolutions of the board of auditors, which must be kept by the board at the registered office of the company. The last paragraph of Article 2421 of the Civil Code shall apply.

Article 151-bis[1119]
Powers of the supervisory board

1. The members of the supervisory board, jointly or severally, may require the members of the management board to supply information, inter alia with reference to subsidiaries, on the performance of the business or on particular transactions or make the same requests for information directly to the management and control bodies of subsidiaries.[1120] The information shall be supplied to all the members of the supervisory board.

2. The members of the supervisory board, jointly or severally, may request the chairman to call a board meeting, indicating the matters to be discussed. The meeting must be called without delay unless this is prevented by reasons that are promptly notified to the person who made the request and explained to the next meeting of the supervisory board.

3. After notifying the chairman of the management board, the supervisory board may call the shareholders' meeting and meetings of the management board and use employees of the company in performing its duties. The right to call meetings and request collaboration may also be exercised individually by each member of the board of auditors, except for the right to call the shareholders' meeting, which may not be exercised by less than two members.[1121]

1118 Paragraph as amended by Article 3 Legislative Decree 37/2004 and Article 2 of Law 262/2005, which replaced the words "may not be exercised by less than two members of the board of auditors" with the words "may also be exercised individually by each member of the board of auditors, except for the right to call the shareholders' meeting, which may not be exercised by less than two members".

1119 Article included by Article 3 Legislative Decree no. 37 of 6.2.2004 and later amended by Article 2 of Law no. 262 of 28.12.2005 in the terms indicated in subsequent notes.

1120 The words "or make the same requests for information directly to the management and control bodies of subsidiaries" were added by Article 2 of Law 262/2005.

1121 Paragraph as amended by Legislative Decree 37/2004 and Article 2 of Law 262/2005, which replaced the words "may not be exercised by less than two members of the supervisory board" with the words "may also be exercised individually by each member of the supervisory board, except for the right to call the shareholders' meeting, which may not be exercised by less than two members".

4. The supervisory board, or a member thereof with a specific mandate, may at any time carry out inspections and controls and exchange information with the corresponding bodies of subsidiaries concerning management and control systems and the general performance of the business.

Article 151-ter[1122]
Powers of the management control committee

1. The members of the management control committee, jointly or severally, may require the other directors to supply information, inter alia with reference to subsidiaries, on the performance of the business or on particular transactions or make the same requests for information directly to the management and control bodies of subsidiaries.[1123] The information shall be supplied to all the members of the internal control committee.

2. The members of the management control committee, jointly or severally, may request the chairman to call a committee meeting, indicating the matters to be discussed. The meeting must be called without delay unless this is prevented by reasons that are promptly notified to the person who made the request and explained to the next meeting of the internal control committee.

3. After notifying the chairman of the board of directors, the management control committee may call meetings of the board of directors or the executive committee and use employees of the company in performing its duties. The right to call meetings and request collaboration may also be exercised individually by each member of the committee.[1124]

4. The management control committee, or a member thereof with a specific mandate, may at any time carry out inspections and controls and exchange information with the corresponding bodies of subsidiaries concerning management and control systems and the general performance of the business.

Article 152
Reports to the courts

1. The board of auditors, or the supervisory board or the management control committee, where it has a well-founded suspicion that the directors, in violation of their duties, have committed serious irregularities in transactions that may injure the company or one or more of its subsidiaries, may report the facts to the courts pursuant to Article 2409 of the Civil Code. In such case the costs of the inspection shall be borne by the company and the court may also remove the directors.[1125]

2. CONSOB, where it has a well-founded suspicion of serious irregularities in the performance of the supervisory duties of the board of auditors, the supervisory board or the management control committee may report the facts to the courts pursuant to Article 2409 of the Civil Code, the costs of

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1122 Article included by Article 3 of Legislative Decree no. 37 of 6.2.2004 and later amended by Article 2 of Law no. 262 of 28.12.2005 in the terms indicated in subsequent notes.

1123 The words “or make the same requests for information directly to the management and control bodies of subsidiaries” were added by Article 2 of Law 262/2005.

1124 Paragraph as amended by Article 2 of Law 262/2005, which replaced the words “may not be exercised by less than two members of the management control committee” with the words “may also be exercised individually by each member of the committee”.

1125 Paragraph as amended by Article 3 Legislative Decree 37/2004.

the inspection shall be borne by the company.[1126]

3. Paragraph 2 shall not apply to companies with shares listed only on regulated markets in other EU countries.

4. Article 70(7) of the Consolidated Law on Banking shall be unaffected.

Article 153
Obligation to report to the shareholders' meeting

1. The board of auditors, the supervisory board and the management control committee shall report on the supervisory activity performed and on any omissions and censurable facts found to the shareholders' meeting called to approve the annual accounts or pursuant to Article 2364-bis, paragraph 2, of the Civil Code.[1127]

2. The board of auditors may make proposals to the shareholders' meeting concerning the annual accounts and their approval and matters within the scope of its authority.

Article 154
Provisions not applicable

1. Articles 2397, 2398, 2399, 2403, 2403-bis, 2405, 2426, points 5 and 6, 2429 paragraph 2, and 2441 paragraph 6, of the Civil Code shall not apply to boards of auditors of companies with listed shares.

2. Articles 2409-septies, 2409-duodecies and 2409-terdecies, paragraphs 1c), 1e) and 1f) of the Civil Code shall not apply to supervisory boards of companies with listed shares.

3. Articles 2399, first paragraph, and 2409-septies of the Civil Code shall not apply to the management control committees of companies with listed shares.[1128]

1126 Paragraph as amended by Article 3 Legislative Decree 37/2004.

1127 Paragraph as amended by Article 3 Legislative Decree 37/2004.

1128 Article as amended by Article 3 Legislative Decree 37/2004.

Section V-bis[1129]
Financial information[1130]

Article 154-bis[1131]
Manager charged with preparing a company's financial reports

1. The Statute of listed issuers with Italy as the home Member State provides for professional requirements and the procedures for appointing a manager charged with preparing the company's financial reports, subject to the mandatory opinion of the internal control body. [1132]

2. Documents and communications of the company, which have been disseminated in the market and regard information on accounts including mid-year reports shall be accompanied by a written declaration by the general manager and the manager charged with preparing the company's financial reports attesting their conformity against document results, books and accounts records[1133].

3. The manager charged with preparing the company's financial reports shall put appropriate administrative and accounting procedures in place for preparing the annual accounts report and, where provided for, the consolidated accounts and every other disclosure of a financial nature. [1134]

4. The Board of Directors supervises so that the executive assigned to draw up the company accounts report has adequate powers and means to carry out the tasks given to him according to this Article, as well as on the actual observance of the administrative and accounting procedures. [1135]

5. In a special report on the annual, half-yearly and, where applicable, the consolidated financial statements, the delegated control bodies and the executive responsible for the preparation of company accounting documents shall confirm:

a) the adequacy and effective application, during the period of reference of the documents, of procedures pursuant to paragraph 3;

b) that the documents were prepared in compliance with applicable international accounting

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1129 Section first added by Article 14 of Law 262/2005 and then amended by Article 3 of Legislative Decree no. 303 of 29.12.2006, Article 1 of Legislative Decree no. 195 of 6.11.2007, Legislative Decree no. 27 of 27.1.2010, Legislative Decree no. 39 of 27.1.2024, Article 3 of Legislative Decree no. 91 of 18.6.2012, Article 1 of Legislative Decree no. 184 of 11.10.2012, Article 1 of Legislative Decree no. 25 of 15.2.2016, Article 3 of Legislative Decree no. 17 of 2.2.2021, Article 25 of Law no. 238 of 23.12.2021 and Article 12 of Legislative Decree no. 125 of 6.9.2024 in the terms indicated under subsequent notes.

1130 Heading as replaced by Article 1 Legislative Decree no. 195 of 6.11.2007

1131 Article first included by Article 14 of Law no. 262 of 28.12.2005 and later amended by Article 3 of Legislative Decree no. 303 of 29.12.2006, Article 1 of Legislative Decree no. 195 of 6.11.2007 and Article 12 of Legislative Decree no. 125 of 6.9.2024 in the terms indicated under subsequent notes.

1132 Paragraph first amended by Article 3 paragraph 13 of Legislative Decree no. 303 of 29.12.2006 which included the words: "requirements of professionalism and" and later by Article 1 Legislative Decree no. 195 of 6.11.2007 which included the words: "of listed issuers with Italy as home Member State".

1133 Paragraph amended by Article 3 of Legislative Decree No. 303 of 29.12.2006 which substituted the wording: "provided by the Law or disseminated in the market, containing information and data on the economic, assets and liabilities and financial situation" with the wording: "which have been disseminated in the market and regard information on accounts including mid-year reports; it suppressed the wording: "by the chief executive and" and substituted the wording: "to the true" with the wording: "against document results, books and accounts records".

1134 Paragraph amended by Article 3 of Legislative Decree No. 303 of 29.12.2006 which substituted the word: "pre-arrangement" with the word: "preparing"

1135 Paragraph substituted by Article 3 of Legislative Decree No. 303 of 29.12.2006.

standards recognised by the European Community pursuant to European Parliament and Council Regulation no. 1606/2002 of 19 July 2002;

c) the correspondence between the documents and related bookkeeping and accounting records;

d) the suitability of the documents to truthfully and correctly represent the financial position of the issuer and the group of companies included in the scope of consolidation;

e) for the annual and consolidated financial statements, that the directors' report contains a reliable analysis of the business outlook and management result, the financial position of the issuer and group companies included in the scope of consolidation, and a description of the main risks and uncertain situations to which they are exposed;

f) for the simplified half-yearly report, that the interim directors' report contains a reliable analysis of the information pursuant to paragraph 4 of article 154-ter[1136].

5-bis. The declaration pursuant to paragraph 5 shall be prepared according to the model established by CONSOB regulation[1137].

5-ter. If the issuer is subject to the sustainability reporting obligations referred to in the Legislative Decree adopted in accordance with Article 13 of Law no. 15 of 21 February 2024, the delegated control bodies and the executive responsible for the preparation of company accounting documents shall confirm, in a proper report, that the sustainability reporting included in the management report has been drawn up in compliance with the reporting standards applied pursuant to Directive 2013/24/EU of the European Parliament and of the Council of 26 June 2013, the Legislative Decree adopted in accordance with Article 13 of Law no. 15 of 21 February 2024 and the specifications adopted in accordance with Article 8, paragraph 4 of Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020. The same can also be confirmed by an executive other than the one responsible for the preparation of company accounting documents, who is specifically competent in sustainability reporting, and appointed, subject to the mandatory opinion of the control body, according to the methods and in compliance with the professional requirements envisaged in the articles of association. The sample form provided in Consob regulation shall be used to render such statement[1138].

6. The provisions governing the liability of directors shall also apply to the executives responsible for the preparation of company accounting documents and to the executive referred to in paragraph 5-ter, if any, in relation to the tasks entrusted to them, without prejudice to actions that may be brought on the basis of the employment contract with the company[1139].

1136 Paragraph first replaced by Article 3, Legislative Decree no. 303 of 29.12.2006 and later by Article 1, Legislative Decree no. 195 of 6.11.2007.

1137 Paragraph included by Article 1 of Legislative Decree no. 195 of 6.11.2007. See Article 81-ter, CONSOB Regulation no. 11971 of 14.5.1999, as amended.

1138 Paragraph included by Article 12 of Legislative Decree no. 125 of 6.9.2024.

1139 Paragraph thus amended by Article 12 of Legislative Decree no. 125 of 6.9.2024, which after the words: "company accounting documents," added the words: " and to the executive referred to in paragraph 5-ter, if any,".

Article 154-ter[1140]
Financial reporting

1. Without prejudice to the provisions of articles 2364, second paragraph and 2364-bis, second paragraph of the Italian Civil Code, within four months of the year end, the listed issuers with Italy as their Home Member State must make available to the public at the company's headquarters, on the company website and with the other ways envisaged by CONSOB by regulation, the annual financial report, comprising the draft financial statements or, for companies that have adopted the dualist administrative and control system, the financial statements and consolidated financial statements, where prepared, the report on operations and certification envisaged by article 154-bis, paragraph 5. In the hypotheses envisaged by article 2409-terdecies, second paragraph of the Italian Civil Code, in lieu of the statutory financial statements, in accordance with this paragraph, the draft financial statements are published. The auditing report prepared by the legal auditor or legal auditing firm and the report indicated in article 153 are made entirely available to the public within the same terms[1141].

1.1. The directors shall see to the application of the provisions of Commission Delegated Regulation (EU) 2019/815 of 17 December 2018 to the annual financial reports published in accordance with paragraph 1 by listed issuers whose home member state is Italy[1142].

1.2. In the audit report referred to in article 14 of Legislative Decree no. 39 of 27 January 2010, the statutory auditor or statutory auditing company shall also express an opinion on the compliance of the draft financial statements and consolidated statements, included in the annual financial report, with the provisions of the Delegated Regulation referred to in paragraph 1.1. of this article, on the basis of an audit principle elaborated for this purpose in accordance with article 11, paragraph 2, of the aforementioned Legislative Decree no. 39 of 2010[1143].

1140 Article first introduced by Article 1 of Legislative Decree no. 195 of 6.11.2007 and then amended by Legislative Decree no. 27 of 27.1.2010, by Legislative Decree no. 39 of 27.1.2010, by Article 3 of Italian Law Decree no. 91 of 18.6.2012, by Article 1 of Legislative Decree no. 184 of 11.10.2012, by Article 1 of Legislative Decree no. 25 of 15.2.2016, by Article 3 of Legislative Decree no. 17 of 2.2.2021, by Article 25 of Law no. 238 of 23.12.2021 and by Article 12 of Legislative Decree no. 125 of 6.9.2024 in the terms specified in the following notes.

1141 Paragraph previously replaced by Article 3 of Legislative Decree no. 27 of 27.1.2010, amended by Article 40 of Legislative Decree no. 39 of 27.1.2010, and again replaced by Article 3 of Legislative Decree no. 91 of 18.6.2012 and lastly thus amended by Article 1 of Legislative Decree no. 25 of 15.2.2016 which has replaced the words: "one hundred and twenty days" with the words: "four months". **Article 6, paragraph 1 of Legislative Decree no. 125 of 6.9.2024 provides as follows: "1. Without prejudice to Article 154-ter of Legislative Decree no. 58 of 24 February 1998, for the entities envisaged therein, the single and consolidated sustainability reporting included in the management report pursuant to this decree, and the report confirming the conformity referred to in Article 14-bis of Legislative Decree no. 39 of 27 January 2010, shall be published according to the methods and deadlines provided for in Articles 2429 and 2435 of the Italian Civil Code and on the company website. If the company has no website, the company shall provide a paper copy of said documents to any person who so requests." Article 10, paragraph 2 of Legislative Decree no. 125 of 6.9.2024 provides as follows: "2. For two years after the entry into force of this decree, pursuant to Article 17, paragraph 1, letters a), b) and c), the pecuniary administrative sanctions provided for in Article 193, paragraphs 1.2 and 3 of Legislative Decree no. 58 of 24 February 1998, applied in the event of violation of the obligations provided for in Article 154-ter, paragraph 1-quater, of the same Legislative Decree no. 58 of 1998, shall not exceed Euro 150,000.00. For the same period, the pecuniary administrative sanctions provided for in Article 193, paragraph 1 of Legislative Decree no. 58 of 1998, applied in the event of violation of the obligations provided for in Article 154-ter, paragraph 1-quater of the same Legislative Decree no. 58 of 1998, shall not exceed Euro 2,500,000.00. For the same period, the pecuniary administrative sanctions provided for in Articles 24 and 26-quater of Legislative Decree no. 39 of 27 January 2010 shall not exceed Euro 125,000.00 as for auditing firms and Euro 50,000.00 as for sustainability auditors.".**

1142 Paragraph included by Article 25 of Law no. 238 of 23.12.2021.

1143 Paragraph included by Article 25 of Law no. 238 of 23.12.2021.

1-bis. Publications pursuant to paragraph 1 and the date of the meeting convened in accordance with articles 2364, second paragraph and 2364-bis, second paragraph of the Italian Civil Code must have at least twenty-one days between them[1144].

1-ter. As an exception to article 2429, paragraph 1 of the Civil Code, the directors shall forward the draft financial statements, of the statutory auditor or statutory auditing company, together with the directors' report, to the board of statutory auditors and the independent auditors at least fifteen days prior to the publication referred to in paragraph 1[1145].

1-quater. The listed issuers with Italy as Member State of origin, which are not microenterprises as defined in Article 1, paragraph 1, letter l), of the Legislative Decree adopted in accordance with Article 13 of Law no. 15 of 21 February 2024, shall include, in a proper section made for the purpose of the management report referred to in paragraph 1, the information required under Articles 3 and 4 of the Legislative Decree adopted in accordance with Article 13 of Law no. 15 of 21 February 2024, and the specifications adopted in accordance with Article 8, paragraph 4 of Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020. In this case, the report confirming conformity of the sustainability reporting provided for in Article 14-bis of Legislative Decree no. 39 of 27 January 2010 shall be made available to the public within the publication deadline of the annual report referred to in paragraph 1[1146].

2. The listed issuers with Italy as Member State of origin publish, as soon as possible and in any case within three months from the closure of the first six months of the financial year, a half-yearly financial report containing the simplified half-year statements, interim directors' report and the declaration pursuant to article 154-bis paragraph 5. Where applicable, the statutory auditor or independent statutory auditors report on the simplified half-yearly statements shall be published in full within the same time limit[1147].

3. The simplified half-yearly statements referred to under paragraph 2, shall be prepared in

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1144 Paragraph first included by Article 3 of Legislative Decree no. 27 of 27.1.2010 and subsequently amended by Article 3 of Legislative Decree no. 91 of 18.6.2012, which replaced the entire paragraph of: "There shall be at least twenty-one days between the publication pursuant to paragraph 1 and the date of the shareholders' meeting" with the words: "Publications pursuant to paragraph 1 and the date of the meeting convened in accordance with Articles 2364, second paragraph and 2364-bis, second paragraph of the Italian Civil Code must have at least twenty-one days between them".

1145 Paragraph first introduced by Article 3 of Legislative Decree no. 27 of 27.1.2010 and then amended by Article 1 of Legislative Decree no. 25 of 15.2.2016 which has replaced the words: "and of the statutory auditing company" with the words: ", of the statutory auditor or statutory auditing company".

1146 Paragraph added by Article 12 of Legislative Decree no. 125 of 6.9.2024. **Article 10, paragraph 4 of Legislative Decree no. 125 of 6.9.2024 provides as follows: " 4. For the purpose of the determination of the type and amount of the pecuniary administrative sanctions in the event of violation of the obligations provided for in Article 154-ter, paragraph 1-quater of Legislative Decree no. 58 of 1998, and Article 26-quater, paragraph 1 of Legislative Decree no. 39 of 27 January 2010, pursuant to Article 194-bis of the aforementioned Legislative Decree no. 58 of 1998, Consob shall take into account at least one of the following circumstances: a) the procedures adopted by the company administration body for the preparation of sustainability reports in accordance with this decree, also in the light of any guidelines or indications provided by national and European Authorities, regarding sustainability information; b) the violation of the obligations of this decree if connected to the omission or communication of information by the enterprises in the value chain, which are not subject to control of the same company."**

1147 Paragraph amended by Article 40, Legislative Decree no. 39 of 27.01.2010 which replaced the words: "of the independent auditors" with the words: "of the statutory auditor or independent statutory auditors" and then by Article 1 of Legislative Decree no. 25 of 15.2.2016 which has replaced the words: "Within sixty days from the closure of the first half of the financial year, the" with the words: "The" and after the words: "Member State of Origin publish" has introduced the words: ", as soon as possible and in any case within three months from the closure of the first six months of the financial period,».

compliance with applicable international accounting standards recognised by the European Community pursuant to EC Regulation no. 1606/2002. Such statements are prepared in consolidated format if the listed issuer with Italy as home member state is required to prepare consolidated financial statements.

4. The interim directors' report shall at least contain indications of the more significant events occurring in the first six months of the financial year and their impact on the simplified half-yearly financial statements, together with a description of the main risks and uncertainties faced in the remaining six months of the year. For listed issuers with Italy as home member state, the interim directors' report shall also contain information on significant related party transactions.

5. With the regulation pursuant to paragraph 6, CONSOB can order issuers whose Member State of origin is Italy, including financial enterprises, to periodically disclose additional financial information consisting mainly of:

a) a general description of the capital situation and economic trend of the issuer and its subsidiaries in the period of reference;

b) an illustration of the relevant events and of the transactions which have been carried out in the period of reference and their impact on the capital of the issuer and of its subsidiaries[1148].

5-bis. Before the possible introduction of the obligations pursuant to paragraph 5, CONSOB publishes the impact analysis carried out pursuant to Article 14, paragraph 24-quater, of Italian Law no. 246 of 28 November 2005. This latter, in compliance with the Community discipline of reference, examines, also in a comparative key, the existence of the following conditions:

a) the additional periodic financial disclosure does not involve disproportionate expense, especially for the small and medium issuers concerned;

b) the content of the requested additional periodic financial disclosures is proportionate to the factors that contribute to the investors' investment decisions;

c) the requested additional periodic financial disclosures do not favour excessive attention for the issuers' short-term results and yield and do not negatively influence the possibilities of access of the small and medium issuers to the regulated markets[1149].

6. By regulation and in compliance with European law, CONSOB shall establish[1150]:

a) the terms and procedures for the publication of the documents referred to under paragraphs 1 and 2 and of any additional disclosures contemplated by paragraph 5, as well as of the universal registration document pursuant to Article 9, paragraph 12 of the Prospectus Regulation[1151];

a-bis) any implementing provisions of paragraph 1.1[1152];

b) cases of exemption from the requirement to publish the financial reports[1153];

c) the content of information on significant related party transactions pursuant to paragraph 4;

1148 Paragraph thus replaced by Article 1 of Legislative Decree no. 25 of 15.2.2016.

1149 Paragraph included by Article 1 of Legislative Decree no. 25 of 15.2.2016.

1150 Line thus amended by Article 1 of Legislative Decree no. 25 of 15.2.2016 which has replaced the word: "Community" with the word: "European". See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

1151 Letter first replaced by Article 1 of Legislative Decree no. 25 of 15.2.2016, then amended by Article 3 of Legislative Decree no. 17 of 2.2.2021, which, after the words "paragraph 5" added the words ", as well as of the universal registration document pursuant to Article 9, paragraph 12 of the prospectus regulation".

1152 Letter included by Article 25 of Law no. 238 of 23.12.2021.

1153 Letter thus amended by Article 1 of Legislative Decree n° 184 of 11.10.2012 which has replaced the words: «of the six-monthly financial report» with the words: «of the financial reports».

d) the terms of application of this article for issuers of units of closed-end funds.

7. Without prejudice to the powers envisaged by article 157, paragraph 2, where it is ascertained that documents comprising the financial statements pursuant to this article do not comply with drafting regulations, CONSOB may request that the issuer publishes this fact and arrange publication of supplementary information as necessary in order to reinstate correct market information.

7-bis. Consob can exercise the powers referred to in paragraph 7 if the information referred to in paragraph 1-quater is found to be non-conformant with the provisions governing the related preparation[1154].

Article 154-quater
Transparency of payments to governments

1. The listed issuers with Italy as Member State of origin, operating in one of the sectors referred to by Article 1, paragraph 1, letters h) and i), of Italian Legislative Decree no. 139 of 18 August 2015, publish, on their own Internet sites and by other means contemplated by CONSOB by regulation, the report on payments to governments drawn up in compliance with the provisions contained in Chapter I of the said decree, within six months of the date of the closure of the financial period.

2. The said report remains available to the public for ten years after its first publication.

3. The payments to governments are reported at a consolidated level[1155].

Section VI
Statutory audit[1156]

Article 155
Performance of audits

1. …omissis…[1157]

2. The statutory auditor or independent statutory auditors shall inform CONSOB and the control body without delay of any censurable facts found during statutory audit of the separate and consolidated financial statements[1158].

3. …omissis…[1159]

1154 Paragraph added by Article 12 of Legislative Decree no. 125 of 6.9.2024.

1155 Article included by Article 1 of Legislative Decree no. 25 of 15.2.2016.

1156 Heading as replaced by Article 40, Legislative Decree no. 39 of 27.01.2010.

1157 Paragraph repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1158 Paragraph as replaced by Article 40, Legislative Decree no. 39 of 27.1.2010.

1159 Paragraph repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

Article 156
Auditors reports[1160]

1. …omissis…[1161]

2. …omissis…[1162]

3. …omissis…[1163]

4. In the event of an adverse opinion, disclaimer or qualified opinion expressing significant doubts on going concern assumptions, the statutory auditor or independent statutory auditors shall promptly inform CONSOB[1164].

4-bis. …omissis…[1165]

5. …omissis…[1166]

Article 157
Effects of audit opinions on the accounts

1. Except in the cases referred to in Article 156(4), the resolution of the shareholders' meeting or meeting of the supervisory board approving the annual accounts may be challenged by shareholders representing at least five per cent of the share capital on the grounds that the accounts fail to conform with the provisions governing the preparation thereof. Shareholder's representing the same percentage of the capital of companies with listed shares may request the courts to verify the conformity of the consolidated accounts with the provisions governing the preparation thereof.[1167]

2. CONSOB may take the actions referred to in paragraph 1 within six months of the entry of the annual accounts or the consolidated accounts in the Company Register.

3. This article shall not apply to companies with shares listed only on regulated markets in other EU countries.

4. For cooperatives, the percentage of capital specified in paragraph 1 shall be understood to refer to the total number of members.

1160 Heading replaced by Article 2 of Legislative Decree no. 32 of 2.2.2007.

1161 Paragraph first amended by Article 2, Legislative Decree no. 32 of 2.2.2007 and later repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1162 Paragraph first amended by Article 2, Legislative Decree no. 32 of 2.2.2007 and later repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1163 Paragraph repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1164 Paragraph as replaced by Article 40, Legislative Decree no. 39 of 27.1.2010.

1165 Paragraph first added by Article 2, Legislative Decree no. 32 of 2.2.2007 and later repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1166 Paragraph first replaced by Article 3, Legislative Decree no. 37 of 6.2.2004 and later by Article 3, Legislative Decree no. 27 of 27.1.2010, and lastly repealed by Article 40, Legislative Decree no. 39 of 27.1.2010.

1167 Paragraph as amended by Article 3 Legislative Decree 37/2004.

Article 158
Share capital increase proposals[1168]

1. In the case of share capital increases excluding or limiting option rights, the fairness opinion on the issue price of the shares shall be released by a legal auditor or by a legal auditing firm. The statutory auditor or independent statutory auditors shall be informed of share capital increase proposals, together with the directors' report envisaged in article 2441, paragraph 6 of the Italian Civil Code, at least forty-five days prior to the date established for examination by the shareholders' meeting[1169].

2. The directors' report and opinion of the statutory auditor or independent statutory auditor shall be made available to the public by the methods indicated in Article 125-ter, paragraph 1, at least twenty-one days prior to the shareholders' meeting and until the related resolution has been passed. Such documents must be annexed to the other documents required for entry of the resolution in the Register of Companies[1170].

3. The previous paragraph shall also apply to the report of the statutory auditor or independent statutory auditors referred to in Article 2441, paragraph 4, paragraph 2 of the Italian Civil Code.[1171]

3–bis. The sworn report by the expert appointed by the court in accordance with article 2343 of the Italian Civil Code or the documentation specified by article 2343-ter, third paragraph of the Italian Civil Code is made available to the public in the ways set out by article 125-ter, paragraph 1, at least twenty-one days prior to the shareholders' meeting and until such time as this has resolved[1172].

4. ...omissis... [1173]

5. ...omissis... [1174]

1168 Heading as amended by Article 3, Legislative Decree no. 27 of 27.1.2010 which removed the words: ", mergers, spin-offs and the distribution of interim dividends".

1169 Paragraph amended first by Article 3 of Legislative Decree no. 27 of 27.1.2010 which suppressed the words: "The auditing firm expresses its own opinion within thirty days."; successively by Article 40 of Legislative Decree no. 39 of 27.1.2010 which, in the first sentence, has replaced the words: "by the company appointed to perform the accounts audit" with the words: "by the subject appointed to carry out the legal auditing of the accounts" and, in the second sentence, has replaced the words: "to the auditing firm" with the words: "to the legal auditor or the legal auditing firm" and lastly by Article 1 of Legislative Decree n° 184 of 11.10.2012 which has replaced the words «by the subject appointed to provide for the legal auditing of the accounts» with the words: «by a legal auditor or by a legal auditing firm».

1170 Paragraph first amended by Article 3 of Italian Lgs. Decree no. 27 of 27.1.2010 which replaced the words: "must remain deposited at the company's head office during the fifteen days prior to the shareholders' meeting" with the words: "are made available to the public according to the manner contemplated by article 125-ter, paragraph 1, for at least twenty-one days prior to the shareholders' meeting" and successively by Article 40 of Legislative Decree no. 39 of 27.1.2010 which has replaced the words: "of the auditing firm" with the words: "of the legal auditor or the legal auditing firm".

1171 Paragraph first replaced by Article 3, Legislative Decree no. 37 of 6.2.2004 and later amended by Article 40, Legislative Decree no. 39 of 27.1.2010 which replaced the words: "of the independent auditors" with the words: "of the statutory auditor or independent statutory auditor".

1172 Paragraph added by Article 3 of Legislative Decree no. 91 of 18.6.2012.

1173 Paragraph repealed by Article 3 Legislative Decree 37/2004.

1174 Paragraph repealed by Article 3 Legislative Decree 37/2004.

Article 159[1175]
Conferment and revocation of the engagement

1. In the event of failure to appoint a statutory auditor or independent statutory auditors, the company required to confer appointment must promptly inform CONSOB, explaining the reasons for the delay in arranging the audit assignment[1176].

2. …omissis…[1177]

3. …omissis…[1178]

4. …omissis…[1179]

5. …omissis…[1180]

6. …omissis…[1181]

7. …omissis…[1182]

8. …omissis…[1183]

Article 160
Incompatibility

…omissis…[1184]

Article 161
Special register of independent auditors

…omissis…[1185]

1175 Article first amended by Legislative Decree no. 37 of 6.2.2004, later replaced by Article 18 of Law no. 262 of 28.12.2005 and finally amended by Article 3 of Legislative Decree no 303 of 29.12.2006 in the terms indicated in subsequent notes.

1176 Paragraph first amended by Article 3, paragraph 16, Legislative Decree no. 303 of 29.12.2006 and later replaced by Article 40, Legislative Decree no. 39 of 27.01.2010.

1177 Paragraph first amended by Article 3, paragraph 16, Legislative Decree no. 303 of 29.12.2006 and later repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1178 Paragraph repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1179 Paragraph first replaced by Article 3, paragraph 16, Legislative Decree no. 303 of 29.12.2006 and later repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1180 Paragraph first replaced by Article 3, paragraph 16, Legislative Decree no. 303 of 29.12.2006 and later repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1181 Paragraph repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1182 Paragraph repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1183 Paragraph repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1184 Article repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1185 Article first added by Article 18, Law no. 262 of 28.12.2005 and later repealed by Article 40, Legislative Decree no. 39 of 27.1.2010. Since 13.9.2012 the Register of Legal Auditors has been instituted at the Ministry of Economy and Finance, containing the auditing firms previously registered on the special list held by CONSOB (see Ministry of

Article 162
Supervision of independent auditors

…omissis…[1186]

Article 163
CONSOB measures

…omissis…[1187]

Article 164
Liability

…omissis…[1188]

Article 165
Auditing of groups

…omissis…[1189]

Economy and Finance regulations nos. 144 and 145 of 20.6.2012 and no. 146 of 25.6.2012). Pursuant to Article 43, paragraph 9, of Legislative Decree no. 39 of 27 January 2010, until the issue on the part of the Ministry of Economy and Finance of the regulation contemplated by Article 34, paragraph 1 of the same decree, CONSOB will temporarily provide for the registration of auditors and auditing firms of third party countries in a special section of the Special Register of auditing companies contemplated by article 161 of Legislative Decree no. 58 of 24 February 1998, according to the terms and procedures established by the same by resolution no. 17439 of 27 July 2010, successively amended by Resolution no. 18081 of 25 January 2012. The legal revision of entities of public interest (as pursuant to Article 16 of Legislative Decree no. 39 of 27.1.2010) is carried out only by auditing firms entered on the register of legal auditors instituted by the Ministry of Economy and Finance.

1186 Article first amended by Article 18, Law no. 262 of 28.12.2005 and by Article 3, paragraph 18, Legislative Decree no. 303 of 29.12.2006, and later repealed by Article 40, Legislative Decree no. 39 of 27.1.2010. See Ministry of Economy and Finance regulation no. 145 of 20.6.2012. See auditing principles adopted by the State General Accounting Office with decisions dated 23.12.2014, 15.6.2017, 31.7.2017, 12.1.2018 and 3.8.2020.

1187 Article first amended by Article 18, Law no. 262 of 28.12.2005 and then repealed by Article 40, Legislative Decree no. 39 of 27.1.2010. See now Article 26 of Legislative Decree no. 39 of 27.1.2010.

1188 Article first amended by Article 3, Legislative Decree no. 37 of 6.2.2004 and later repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1189 Article first amended by Article 9, Legislative Decree no. 37 of 6.2.2004 and Article 18, Law no. 262 of 28.12.2005, later repealed by Article 40, Legislative Decree no. 39 of 27.01.2010. The provisions issued by CONSOB pursuant to the regulations repealed or replaced by Legislative Decree no. 39 of 27.1.2010 shall continue to apply, to the extent they may be compatible, until the entry into force of CONSOB measures issued in accordance with corresponding matters of the aforementioned decree Specifically, until the entry into force of regulations pursuant to Article 16, Legislative Decree no. 39 of 27.1.2010, the appointment and duration of audit assignments of subsidiaries of listed companies, companies with control over listed companies and companies subject to joint control with the latter, shall continue to be governed by Article 165 paragraphs 1 and 2, Article 165-bis paragraphs 1 and 2, Legislative Decree 58/1998, and related implementing provisions issued by CONSOB. The text of Article 165, paragraphs 1 and 2 is as follows: “Article 165 (Auditing of groups) – 1. The provisions of this section, except for Article 157, shall also apply to subsidiaries of listed companies. […omissis…]. 2. CONSOB shall issue a regulation implementing this article, in particular establishing criteria for the exclusion of subsidiaries that are not significant for consolidation purposes. The regulation shall be issued in agreement with the competent supervisory authorities for rules applying to persons subject to their supervision.”.

Article 165-bis
Companies with control of listed companies

…omissis…[1190]

Section VI-bis[1191]
Relations with foreign companies having their registered office in a country that does not ensure corporate transparency

Article 165-ter[1192]
Scope

1. This section shall apply to Italian companies with shares listed on regulated markets referred to in Article 119 that control companies having their registered office in a country whose legal system does not ensure transparency with regard to their formation, assets and liabilities, and operations; it shall also apply to Italian companies with shares listed on regulated markets that are affiliated with or controlled by such foreign companies[1193].

2. The notion of control defined in Article 93 and the notion of affiliation defined in the third paragraph of Article 2359 of the Civil Code shall apply.

3. The countries referred to in paragraph 1 shall be identified in decrees issued by the Minister of Justice, in concert with the Minister of the Economy and Finance, on the basis of the following factors:

a) as regards the forms and conditions for the setting up of companies:

1) absence of provision for publicizing constituent instruments and Articles of Association and subsequent amendments thereto;

2) absence of a minimum capital requirement for the setting up of companies capable of

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1190 Article first added by Article 18, Legislative Decree no. 262 of 28.12.2005 and later repealed by Article 40, Legislative Decree no. 39 of 27.1.2010. The provisions issued by CONSOB pursuant to the regulations repealed or replaced by Legislative Decree no. 39 of 27.1.2010 shall continue to apply, to the extent they may be compatible, until the entry into force of CONSOB measures issued in accordance with corresponding matters of the aforementioned decree Specifically, until the entry into force of regulations pursuant to Article 16, Legislative Decree no. 39 of 27.1.2010, the appointment and duration of audit assignments of subsidiaries of listed companies, companies with control over listed companies and companies subject to joint control with the latter, shall continue to be governed by Article 165 paragraphs 1 and 2, Article 165-bis paragraphs 1 and 2, Legislative Decree 58/1998, and related implementing provisions issued by CONSOB. The text of Article 165-bis, paragraphs 1 and 2 is as follows: "Article 165-bis (Companies with control of listed companies) 1. The provisions of this section, except for Article 157, shall also apply to companies with control of listed companies and companies subject to joint control with the latter. 2. Article 165, paragraph 1-bis shall apply to the independent auditors of the parent company.". The text of Article 165, paragraph 1-bis is as follows: "Article 165 (Auditing of groups) 1-bis. The independent auditors of the listed parent company shall have full responsibility for audit of the consolidated financial statements of the group. For this purpose, it shall receive audit documents from the independent auditors of the other group companies; it may ask the aforementioned independent auditors or the directors of group companies for other documents and information useful for audit purposes, and make direct arrangements for verifications, inspections and controls on the premises of such companies. If censurable facts are found, it shall promptly inform CONSOB and the control bodies of the parent company and the group company concerned.".

1191 Section first added by Article 6 of Law 262 of 28.12.2005 and then amended by Article 3, paragraph 16, of Legislative Decree no. 303 of 29.12.2006 and Article 40 of Legislative Decree no. 39 of 27.1.2010 and Article 4 of Law no. 21 of 5.3.2024 in the terms indicated in the following notes.

1192 Section first added by Article 6 of Law 262 of 28.12.2005 and then amended by Article 4 of Law no. 21 of 5.3.2024 in the terms indicated in the following notes.

1193 Paragraph thus replaced by Article 4 of Law no. 21 of 5.3.2024.

safeguarding creditors and of provision for the dissolution of companies in the event of a reduction of the capital below the legal minimum, except where it is replenished within a given time limit;

3) absence of rules that ensure the effectiveness and integrity of the subscribed share capital, in particular by having contributions in kind and contributions of claims valued by an expert appointed for the purpose;

4) absence of provision for persons or bodies authorised for the purpose by specific provisions of law to control the conformity of the instruments referred to in point 1) with the requirements for the setting up of companies;

b) as regards the structure of companies, absence of provision for a control body separate from the management body or of a control committee of the board of directors endowed with appropriate powers of inspection, control and authorisation with respect to the company's accounting records, annual accounts and organisational arrangements and consisting of persons who satisfy appropriate integrity, experience and independence requirements;

c) as regards the annual accounts:

1) absence of provision for the obligation to draw up such accounts, including at least an income statement and a balance sheet, in conformity with the following principles:

1.1) clear, truthful and fair representation of the assets and liabilities and financial position of the company and of the result for the year;

1.2) clear description of the valuation methods used in preparing the income statement and the balance sheet;

2) absence of the obligation to file the annual accounts, drawn up in conformity with the principles referred to in point 1), with an administrative or judicial body;

3) absence of the obligation to have companies' accounting records and annual accounts checked by the control body or committee referred to in paragraph b) or by a statutory auditor;

d) the legislation of the country in which the company has its registered office impedes or restricts the business of the company in that country;

e) the legislation of the country in which the company has its registered office excludes the indemnification of directors dismissed without just cause or allows such a clause to be included in companies' constituent instruments or other contractual instruments;

f) absence of provision for an appropriate discipline preventing companies from continuing in business after they are insolvent, without recapitalization or prospects of recovery;

g) absence of appropriate penal sanctions for corporate officers who falsify accounting records or annual accounts.

4. The decrees issued by the Minister of Justice referred to in paragraph 3 may identify, in relation to the legal forms and frameworks for companies provided for in foreign legal systems, equivalent criteria on the basis of which the requirements concerning transparency and capital and organisational suitability specified in this article can be considered to be satisfied.

5. The decrees referred to in paragraph 3 may identify countries whose legal systems show particularly serious shortcomings with regard to the aspects referred to in paragraphs 3(b), 3(c) and 3(g).

6. CONSOB shall lay down in a regulation the basic criteria in the light of which Italian companies referred to in Article 119 may control companies having their registered office in one of the countries referred to in paragraph 5. To this end consideration shall be given to the reasons of an entrepreneurial nature for having control and the need to ensure complete and fair disclosure of corporate information[1194].

1194 Paragraph thus amended by Article 4 of Law no. 21 of 5.3.2024, which deleted the words: "and Italian companies

7. In the event of failure to comply with the rules issued pursuant to paragraphs 5 and 6, CONSOB may report the facts to the courts with a view to the adoption of the measures provided for in Article 2409 of the Civil Code.

Article 165-quater[1195]
Obligations of Italian parent companies

1. Italian companies with shares listed on regulated markets referred to in Article 119 that control companies having their registered office in one of the countries specified in the decrees referred to in Article 165-ter(3) shall include an annex to their annual accounts or their consolidated accounts if they are required to prepare them with the annual accounts of the foreign subsidiary, drawn up in accordance with the accounting principles and rules applicable to the annual accounts of Italian companies or internationally accepted accounting standards[1196].

2. The annual accounts of the foreign subsidiary, attached to the annual accounts of the Italian company pursuant to paragraph 1, shall be signed by the latter's board of directors and general manager and its manager charged with preparing the company's financial reports, who shall attest to the truthfulness and fairness of the representation of the assets and liabilities and financial position and of the result for the year. The annual accounts of the Italian company shall also contain an annex with the opinion expressed by its internal control body on the annual accounts of the foreign subsidiary.

3. The annual accounts of the Italian parent company shall be accompanied by a report prepared by the directors on the business dealings between the Italian company and the foreign subsidiary, with special reference to credit and debt positions and transactions they concluded during the year to which the annual accounts refer, including the provision of guarantees for financial instruments issued in Italy or abroad by the above-mentioned companies. The report shall be signed by the general manager and the manager charged with preparing the company's financial reports. The opinion expressed by the internal control body shall be attached to the report.

4. The financial statements of the foreign subsidiary, attached to the Italian company's financial statements pursuant to paragraph 1, shall be subject to audit by the statutory auditor or appointed statutory auditor of the Italian company's financial statements; where such person does not operate in the country in which the foreign subsidiary is registered, the services of another suitable statutory auditor or appointed statutory auditor must be used and liability accepted for the latter's action. Where the Italian company, under no obligation to do so, does not have a statutory auditor or appointed statutory auditor, such an assignment must be arranged for the financial statements of the foreign subsidiary[1197].

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with financial instruments widely distributed among the public referred to in Article 116". See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

1195 Article first added by Article 6, Law no. 262 of 28.12.2005 and later amended by Article 3, paragraph 16, Legislative Decree no. 303 of 29.12.2006, by Article 40, Legislative Decree no. 39 of 27.1.2010 and Article 4 of Law no. 21 of 5.3.2024 as indicated in the following footnotes.

1196 Paragraph thus amended by Article 4 of Law no. 21 of 5.3.2024, which deleted the words: "and Italian companies with financial instruments widely distributed among the public referred to in Article 116".

1197 Paragraph first amended by Article 3, paragraph 16, Legislative Decree no. 303 of 29.12.2006 and later replaced by Article 40, Legislative Decree no. 39 of 27.01.2010.

5. The financial statements of the foreign subsidiary, signed pursuant to paragraph 2, with the report, related attachments and the opinion expressed by the person responsible for the audit pursuant to paragraph 4 shall be transmitted to CONSOB[1198].

Article 165-quinquies[1199]
Obligations of Italian affiliates

1. The annual accounts of Italian companies with shares listed on regulated markets referred to in Article 119 that are affiliated with companies having their registered office in one of the countries specified in the decrees referred to in Article 165-ter(3) shall be accompanied by a report prepared by the directors on the business dealings between the Italian company and the foreign affiliate, with special reference to credit and debt positions and transactions they concluded during the year to which the annual accounts refer, including the provision of guarantees for financial instruments issued in Italy or abroad by the above-mentioned companies. The report shall be signed by the general manager and the manager charged with preparing the company's financial reports. The opinion expressed by the internal control body shall be attached to the report[1200].

Article 165-sexies[1201]
Obligations of Italian subsidiaries

1. The annual accounts of Italian companies with shares listed on regulated markets referred to in Article 119 and Italian companies with financial instruments widely distributed among the public referred to in Article 116 or which have obtained substantial loans that are controlled by companies having their registered office in one of the countries specified in the decrees referred to in Article 165-ter(3) shall be accompanied by a report prepared by the directors on the business dealings between the Italian company and the foreign parent company, the companies the latter controls and is affiliated with and those subject to common control, with special reference to credit and debt positions and transactions they concluded during the year to which the annual accounts refer, including the provision of guarantees for financial instruments issued in Italy or abroad by the above-mentioned companies. The report shall be signed by the general manager and the manager charged with preparing the company's financial reports. The opinion expressed by the internal control body shall be attached to the report[1202].

Article 165-septies
CONSOB's powers and implementing provisions

1. CONSOB shall exercise the powers provided for in Articles 114 and 115 for the purposes specified in Article 91 with regard to the Italian companies referred to in this section. In order to verify fulfilment of the obligations referred to in this section by such Italian companies, it may exercise the

1198 Paragraph amended by Article 40, Legislative Decree no. 39 of 27.01.2010 which replaced the words: "by the company" with the words: "by the person".

1199 Article first added by Article 6 of Law no. 262 of 28.12.2005 and then amended by Article 4 of Law no. 21 of 5.3.2024 as indicated in the following footnote.

1200 Paragraph thus amended by Article 4 of Law no. 21 of 5.3.2024, which deleted the words: "and Italian companies with financial instruments widely distributed among the public referred to in Article 116".

1201 Article first added by Article 6 of Law no. 262 of 28.12.2005 and then amended by Article 4 of Law no. 21 of 5.3.2024 as indicated in the following footnote.

1202 Paragraph thus amended by Article 4 of Law no. 21 of 5.3.2024, which deleted the words: "and Italian companies with financial instruments widely distributed among the public referred to in Article 116".

same powers with regard to foreign companies, after obtaining the consent of the competent foreign authorities, or request the latter's assistance or cooperation, inter alia under cooperation agreements concluded with them.

2. CONSOB shall issue a regulation with provisions implementing this section.[1203]

PART V[1204]
SANCTIONS

TITLE I
PENAL SANCTIONS[1205]

Chapter I
Intermediaries and markets

Article 166
Unauthorised activity

1. Imprisonment from one to eight years and a fine from Euro four thousand and Euro ten thousand shall be imposed on any person who, without being authorised pursuant to this decree [1206]:

a) provides investment services or activities or collective asset management services[1207];

b) markets units or shares of collective investment undertakings in Italy;

c) sells financial product or financial instruments or investment services door-to-door or uses distance marketing techniques to promote or place such instruments and services or activities[1208].

c-bis) carries out an APA or an ARM to which the derogation provided for in in Article 2,

1203 Article added by Article 6 of Law 262/2005. See CONSOB Regulation no. 11971 of 14.5.1999 and subsequent amendments and additions (published in the Ord. Suppl. no. 100 of the Official Journal no. 123 of 28.5.1999).

1204 Article 6, paragraph 2 of Legislative Decree no. 72 of 12.5.2015 provides that: "The amendments made to Part V of Legislative Decree no. 58 of 24 February 1998, apply to violations committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree no. 58 of 24 February 1998. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). To breaches committed before 8.3.2016 continue to be subject to the provisions of Part V of Legislative Decree no. 58 of 24 February 1998 applicable before the date of entry into force of this Legislative Decree". Paragraphs 13 and 14 of Article 10 of Legislative Decree no. 129 of 3 August 2017 stipulate that the amendments to Part V of Legislative Decree no. 58, apply to violations committed from 3 January 2018. The violations committed before 3 January 2018 continue to apply the provisions of Part V of Legislative Decree no. 58, in force the day before the date of entry into force of this decree. The Italian Constitutional Court with sentence no. 63 of 20 February 2019 declared the illegitimacy of paragraph 2 of Article 6 of Legislative Decree no. 72 of 12 May 2015 in the part in which it excludes the retroactive application of the amendments made by the decree for the offense regulated by Article 187-bis and 187-ter.

1205 Pursuant to Article 39, paragraph 1, Law no. 262 of 28.12.2005, punishments envisaged under this Title are doubled within the limits posed for each punishment type according to Book I, Title II, Chapter II of the Italian Criminal Procedure Code.

1206 Sentence thus substituted by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

1207 Letter amended by Article 16 Legislative Decree no. 164 of 17.9.2007.

1208 Letter first amended by Article 16 of Legislative Decree no. 164 of September 17, 2007 and then by Article 5 of Legislative Decree no. 129 of 3 August 2017 that before the words: " financial instruments or investment services," inserted the words "financial products or".

paragraph 3, of Regulation (EU) no. 600/2014 and related delegated acts would apply[1209].

2. The same punishment shall apply to any person who acts as a financial advisor authorised to make off-premises offers without being entered in the register referred to in Article 31.[1210]

2-bis. The same punishment is served on anyone who exercises the activity of central counterparty as contemplated by regulation (EU) no. 648/2012 of the European Parliament and of the Council, of 4 July 2012, without having obtained prior authorisation when required[1211].

3. Where there is a well-founded suspicion that a company is providing investment services or activities or collective asset management services or the management of an APA or an ARM to which the exemption provided for in Article 2 (3) of the Regulation (EU) no. 600/2014 and the related delegated acts would apply i.e. the activity referred to by section 2-bis without being authorised pursuant to this decree, the Bank of Italy or CONSOB shall inform the public prosecutor with a view to the adoption of the measures provided for in Article 2409 of the Civil Code or may apply to the courts for the adoption of the same measures. The costs of the inspection shall be borne by the company[1212].

Article 167
Breach of duty

1. Unless the act constitutes a more serious offence, any person who, in performing the service of management on a client-by-client basis of investment portfolios or the service of collective asset management in violation of the provisions governing conflicts of interest, undertakes operations that cause injury to investors with a view to obtaining an undue profit for himself or for others shall be punished by imprisonment for between six months and three years and by a fine of between ten million and two hundred million lire[1213.]

Article 168
Commingling of assets

1. Unless the act constitutes a more serious offence, any person who, in providing investment services or activities or collective asset management services or custody for the financial instruments or cash of a collective investment undertaking, with a view to obtaining an undue profit for himself or for others, violates the provisions governing the separation of assets and thereby causes injury to clients shall be punished by imprisonment for between six months and three yea s and by a fine of between

1209 Letter first inserted by Article 5 of the Legislative Decree n. 129 of 3.8.2017 and then thus replaced by Article 50 of Law Decree no. 50 of 17.5.2022, converted with amendments by the Law. n. 91 of 15.7.2022.

1210 Section thus amended by Article 1, section 39 of Italian Law no. 208 of 28.12.2015 which replaced the words: "financial advisors" with the words: "financial advisors authorised to make off-premises offers".

1211 Section introduced by Article 33 of Law no. 97 of 6.8.2013.

1212 Paragraph already replaced by Article 3 of Legislative Decree no. 37 of 6.2.2004, subsequently amended first by Article 16 of Legislative Decree no. 164 of 17.9.2007, by Article 33 of Law no. 97 of 6.8.2013, then by Article 5 of Legislative Decree no. 129 of 3.8.2017 which after the words: «of savings» has inserted the words: «or data communication services» and finally by Article 50 of the Law Decree n. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022, which replaced the words: "the data communication services" with the words: "the management of an APA or an ARM to which the exemption provided for in Article 2 (3) of the Regulation (EU) no. 600/2014 and the related delegated acts would apply". See also editor's note in Title I - Criminal sanctions.

1213 Paragraph amended by Article 16 of Legislative Decree no. 164 of 17.9.2007 which removed the words “of individual investment”. See also Title I – Financial penalties.

ten million and two hundred million lire[1214].

Article 169
Holdings of capital

1. Unless the fact is a more serious offence, anyone who gives false information in the communications contemplated by Articles 15, paragraphs 1 and 3, 64-bis, paragraph 2, or in those required pursuant to Article 17 of this decree, or in those contemplated by Article 31, sub-section 2, of Regulation (EU) no. 648/2012 and by Article 27, sub-section 7, paragraph 2, of Regulation (EU) no. 909/2014, is punished by imprisonment from one to three years and a fine from Euro five thousand one hundred and sixty-five to Euro fifty one thousand six hundred forty-six[1215] / [1216].

Article 170
Central depository services for financial instruments

1. Any person who in effecting registrations or issuing certifications in connection with central depository services falsely represents facts of which the registration or certification is intended to prove the truth or who transfers or delivers financial instruments or transfers the related rights without recovering the certifications, shall be punished by imprisonment for between three months and two years[1217].

Article 170-bis[1218]
Obstruction of the supervisory functions of the Bank of Italy and of CONSOB[1219]

1. Except for the cases provided for by Article 2638 of the Civil Code, any person who obstructs the supervisory functions entrusted to the Bank of Italy and to CONSOB shall be punished by imprisonment for a term of up to two years and a fine of between Euro ten thousand and Euro two hundred thousand.[1220]

Article 171
Protection of supervision

...omissis... [1221]

1214 Paragraph amended by Article 16 Legislative Decree no. 164 of 17.9.2007. See also Title I – Financial penalties.

1215 Paragraph first replaced by Article 3 of Legislative Decree no. 176 of 12.8.2016 and then thus amended by Article 5 of Legislative Decree no. 129 of 3.8.2017, which replaced the words “61, paragraph 6,” with the words “64-bis, paragraph 2”.

1216 The Articles is not subject to the provisions referred to in the ed. note of Title I –Criminal sanctions.

1217 See also Title I – Financial penalties.

1218 Article first introduced by Article 9 of Italian Law no. 62 of 18.4.2005 (Community Law 2004) and later amended by Article 24 of Decree Law no. 179 of 18.10.2012 according to the indications given in the following notes. See also editor’s note to Title I – Penal sanctions.

1219 Provision thus substituted by Article 24 of Italian Decree Law no. 179 of 18.10.2012.

1220 Paragraph thus amended by Article 24 of Italian Decree Law no. 179 of 18.10.2012 which after the words: «the supervisory functions assigned» has included the words «to the Bank of Italy and».

1221 Article repealed by Article 8 of Legislative Decree 61/2002 (published in O.J. no. 88 of 15.4.2002). The offences that were previously referred to in Article 171 are now provided for and punished by Article 2638 of the Civil Code, as amended by Article 1 of Legislative Decree 61/2002: "Article 2638 (Hindering the performance of the functions of public

Chapter II
Issuers

Article 172
Irregular acquisition of shares

1. Directors of companies with listed shares or of subsidiaries thereof who acquire treasury shares or shares of the parent company in violation of Article 132 shall be punished by imprisonment for between six months and three years and by a fine of between four hundred thousand and two million lire[1222].

2. The provision of paragraph 1 shall not apply where the acquisition is performed in a manner other than that established by CONSOB Regulations, but which is nonetheless suitable to ensuring the fair treatment of shareholders[1223].

2-bis. The provisions in paragraph 1 shall apply to administrators of companies with shares traded on an Italian multilateral trading facility[1224].

Article 173
Failure to dispose of shareholdings

1. Directors of companies with listed shares or of companies that own shareholdings in companies with listed shares who violate the obligation to dispose of shareholdings referred to in Articles 110 and 121 shall be punished by imprisonment for a term of up to one year and by a fine of between twenty-five thousand euro and two million five hundred thousand euro [1225].

Article 173-bis
False statements in prospectuses

1. Any person who, with a view to obtaining an undue profit for himself or for others, in prospectuses required for public offerings or for admission to trading on regulated markets, with the intention of

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supervisory authorities) - 1. Directors, general managers, members of the board of auditors and liquidators of companies and other entities and other persons subject by Law to public supervisory authorities or to obligations towards them who, with a view to obstructing the performance of supervisory functions, in communications to such authorities provided for by Law report material facts that are not true, even if the subject of estimates, concerning the profits and losses, assets and liabilities or financial position of persons subject to supervision, or who, for the same purpose, wholly or partly conceal by other fraudulent means facts that should have been communicated in relation thereto, shall be punished by imprisonment for between one and four years. The punishment shall also apply where the information concerns assets held or administered by the company on behalf of third parties. 2. The same punishment shall apply to directors, general managers, members of the board of auditors and liquidators of companies and other entities and other persons subject by Law to public supervisory authorities or to obligations towards them who in any way, including the omission of communications due to such authorities, wilfully hinder their functions." The punishment is doubled for companies with shares listed on Italian regulated markets or those of other EU member states or are disclosed to the public to a significant extent pursuant to article 116 of the Consolidated Law with regard to Legislative Decree no. 58 of 24 February 1998.

1222 See also Title I – Financial penalties.

1223 Paragraph first replaced by Article 2 of Legislative Decree no. 224 of 29.11.10 and later thus amended by article 4 of Legislative Decree 107 of 10.8.2018, which removed the words “on the regulated market”.

1224 Paragraph inserted by article 4 of Legislative Decree no. 107 of 10.8.2018.

1225 Article as amended by Article 5 Legislative Decree no. 229 of 19.11.2007, which replaced the words: “from two hundred thousand Lire to two million Lire” with the words: “from twenty-five thousand euro to two million five hundred thousand euro. (See also editor’s note to Title 1 – Judicial Sanctions).

deceiving the recipients of the prospectus, includes false information or conceals data or news in a way that is likely to mislead such recipients, shall be punished by imprisonment for between one and five years.[1226]

Article 174
False notifications and obstruction of CONSOB's functions

...omissis... [1227]

Chapter III
Auditing of accounts

Article 174-bis
False statements in auditing firms' reports or communications

…omissis…[1228]

Article 174-ter
Corruption of auditors

…omissis…[1229]

Article 175
False statements in auditing firms' reports or communications

...omissis... [1230]

1226 Article first included by Article 34 of Law no. 262 of 28.12.2005 and later amended by Article 4 Legislative Decree no. 51 of 28.3.2007 which replaced the words: "invitation to invest" with the words: "public offering of financial products".

1227 Article repealed by Article 8 of Legislative Decree 61/2002 (published in O.J. no. 88 of 15.4.2002). The offence of "False notifications and obstruction of CONSOB's functions" is now provided for and punished by Article 2638 of the Civil Code, as amended by Article 1 of Legislative Decree 61/2002. For the text of Article 2638 of the Civil Code, see the note to Article 171.

1228 Article first added by Article 35, Legislative Decree no. 262 of 28.12.2005 and later repealed by Article 40, Legislative Decree no. 39 of 27.1.2010.

1229 Article first added by Article 35, Legislative Decree no. 262 of 28.12.2005 and later repealed by Article 40, Legislative Decree no. 39 of 27.1.2010.

1230 Article repealed by Article 8 of Legislative Decree 61/2002 (published in O.J. no. 88 of 15.4.2002). The offence of "False statements in auditing firms' reports or communications" is now provided for and punished by Article 2624 of the Civil Code, as amended by Article 1 of Legislative Decree 61/2002: "Article 2624 (False statements in auditing firms' reports or communications) - 1. The persons responsible for an audit who, with a view to making an unjust profit for themselves or for others, in reports or communications, aware of the falsity and the intention to deceive the recipients of the communications, make a false statement or conceal information concerning the profits and losses, assets and liabilities or financial position of the company, entity or person subject to audit in a way that is likely to mislead the recipients of the communications in relation thereto shall be punished, if the conduct has not caused harm to the latter's assets, by imprisonment for a term of up to one year. 2. If the conduct has caused harm to the assets of the recipients of the communications, the punishment shall be imprisonment for between one and four years."

Article 176
Use and divulgence of confidential information

...omissis... [1231]

Article 177
Illegal financial relationships with the audited company

…omissis…[1232]

Article 178
Illegal compensation

…omissis…[1233]

Article 179
Common provisions

...omissis...[1234]

TITLE I-BIS[1235] MARKET ABUSE[1236]

Chapter I General provisions

Article 180
Definitions

1. For the purposes of this title:

a) “financial instruments” shall mean:

1) financial instruments pursuant to article 1, paragraph 2 admitted to trading or for which application has been submitted for admission to trading on an Italian regulated market or that of another EU member country;

2) financial instruments pursuant to article 1, paragraph 2 admitted to trading or for which

1231 Article repealed by Article 8 of Legislative Decree 61/2002 (published in O.J. no. 88 of 15.4.2002). See Article 622 of the Penal Code as amended by Article 2 of Legislative Decree 61/2002: "Article 622 (Violation of professional secrecy) - 1. Any person who is in possession of confidential information, as a consequence of his/her status or office, or profession or activity, and divulges it without just cause, or uses it for his/her own benefit or for the benefit of others shall be punished, if the act may cause harm, by a term of imprisonment of up to one year or by a fine of between 60,000 and 1 million lire. 2. The punishment shall be increased if the offence is committed by directors, general managers, members of the board of auditors or liquidators or if it is committed by persons who audit the company's accounts. 3. The offence shall be punishable on the basis of a complaint lodged by the injured party."

1232 Article repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1233 Article repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1234 Article repealed by Article 40, Legislative Decree no. 39 of 27.01.2010.

1235 Chapter IV - “Unauthorised use of inside information and manipulation involving financial instruments”, comprising Articles from 180 to 187-bis was replaced by Title I-bis (Articles 180-187-quaterdecies) by Article 9 of Law 62/2005 (the 2004 Community Law), which it was subsequently amended within the terms specified in the notes that follow.

1236 Heading thus substituted by Article 4 of Legislative Decree 107 of 10.8.2018.

an application had been submitted for admission to trading on an Italian multilateral trading facility or that of another European member state;

2-bis) financial instruments traded on an Italian organised trading facility or that of another European member state;

2-ter) financial instruments not contemplated in parts 1, 2 and 2-bis above, whose price or value depends on the price or value of a financial instrument mentioned therein, or has an effect on this price or value, including, but not limited to, credit default swaps and differential contracts[1237];

b) "spot commodity contracts": spot commodity contracts as defined in article 3, paragraph 1, part 15 of Regulation (EU) no. 596/2014[1238];

b-bis) “plan to repurchase own shares” the trading of own shares pursuant to article 132[1239];

b-ter) “inside information”: the information contemplated by article 7, paragraphs 1-4 of Regulation (EU) no. 596/2014[1240];

b-quater) “benchmark”: the reference index (benchmark) as defined in article 3, paragraph 1, part 29) of Regulation (EU) no. 596/2014[1241];

c) “admitted market practices”: practices admitted by CONSOB in compliance with Regulation (EU) no. 596/2014[1242];

c-bis) “stabilisation”: stabilisation as defined in article 3, paragraph 2, letter d) of Regulation (EU) no. 596/2014[1243]:

c-ter) “issuer”: the issuer as defined in article 3, paragraph 1, part 21) of Regulation (EU) no. 596/2014[1244];

d) "entity" shall mean one of the persons referred to in Article 1 of Legislative Decree 231/2001.[1245]

Article 181
Inside information

...omissis...[1246]

Article 182
Scope

1. The provisions of articles 184, 185, 187-bis and 187-ter shall apply to acts involving:

a) financial instruments admitted, or for which an application has been made for admission, to trading on an Italian regulated market or on a regulated market of other EU countries;

b) financial instruments admitted, or for which an application has been made for admission, to

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1237 Letter first substituted by Article 1, paragraph13 of Legislative Decree no. 101 of 17.7.2009 and later thus amended by Article 4 of Legislative Decree no. 107 of 10.8.2018, which, in part 1), removed the words “, as well as any other instrument admitted of which an application for admission to trading in a regulated market of a European member state”; substituted number 2) and inserted numbers 2-bis) and 2-ter).

1238 Letter thus substituted by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1239 Letter inserted by Legislative Decree no. 107 of 10.8.2018.

1240 Letter inserted by Legislative Decree no. 107 of 10.8.2018.

1241 Letter inserted by Legislative Decree no. 107 of 10.8.2018.

1242 Letter thus substituted by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1243 Letter inserted by Legislative Decree no. 107 of 10.8.2018.

1244 Letter inserted by Legislative Decree no. 107 of 10.8.2018.

1245 See Editor’s Note to Title I-bis.

1246 Article repealed by article 4 of Legislative Decree no. 107 of 10.8.2018.

trading on an Italian multilateral trading facility or on a multilateral trading facility of other EU countries;

c) financial instruments traded on an organised trading facility;

d) financial instruments not indicated in letters a), b) and c) and whose price or value depends on the price or value of a financial instrument mentioned in those letters or has an effect on such price or value, including, without any limitation thereto, credit default swaps and financial contracts for difference;

e) behaviour or transactions, including offers, relating to auctions on authorised auction platforms, such as a regulated marketed of emission allowances or other auctioned products based thereon, even when the products being auctioned are not financial instruments pursuant to Commission Regulation (EU) no. 1031/2000 of 12 November 2010.

2. The provisions of articles 185 and 187-ter shall also apply to acts involving:

a) Spot contracts for commodities that are not wholesale energy products, capable of sensibly altering the price or value of the financial instruments referred to in article 180, paragraph 1, letter a);

b) Financial instruments, including derivatives contracts or derivative instruments for the transfer of credit risk, capable of sensibly altering the price or value of a spot commodity contract, if the price or value depends on the price or value of these financial instruments;

c) Reference indexes (benchmarks).

3. The provisions of this Title shall apply to any transaction, order or other behavior involving the financial instruments referred to in paragraphs 1 and 2, regardless of the fact that such transaction, order or behavior takes place in a trading venue.

4. The crimes and the offences referred to in this Title shall be punished according to Italian law even if committed abroad where they concern financial instruments admitted, or for which an application has been made for admission, to trading on an Italian regulated market or Italian multilateral trading facility or financial instruments traded on an Italian organised trading facility[1247].

Article 183[1248]
Exemptions

1. The provisions of this title shall not apply:

a) to the transactions, orders or behaviour provided for by article 6 of Regulation (EU) no. 596/2014 by the parties indicated therein, relating to monetary policy, exchange-rate policy or public debt management, as well as relating to the EU climate policy or as part of the EU common agricultural policy or common fisheries policy;

b) to trading of own shares performed pursuant to Article 5 of Regulation (EU) no. 596/2014;

b-bis) to trading in the securities or associated instruments referred to in Article 3, paragraph 2, letters a) and b) of Regulation (EU) no. 596/2014 of the European Parliament and of the Council of 16 April 2014, for the stabilisation of securities, where such trading is carried out in compliance with Article 5, paragraphs 4 and 5, of the same Regulation[1249].

1247 Article amended first by Legislative Decree no. 101 of 17.7.2009 and Legislative Decree no. 107 of 10.8.2018 and then thus replaced by Article 26 of Law no. 238 of 23.12.2021.

1248 Article first amended by Article 1, paragraph 16 of Legislative Decree no. 101 of 17.7.2009, then substituted by Article 4 no. 107 of 10.8.2018 and finally amended by Article 26 of Law no. 238 of 23.12.2021 in the terms indicated in the following note.

1249 Letter added by Article 26 of Law no. 238 of 23.12.2021.

Chapter II
Penal sanctions[1250]

Article 184
Illegitimate use or unlawful disclosure of inside information. Recommending that another person engage in or inducing another person to engage in illegitimate use of inside information.

1. Imprisonment for between two and twelve years and a fine of between Euro twenty thousand and Euro three million shall be imposed on any person who, possessing inside information by virtue of his membership of the administrative, management or supervisory bodies of an issuer, his holding in the capital of an issuer or the exercise of his employment, profession, duties, including public duties, or position:

a) buys, sells or carries out other transactions involving, directly or indirectly, for his own account or for the account of a third party, financial instruments using such information;

b) discloses such information to others outside the normal exercise of his employment, profession, duties or position or a market sounding conducted pursuant to Article 11 of Regulation (EU) no. 596/2014 of the European Parliament and of the Council of 16 April 2014;

c) recommends or induces others, on the basis of such information, to carry out any of the transactions referred to in letter a).

2. The same punishment referred to in paragraph 1 shall apply to any person who, possessing inside information by virtue of the preparation or execution of criminal activities, carries out any of the actions referred to in paragraph 1.

3. Without prejudice to the cases of complicity in the criminal acts referred to in paragraphs 1 and 2, imprisonment for between 18 months and ten years and a fine of between Euro twenty thousand and Euro two point five million shall be imposed on any person who, possessing inside information by reasons other than those indicated in paragraphs 1 and 2 and being aware that it is inside information, commits one of the criminal acts referred to in paragraph 1.

4. In the cases referred to in paragraphs 1, 2 and 3, the fine can be increased up to three times or up to the larger amount of ten times the product of the crime or the profit therefrom when, in view of the particular seriousness of the offence, the personal situation of the guilty party or the magnitude of the product of the crime or the profit therefrom, the fine appears inadequate even if the maximum is applied.

5. The provisions of this article shall also apply where the acts referred to in paragraphs 1, 2 and 3 involve behaviours or transactions, including offers, relative to auctions on an authorised auction platform, such as a regulated market of emission allowances or other auctioned products based thereon, even when the auctioned products are not financial instruments in accordance with Commission Regulation (EU) no. 1031/2010 of 12 November 2010[1251].

1250 Pursuant to Article 39(1) of Law 262/2005, the penalties provided for in this Title shall be doubled within the limits set for each type of penalty in Book I, Title II, Chapter II of the Penal Code.

1251 Article first amended by Legislative Decree no. 101 of 17.7.2009 and Legislative Decree no. 107 of 10.8.2018 and then thus replaced by Article 26 of Law no. 238 of 23.12.2021.

Article 185
Market manipulation

1. Imprisonment for between one and six years and a fine of between twenty thousand euro and five million euro shall be imposed on any person who disseminates false information or sets up sham transactions or employs other devices concretely likely to cause a significant alteration in the price of financial instruments.

1-bis. There shall be no punishment for anyone who has committed the offence by means of sales or purchase orders or transactions carried out for lawful reasons and in compliance with the admitted market practices, pursuant to article 13 of Regulation (EU) no. 596/2014[1252].

2. Courts may increase the fine up to three times or up to the larger amount of ten times the product of the crime or the profit therefrom when, in view of the particular seriousness of the offence, the personal situation of the guilty party or the magnitude of the product of the crime or the profit therefrom, the fine appears inadequate even if the maximum is applied.

2-bis. …omissis…[1253]

2-ter. …omissis…[1254.]

Article 186
Accessory penalties

1. Conviction for any of the offences referred to in this chapter shall entail the application of the accessory penalties referred to in Articles 28, 30, 32-bis and 32-ter of the Penal Code for a period of not less than six months and not more than two years and the publication of the judgement in at least two daily newspapers having national circulation of which one shall be a financial newspaper.[1255]

Article 187
Confiscation

1. In the event of conviction for one of the crimes referred to in this chapter the assets constituting profit therefrom shall always be confiscated[1256].

2. If it is not possible to execute the confiscation pursuant to paragraph 1, a sum of money or property of equivalent value may be confiscated.

3. For matters not provided for in paragraphs 1 and 2, Article 240 of the Penal Code shall apply.[1257]

1252 Paragraph inserted by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1253 Paragraph first added by Article 1, paragraph 18, of Legislative Decree no. 101 of 17.7.2009, later amended by Article 4 of Legislative Decree no. 107 of 10.8.2018 and finally repealed by Article 26 of Law no. 238 of 23.12.2021.

1254 Paragraph first inserted by Article 4 of Legislative Decree no. 107 of 10.8.2018 and then repealed by Article 26 of Law no. 238 of 23.12.2021.

1255 See footnote to Title I-bis.

1256 Paragraph thus replaced by Article 26 of Law no. 238 of 23.12.2021.

1257 See footnote to Title I-bis.

Chapter III
Administrative sanctions

Article 187-bis[1258]
Insider trading and unlawful communication of inside information

1. Without prejudice to the judicial sanctions applicable when the act constitutes a criminal offence, a pecuniary administrative sanction of between twenty thousand euro and five million euro shall be imposed on anyone who infringes the law against insider trading and unlawful communication of inside information, as per article 14 of Regulation (EU) no. 596/2014[1259].

2. ... omissis...[1260]

3. ... omissis...[1261]

4. ... omissis...[1262]

5. The pecuniary administrative sanctions provided for by this article shall be increased up to three times or, where larger, ten times the profit generated or the losses avoided due to the unlawful action when, having taken account of the criteria listed in article 194-bis and the size of the product or the profit from the unlawful action, they appear to be inadequate even if the maximum is applied[1263].

6. For the cases referred to in this article, attempted violations shall be treated as completed violations.

Article 187-ter[1264]
Market manipulation

1. Without prejudice to the judicial sanctions applicable when the action constitutes a criminal offence, a pecuniary administrative sanction of between twenty thousand euro and five million euro shall be imposed on anyone who infringes the law against market manipulation referred to in article 15 of Regulation (EU) regulation 596/2014[1265].

2. The provisions of article 187-bis, paragraph 5 shall apply[1266].

3. ...omissis...[1267]

4. Administrative sanctions may not be imposed on persons who demonstrate that they acted for

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1258 See footnote to Title I-bis.

1259 Paragraph thus substituted by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1260 Paragraph repealed by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1261 Paragraph repealed by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1262 Paragraph repealed by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1263 Paragraph thus substituted by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1264 See footnote to Title I-bis.

1265 Paragraph thus substituted by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1266 Paragraph thus substituted by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1267 Paragraph repealed by Article 4 of Legislative Decree no. 107 of 10.8.2018.

legitimate reasons and in accordance with accepted market practices for the market concerned[1268].

5. ...omissis...[1269]

6. ...omissis...[1270]

7. ...omissis...[1271]

Article 187-ter.1
Sanctions relating to the infringements of the provisions of Regulation (EU) no. 596/2014 of the European Parliament and Council of April 16 2014

1. With regard to a body or a company, in the event of infringement of the obligations provided for by article 16, paragraphs 1 and 2 by article 17, paragraphs 1, 2, 4, 5 and 8 of Regulation EU no. 596/2014, by the delegated acts and relative technical rules of regulation and implementation, as well as article 114, paragraph 3 of this decree, a pecuniary sanction of between from five thousand euro and two million five hundred thousand euro, or up to two percent of turnover when this amount is over two million five hundred thousand euro and turnover can be determined pursuant to article 195, paragraph 1-bis shall be applied.

2. If the infringements indicated by paragraph 1 are committed by a natural person, a pecuniary administrative sanction of between five thousand euro and one million euro shall be applied.

3. Without prejudice to the provisions of paragraph 1, the sanction indicated in paragraph 2 shall be applied against corporate officers and the staff of the company or body responsible for the infringement, in the cases provided for by article 190-bis, paragraph 1, letter a).

4. With regard to a body or company, in the event of infringement of the obligations provided for by article 18, paragraphs 1 to 6, by article 19, paragraphs 1, 2, 3, 5, 6, 7 and 11 and by article 20, paragraph 1 of Regulation (EU) no. 596/2014, by the delegated acts and relative technical rules of regulation and implementation.

5. If the infringements indicated by paragraph 4 are committed by a natural person, a pecuniary administrative sanction of between five thousand euro and five hundred thousand euro shall be applied.

6. Without prejudice to the provisions of paragraph 4, the sanction indicated in paragraph 2 shall be applied against corporate officers and the staff of the company or body responsible for the infringement, in the cases provided for by article 190-bis, paragraph 1, letter a).

7. If the advantage achieved by the author of the infringement as a consequence of the infringement itself is above the maximum limits indicated in this article, the pecuniary administrative sanction is increased to up to three times the amount of the advantage obtained, providing this amount can be determined.

8. CONSOB, even in combination with the pecuniary administrative sanctions provided for by this

1268 Paragraph thus substituted by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1269 Paragraph repealed by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1270 Paragraph repealed by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1271 Paragraph repealed by Article 4 of Legislative Decree no. 107 of 10.8.2018.

article, can apply one or more of the administrative measures provided for by article 30, paragraph 2 letters a) to g) of Regulation (EU) no. 596/2014.

9. When the infractions are only marginally offensive or dangerous, CONSOB may, apply one of the following administrative measures instead of the pecuniary sanctions provided for by this article, without prejudice to its power to order the confiscation referred to in Article 187- sexies;

a) the order to discontinue the alleged infringements, with possible indication of the measures to be adopted and the deadlines for fulfilment, and to ensure they are not repeated;

b) a public statement detailing the infringement committed and the person responsible, when the alleged infringement has been discontinued.

10 Failure to comply with the obligations prescribed by the measures referred to in article 30, paragraph 2 of Regulation (EU) no. 596/2014 by the established deadline shall imply an increase of the pecuniary administrative sanction imposed by up to one third or the application of the pecuniary administrative sanction foreseen for the infringement originally disputed increased by up to one third.

11. Articles 6, 10, 11 and 16 of Law no. 689 of November 24, 1981 shall not apply to the pecuniary administrative sanctions provided for by this article[1272].

Article 187-quater
Accessory administrative sanctions

1. Application of pecuniary administrative sanctions provided for by articles 187-bis and 187-ter entails:

a) the temporary ban on performing administrative, management or supervisory functions within entities authorised pursuant to this decree, Legislative Decree no. 385 of 1 September 1993, Legislative Decree no. 209 of 7 September 2005 or within pension funds;

b) the temporary ban on performing administrative, management or supervisory `functions within listed companies or companies belonging to the same group as listed companies.

c) suspension from the Register, pursuant to article 26, paragraphs 1, letter d) and 1-bis of Legislative Decree no. 39 of the statutory auditor, auditing firm or party responsible for the engagement;

d) suspension from the register referred to in article 31, paragraph 4 for financial advisors qualified to practise door-to-door selling;

e) the temporary loss of the requisites of integrity for the shareholders in the entities indicated in letter a)[1273].

1-bis Without prejudice to the provisions of paragraph, CONSOB, with the measure of applying the pecuniary administrative sanctions provided for by article 187-ter.1, may apply the accessory administrative sanctions indicated by paragraph, letters a) and b)[1274].

2. The accessory administrative sanctions referred to in paragraph 1 and 1-bis shall have a duration of between two months and three years[1275].

1272 Article inserted by article 4 of Legislative Decree no. 107 of 10.8.2018.

1273 Paragraph first amended by article 1, paragraph 39 of Law no.208 of 28.12.2015, which replaced the words “financial promoters” with the words: “financial advisors qualified to practise door-to-door selling” and later thus substituted by article 4 of Legislative Decree no. 107 of 10.8.2018.

1274 Paragraph inserted by article 4 of Legislative Decree no. 107 of 10.8.2018.

1275 Paragraph thus replaced by article 4 of Legislative Decree no. 107 of 10.8.2018.

2-bis When the perpetrator of the offence has already committed one of the crimes provided for in Chapter II, or an infringement of the provisions of articles 187-bis and 187-ter with intent or through gross negligence, twice or more in the last ten years, the accessory administrative sanction of permanent ban on performing administrative, managerial or supervisory functions within the entities indicated in paragraph 1, letters a) and b), in the case that the same party has already been banned for a total period of at least five years[1276].

3. In the measure imposing pecuniary administrative sanctions referred to in this chapter, CONSOB, taking into account the seriousness of the violation and the degree of fault, may order authorised intermediaries, market operators, listed issuers and auditing firms not to use the offender in the exercise of their activities for a period of not more than three years and ask the competent professional associations to suspend the registrant from practice of the profession as well as applying against the author of the infringement a temporary ban on concluding transactions, or acting as a direct counterparty in the issue of sales/purchase orders for a period of up to three years[1277].

Article 187-quinquies
Liability of the entity

1. Entities shall be punished with a pecuniary administrative sanction of between twenty thousand euro and fifteen million euro, or up to fifteen percent of turnover when this amount is more than fifteen million euro and the turnover can be determined pursuant to article 195, paragraph 1-bis, where an infringement of the prohibition under article 14 or of the prohibition under article 15 of Regulation (EU) no. 596/2014 is committed in their interest or to their advantage[1278]:

a) by persons performing representative, administrative or management functions in the entity or one of its organisational units having financial and functional autonomy and by persons who, de facto or otherwise, manage and control the entity.

b) persons subject to the direction or supervision of a person referred to in paragraph a).

2. If, following the perpetration of offences referred to in paragraph 1, the product thereof or the profit therefrom accruing to the entity is very large, the sanction shall be increased up to ten times such product or profit.

3. Entities shall not be liable if they demonstrate that the persons specified in paragraph 1 acted exclusively in their own interest or in the interest of third parties.

4. Articles 6, 7, 8 and 12 of Legislative Decree 231/2001 shall apply, insofar as they are compatible, to offences referred to in paragraph 1. The Ministry of Justice, after consulting CONSOB, shall formulate the observations referred to in Article 6 of Legislative Decree 231/2001 with regard to offences referred to in this chapter [1279].

1276 Paragraph inserted by article 4 of Legislative Decree no. 107 of 10.8.2018.

1277 Paragraph thus amended by Article 4 of Legislative Decree no. 107 of 10.8.2018, which substituted the words: “stock exchange companies” with “market operators” and added at the end the following words: “as well as applying against the author of the infringement a temporary ban on concluding transactions, or acting as a direct counterparty in the issue of sales/purchase orders for a period of up to three years”. See Editor’s Note to Title I-bis.”

1278 Sentence thus replaced by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1279 See Editor’s Note to Title I-bis.

Article 187-sexies
Confiscation

1. The application of the pecuniary administrative sanctions referred to in this chapter shall entail the confiscation of the product or profits of the offence[1280].

2. If it is not possible to execute the confiscation pursuant to paragraph 1, a sum of money or property of equivalent value may be confiscated[1281].

3. In no case may property not belonging to one of the persons on whom the pecuniary administrative sanction was imposed be confiscated.[1282]

Article 187-septies[1283]
Sanction procedures

1. The administrative sanctions provided for in this chapter shall be imposed by CONSOB with a reasoned order, after charging the interested parties within one hundred and eighty days or within three hundred sixty days from the ascertainment where the interested party resides or has its head office abroad. Interested parties may, within thirty days of the dispute, make submissions and request a personal hearing during the investigation stage, in which they may also participate with the assistance of a lawyer[1284].

2. The proceedings shall afford all parties the opportunity to state their case and have access to the investigation file. Transcripts shall be taken of the proceedings. Investigatory and adjudicatory functions shall be separate.

1280 Paragraph thus substituted by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1281 The Constitutional Court, with its sentence 25 October - 5 December 2018, no. 223 (Italian G.U. 1st special series no. 49 of 12 December 2018), stated the constitutional illegitimacy of Article 9, paragraph 6, of the Law 18 April 2005, no. 62 (Community Law 2004), where it is established that the confiscation by equivalent as defined by Article 187-sexies of the Legislative Decree of 24 February 1998, no. 58 applies, when criminal proceedings have not been defined yet, also to violations that have been committed before the date of entry into force of the same Law no. 62 of 2005, when the sanctioning treatment as a whole, consequential to the decriminalization intervention is effectively more unfavourable with respect to the other one which is applicable by previous legislation.

The Constitutional Court, with sentence 6 March - 10 May 2019, no. 112 (in Official Journal of the 1st special series no.20 of 15/05/2019), declared "the unconstitutionality of Article 187-sexies of Legislative Decree No. 58 of 1998, in the text originally introduced by art 9, paragraph 2, letter a), of the Law of April 18, 2005, No. 62, [...] in the part in which it provides for the mandatory confiscation, directly or by equivalent, of the product of the offense and the assets used to commit it , and not merely of profit" and "consequently, pursuant to article 27 of the Law of 11th March 1953, No. 87 [...], the unconstitutionality of article 187-sexies of Legislative Decree No. 58 of 1998, in the version resulting from the amendments made by Article 4, paragraph 14, of Legislative Decree 10 August 2018, No. 107, concerning “Rules for the adaptation of national legislation to the provisions of Regulation (EU) n 596/2014 relating to market abuse and repealing directive 2003/6/EC and directives 2003/124/EU, 2003/125/CE and 2004/72/CE", in the part in which it provides for mandatory confiscation, direct or by equivalent, of the product of the offense, and not only of the profit”.

1282 See footnote to Title I-bis.

1283 Paragraph 8 of Article 6 of Legislative Decree no. 72 of 12.5.2015 provides that: “The amendments to Article 187-septies, paragraphs 4, 5, 6, 6-bis, 6-ter, 7, 8 and 9, of Legislative Decree no. 58 of 24 February 1998 shall apply to proceedings brought after the entry into force of this Legislative Decree”.

1284 Paragraph first amended by Article 1, paragraph 19, of Legislative Decree no. 101 of 17.7.2009 and then replaced by Article 5 of Legislative Decree no. 72 of 12.5.2015.

3. …omissis…[1285]

4. An appeal can be brought against the provision that applies the sanction before the court of appeal under whose jurisdiction the appellant party's headquarters or residence fall. If the appellant party does not have its registered office or residence in the State, the court of appeal of the place where the violation occurred shall have jurisdiction. When these criteria do not apply, the court of appeal of Rome shall have jurisdiction. The appeal shall be notified, under penalty of forfeiture, to the Authority that issued the provision within thirty days of notification of the contested measure, or sixty days if the applicant resides abroad, and is filed with the clerk of the court, together with the documents by the deadline of thirty days from notification[1286].

5. Opposition does not suspend enforcement of the provision. If serious grounds occur, the court of appeal may order suspension with unchallengeable order [1287].

6. The President of the Court of Appeal shall designate the Judge-Rapporteur and fix, by decree, the public hearing to discuss the appeal. The decree shall be notified to the parties by the clerk of court at least sixty days before the hearing. The Authority shall file memorandums and documents within ten days before the hearing. If the appellant does not appear at the first hearing without presenting any legitimate excuse, the judge shall declare, with an order subject to appeal to the Court of Cassation, that the appeal cannot go forward and charging the appellant for the expenses of the procedure[1288]

1285 Paragraph repealed by Article 5 of Legislative Decree no. 72 of 12.5.2015

1286 Paragraph first repealed by Article 4 of Annex 4 to Legislative Decree no. 104 of 2.7.2010 (Article 133, paragraph 1, letter l) of Legislative Decree no. 104/2010 thus ordered: "The following are submitted to the exclusive jurisdiction of the administrative court, unless otherwise ordered by the Law: … l) disputes regarding all the provisions including those relative to sanctions and excluding those regarding the ratios of privatised loans, adopted by the Bank of Italy, by the National Securities and Investments Board […]"). Successively re-introduced by decision of the Constitutional Court no. 162 of 20/27 June 2012, which declared the constitutional illegitimacy of the provisions of Legislative Decree no. 104/2010 with the consequent reinstatement of the provisions of Legislative Decree no. 58/1998 which had been repealed. Yet later the aforesaid annex 4, Article 4, paragraph 1, number 19) of Legislative Decree no. 104 of 2.7.2010 was suppressed by Article 3, paragraph 1 of Legislative Decree no. 160 of 14.9.2012. Lastly, the Constitutional Court, with decision no. 94 of 9/15 April 2014 (Official Journal no. 18 of 23.4.2014 - First special series), declared, among other things, the constitutional illegitimacy of the aforesaid annex 4, Article 4, paragraph 1, number 19), in the part in which it repealed Article 187-septies, paragraphs 4 to 8, and Article 195, paragraphs 4 to 8, of this provision. This paragraph was finally thus replaced by Article 5 of Legislative Decree no. 72 of 12.5.2015.

1287 Paragraph first repealed by Article 4 of Annex 4 of Legislative Decree no. 104 of 2.7.2010. Successively re-introduced by decision of the Constitutional Court no. 162 of 20/27 June 2012, which declared the constitutional illegitimacy of the provisions of Legislative Decree no. 104/2010 with the consequent reinstatement of the provisions of Legislative Decree no. 58/1998 which had been repealed. Yet later the aforesaid annex 4, Article 4, paragraph 1, number 19) of Legislative Decree no. 104 of 2.7.2010 was suppressed by Article 3, paragraph 1 of Legislative Decree no. 160 of 14.9.2012. Lastly, the Constitutional Court, with decision no. 94 of 9/15 April 2014 (Official Journal no. 18 of 23.4.2014 - First special series), declared, among other things, the constitutional illegitimacy of the aforesaid annex 4, Article 4, paragraph 1, number 19), in the part in which it repealed Article 187-septies, paragraphs 4 to 8, and Article 195, paragraphs 4 to 8, of this provision. This paragraph was finally thus amended by Article 5 of Legislative Decree no. 72 of 12.5.2015 which replaced the words: "motivated decree" with the words: "unchallengeable order".

1288 Paragraph first repealed by Article 4 of Annex 4 of Legislative Decree no. 104 of 2.7.2010. Successively re-introduced by decision of the Constitutional Court no. 162 of 20/27 June 2012, which declared the constitutional illegitimacy of the provisions of Legislative Decree no. 104/2010 with the consequent reinstatement of the provisions of Legislative Decree no. 58/1998 which had been repealed. Yet later the aforesaid annex 4, Article 4, paragraph 1, number 19) of Legislative Decree no. 104 of 2.7.2010 was suppressed by Article 3, paragraph 1 of Legislative Decree no. 160 of 14.9.2012. Lastly, the Constitutional Court, with decision no. 94 of 9/15 April 2014 (Official Journal no. 18 of 23.4.2014 - First special series), declared, among other things, the constitutional illegitimacy of the aforesaid annex 4, Article 4,

6-bis. At the hearing the Court of Appeal shall have, even on its own motion, the evidence it deems necessary, as well as the personal hearing of the parties who have so requested. Then the parties shall proceed to an oral discussion of the case. The judgement is filed with the clerk of court within sixty days. When at least one of the parties would be interested in the advance publication of the order with respect to the judgement, the order is published by filing with the clerk of court no later than seven days from the discussion hearing[1289].

6-ter. With the decision, the court of appeal can dismiss the appeal, charging the appellant all the expenses of the procedure, or sustain it, annulling the order entirely or in part, or reducing the amount or term of the sanction[1290].

7. A copy of the judgement shall be forwarded, by the clerk of the court of appeal, to the Authority that issued the provision, also for the purposes of publication provided for in Article 195-bis[1291].

8. Article 16 of Italian Law no. 689 of 24 November 1981 does not apply to the pecuniary administrative sanctions envisaged by this chapter[1292].

Chapter IV
CONSOB's powers

Article 187-octies
CONSOB's powers

1. CONSOB is the competent national authority, pursuant to article 22 of Regulation (EU) no. 596/2014, for market abuse[1293].

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paragraph 1, number 19), in the part in which it repealed Article 187-septies, paragraphs 4 to 8, and Article 195, paragraphs 4 to 8, of this provision. This paragraph was finally thus replaced by Article 5 of Legislative Decree no. 72 of 12.5.2015.

1289 Paragraph included by Article 5 of Legislative Decree no. 72 of 12.05.2015.

1290 Paragraph included by Article 5 of Legislative Decree no. 72 of 12.05.2015.

1291 Paragraph first repealed by Article 4 of Annex 4 of Legislative Decree no. 104 of 2.7.2010. Successively re-introduced by decision of the Constitutional Court no. 162 of 20/27 June 2012, which declared the constitutional illegitimacy of the provisions of Legislative Decree no. 104/2010 with the consequent reinstatement of the provisions of Legislative Decree no. 58/1998 which had been repealed. Yet later the aforesaid annex 4, Article 4, paragraph 1, number 19) of Legislative Decree no. 104 of 2.7.2010 was suppressed by Article 3, paragraph 1 of Legislative Decree no. 160 of 14.9.2012. Lastly, the Constitutional Court, with decision no. 94 of 9/15 April 2014 (Official Journal no. 18 of 23.4.2014 - First special series), declared, among other things, the constitutional illegitimacy of the aforesaid annex 4, Article 4, paragraph 1, number 19), in the part in which it repealed Article 187-septies, paragraphs 4 to 8, and Article 195, paragraphs 4 to 8, of this provision. This paragraph was finally thus replaced by Article 5 of Legislative Decree no. 72 of 12.5.2015.

1292 Paragraph first repealed by Article 4 of Annex 4 of Legislative Decree no. 104 of 2.7.2010. Successively re-introduced by decision of the Constitutional Court no. 162 of 20/27 June 2012, which declared the constitutional illegitimacy of the provisions of Legislative Decree no. 104/2010 with the consequent reinstatement of the provisions of Legislative Decree no. 58/1998 which had been repealed. Yet later the aforesaid annex 4, Article 4, paragraph 1, number 19) of Legislative Decree no. 104 of 2.7.2010 was suppressed by Article 3, paragraph 1 of Legislative Decree no. 160 of 14.9.2012. Lastly, the Constitutional Court, with decision no. 94 of 9/15 April 2014 (Official Journal no. 18 of 23.4.2014 - First special series), declared, among other things, the constitutional illegitimacy of the aforesaid annex 4, Article 4, paragraph 1, number 19), in the part in which it repealed Article 187-septies, paragraphs 4 to 8, and Article 195, paragraphs 4 to 8, of this provision.

1293 Paragraph thus substituted by Article 4 of Legislative Decree no 107 of 10.8.2018.

2. CONSOB shall thoroughly investigate infringements of the provisions of Regulation (EU) no. 596/2014 and of this title, using the powers conferred by this decree[1294].

3. CONSOB may in relation to any person who could be acquainted with the facts:

a) request information, data or documents in any form whatsoever, establishing the deadlines for their provision;

b) request existing telephone records, records of electronic communication and data transfers establishing the deadlines for their provision[1295];

c) conduct personal hearings;

c-bis) in relation to derivative instruments on commodities request data on transactions and directly access the systems of market participants[1296];

d) seize property that may be confiscated under Article 187-sexies[1297];

e) carry out inspections, even via authorisation granted to statutory auditors or auditing firms to undertake checks or inspections on its behalf when there is particular need and it is unable to perform the inspections using own resources; the party authorised to undertake the aforementioned checks and inspections shall act in the capacity of a public official[1298];

f) conduct searches in the manner provided for in Article 33 of Presidential Decree 600/1973 and Article 52 of Presidential Decree 633/1972.

4. CONSOB may further:

a) avail itself of the cooperation of governmental bodies, requiring that it be provided with data and information – notwithstanding where relevant the restrictions laid down in Article 25(1), of Legislative Decree 196/2003 – and access the information system of the tax records database in the manner provided for in Articles 2 and 3(1) of Legislative Decree 212/1991;

a-bis) access directly, through the appropriate telematic connection, the data contained in the lists referred to in article 55, paragraph 7 of Legislative decree no. 259 of August 1, 2003[1299];

b) require the provider to furnish it with the traffic records referred to in Legislative Decree 196/2003 or acquire this data directly by means of telematic connection[1300];

c) require the communication of personal data, notwithstanding where relevant the restrictions laid down in Article 25(1) of Legislative Decree 196/2003;

d) avail, where necessary, of the information contained in the register of accounts and deposits referred to in Article 20(4) of Law 413/1991 in accordance with the procedures set forth in Article 3(4)(b) of Decree Law no. 143 of 3 May 1991 ratified with amendments by Law 197/1991 as well as gain access, directly or otherwise, to the information contained in the register referred to in Article 13 of Decree Law 625/1979 ratified with amendments by Law 15/1980;

e) gain direct access, through a dedicated electronic connection, to the data contained in the

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1294 Paragraph thus substituted by Article 4 of Legislative Decree no 107 of 10.8.2018 that has substituted the words “referred to in” with the words “of Regulation (EU) no. 596/2014 and of”.

1295 Letter thus substituted by Article 4 of Legislative Decree no 107 of 10.8.2018.

1296 Letter inserted by Article 4 of Legislative Decree no 107 of 10.8.2018.

1297 See CONSOB Resolution no. 15087 of 21.6.2005, as amended.

1298 Letter thus amended by Article 4 of Legislative Decree no. 107 of 10.8.2018, which added the following words to the end: “even via authorisation granted to statutory auditors or auditing firms to undertake checks or inspections on its behalf when there is particular need and it is unable to perform the inspections using own resources; the party authorised to undertake the aforementioned checks and inspections shall act in the capacity of a public official”.

1299 Letter inserted by art.4 of Legislative Decree no. 107 of 10.8.2018.

1300 Letter thus amended by Article 4 of Legislative Decree no. 107 of 10.8.2018, which added, at the end, the following words: “, or acquire this data directly by means of telematic connection”.

Bank of Italy's Central Credit Register referred to in the resolution of the Interministerial Committee for Credit and Assets of 29 March 1994, published in Official Gazette no. 91 of 20 April 1994[1301].

e-bis) make use where necessary, also through an electronic connection, of data contained in the special section of the tax records system pursuant to Article 7, paragraph 6, Presidential Decree no. 605 of 29 September 1973[1302];

5. The powers under paragraphs 3(d), 3(f) and 4(b) shall be exercised subject to authorisation by the Chief Public Prosecutor's Office. Such authorisation is also necessary for the exercise of the powers under paragraphs 3(b), 3(e), and 4(c) against persons other than authorised intermediaries and other persons subject to supervision pursuant to Regulation (EU) no. 596/2014 and to this decree[1303].

6. Where there are grounds for the assumption of the infringement of Regulation (EU) no. 596/2014 and of this title, CONSOB may as a precautionary measure:

a) order the temporary or permanent discontinuation of any practice or conduct;

b) without prejudice to the provisions of article 114, paragraph 5, adopt all the measures necessary to guarantee that the public is correctly informed regarding, inter alia, the correction of false or misleading information previously published, even by imposing on the parties concerned the obligation to publish a statement of rectification[1304];

7. The provisions hereof are without prejudice to the application of Articles 199, 200, 201, 202 and 203 of the Criminal Procedure Code insofar as they are compatible.

8. In the cases provided for in paragraphs 3(c), 3(d), 3(e), 3(f) and 12, a procès-verbaux shall be drawn up noting the data and information obtained or the findings of fact made, the seizures carried out and the statements given by the interested persons, who shall be requested to sign the procès-verbaux and shall be entitled to a copy thereof.

9. In the event of a seizure under paragraph 3(d), the interested persons may file opposition with CONSOB.

10. The decision on the opposition shall be adopted with a measure stating the grounds therefore issued within 30 days from the date of filing of the opposition proceedings in question.

11. The seized property shall be returned to those so entitled when:

a) the person who committed the violation dies;

b) it is proved that those so entitled are third parties extraneous to the offence;

c) the notice of the charges is not served within the time limit laid down by article 187-septies, paragraph 1[1305];

d) the pecuniary administrative sanction has not been imposed within the time limit of two years from the finding of the violation.

12. In the exercise of its powers under paragraphs 2, 3 and 4, CONSOB may avail itself of the

1301 See Bank of Italy-CONSOB memorandum of understanding of 31.10.2007.

1302 Paragraph added by Article 1, paragraph 20, Legislative Decree no. 101 of 17.7.2009.

1303 Paragraph thus amended by article 4 of Legislative Decree no. 107 of 10.8.2018, which added the following words: “and other persons subject to supervision pursuant to Regulation (EU) no. 596/2014 and to this decree”.

1304 Paragraph thus substituted by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1305 Letter thus amended by Article 4 of Legislative Decree no. 107 of 10.8.2018, which substituted the words: “14 of Law no. 689 of November 24, 1981” with the words; “187-septies, paragraph 1”.

cooperation of the Finance Police which shall carry out the requested inquiries relying on the investigatory powers that they enjoy in connection with the assessment of VAT and income taxes.

13. All of the information and data obtained by the Finance Police further to action taken under paragraph 12 shall be covered by professional secrecy and be communicated without delay exclusively to CONSOB.

14. CONSOB's measures imposing pecuniary sanctions shall be enforceable. Failing payment within the time limit fixed therefore, CONSOB shall levy execution of the sum due in accordance with the rules governing the collection of sums owing to the State, local authorities, governmental bodies and social security bodies.

15. When the offender pursues a profession, the measure imposing the sanction shall be transmitted to the competent professional association.[1306]

Article 187-novies
(Suspicious transactions)

...omissis...[1307]

Chapter V
Relationship between proceedings

Article 187-decies
Relations with the judicial authorities

1. Upon receiving notice of the commission of a crime under Chapter II, the public prosecutor shall without delay inform the Chairman of CONSOB thereof.

2. The Chairman of CONSOB shall forward the public prosecutor the documentation gathered during its own inquiries accompanied by a reasoned report in cases where there are grounds for suspecting that a crime may have been committed. The documents shall be forwarded to the public prosecutor at the very latest within the time limit for investigating violations of Chapter III of this title.

3. CONSOB and the judicial authorities shall cooperate with each other, including through the exchange of information, in order to facilitate the investigation of violations of this title, including in cases where such do not constitute crimes. To this end CONSOB may utilize the documents, data and information obtained by the Finance Police in the manner and form established in the first paragraph of Article 63 of Presidential Decree 633/1972 and the third paragraph of Article 33 of Presidential Decree 600/1973.[1308]

Article 187-undecies
CONSOB’s powers in criminal proceedings

1. In proceedings for crimes under Articles 184 and 185, CONSOB may exercise the rights and powers granted by the Criminal Procedure Code to the bodies and associations representing the

1306 See footnote to Title I-bis.

1307 Article repealed by Article 4 of Legislative Decree no. 107 of 10.8.2018.

1308 See footnote to Title I-bis.

interests injured by the crime.

2. CONSOB may also intervene as a civil claimant and request, by way of compensation for the loss occasioned to the integrity of the market by the crime, damages in an amount to be assessed by the court, including equitably, taking account of the seriousness of the crime, the personal situation of the guilty party or the amount of the proceeds of the crime or the profit therefrom.[1309]

Article 187-duodecies
Relationship between criminal proceedings and administrative and appeal proceedings

1. The administrative and appeal proceedings referred to in Article 187-septies may not be suspended on the grounds that criminal proceedings are pending covering the same facts or facts on which the definition of the case depends.[1310]

Article 187-terdecies
Application and enforcement of administrative and judicial sanctions

1. When, for the same offence a pecuniary administrative sanction pursuant to Article 187-septies, or a judicial sanction or criminal administrative sanction, has been imposed on the offender, the author of the infringement or the entity:

a) the judicial authority or CONSOB shall take into account, when issuing sanctions within the scope of its competence, any punitive measures already imposed;

b) the collection of the pecuniary penalty, criminal pecuniary sanction or administrative pecuniary sanction shall be limited to the part exceeding that collected by the administrative or judicial authority respectively[1311].

Article 187-quaterdecies
Consultation procedures

1. Within 12 months of the date of entry into force of this paragraph CONSOB shall lay down in a regulation the methods and time limits for the consultation procedures to be engaged in – through the setting up of a committee with members representing consumers, providers of financial service and other supervised persons – when regulatory changes are being made in the field of market abuse and in the other areas falling within CONSOB's institutional remit.[1312]

1309 See footnote to Title I-bis.

1310 See footnote to Title I-bis.

1311 Article first amended by Article 3 paragraph 19 of Legislative Decree no. 303 of 29.12.2006 and later thus replaced by article 4 of Legislative Decree no. 107 of 10.8.2018. See Editor’s Note to Title 1-bis.

1312 See footnote to Title I-bis.

TITLE II
ADMINISTRATIVE SANCTIONS[1313]

Article 187-quinquiesdecies[1314]
Safeguarding of the Bank of Italy's and CONSOB's supervisory functions [1315]

1. Apart from the cases provided for in Article 2638 of the Italian Civil Code, any person who fails to comply with a request from the Bank of Italy and CONSOB within the prescribed time limits or does not cooperate with said authorities in the carrying out of the relative supervisory functions or delays the performance of said functions shall be punished pursuant to this article[1316].

1-bis. If the infringement is committed by a natural person, said person becomes liable to the

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1313 Paragraph 2 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Part V of Legislative Decree 24 February 1998 no. 58, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree 24 February 1998 no. 58. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). To breaches committed before 8.3.2016 continue to apply the provisions of Part V of Legislative Decree 24 February 1998 no. 58 applicable before the date of entry into force of this decree". "Paragraph 3 of Legislative Decree no. 72 of 12.5.2015 provides that: "The administrative sanctions provided by Legislative Decree no. 58 of 24 February 1998, are not subject to Article 39, paragraph 3, of Law no. 262 of 28 December 2005"

1314 Article first inserted by Article 9 of Law no. 62 of 18.4.2005 (Community Law 2004) and then amended by Article 24 of D.L. no. 179 of 18.10.2012, by Article 39, paragraph 3, of Law no. 262 of 28.12.2005 and Article 5 of Legislative Decree no. 129 of 3 August 2017 in the terms indicated in the following notes. The Constitutional Court, with Sentence of 13 - 30 April 2021, no. 84 (published in O.J., 1st special series - Constitutional Court - no. 18 of 5 May 2021), declared:

- "the constitutional illegitimacy of the Article no. 187-quinquiesdecies of the Legislative Decree no 58 of 24 February 1998 (Consolidated Text of the Provisions on Financial Intermediation, pursuant to Articles nos. 8 and 21 of the Law no. 52 of 6 February 1996), in the text originally introduced by the Article no. 9, paragraph 2, letter b), of the Law no. 62 of 18 April 2005 (Provisions for the fulfillment of obligations arising from Italy's belonging to the European Communities. Community Law of 2004), in the part in which it also applies to the natural person who refused to provide CONSOB with answers that could bring out his responsibility for an offense subject to administrative sanctions having a punitive nature, or for a crime";

- "consequentially, pursuant to Article no. 27 of the Law no. 87 of 11 March 1953 (Rules on the constitution and functioning of the Constitutional Court), the constitutional illegitimacy of the Article no. 187-quinquiesdecies of the Legislative Decree no. 58 of 1998, in the text modified by the Article no. 24, paragraph 1, letter c), of the Law Decree of 18 October 2012, no. 179 (Additional urgent measures for the growth of the Country), converted, with amendments, into the Law no. 221 of 17 December 2012, in the part in which it also applies to the natural person who has refused to provide the Bank of Italy or CONSOB with answers that could reveal his responsibility for an offense subject to administrative sanctions of a punitive nature, or for a crime ";

- "consequentially, pursuant to the Article no. 27 of the Law no. 87 of 1953, the constitutional illegitimacy of the article 187-quinquiesdecies of the Legislative Decree no. 58 of 1998, in the text modified by the Article no. 5, paragraph 3, of the Legislative Decree No. 129 of 3 August 2017, relating to the «Implementation of Directive 2014/65/EU of the European Parliament and of the Council, of 15 May 2014, relating to markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, as amended by Directive 2016/1034/EU of the European Parliament and of the Council, of 23 June 2016, and for the adaptation of national legislation to the provisions of Regulation (EU) no. 600/2014 of the European Parliament and of the Council, of 15 May 2014, on markets in financial instruments and amending Regulation (EU) no. 648/2012, as amended by Regulation (EU) 2016/1033 of the European Parliament and of the Council of 23 June 2016", in the part in which it also applies to the natural person who has refused to provide the Bank of Italy or CONSOB with answers that could reveal its responsibility for an offense subject to administrative sanctions of a punitive nature, or for a crime ".

1315 Provision thus replaced by Article 24 of Italian Decree Law no. 179 of 18.10.2012.

1316 Paragraph first amended by Article 24 of D.L. no. 179 dated 18.10.2012 and then thus substituted by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

pecuniary administrative sanction of between Euro ten thousand and Euro five million[1317].

1-ter. If the infringement is committed by a company or an agency, said company or agency becomes liable to a pecuniary administrative sanction between Euro ten thousand and Euro five million, or up to ten percent of the sales figures, when this amount is in excess of Euro five million and the sales figures can be determined pursuant to article 195, paragraph 1-bis. Without prejudice to what is specified for the company and the agency in relation to which the infringements are ascertained, the pecuniary administrative sanction specified by paragraph 1-bis is applied against the corporate officers and the personnel of the company or the agency where the cases provided for by article 190-bis, paragraph 1, letter a) [1318].

1-quater. If the advantage obtained by the author of the infringement as a consequence of the said infringement is superior to the maximum limits indicated in this article, the pecuniary administrative sanction is raised to double the amount of the advantage obtained, providing this amount can be determined[1319].

Article 188[1320] / [1321]
Unauthorised use of names

1. The use, in the name or in any distinctive mark or communication addressed to the public, of the words: "investment company" or "securities trading company" or "investment firm"; "SGR" or "asset management company"; "SICAV" or "investment company with variable share capital"; "SICAF" or "fixed capital investment company"; "EuVECA" or "European fund for venture capital"; "EuSEF" or "European Social Entrepreneurship Fund"; "ELTIF" or "European Long-Term Investment Fund";

1317 Paragraph included by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

1318 Paragraph included by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

1319 Paragraph included by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

1320 Article already amended by Article 24 of Legislative Decree no. 274 of 1.8.2003, by Article 16 of Legislative Decree no. 164 of 17.9.2007, by Article 7 of Legislative Decree no. 44 of 4.3.2014, by Article 5 of Legislative Decree no. 72 of 12.5.2015, by Article 1 of Legislative Decree no. 71 of 18.4.2016; later replaced by Article 5 of Legislative Decree no. 129 of 3.8.2017 and then again amended by Article 2 of Legislative Decree no. 233 of 15.12.2017, by Article 5 of Legislative Decree no. 165 of 25.11.2019, by Article 4 of Legislative Decree no. 17 of 2.2.2021 and by Article 50 of the Decree Law n. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022, in the terms indicated in the following notes.

1321 Paragraph 2 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that the changes to Part V of Legislative Decree 24 February 1998 no. 58, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree 24 February 1998 no. 58. (*In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013*). To breaches committed before 8.3.2016 continue to apply the provisions of Part V of Legislative Decree 24 February 1998 no. 58 applicable before the date of entry into force of Legislative Decree no. 72/2015. Below is the text of Article 188 in force: “Article 188 – (Unauthorised use of names) 1. The use in the name or in any logo or communication addressed to the public of the words SIM or società di intermediazione mobiliare or impresa di investimento, SGR or società di gestione di risparmio, SICAV or società di investimento a capitale variabile, SICAF or società di investimento a capitale fisso; ‘EuVECA’ or ‘European Venture Capital Fund’; ‘EuSEF’ or ‘European Social Entrepreneurship Fund’; or other words or terms, also in a foreign language, which can be misleading in respect of the legitimacy to perform investment services or activities or the collective asset management service is forbidden to subjects other than investment companies, asset management companies, SICAVs, SICAFs, subjects authorised pursuant to regulations (EU) no. 345/2013, relative to European Venture Capital Funds (EuVECA), and no. 346/2013, relative to European Social Entrepreneurship Funds (EuSEF). Anyone who breaches the bar contemplated by this article shall be fined from Euro five hundred and sixteen to Euro ten thousand three hundred and twenty-nine. 2. Article 16 of Law 689/1981 shall not apply to the pecuniary administrative sanction provided for in this article.”.

"MMF" or "Money Market Fund"; "APA" or "authorised publication device" to which the derogation provided for in Article 2, paragraph 3, of Regulation (EU) no. 600/2014 and related delegated acts would apply; "ARM" or "authorised reporting mechanism" to which the derogation provided for in Article 2, paragraph 3, of Regulation (EU) no. 600/2014 and related delegated acts would apply; "regulated market"; "growth market for small and medium-sized enterprises"; or other words or expressions, in Italian or in foreign language, that can be misleading in respect of the legitimacy to perform investment services or activities or the collective asset management service or the management of an APA or an ARM or regulated market management activities is forbidden to subjects other than investment companies, asset management companies, SICAVs, SICAFs, subjects authorised pursuant to Regulations (EU) no. 345/2013, relative to European Venture Capital Funds (EuVECA), no. 346/2013, relative to European Social Entrepreneurship Funds (EuSEF), no. 2015/760, relative to European Long-Term Investment Funds (ELTIF), and no. 2017/1131, relative to Monetary Market Funds, the subjects referred to in Article 79, from regulated markets and from systems registered as a growth market for small and medium-sized enterprises, pursuant to this decree. Anyone who breaches the prohibition contemplated by this article shall be fined from Euro five thousand to Euro five million. If the violation is committed by a company or an entity, a fine is applied from Euro thirty thousand to Euro five million or to ten percent of sales if this amount is more than Euro five million and if the value of sales is available and can be determined pursuant to article 195, paragraph 1-bis[1322].

2. Article 187-quinquiesdecies, paragraph 1-quater is applied.

Article 189[1323 / 1324]
Holdings of capital

1. The infringement of the communication obligations provided for by articles 15, paras 1 and 3, 64-bis, paragraph 2, and of the relative implementing provisions, and of those required pursuant to article 17, as well as those provided for by article 31, section 2, of (EU) regulation no. 648/2012 and by article 27, section 7, second paragraph, of (EU) regulation no. 909/2014, is punished with the pecuniary administrative sanction from Euro five thousand up to Euro five million. If the infringement is committed by a company or an agency, the pecuniary administrative sanction from Euro thirty thousand up to Euro five million, or up to ten percent of the sales figures, when this amount is in excess of Euro five million and the sales figures can be determined pursuant to article 195, paragraph

1322 Paragraph already amended by Article 2 of Legislative Decree no. 233 of 15.12.2017, by Article 5 of Legislative Decree no. 165 of 25.11.2019 and Article 4 of Legislative Decree no. 17 of 2.2.2021 and then replaced by Article 50 of Law Decree no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022.

1323 Paragraph 2 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that the changes to Part V of Legislative Decree 24 February 1998 no. 58, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree 24 February 1998 no. 58. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). To breaches committed before 8.3.2016 continue to apply the provisions of Part V of Legislative Decree 24 February 1998 no. 58 applicable before the date of entry into force of Legislative Decree no. 72 of 12.5.2015. Below is the text of Article 189 in force "Article 189 - (Holdings of capital) 1. Omission of notifications referred to in Articles 15(1), 15(3), 61(6) and 80(7) and of those required pursuant to Article 17 shall be punished by a pecuniary administrative sanction of between ten million lire and one hundred million lire. 2. The same sanction shall apply in the event of violation of the prohibitions on voting and in the event of non-compliance with the obligation to dispose of holdings referred to in Articles 14(4), 14(7), 16(1), 16(2), 16(4), 61(7) and 80(8).".

1324 Article first amended by Legislative Decree no. 37 dated 6.2.2004, by Article 5 of Legislative Decree no. 72 dated 12.5.2015, by Article 1 of Legislative Decree no. 71 dated 18.4.2016 and by Article 3 of Legislative Decree no. 176 dated 12.8.2016, then replaced by Article 5 of Legislative Decree no. 129 dated 3.8.2017 and lastly amended by Article 5 of Legislative Decree no. 165 dated 25.11.2019 according to the terms indicated in the following note.

1-bis is applied.

2. The same sanction is applied in the case infringement of the prohibitions of exercising the rights and in the case of non-compliance with the disposal obligations provided for by articles 14, paras 4 and 7; 16, paras 1, 2 and 4; 64-bis, paras 4 and 9; 79-sexies, paragraph 9; and 79-noviesdecies, paragraph 1[1325].

3. Article 187-quinquiesdecies, paragraph 1-quater is applied.

1325 Paragraph thus modified by Article 5 of Legislative Decree no. 165 of 25.11.2019 which replaced the words "64-bis, paragraph 5" with the words: "64-bis, paragraphs 7 and 9".

Article 190[1326]
Pecuniary administrative sanctions related to rules governing intermediaries [1327]

1. Unless the fact is a crime pursuant to article 166, the pecuniary administrative sanction from Euro thirty thousand up to Euro five million, or up to ten percent of the sales figures, when this amount is

1326 Paragraph 4 of Legislative Decree no. 72 of 12.5.2015 provides that: "In compliance with the provisions of paragraph 2, from the date of entry into force of this Legislative Decree any reference to Article 190 of Legislative Decree no. 58 of 24 February 1998 in force on that date is understood to be carried out under Articles 190, 190-bis and 190-ter of Legislative Decree no. 58 of 24 February 1998, as amended by this Legislative Decree". Below is the text of Article 190 in force until the entry into force of Legislative Decree no. 72/2015: "Article 190 – (Other financial penalties regarding intermediaries, markets and the central depository system for financial instruments) 1. Subjects who perform administrative or management functions and company employees or authorised bodies, as well as custodians, which do not comply with the provisions of articles: 6; 7, paragraphs 2 and 3; 8, paragraph 1; 9; 10; 12; 13, paragraph 2; 21; 22; 24, paragraph 1; 25; 25-bis, paragraphs 1 and 2; 27, paragraphs 3 and 4; 28, paragraph 3; 30, paragraphs 3, 4 and 5; 31, paragraphs 1, 2, 5, 6 and 7; 32, paragraph 2; 33, paragraph 4; 35-bis, paragraph 6; 35-novies; 35-decies; 36, paragraphs 2, 3 and 4; 37, paragraph 1, 2 and 3; 39; 40, paragraphs 2, 4 and 5; 40-bis, paragraph 4; 40-ter, paragraph 4; 41, paragraphs 2, 3 and 4; 41-bis; 41-ter; 41-quater; 42, paragraphs 1, 3 and 4; 43, paragraphs 2, 3, 4, 7, 8 and 9; 44, paragraphs 1, 2, 3 and 5; 45; 46, paragraphs 1, 3 and 4; 47; 48; 49, paragraphs 3 and 4; 65; 79-bis; 187-novies, i.e. the general or specific provisions issued by the Bank of Italy or CONSOB on the basis of the same articles, shall be punished by a fine from Euro two thousand five hundred to Euro two hundred and fifty thousand. The same fine shall be imposed in the case of breach of article 18, paragraphs 1 and 2, and of article 32-quater, paragraphs 1 and 3, or in the case of the practice of the activity of financial consultant, financial salesman or portal manager without being listed on the rolls or the register referred to, respectively, by articles 18-bis, 31 and 50-quinquies. 1-bis. In the case of matters referred to by the provisions indicated in paragraph 1, the fines contemplated shall also be applied in the case of breach of the regulatory and enactment technical standards issued by the European Commission pursuant to articles 10 and 15 of regulation EU no. 1095/2010, or in the case of breach of the AESFEM deed directly applicable to supervised subjects adopted pursuant to this latter regulation. 2. The same sanction shall also apply to: a) persons performing administrative or management functions in and employees of stock exchange companies, for non-compliance with Part III, Title I, Chapter I, or with the provisions issued pursuant thereto; b) persons performing administrative or management functions in and employees of central depositories, for non-compliance with Part III, Title II, or with the provisions issued pursuant thereto; b-bis) persons performing the duties of director or manager of the intermediaries indicated in Article 79-quater for failure to comply with the provisions of Article 83-novies, paragraph 1, paragraphs c) d), e) and f), Article 83-duodecies, and provisions issued on the basis thereof ; c) organisers and operators of interbank fund trading systems, managers of multilateral trading systems and systematic internalisers, in cases of inobservance of the provisions of Chapters II and II-bis, Title I, part III and issued in relation thereto; d) persons managing systems referred to in Articles 68 and 69, section 2 or performing administrative or management functions in the company referred to in Article 69(1), for non-compliance with Articles 68, 69, 70-bis and 77, section and the related implementing provisions; d-bis) persons who perform an administrative or management role and employees of insurance companies for non-compliance with the provisions referred to in Articles 25-bis(1) and 25-bis(2) and provisions issued based on the same; d-ter) operators permitted to trade on regulated markets in cases of inobservance of the provisions of article 25, paragraph 3; d-quater) members of the financial advisors' association in the event of failure to comply with the provisions of Article 18-bis and provisions based on said article; d-quinquies) members of the financial salesmen's association in the event of failure to comply with the provisions of Article 31and provisions based on said article; d-sexies) persons holding office as director of issuers in the event of failure to comply with the provisions of Article 83-undecies, paragraph 1. 2-bis. The same fine contemplated by paragraph 1 shall be applied to subjects which perform administration and management functions and to employees of: a) of the managers of European Social Entrepreneurship Funds (EuSEF), in the case of breach of the provisions of articles 2, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of regulation (EU) no. 345/2013 and of the relative enactment provisions; b) of the managers of European Social Entrepreneurship Funds (EuSEF), in the case of breach of the provisions of articles 2, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of regulation. 2-ter. The pecuniary administrative sanction is applied from two thousand, Euro five hundred to Euro one hundred and fifty thousand: a) with regards to stock brokerage companies, Community investment companies with a branch in Italy, non-European Community investment companies registered on the list envisaged by Article 106 of the Consolidated Law on Banking, Italian banks, European Community banks with branch in Italy and non-European Community banks that are authorised to provide investment business or services and with regards to subjects carrying out administrative or managerial functions of central counterparties, in the event of the breach of the provisions laid down by Articles 4, paragraph 1, paragraph 1 and 5-bis of Regulation (EC) No 1060/2009 of the European Parliament and Council, of 16 September 2009 and the related implementing provisions; b) with regards to the managers in the event of breach of Article 35-duodecies and Article 4, paragraph 1, paragraph 1 of the regulation pursuant to letter a), and the related implementing provisions. 3. The sanctions provided for in paragraphs 1, 2 and 2-bis shall also apply to persons performing supervisory functions in the companies or entities referred to therein for violation of the provisions referred to in those paragraphs and for failure to ensure, in accordance with the duties inherent in their office, compliance with such provisions by others. The same sanctions shall apply in the case of violation of the provisions of Article 8(2-6). 3-bis. …omissis… 4. Article 16 of Law 689/1981 shall not apply to the pecuniary administrative sanctions provided for in this article.".

1327 Heading first replaced by Article 4 of Legislative Decree no. 27 dated 27.1.2010, by Article 3 of Legislative Decree no. 176 dated 12.8.2016 and lastly by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

in excess of Euro five million and the sales figures can be determined pursuant to Article 195, paragraph 1-bis is applied to the authorised parties, investment holding companies as defined in Article 4, paragraph 1, point 23, of Regulation (EU) no. 2019/2033, mixed financial holding companies as defined Article 4, paragraph 1, point 40, of the same regulation, the depositaries and the parties to which essential or important operational functions have been externalised, in case of non-compliance with Articles 6; 6-bis; 6-ter; 7, paras 2, 2-bis, 2-ter, 3 and 3-bis; 7-bis, paragraph 5; 7-ter; 9; 11-bis; 12; 12-bis; 13, paragraph 3; 21; 22; 23, paras 1 and 4-bis; 24, paras 1 and 1-bis; 24-bis; 25; 25-bis; 26, paras 1, 3 and 4; 27, paras 1 and 3; 28, paragraph 4; 29; 29-bis, paragraph 1; 29-ter, paragraph 4; 30, paragraph 5; 31, paras 1, 2, 2-bis, 3-bis, 5, 6 and 7; 32, paragraph 2; 33, paragraph 4; 35-bis, paragraph 6; 35-novies; 35-decies; 36, paras 2, 3 and 4; 37, paras 1, 2 and 3; 39; 40, paras 2, 4 and 5; 40-bis, paragraph 4; 40-ter, paragraph 4; 41, paras 2, 3 and 4; 41-bis; 41-ter; 41-quater; 42, paras 1, 3 and 4; 42-bis, paras 2, 3, 4, 5, 8, 9 and 10; 43, paras 2, 3, 4, 7, 7-bis, 7-ter, 8 and 9; 44, paras 1, 2, 3, 4, letter b) and 5; 45; 46, paras 1, 3 and 4; 47; 48; 49, paras 3 and 4; 55-ter; 55-quater; 55-quinquies; or of general or particular provisions issued on the basis of the said articles[1328].

1-bis.1 Anyone providing crowdfunding services without the authorization required under Article 12 of Regulation (EU) 2020/1503 is punished with a pecuniary administrative sanction from Euro five thousand up to Euro five million. If the infringement is committed by a company or an agency, the pecuniary administrative sanction from Euro thirty thousand up to Euro five million, or up to ten percent of the sales figures, when this amount is in excess of Euro five million and the sales figures can be determined pursuant to article 195, paragraph 1-bis is applied thereto[1329].

1-bis. …omissis…[1330]

2. The same sanction specified in paragraph 1 is applied:

a) to banks not authorised to provide investment services or activities, in the case where they do not observe the provisions of the article 25-bis and those issued on the basis thereof;

b) to subjects qualified for insurance distribution, in the case of their non-compliance with the provisions of article 25-ter, paras. 1 and 2, and those issued on the basis thereof[1331];

1328 Paragraph first amended by Article 9 of Law no. 62 dated 18.4.2005, by Article 3 of Legislative Decree no. 303 dated 29.12.2006, by Article 16 of Legislative Decree no. 164 dated 17.9.2007, by paras 21 and 22 of Article 1 of Legislative Decree no. 101 dated 17.7.2009; by Article 1 of Legislative Decree no. 47 dated 16.4.2012; by Article 30 of D.L. no. 179 dated 18.10.2012, co-ordinated with conversion Law no. 221 dated 17.12.2012; by Article 7 of Legislative Decree no. 44 dated 4.3.2014; by Article 5 of Legislative Decree no. 72 dated 12.5.2015; by Article 2 of Legislative Decree no. 181 dated 16.11.2015; by Article 1 of Legislative Decree no. 71 dated 18.4.2016; subsequently replaced by Article 5 of Legislative Decree no. 129 of 3.8.2017 and then amended by Article 2 of Legislative Decree no. 68 of 21.5.2018 which removed the words: "25-ter, paragraphs 1 and 2;"; by Article 2 of Legislative Decree no. 182 of 8.11.2021, which replaced the words: "9; 12;" with the words: "9; 11-bis; 12;"; by Article 4 of Legislative Decree no. 191 of 5.11.2021, which after the words: "42, paras 1, 3 and 4;" added the words: "42-bis, paras 2, 3, 4, 5, 8, 9 and 10;", after the words: "43, paras 2, 3, 4, 7," added the words: "7-bis, 7-ter," and after the words: "44, paras 1, 2, 3" added the words: ", 4, letter b)" and by Article 1 of Legislative Decree no. 201 of 5.11.2021, which after the words: "to the authorised parties," added the words: "investment holding companies as defined in Article 4, paragraph 1, point 23, of Regulation (EU) no. 2019/2033, mixed financial holding companies as defined Article 4, paragraph 1, point 40, of the same regulation," and after the words: "9; 11-bis; 12;" added the words: "12-bis;".

1329 Paragraph first included by Article 5 of Legislative Decree no. 129 dated 3.8.2017 and then thus amended by Article 1 of Legislative Decree no. 30 of 10.3.2023, which replaced the words: "carrying out the activities of portal operator without being on the register specified by article 50-quinquies" with the words: "providing crowdfunding services without the authorization required under Article 12 of Regulation (EU) 2020/1503".

1330 Paragraph first inserted by Article 7 of Legislative Decree no. 44 of 4 March 2014 and then repealed by Article 5 of Legislative Decree no. 72 of 12.5.2015.

1331 Letter first amended by Article 2 of legislative Decree no. 68 of 21.5.2018, which replaced the words "to insurance

c) to central depositaries that provide investment activities or services for the infringement of the provisions of this decree referred to in article 79-noviesdecies.1[1332].

2-bis. The same sanction provided for in paragraph 1 shall apply:

a) managers of European Venture Capital Funds (EuVECA), in case of violation of the provisions of Articles 2, 4-bis, 5, 6, 7, 8, 9, 10, 11, 12**,** 13, 14 and 14-bis of Regulation (EU) no. 345/2013 and its implementing provisions[1333];

b) to managers of European Social Entrepreneurship Funds (EuSEF), in the case of violation of the provisions of Articles 2, 4-bis, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 e 15-bis of Regulation (EU) no. 346/2013 and of the relative enactment provisions[1334].

b-bis) to the providers and the custodians of AIFs, in the case of breach of the provisions of the delegated regulation (EU) no. 231/2013 of the Commission, of the Regulation (EU) no. 2015/760 and of the relative implementing regulations;

b-ter) to the providers and the custodians of UCITS, in the case of breach of the provisions of the delegated regulation (EU) no. 438/2016 of the Commission and of the relative implementing regulations[1335].

b-quater) to managers of UCITS and AIFs, in the case of breach of the provisions of Regulation (EU) 2015/2365 and the relative implementing provisions[1336];

b-quinquies) to managers of Suspicions UCITS and AIFs, in the case of breach of the provisions of Regulation (EU) 2017/1131 and the relative implementing provisions[1337].

2-bis.1. This same sanction provided for by par. 1 shall also apply in the case of failure to comply with the regulatory and implementing technical standards relative to the regulations referred to in par. 2-bis, letters a), b), b-bis) and b-ter) and b-quinquies), issued by the European Commission pursuant to articles 10 and 15 of Regulation (EC) no. 1095/2010[1338].

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companies" with the words "to subjects qualified for insurance distribution" and the words "paras. 1 and 2" with the words "para. 2" and then by Article 5 of Legislative Decree no. 165 of 25.11.2019, which replaced the words "para. 2" with the words "paras. 1 and 2".

1332 Paragraph first amended by Article 14 of Law no. 262 dated 28.12.2005; by Article 16 of Legislative Decree no. 164 dated 17.9.2007; by Article 1, paragraph 23 of Legislative Decree no. 101 dated 17.7.2009; by Article 33 of Law no. 97 dated 6.8.2013; by Article 4 of Legislative Decree no. 27 dated 27.1.2010; by Article 5 of Legislative Decree no. 72 dated 12.5.2015 and by Article 3 of Legislative Decree no. 176 dated 12.8.2016 and then thus substituted by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

1333 Letter first amended by Article 4 of Legislative Decree no. 191 of 5.11.2021, which after the words: "Articles 2," added the words: "4-*bis*," and then by Article 1 of Legislative Decree no. 113 of 2.8.2022, which replaced the words: "and 13" with the words: ", 13, 14 and 14-*bis*."

1334 Letter first amended by Article 4 of Legislative Decree no. 191 of 5.11.2021, which after the words: "Articles 2," added the words: "4-*bis*," and then by Article 1 of Legislative Decree no. 113 of 2.8.2022, which after the words: "14" added the words: ", 15 and 15-*bis*."

1335 Paragraph first inserted by Article 7 of Legislative Decree no. 44 of 4.3.2014, subsequently replaced by Article 5 of Legislative Decree no. 72 of 12.5.2015 and finally amended by Article 1 of Legislative Decree no. 71 of 18.4.2016 which added the letters b-bis and b-ter) and again amended by Article 2 of Leg. Decree no. 233 of 15.12.2017, which, after the words: "of the Commission" added the words: ", of the Regulation (EU) no. 2015/760".

1336 Paragraph included by Article 2 of Legislative Decree no.19 of 13.2.2019.

1337 Paragraph included by Article 4 of Legislative Decree no.17 of 2.2.2021.

1338 Paragraph first included by Article 2 of Leg. Decree no. 233 of 15.12.2017, then thus amended by Article 4 of Legislative Decree no.17 of 2.2.2021, which replaced the words «b-bis) and b-ter)» with the words: «b-bis), b-ter) and b-quinquies).

2-ter. …omissis…[1339]

2-quater. The same sanction provided for in paragraph 1 applies to the violation of Article 59, paragraphs 2, 3 and 5, of Regulation (EU) no. 1031/2010 and the related implementing provisions against:

a) Italian SIMs and banks authorised to submit bids in the auction market of greenhouse gas emission allowances on behalf of their clients pursuant to Article 20-ter;

b) subjects established in the territory of the Republic that benefit from the exemption provided for in Article 4-terdecies, paragraph 1, letter l), authorised to submit bids in the auction market for greenhouse gas emission allowances pursuant to Article 20-ter[1340].

2-quinquies. CONSOB applies to the authorized entities the sanction provided for by paragraph 1 in the case of non-compliance with Article 25-quater[1341].

2-sexies. The same sanction provided for by paragraph 1 is applied to the authorized investment firms under Article 19 that fulfil the requirements provided for by Article 4, paragraph 1, point 1), letter b), of Regulation (EU) no. 575/2013 and, apart from the case provided for by Article 20-bis.1, paragraph 3, provide one of the investment services indicated in Annex I, Section A, numbers 3) and 6), in the absence of the authorized indicated in Article 20-bis.1[1342].

3. Article 187-quinquiesdecies, paragraph 1-quater, shall apply[1343].

3-bis. …omissis…[1344].

4. …omissis…[1345]

1339 Paragraph first included by Article 1 of Legislative Decree no. 66 dated 7.5.2015 and then repealed by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

1340 Paragraph included by Law no. 37 of 3.5.2019 (European Law 2018).

1341 Paragraph included by Article 3 of Legislative Decree no. 193 of 8.11.2021. Article 8 of Legislative Decree no. 193 of 8.11.2021 provides that the amendments made by the same decree to Part V of Legislative Decree no. 58 of 24.2.1998 apply to the violations committed from the date of entry into force of the same decree (1.12.2021). The provisions of Part V of Legislative Decree no. 58 of 24.2.1998, in force on the day before the date of entry into force of Legislative Decree no. 193 of 8.11.2021, continue to apply to the violations committed prior to said date.

1342 Paragraph included by Article 1 of Legislative Decree no. 201 of 5.11.2021.

1343 Paragraph formerly amended by Article 7 of Legislative Decree no. 44 dated 4.3.2014, subsequently substituted by Article 5 of Legislative Decree no. 72 dated 12.5.2015 and in conclusion thus amended by Article 5 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «188, paragraph 2-bis» with the words: «187-quinquiesdecies, paragraph 1-quater.».

1344 Paragraph first included by Article 10 Law no. 262 of 28.12.2005 and then repealed by Article 10, paragraph 6 of Law no. 13 of 6 February 2007 (Community Law 2006) which repealed Article 10 of Law no. 262 of 28.12.2005.

1345 Paragraph first replaced by Article 5 of Legislative Decree no. 72 of 12.5.2015 and then repealed by Article 5 of Legislative Decree no. 129 of 3.8.2017.

Article 190.1[1346]
Fines regarding the regulation of the centralised management of financial instruments

1. In the case of breach of the provisions of Chapter IV of Title II-bis of Part III and of those issued by CONSOB, in accordance with the Bank of Italy, pursuant to Article 82, central securities depositories are fined from Euro thirty thousand to Euro five million, or up to ten percent of sales volume, if said amount is more than ten million[1347].

2. The same sanction provided for in paragraph 1 shall apply:

a) to the intermediaries indicated under Article 79-decies, paragraph 1, letter b), for breach of the provisions of Article 83-quater, paragraph 3, 83-novies, paragraph 1, 83-novies.1, and those issued pursuant thereto[1348];

b) to issuers of shares in the case of breach of the provisions of Article 83-undecies, paragraph 1.

3. … omissis …[1349].

Article 190.1-bis
Further fines regarding the regulation of the centralised management of financial instruments

… omissis…[1350].

1346 Article first included by Article 3 of Legislative Decree no. 176 dated 12.8.2016 and then amended by Article 5 of Legislative Decree no. 129 dated 3.8.2017 and by Article 2 of Legislative Decree no. 84 of 14.7.2020 according to the terms indicated in the following notes. Article 4 of Legislative Decree no. 84 of 14.7.2020 provides that: "1. Without prejudice to the provisions of article 7 of Legislative Decree no. 49 of 10 May 2019, article 2 shall apply to the infringements committed after the date of entry into force of this decree".

1347 Paragraph first amended by Article 5 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «are available and can be determined» with the words: «can be determined pursuant to article 195, paragraph. 1-bis», and then by Article 2 of Legislative Decree no. 84 of 14.7.2020, which replaced the words: «Euro five million, or up to ten percent of sales volume if that amount is more than Euro five million and the sales volume figures can be determined pursuant to article 195, paragraph 1-bis » with the words: «ten million». Article 4 of Legislative Decree no. 84 of 14.7.2020 provides that: "1. Without prejudice to the provisions of article 7 of Legislative Decree no. 49 of 10 May 2019, article 2 shall apply to the infringements committed after the date of entry into force of this decree".

1348 Letter thus amended by Article 2 of Legislative Decree no. 84 of 14.7.2020, which replaced the words: «83-novies, paragraph 1, letters c), d), e) and f)» with the words: «83-quater, paragraph 3, 83-novies, paragraph 1, 83-novies.1». Article 4 of Legislative Decree no. 84 of 14.7.2020 provides that: "1. Without prejudice to the provisions of article 7 of Legislative Decree no. 49 of 10 May 2019, article 2 shall apply to the infringements committed after the date of entry into force of this decree".

1349 Paragraph first amended by Article 5 of Legislative Decree no. 129 dated 3.8.2017, which replaced the words: «188, paras 2 and 2-bis» with the words: «187-quinquiesdecies, paragraph 1-quater», and then repealed by Article 2 of Legislative Decree no. 85 of 14.7.2020. Article 4 of Legislative Decree no. 84 of 14.7.2020 provides that: "1. Without prejudice to the provisions of article 7 of Legislative Decree no. 49 of 10 May 2019, article 2 shall apply to the infringements committed after the date of entry into force of this decree".

1350 Article first included by article 4 of Legislative Decree no. 49 of 10.5.2019 and then repealed by Article 2 of Legislative Decree no. 84 of 14.7.2020. Article 4 of Legislative Decree no. 84 of 14.7.2020 provides that: "1. Without prejudice to the provisions of article 7 of Legislative Decree no. 49 of 10 May 2019, article 2 shall apply to the infringements committed after the date of entry into force of this decree". The text of Article 190.1 applicable to the infringements committed before the date of entry into force of Legislative Decree no. 84/2020 is given below: **"**Article 190.1-bis (Further fines regarding the regulation of the centralised management of financial instruments) – 1. A fine of from thirty thousand euros to one hundred and fifty euros shall be applied to the intermediaries indicated in article 79-decies, paragraph 1, letter b), for non-compliance with the provisions referred to in article 83-novies, paragraph 1, letters g) and g-bis), 83-novies.1 and those issued based on these."

Article 190.2[1351]
Fines relative to violation of the provisions contemplated by Regulation (EU) no. 909/2014

1. Central depositories and the banks designated pursuant to Article 54 of Regulation (EU) no. 909/2014, in the case of violation of the provisions referred to under of Article 63, sub-section 1, of the said Regulation, will be fined from Euro thirty thousand to Euro twenty million, or up to ten percent of sales volume if that amount is more than Euro twenty million and the sales volume figures can be determined pursuant to article 195, paragraph 1-bis. The same sanction is also applied in the case of breach of the technical regulatory and implementation provisions issued by the European Commission pursuant to the said Regulation[1352] .

2. Anyone who performs the services listed in the Annex of Regulation (EU) no. 909/2014 and those allowed, but not explicitly listed in the said Annex, in breach of Articles 16, 25 and 54 of the said Regulation, is punished by a fine from Euro five thousand to Euro five million. If the offence is committed by a company or an entity, the fine applied will be from Euro thirty thousand to Euro twenty million or up to ten percent of sales volume if this amount is more than Euro twenty million and if the sales volume figures can be determined pursuant to article 195, paragraph 1-bis[1353].

3. A fine from Euro two thousand five hundred to Euro one hundred and fifty thousand will be imposed:

a) on managers of trading venues in the case of breach of the provisions of Article 3, sub-section 2, paragraph 1, of the Regulation referred to under paragraph 1;

b) on counterparties to a financial guarantee agreement in the case of breach of the provisions of Article 3, sub-section 2, paragraph 2, of the Regulation referred to under paragraph 1;

c) on investment companies, in the case of breach of the provisions of Article 6, sub-section 2, of the Regulation referred to in paragraph 1 and the relative implementation provisions;

d) on central depositories, in the case of breach of the provisions of Article 6, sub-sections 3 and 4, and of Article 7, sub-sections 1 and 2, of the Regulation referred to in paragraph 1, and of the relative implementation provisions;

e) on central depositories and central counterparties and trading venues, in the case of breach of the provisions of Article 7, sub-sections 9 and 10, of the Regulation referred to in paragraph 1 and the relative implementation provisions;

f) on participants in the case of breach of the provisions of Article 38, sub-sections 5 and 6, of the Regulation referred to under paragraph 1;

g) anyone who does not comply with the provisions of Article 7, sub-sections 3, 6, 7 and 8, and of Article 9, sub-section 1, of the Regulation referred to under paragraph 1 and of the relative implementation provisions.

4. In the cases disciplined by paragraphs 1 and 2, Article 187-quinquiesdecies, paragraph 1-quarter shall apply[1354].

1351 Article first inserted by Article 3 of Legislative Decree no. 176 of 12.8.2016 and then amended by Article 5 of Legislative Decree no. 129 of 3 August 2017 in the terms indicated in the following notes.

1352 Paragraph thus amended by Article 5 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «are available and can be determined» with the words: «can be determined pursuant to article 195, paragraph. 1-bis».

1353 Paragraph thus amended by Article 5 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «are available and can be determined» with the words: «can be determined pursuant to article 195, paragraph 1-bis».

1354 Paragraph thus amended by Article 5 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «188, paras 2 and 2-bis» with the words: «187-quinquiesdecies, paragraph 1-quater».

5. …omissis…[1355]

Article 190.3[1356]
Administrative sanctions related to the governing of markets[1357]

1. Unless the fact constitutes a crime pursuant to article 166, a pecuniary administrative sanction from Euro thirty thousand up to Euro five million or up to ten percent of the sales figures when this amount is in excess of Euro five million and the sales figures can be determined pursuant to article 195, paragraph 1-bis is applied:

a) to the managers of the trading venues in the case of non-compliance with the provisions required by chapter II of title I-bis of part III and of those issued on the basis thereof;

a-bis) to the operators of regulated markets, in the case of non-compliance with the provisions specified in article 90-quinquies, paras. 2 and 3[1358];

b to the systematic internalisations, in the case of non-compliance with the provisions specified by chapter III of title I-bis of part III and of those issued on the basis thereof;

c) to the organisers and operators of the multilateral facilities of Euro deposits, in the case of non-compliance with the provisions specified by article 62-septies and those issued on the basis thereof;

d) to the members and the investors admitted to regulated markets and multilateral trading facilities as well as clients of organised trading facilities, in the case of non-compliance with the provisions specified by chapter II of the title The-bis of the part III and those issued on the basis thereof;

e) ...omissis...[1359];

f) …omissis...[1360].

2. Anyone infringing the provisions of article 68, paragraph 1, and relative implementing regulations, or infringing the measures adopted on the basis of the same provisions is punished with the pecuniary administrative sanction from Euro five thousand up to Euro five million. If the infringement is committed by a company or agency, they are punished with a pecuniary administrative sanction from Euro thirty thousand up to Euro five million, or up to ten percent of the sales figures, when this amount is in excess of Euro five million and the sales figures can be determined pursuant to article 195, paragraph 1-bis.

3. Per the infringement of the provisions of articles 67-ter, 68, paragraph 1, and 68-quater, paras 2 and 3, depending on the seriousness of the infringement ascertained and having taken account of the criteria established by article 194-bis, the additional administrative sanction can also be applied of temporary interdiction, for a period of not less than six months and no more than three years, of being a member or investor in a regulated market, of a multilateral trading facility being a client of an

1355 Paragraph repealed by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

1356 Article first inserted by Article 5 of Legislative Decree no. 129 of 3.8.2017, later amended by Article 4 of Legislative Decree no. 107 of 10.8.2018, by Article 5 of Legislative Decree no. 165 of 25.11.2019 and by Article 50 of Decree Law no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022, according to the terms indicated in the following note.

1357 Heading thus amended by Article 50 of the Decree Law n. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022, which deleted the words: "and data communications services".

1358 Letter introduced by Article 5 of Legislative Decree no. 165 of 25.11.2019.

1359 Letter repealed by Article 4 of Legislative Decree no 107 of 10.8.2018.

1360 Letter repealed by Article 50 of the Decree Law n. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022.

organised trading facility.

4. Article 187-quinquiesdecies, paragraph 1-quater shall apply.

Article 190.4
Pecuniary administrative sanctions relative to the infringements of the provisions of (EU) regulation no. 600/2014, delegated deeds and provisions for the technical regulation and implementation of directive 2014/65/EU and of (EU) regulation no. 600/2014

1. The infringement of the standard of (EU) regulation no. 600/2014 referred to in article 70, sections 3, letter b), and 4, letter b), of directive 2014/65/EU and of article 22, section 1, of the same regulation, as well as the relative implementing provisions, or the non-observance of the measures adopted pursuant to article 42 of (EU) regulation no. 600/2014, is punished with a pecuniary administrative sanction from Euro five thousand up to Euro five million. If the infringement is committed by a company or agency pecuniary administrative sanction from Euro thirty thousand up to Euro five million, or up to ten percent of the sales figures, when this amount is in excess of Euro five million and the sales figures can be determined pursuant to article 195, paragraph 1-bis.

2. The same sanction envisaged by paragraph 1 is applied even in the case of infringement of the provisions in delegated deeds and in technical standards for the regulation and implementation of directive 2014/65/EU and of (EU) regulation no. 600/2014, on the subject to which the provisions mentioned in paragraph 1 and articles 190 and 190.3 refer.

3. Article 187-quinquiesdecies, paragraph 1-quater shall apply [1361].

Article 190.5
Pecuniary administrative sanctions related to credit rating agencies relating to infringements of provisions of (EC) regulation no. 1060/2009

1. the pecuniary administrative sanction from Euro two thousand five hundred to Euro one hundred and fifty thousand:

a) against investment firms, EU investment companies with branch in Italy, companies of non-EU countries authorised in Italy, financial intermediaries entered in the register specified by article 106 of the consolidated banking law, Italian banks and EU banks with branch in Italy authorised for the provision of investment services and activities, as well as against parties perform functions of administration or direction of the central counterparties, in the case of infringement of the provisions specified in articles 4, section 1, paragraph 1, and 5-bis of the (EC) regulation. 1060/2009 of the European Parliament and of the Council, of September 16 September 2009, relative to the credit rating agencies and the relative implementing provisions;

b) against managers, in the case of infringement of article 35-duodecies of this decree and of article 4, section 1, paragraph 1, of the regulation referred to in letter a), and the relative implementing provisions;

c) against issuers, offerors or persons that apply for admission to trading on regulated Italian markets, in the case of infringement of the article 4, section 1, paragraph 2, of the regulation referred to in letter a);

d) against the issuers, transferors or promoters of structured financial instruments, in the case of infringement of article 8-ter of the regulation referred to in letter a);

1361 Article included by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

e) against the issuers or associated third parties as defined by article 3, section 1, letter i), of the regulation referred to in the letter a), in the case of infringement of the articles 8-quater and 8-quinquies of the aforementioned regulation.

2. Article 187-quinquiesdecies, paragraph 1-quarter shall apply[1362].

Article 190-bis[1363]
Liability of corporate officers and staff for violations relating to the regulation of intermediaries, markets, centralised depositories, centralised management of financial instruments and of APA and ARM services[1364]

1. Notwithstanding the provisions for companies and entities against which violations are proven, for non-compliance with the provisions referred to in Articles 188, 189, 190, 190.1, 190.2, paragraphs 1 and 2, 190.3, 190.4, and 190.5, an administrative fine shall be applied from Euro five thousand up to Euro five million against persons who perform administrative, management or control functions, as well as against staff, where the non-compliance is a result of the violation of their duties or of the body they are members of and there are one or more of the following conditions[1365]:

a) the conduct had a significant impact on the overall organization or company risk profiles of business, or has caused serious harm to the protection of investors or for the transparency, completeness and or to the integrity and proper functioning of the market[1366];

b) the conduct contributed to the failure of the company or entity to comply with specific measures adopted pursuant to Article 7, paragraph 2, and 12, paragraph 5-bis;

c) the violations concern obligations imposed under Article 6, paragraphs 2-septies, 2-octies, 2-novies, or Article 13, i.e., obligations regarding remuneration and incentives, when the representative or the staff is the interested party[1367].

2. Against persons who perform administrative, management or control functions, as well as staff, in cases where their conduct contributed to the failure to comply with the order referred to in Article 194-quater by the company or body, a fine shall be imposed from Euro five thousand up to Euro five

1362 Article included by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

1363 Article first inserted by Article 5 of Legislative Decree no. 72 of 12.5.2015 and then amended by Article 1 of Legislative Decree no. 71 of 18.4.2016, by Article 3 of Legislative Decree no. 176 of 12.8.2016, by Article 5 of Legislative Decree no. 129 of 3 August 2017 and by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022, in the terms indicated in the following notes. Paragraph 4 of Legislative Decree no. 72 of 12.5.2015 provides that: “In compliance with the provisions of paragraph 2, from the date of entry into force of this Legislative Decree any reference to Article 190 of Legislative Decree no. 58 of 24 February 1998 in force on that date is understood to be carried out under Articles 190, 190-bis and 190-ter of Legislative Decree no. 58 of 24 February 1998, as amended by this Legislative Decree”

1364 Title already replaced by Article 4 of Legislative Decree no. 27 of 27 January 2010 and by Article 3 of Legislative Decree no. 176 of 12.8.2016; subsequently amended first by Article 5 of Legislative Decree no. 129 of 3 August 2017 which added, in the end, the words "and data communication services" and then by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022, which replaced the words: "of data communications" with the words: "of APA and ARM". The preceding version of the title was: "Liability of corporate officers and staff for violations relating to the regulation of intermediaries, markets, centralised depositories and the centralised management of financial instruments".

1365 Sentence thus modified by Article 5 of Legislative Decree no. 129 of 3 August 2017, which replaced the words "and 190.2, paragraphs 1 and 2" with the words: ", 190.2, paragraphs 1 and 2, 190.3, 190.4 and 190.5".

1366 Letter thus amended by Article 5 of Legislative Decree no. 129 of August 3, 2017, which replaced the words "or for completeness and" with the words "or for transparency, completeness and".

1367 Paragraph as amended by Article 3 of Legislative Decree no. 176 of 12.08.2016 which replaced the words: "188, 189 and 190 'with the words:" 188, 189, 190, 190.1 and 190.2, paragraphs 1 and 2'.

million[1368].

3. With the order to apply the sanction, by reason of the severity of the violation found and taking into account the criteria of Article 194-bis, the Bank of Italy and CONSOB may apply the accessory sanction of the interdiction, for a period not less than six months and not more than three years, from the performance of administrative, management and control functions at subjects pursuant to this legislative decree, Legislative Decree no. 385 of 1 September 1993 and Legislative Decree no. 209 of 7 September 2005, or at pension funds[1369].

3-bis. 3-bis. The Bank of Italy or CONSOB, because of the seriousness of the breaches ascertained and taking into account the criteria established by Article 194-bis, may apply the additional sanction of permanent ban on the practice of the functions referred to under paragraph 3, if the same subject has already been fined twice or more times in the last ten years, always for violations committed with fraud or serious guilt, the ban pursuant to in paragraph 3 for a total period of not less than five years[1370].

4. Article 187-quinquiesdecies, paragraph 1-quarter shall apply[1371].

Article 190-bis.1
Administrative sanctions for breach of the provisions of Regulation (EU) 2016/11

1. For breaches of the provisions of articles 4, 5, 6, 7, 8, 9, 10, of article 11, paragraph 1, letters a), b), c) and e), article 11, paragraphs 2 and 3, of articles 12, 13, 14, 15, 16, 21, 23, 24, 25, 26, 27, 28, 29 and 34 of Regulation (EU) 2016/1011 and the regulatory and implementing technical standards envisaged by the same Regulation, the following is applied:

a) against legal persons, the pecuniary administrative sanction from Euro ten thousand to Euro one million, or up to ten percent of the total annual turnover, when this amount is greater than Euro one million and the turnover can be determined under article 195, paragraph 1-bis of the present decree and under article 325-bis of the Legislative Decree no. 2019 of 7 September 2005;

b) against natural persons, the pecuniary administrative sanction from Euro five thousand to Euro five hundred thousand.

2. Without prejudice to the provisions of paragraph 1, letter a), the sanction indicated in paragraph 1, letter b) applies to subjects who perform administrative, management or control functions and to the personnel of the companies and entities against whom breaches have been ascertained, in the cases provided for by article 190-bis, paragraph 1, letter a).

3. For breaches of article 11, paragraphs 1, letter d) and 4, of Regulation (EU) 2016/1011, the following is applied:

a) against legal persons, the pecuniary administrative sanction from Euro ten thousand to Euro

1368 Paragraph thus amended by Article 5 of Legislative Decree no. 129 of 3 August 2017.

1369 Paragraph as amended by Article 5 of Legislative Decree no. 129 of 3 August 2017, which replaced the word "intermediaries" with the word "subjects".

1370 Paragraph first inserted by Article 1 of Legislative Decree no. 71 of 18.4.2016 and then amended by Article 5 of Legislative Decree no. 129 of August 3, 2017, which replaced the word: "apply" with the words "may apply" and after the words: "ten years" the words added the words: "always for violations committed with fraud or serious guilt".

1371 Paragraph thus amended by Article 5 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «188, paras 2 and 2-bis» with the words: «187-quinquiesdecies, paragraph 1-quater».

two hundred and fifty thousand, or up to two percent of the total annual turnover, when this amount is greater Euro two hundred and fifty thousand and the turnover can be determined under article 195, paragraph 1-bis of the present decree and under article 325-bis of the Legislative Decree no. 2019 of 7 September 2005

b) against natural persons, the pecuniary administrative sanction from Euro five thousand to Euro one hundred thousand.

4. Without prejudice to the provisions of paragraph 3, letter a), the sanction indicated in paragraph 3, letter b) applies to subjects who perform administrative, management or control functions and to the personnel of the companies and entities against whom breaches have been ascertained, in the cases provided for by article 190-bis, paragraph 1, letter a).

5. If the advantage obtained by the perpetrator of the breach, as a consequence of the breach itself, exceeds the maximum limits indicated in this article, the pecuniary administrative sanction is raised up to three times the amount of the advantage obtained, provided that this amount can be determined.

6. With the measure for the application of the pecuniary administrative sanction, on the ground of the severity of the ascertained breach and taking into account the criteria established by article 194-bis, the accessory administrative sanction of disqualification, for a period of no less than six months and no more than three years, from the performance of administration, management and control functions for benchmark administrators or supervised contributors, can be applied to the natural person considered liable for the breach.

7. The application of the pecuniary administrative sanction entails the confiscation of the product or profit of the offence. In such a case, article 187-sexies, paragraphs 2 and 3 are applied.

8. The administrative sanctions envisaged by this article are applied by the Bank of Italy, by CONSOB, by IVASS and by the COVIP, to subjects supervised by the same and according to the supervisory powers specified in article 4-septies.1 and the respective sanctioning procedures. With regard to IVASS and the COVIP, however, articles 194-bis, 194-quater, 194-septies and 195-ter, paragraph 1-bis, are applicable, for matters under their respective competence and for the purposes of this article. IVASS and the COVIP publish the sanctions imposed according to the sector procedures[1372].

Article 190-bis.2[1373]
Administrative sanctions for infringements of the provisions of Regulation (EU) 2017/2402

1. For infringements of Articles 3, 5, 6, 7, 9, 18, 19, 20, 21, 22, 23, 24, 25, 26, 26-bis, 26-ter, 26-quarter, 26-quinquies, 26-sexies, 27 (1) and (4) and 28 (2) of Regulation (EU) 2017/2402 and of the regulatory and implementing technical standards provided for therein, the following shall apply[1374]:

a) in respect of companies and entities that act as originator, original lender, sponsor, SSPE, institutional investor, seller of a securitisation position as referred to in Article 3 of Regulation (EU) 2017/2402, managing party that receives instructions from an institutional investor as referred to in Article 5 (5) of Regulation (EU) 2017/2402 or third-party verifier as referred to in Article 27

1372 Article included by Article 2 of Legislative Decree no.19 of 13.2.2019.

1373 Article first inserted by article 1 of Legislative Decree no. 131 of 3.8.2022 and then modified by article 1 of Legislative Decree no. 204 of 6.12.2023 within the terms indicated in the following notes.

1374 Paragraph amended by article 1 of Legislative Decree no. 204 of 6.12.2023 which inserted the words: «26-bis, 26-ter, 26-quater, 26-quinquies, 26-sexies,».

paragraph (2) of Regulation (EU) 2017/2402, the administrative pecuniary sanction from thirty thousand euro to five million euro, or up to 10 per cent of the total annual turnover, where that amount is greater than five million euro and the turnover is determined in accordance with the sectoral legislation of the infringer[1375];

b) in respect of the natural persons referred to in paragraph 4 of this article, the sanction of five thousand euro up to five million euro.

2. Without prejudice to paragraph 1, for infringements of Articles 19, 20, 21, 22, 23, 24, 25, 26, 26-bis, 26-ter, 26-quarter, 26-quinquies, 26-sexies and 27 (1) of Regulation (EU) 2017/2402, the prohibition of notifying under Article 27 (1) of Regulation (EU) 2017/2402 that a securitisation meets the requirements of Articles 19 to 22, Articles 23 to 26 or Articles 26-bis and 26-sexies of that Regulation shall apply to the originator and the sponsor for a period of not less than six months and not more than three years[1376].

3. Without prejudice to the provisions of paragraph 1, for infringements of Article 28 (2) of Regulation (EU) 2017/2402, the one- to four-month suspension of the authorisation referred to in that Article shall apply to the person referred to in Article 28 of Regulation (EU) 2017/2402.

4. Without prejudice to the provisions of paragraph 1, letter a), the sanction indicated in paragraph 1, letter b) shall apply to persons who perform administrative, management or control functions and to the personnel of companies and bodies in respect of whom infringements are ascertained, in the cases provided for in Article 190-bis, paragraph 1, letter a).

5. Article 187-quinquiesdecies, paragraph 1-quater, shall apply to the infringements referred to in this article.

6. With the provision for the application of the pecuniary administrative sanction, according to the seriousness of the infringement ascertained and taking into account the criteria established in Article 194-bis and those established in paragraph 2 of Article 33 of Regulation (EU) 2017/2402, the ancillary administrative sanction of disqualification from holding administrative, management and control positions with originators, sponsors or SSPEs may be applied against the natural person held responsible for the infringement, for a period of not less than six months and not more than three years.

7. The administrative sanctions provided for in this Article shall be ordered and imposed by the Bank of Italy, CONSOB, IVASS and COVIP in accordance with the respective supervisory powers specified in Article 4-septies.2 and the respective sanctioning procedures. With regard to IVASS and COVIP, Articles 194-quater, 194-septies and 195-ter, paragraph 1-bis, shall apply, in so far as it may concern them and for the purposes of this Article. IVASS and COVIP shall publish the sanctions imposed in accordance with sectoral procedures.

1375 Letter thus modified by article 1 of Legislative Decree no. 204 of 6.12.2023 which replaced the word: «2» with the words: «paragraph (2)».

1376 Paragraph as amended by article 1 of Legislative Decree no. 204 of 6.12.2023 which inserted the words: «, 26-bis, 26-ter, 26-quater, 26-quinquies, 26-sexies» and replaced the words: «19 to 22 or articles 23 to 26 of that regulation" with the words: " 19 to 22, to articles 23 to 26 or to articles 26-bis to 26-sexies of that regulation".

Article 190-ter
Other infringements related to reserved activities

…omissis…[1377]

Article 190-quater
Administrative sanctions related to crowdfunding services

1. Providers of crowdfunding services that infringe the provisions of article 39 (1) of Regulation (EU) 2020/1503 or the relative delegated acts and regulatory technical standards, or the national provisions applicable to the marketing communications indicated by CONSOB by own regulation, and the providers of crowdfunding services other than those indicated in Article 2 (1) of Regulation (EU) 2020/1503 that infringe Article 100-ter (9) are punished with a pecuniary administrative sanction from Euro five hundred to Euro five hundred thousand, or up to 5 percent of the sales figures, where such amount is higher than Euro five hundred thousand and the sales figures can be determined as specified in Article 195, paragraph 1-bis. For cases referred to in Article 39 (1), letter b) of Regulation (EU) 2020/1503, reasoned refusal shall remain unprejudiced where the requested information may result in one's own responsibility for offences subject to administrative sanctions of a punitive nature or for a crime.

2. Without prejudice to the provisions applicable to companies and agencies in relation to which violations are ascertained, the sanction referred to in paragraph 1 shall apply to the persons that carry out administration, management or control functions or to the personnel of the crowdfunding service providers in relation to which the violations are ascertained, in the cases envisaged by Article 190-bis, paragraph 1, letter a).

3. Where the advantage drawn by the wrongdoer in consequence of the violation is greater than the maximum limits set out in paragraph 1, the pecuniary administrative sanction shall be raised up to twice the amount of the advantage drawn, provided that such amount can be determined.

4. Unless the violation in question constitutes a crime, with the measure for application of the pecuniary administrative sanctions provided for by paragraph 2, in consideration of the seriousness of the ascertained violation and keeping into account the criteria set out by Article 194-bis, the Bank of Italy and CONSOB, according to their respective powers, may order application of the measures referred to in Article 39 (2), letters a), b) and c) of Regulation (EU) 2020/1503. In the case of violation of the measure referred to in Article 39 (2), letter b) of Regulation (EU) 2020/1503 Article 192-bis, paragraph 1-quater, shall apply[1378].

1377 Article first included by Article 5 of Legislative Decree no. 72 dated 12.5.2015, later amended by Article 1, paragraph 43 of Law no. 208 dated 28.12.2015 and finally repealed by Article 5 of Legislative Decree no. 129 dated 3.8.2017. Paragraph 4 of Article 6 of Legislative Decree no. 72 dated 12.5.2015 provides that: "In compliance with the provisions of the paragraph 2, from the date of entry into force of present Legislative Decree any reference to article 190 of Legislative Decree no. 24 February 1998, no. 58, in force at that date is intended to be made in articles 190, 190-bis and 190-ter of Legislative Decree no. 24 February 1998, no. 58, as amended by this Legislative Decree".

1378 Article first included by Article 5 of Legislative Decree no. 129 dated 3.8.2017 and then thus replaced by Article 1 of Legislative Decree no. 30 of 10.3.2023.

Article 191[1379]
Public offering of underwriting and sale of financial products and admission to trading of securities

1. The entities and companies infringing the provisions referred to by Article 38, paragraph 1, letter a) of the Prospectus Regulation and related implementing provisions, shall be punished with a pecuniary administrative sanction from Euro five thousand up to Euro five million, or up to three percent of the turnover, if such amount exceeds Euro five million and the turnover can be determined in accordance with Article 195, paragraph 1-bis.

1379 Article previously amended by Article 14 of Law no. 262 of 28.12.2005 and by Article 5 of Legislative Decree no. 72 of 12.5.2015; subsequently first replaced by Article 4 of Legislative Decree no. 51 of 28.3.2007 and then by Article 1 of Legislative Decree no. 71 of 18.4.2016; subsequently newly amended by Article 5 of Legislative Decree no. 129 of 3.8.2017; replaced by Article 4 of Legislative Decree no. 17 of 2.2.2021 and amended by Article 4 of Legislative Decree no. 191 of 5.11.2021 according to the terms indicated in the following footnote. Paragraph 2 of Article 6 of Legislative Decree no. 72 of 12.5.2015 provides that the changes to Part V of Legislative Decree no. 58 of 24 February 1998, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree no. 58 of 24 February 1998. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). To the breaches committed before 8.3.2016 continue to apply the provisions of Part V of Legislative Decree no. 58 of 24 February 1998 applicable before the date of entry into force of Legislative Decree no. 72 of 12.5.2015. Below is the text of Article 191 in force until the entry into force of Legislative Decree no. 72/2015: "Article 191 – (Public offerings) 1. Any person who makes a public offering in violation of Articles 94(1) and 98-ter (1) shall be punished by a pecuniary administrative sanction of no less than one fourth of the total value of the financial products marketed and not exceeding twice such value. If the total value of the financial products marketed is not determined, a pecuniary administrative sanction of between one hundred thousand euros and two million euros shall apply. 2. Anyone who breaches Articles 94, paragraphs 2, 3, 5, 6 and 7, 96, 97, 98-ter, paragraphs 2 and 3, 101, or the related general or specific rules issued by CONSOB pursuant to Articles 95, paragraphs 1, 2 and 4, 97, paragraph 2, 98-quater, 98-quinquies, paragraph 2, 99, paragraph 1, letters a), b), c) and d), shall be punished with a fine from Euro five thousand to Euro five hundred thousand. 3. The application of the administrative fines envisaged by paragraph 1 involves the temporary loss of the requirements of honorability established by this decree for company representatives of qualified subjects and for financial advisers as well as the temporary incapacity to hold administrative, managerial and control positions in companies with securities listed on regulated markets or in circulation among the public to a significant extent and companies belonging to the same group. The additional administrative sanction shall have a duration of no less than two months and no more than three years. 4. Pursuant to Article 195, paragraph 3, CONSOB shall publish the measures and sanctions applied for violation of the provisions mentioned in this article, except where such publication could seriously disrupt the markets or cause disproportionate damage to the parties concerned. 5. Article 16, Law no. 689 of 24 November 1981 shall not apply to the financial penalties envisaged under this article." For offences committed between 9.3.2016 and 4.6.2016 (the date of the entry into force of Legislative Decree no. 71 of 18.4.2016) the previous text of Article 191 continues to apply: "Article 191 (Public offerings) - 1. Anyone who makes an offer to the public in breach of Articles 94, paragraph 1, and 98-ter, paragraph 1, shall be punished with a fine from Euro twenty-five thousand to Euro five million. 2. Anyone who breaches Articles 94, paragraphs 2, 3, 5, 6 and 7, 96, 97, 98-ter, paragraphs 2 and 3, 101, or the related general or specific rules issued by CONSOB pursuant to Articles 95, paragraphs 1, 2 and 4, 97, paragraph 2, 98-quater, 98-quinquies, paragraph 2, 99, paragraph 1, letters a), b), c) and d), shall be punished with a fine from Euro five thousand to Euro seven hundred fifty thousand. 2-bis. If a company or entity is required to comply with the provisions of paragraphs 1 and 2, the sanctions provided for therein shall apply to these latter; the same penalty shall be applied to company representatives and staff of a company or entity in the cases provided for in Article 190-bis, paragraph 1, letter a). If a natural person is required to comply with the same provisions, the sanction applies to the latter in case of breach. 3. The application of the administrative fines envisaged by paragraph 1 involves the temporary loss of the requirements of suitability established by this decree for company representatives of qualified subjects and of the requirements for financial advisers authorised to make off-premises offers as well as the temporary incapacity to hold administrative, managerial and control positions in companies with securities listed on regulated markets or in circulation among the public to a significant extent and companies belonging to the same group. The additional administrative sanction shall have a duration of no less than two months and no more than three years. 3-bis. Except as provided for in Article 194-quinquies, the fines provided for in this article shall not be subject to Articles 6, 10, 11 and 16 of Law no. 689 of 24 November 1981. 4. […omissis…] 5. The fines contemplated by this Article are not subject to Article 16 of Law no. 689 of 24 November 1981".

2. If the infringement of the provisions referred to in paragraph 1 is committed by a natural person, a pecuniary administrative sanction from Euro five thousand up to Euro seven hundred thousand shall apply.

3. Without prejudice to the provisions of paragraph 1, the sanction indicated in paragraph 2 shall apply to the corporate representatives and personnel of the company or entity committing the infringement, in the cases provided for by Article 190-bis, paragraph 1, letter a).

3-bis. The sanction provided for by paragraph 1 applies to the entities and companies referred to in Article 2, letters a), c) and d), of Regulation (EU) 2019/1156, that violate Article 4 of the same regulation in relation to closed-ended AIFs. Paragraphs 2 and 3 are also applicable[1380].

4. Anyone who makes an offer to the public without a prospectus approved by CONSOB in accordance with Article 94-bis, paragraph 3, shall be punished with a pecuniary administrative sanction from Euro twenty-five thousand to Euro five million.

5. Anyone who breaches Articles 94-bis, paragraphs 1 and 4, 96, 97, paragraphs 1 and 3, 101, or the general or specific provisions issued by CONSOB in accordance with Articles 94-bis, paragraph 2, 95, paragraphs 1 and 2, 97, paragraph 2, 99, paragraph 1, letters a), b), c), d) and l), 113, paragraph 2, letter f), shall be punished with a pecuniary administrative sanction from Euro five thousand up to Euro seven hundred and fifty thousand.

6. If a company or entity is required to comply with the provisions of paragraphs 4 and 5, the pecuniary administrative sanctions provided for therein shall also apply to the corporate representatives and staff of a company or entity in the cases provided for in Article 190-bis, paragraph 1, letter a). If a natural person is required to comply with the same provisions, the sanction applies to the latter in case of breach.

7. Article 187-quinquiesdecies, paragraph 1-quater shall apply.

Article 191-bis
Additional sanctions

1. With an order of imposition of the pecuniary administrative sanctions provided for by Article 191 against natural persons in the cases provided for therein, in consideration of the seriousness of the ascertained violation and keeping into account the criteria set out by Article 194-bis, CONSOB may order:

a) temporary incapacity to hold administrative, managerial and control positions in entities authorized in accordance with this decree, Legislative Decree no. 385 of 1 September 1993, Legislative Decree no. 209 of 7 September 2005 or pension funds;

b) temporary incapacity to hold administrative, managerial and control positions in companies with securities listed and companies belonging to the same group;

c) suspension from the Register, pursuant to Article 26, paragraph 1, letter d), and paragraph 1-bis, of Legislative Decree no. 39 of 27 January 2010, of the statutory auditor and independent statutory auditor or person appointed for the purpose;

d) cancellation from the Register referred to in Article 31, paragraph 4, of financial advisors authorized to make door to door sales;

e) temporary invalidity of the integrity requirements of the participants in the capital of the

1380 Paragraph included by Article 4 of Legislative Decree no. 191 of 5.11.2021.

entities indicated in letter a).

2. The additional administrative sanction referred to in paragraph 1 shall have a duration of no less than two months and no more than three years.

3. If the issuer, offeror or person requesting admission to trading on a regulated market has already committed two or more times in the last five years a violation, by wilful misconduct or gross negligence, of the provisions under Article 191, CONSOB may deny approval of a prospectus drawn up by the same person for a period of no more than five years[1381].

Article 191-ter[1382]
Public offering of underwriting and sale and admission to trading of open-end UCITS units or shares

1. Without prejudice to the provisions of Article 193-quinquies, anyone who makes an offer to the public in breach of Articles 98-ter, paragraph 1, and 98-ter.1, paragraph 2, shall be punished with a pecuniary administrative sanction from Euro twenty-five thousand to Euro five million. The same sanction shall apply in case of violation of Article 98, only in relation to offers to the public of units or shares of closed-ended AIF for which Italy is the home member state[1383].

2. Without prejudice to the provisions of Article 193-quinquies, anyone who breaches Articles 98-ter, paragraph 3, and 98-ter.1, paragraphs 3 and 4, or the related general or specific provisions issued by CONSOB in accordance with Articles 98-quater, shall be punished with a pecuniary administrative sanction from Euro five thousand up to Euro five million. The same sanctions shall apply in case of violation of Article 101 and in case of violation of Article 4 of Regulation (EU) no. 2019/1156, when these are committed within the context of an offer of open-ended UCIs[1384].

3. If the violation is committed by a company or entity, the maximum amount of the pecuniary administrative sanctions provided for by paragraphs 1 and 2 shall be increased by up to ten percent of the turnover, if said amount exceeds Euro five million and the turnover can be determined in accordance with Article 195, paragraph 1-bis.

4. The pecuniary administrative sanctions provided for by paragraphs 1 and 2 shall apply to the corporate representatives and staff of the company or entity committing the violation, in the cases provided for in Article 190-bis, paragraph 1, letter a).

5. Article 190-bis, paragraph 2, 3 and 3-bis shall apply to the violations provided for by paragraphs 1 and 2.

6. Without prejudice to the provisions of paragraph 5, the application of the fines envisaged by paragraphs 1, involves the temporary loss of the requirements of suitability established by this decree for company representatives of qualified subjects and of the requirements contemplated for the

1381 Article included by Article 4 of Legislative Decree no. 17 of 2.2.2021.

1382 Article first included by Article 4 of Legislative Decree no. 17 of 2.2.2021 and then amended by Article 4 of Legislative Decree no. 191 of 5.11.2021, by Article 1 of Legislative Decree no. 29 of 10.3.2023 and Article 4 of Law no. 21 of 5.3.2024 according to the terms indicated in the following footnotes.

1383 Paragraph thus replaced by Article 1 of Legislative Decree no. 29 of 10.3.2023.

1384 Paragraph first replaced by art 4 of Legislative Decree no. 191 of 5.11.2021, which replaced the last clause, and then thus replaced by Article 1 of Legislative Decree no. 29 of 10.3.2023.

financial advisors qualified for door-to-door selling, for the independent financial advisors and for the corporate exponents of the financial advisory firms as well as the temporary incapacity to hold administrative, managerial and control positions in companies with securities listed on regulated markets and companies belonging to the same group. The additional administrative sanction shall have a duration of no less than two months and no more than three years[1385].

7. A pecuniary administrative sanction from Euro five thousand up to Euro seven hundred fifty thousand shall apply to the issuer or person requesting admission to trading of open-end UCITS units or shares, in case of violation of the provisions of Article 113-bis, paragraphs 1, 2, letters a) and b), and 4, or the related general or specific provisions issued by CONSOB.

8. Article 187-quinquiesdecies, paragraph 1-quater shall apply to the violations referred to in this article.

Article 192[1386]
Takeover bids or exchange tender offerings

1. Any person violating the obligation to launch a takeover bid or exchange tender offering or launching a takeover bid or exchange tender offering in violation of article 102, paragraphs 1, 3 and 6, shall be punished by a financial penalty of not less than twenty-five thousand Euro and not exceeding the total amount payable by the bidder or which would have been payable by the bidder had the takeover bid or exchange tender offering been implemented[1387].

2. The sanction referred to in paragraph 1 shall apply to persons who:

a) fail to comply with the indications given by CONSOB pursuant to Article 102, paragraph 4, or violate the regulations issued pursuant to Article 102, paragraph 1 and Article 103, paragraph 4[1388];

1385 Paragraph thus amended by Article 4 of Law no. 21 of 5.3.2024, which deleted the words: "or in circulation among the public to a significant extent".

1386 Paragraph 2 of Article 6 of Legislative Decree no. 72 of 12.5.2015 provides that the changes to Part V of Legislative Decree no. 58 of 24 February 1998, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree no. 58 of 24 February 1998. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). To the breaches committed before 8.3.2016 continue to apply the provisions of Part V of Legislative Decree no. 58 of 24 February 1998 applicable before the date of entry into force of Legislative Decree no. 72 of 12.5.2015. Below is the text of Article 192 in force until the entry into force of Legislative Decree no. 72/2015: "*Article 192 - (Takeover bids or exchange tender offerings) 1. Any person violating the obligation to launch a takeover bid or exchange tender offering or launching a takeover bid or exchange tender offering in violation of article 102, paragraphs 1, 3 and 6, shall be punished by a financial penalty of no less than Euro twenty-five thousand and not exceeding the total amount payable by the bidder or which would have been payable by the bidder had the takeover bid or exchange tender offering been implemented. 2. The sanction referred to in paragraph 1 shall apply to persons who: a) fail to comply with the indications given by CONSOB pursuant to Article 102, paragraph 4, or violate the regulations issued pursuant to Article 102, paragraph 1 and Article 103, paragraph 4; a-bis) violates the provisions of article 103, paragraphs 3 and 3-bis; a-ter) violates provisions regarding mandatory takeover pursuant to article 108, paragraphs 1 and 2, and provisions of the regulation issued pursuant to article 108, paragraph 7; b) exercises voting rights in violation of the provisions of article 110; b-bis) violates the provisions of article 110, paragraph 1-bis. 3. …omissis…".*

1387 Paragraph as amended by Article 5 Legislative Decree no. 229 of 19.11.2207 which replaced the words: "under article 102, paragraphs 1 and 3" with the words: "under article 102, paragraphs 1, 3 and 6" and the words: "of between ten million Lire and two hundred million Lire" with the words: "of an amount not less than Euro twenty-five thousand and not exceeding the total amount payable by the bidder or which would have been payable by the bidder had the takeover bid been implemented".

1388 Paragraph amended by Article 5, Legislative Decree no. 229 of 19.11.2007 which replaced the words: "Article 102,

a-bis) violates the provisions of article 103, paragraphs 3 and 3-bis[1389];

a-ter) violates provisions regarding mandatory takeover pursuant to article 108, paragraphs 1 and 2, and provisions of the regulation issued pursuant to article 108, paragraph 7[1390];

b) exercises voting rights in violation of the provisions of article 110;

b-bis) violates the provisions of article 110, paragraph 1-bis[1391].

2-bis. If a company or entity is required to comply with the provisions of paragraphs 1 and 2, the sanctions provided for therein shall apply to these latter; the same penalty shall be applied to company representatives and staff of a company or entity in the cases provided for in Article 190-bis, paragraph 1, letter a). If an individual is required to comply with the same provisions, the sanction applies to the latter in case of violation. The maximum sanction applicable to an individual for the violations provided for in paragraphs 1 and 2 shall not exceed Euro five million[1392].

2-ter. Article 187-quinquiesdecies, paragraph 1-quater shall apply[1393]

3. …omissis…[1394].

paragraph 2" with the words: "Article 102, paragraph 4" and the words: "pursuant to Article 103, paragraphs 4 and 5" with the words: "pursuant to Article 102, paragraph 1 and Article 103, paragraph 4".

1389 Paragraph added by Article 4, Legislative Decree no. 146 of 25.09.2009.

1390 Paragraph added by Article 4, Legislative Decree no. 146 of 25.09.2009.

1391 Paragraph added by Article 5, Legislative Decree no. 229 of 19.11.2007.

1392 Paragraph first included by Article 5 of Legislative Decree no. 72 of 12.5.2015 and then so modified by Article 5 of Legislative Decree no. 129 of 3 August 2017.

1393 Paragraph first included by Article 5 of Legislative Decree no. 72 dated 12.5.2015 and then thus amended by Article 5 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «188, paras 2 and 2-bis» with the words: «187-quinquiesdecies, paragraph. 1-quater».

1394 Paragraph first replaced by Article 5, Legislative Decree no. 229 of 19.11.2007 and later repealed by Article 4, Legislative Decree no. 146 of 25.09.2009.

Article 192-bis[1395]
Fines regarding disclosures on corporate governance and policy on remuneration and fees paid [1396]

1. Unless the fact is a criminal offence, companies listed on regulated markets which do not make the disclosures prescribed by Article 123-bis, paragraph 2, letter a), will be subjected to one of the following administrative sanctions:

a) a public statement indicating the legal person responsible for the breach and the nature of the same when it is characterized by a low offense or danger and the disputed infringement has ceased;

b) an order to eliminate the infringements charged, with possible indication of the measures to be adopted and of the term for compliance, and to refrain from repeating the offence, when the said infringements feature scarce offensiveness or danger;

c) a financial administrative sanction from Euro ten thousand to Euro ten million, or up to five per cent of sales volume when that amount is more than Euro ten million and sales volume can be determined pursuant to Article 195, paragraph 1-bis[1397].

1.1 Unless the fact constitutes an offense, a fine from ten thousand euros to ten million euros or the sanctions envisaged by paragraph 1, letters a) and b) shall be applied against companies listed on regulated markets that violate the provisions of article 123-ter and the related implementing provisions[1398].

1395 Article first inserted by Article 36 of Law no. 262 of 28.12.2005 and subsequently amended by Article 5 of Legislative Decree no. 173 of November 3, 2008, Article 5 of Legislative Decree no. 72 of 12.5.2015, Article 1 of Legislative Decree no. 25 of 15 February 2016, Article 5 of Legislative Decree no. 129 of 3 August 2017, Article 4 of Legislative Decree no. 49 of 10.5.2019 and by Article 2 of Legislative Decree no. 84 of 14.7.2020 in the terms indicated in the following notes. Paragraph 2 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Part V of Legislative Decree 24 February 1998 no. 58, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree 24 February 1998 no. 58. Violations committed before the date of entry into force of the provisions adopted by CONSOB and the Bank of Italy shall continue to apply the provisions of Part V of Legislative Decree 24 February 1998 no. 58 applicable before the date of entry into force of this decree". Below is the text of Article 192-bis in force until the entry into force of Legislative Decree no. 72/2015: "Article 192-bis – (Corporate governance disclosures) 1. Without prejudice to the fact that such omission constitutes an offence, the directors, members of control bodies and general managers of companies listed on regulated markets failing to issue disclosures pursuant to article 123-bis, paragraph 2, paragraph a) shall be punished by means of a financial penalty ranging from Euro ten thousand to Euro three hundred thousand. The disciplinary measure shall be published, at the expense of the offender, in at least two daily newspapers having a national circulation, including one of a financial nature." Article 4 of Legislative Decree no. 84 of 14.7.2020 provides that: "1. Without prejudice to the provisions of article 7 of Legislative Decree no. 49 of 10 May 2019, article 2 shall apply to the infringements committed after the date of entry into force of this decree."

1396 Heading first replaced by Article 5, Legislative Decree no. 173 of 03.11.2008 and then by Article 4 of Legislative Decree no. 49 of 10.5.2019.

1397 Paragraph already replaced by Article 5 of Legislative Decree no. 72 of 12.5.2015 and by Article 1 of Legislative Decree no. 25 of 15 February 2016 and finally amended by Article 5 of Legislative Decree no. 129 of 3 August 2017, which replaced the words " will be subjected to the following measures and administrative sanctions" with the words: "will be subjected to one of the following administrative sanctions"; to letter a) added, in the end, the following words: "when it is characterized by a low offense or danger and the disputed infringement has ceased" and in letter c), the words: "if greater, up to five percent of the total annual sales volume with the words:"or up to five per cent of sales volume when that amount is more than Euro ten million and sales volume can be determined pursuant to Article 195, paragraph 1-bis".

1398 Paragraph first inserted by Article 4 of Legislative Decree no. 49 of 10.5.2019, and then thus amended by Article 2 of Legislative Decree no. 84 of 14.7.2020, which erased the words: «as well as against persons who perform administrative, management or control functions, if their conduct has contributed to determining the violation of the aforementioned provisions by the company» and replaced the words: «one hundred and fifty thousand» with the words: «ten million». Article 4 of Legislative Decree no. 84 of 14.7.2020 provides that: "1. Without prejudice to the provisions of article 7 of Legislative Decree no. 49 of 10 May 2019, article 2 shall apply to the infringements committed after the date of entry into force of this decree."

1.1-bis. Unless the fact constitutes an offense, a fine from ten thousand euros to two million euros or the sanctions envisaged by paragraph 1, letters a) and b) shall be applied against persons who perform administrative, management or control functions, if their conduct has contributed to determining the violation of the provisions under paragraph 1.1 by the company[1399].

1-bis. For failing to provide for the disclosures indicated under paragraph 1, in the cases contemplated by Article 190-bis, paragraph 1, letter a), unless the fact is a criminal offence, subjects which perform functions of administration, management or control, and personnel, if their behaviour has contributed to determining the omission of the disclosures on the part of the company or entity, will be subjected to one of the following administrative sanctions:

a) a public statement indicating the legal person responsible for the infringement and the nature of the same, when it is characterised by low-level offence or danger and the infringement noted has ceased;

b) an order to eliminate the infringements charged, with possible indication of the measures to be adopted and of the term for compliance, and to refrain from repeating the offence, when the said infringements feature scarce offensiveness or danger;

c) a financial administrative sanction from Euro ten thousand to Euro two million[1400].

1-ter. Article 187-quinquiesdecies, paragraph 1-quater shall apply to the omissions of the communications required by article 123-bis, paragraph 2, letter a) and referred to in paragraphs 1 and 1-bis of this article[1401].

1-quater. In the case of non-compliance with the order to eliminate the infringements charged and to refrain from repeating them, the financial administrative sanction contemplated for the breach originally charged, increased by up to one third, will be applied. Without prejudice to what is contemplated for legal persons which are ascertained as having failed to observe the order, the financial administrative sanction of between Euro ten thousand and Euro two million is imposed on subjects which perform functions of administration, direction or control, as well as on the personnel, if their behaviour has contributed to determining the non-observance of the order on the part of the legal person[1402].

Article 192-ter
Admission to trading

…omissis…[1403]

1399 Paragraph introduced by Article 2 of Legislative Decree no. 84 of 14.7.2020. Article 4 of Legislative Decree no. 84 of 14.7.2020 provides that: “1. Without prejudice to the provisions of article 7 of Legislative Decree no. 49 of 10 May 2019, article 2 shall apply to the infringements committed after the date of entry into force of this decree.”

1400 Paragraph first inserted by Article 5 of Legislative Decree no. 72 of 12.5.2015, subsequently replaced by Article 1 of Legislative Decree no. 25 of 15 February 2016 and finally amended by Article 5 of Legislative Decree no. 129 of 3 August 2017, which replaced the words: "are punished by the following measures and administrative sanctions" with the words: "will be subjected to one of the following administrative sanctions" and in letter a), added in the end words: “when it is characterised by low-level offence or danger and the infringement noted has ceased'.

1401 Paragraph first included by Article 5 of Legislative Decree no. 72 of 12.5.2015, later amended by Article 5 of Legislative Decree no. 129 of 3.8.2017 and finally thus replaced by Article 4 of Legislative Decree no. 49 of 10.5.2019.

1402 Paragraph added by Article 1 of Legislative Decree no. 25 of 15.2.2016.

1403 Article first inserted by Article 4 of Legislative Decree no. 51 of 28 March 2007, subsequently amended by Article 5 of Legislative Decree no. 72 of 12.5.2015 and Article 5 of Legislative Decree no. 129 of 3 August 2017 and finally

Article 192-quater
Obligation of abstention

1. Partners and directors who violate the obligation of abstention referred to in Article 6, paragraph 2-novies, shall be punished by an administrative fine of from Euro fifty thousand to Euro one hundred fifty thousand[1404].

Article 192-quinquies[1405]
Fines regarding transactions with related parties

1. A fine from ten thousand euros to ten million euros shall be applied to companies listed on regulated markets that violate article 2391-bis of the Civil Code and the related implementing provisions adopted by CONSOB pursuant to the same article[1406].

2. Unless the fact constitutes an offence, for the violations indicated in paragraph 1, a fine from five thousand euros to one million and five hundred thousand euros shall be applied to subjects who perform administration and management functions in the cases provided for by article 190-bis, paragraph 1, letter a)[1407].

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repealed by Article 4 of Legislative Decree no. 17 of 2.2.2021. Paragraph 2 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Part V of Legislative Decree 24 February 1998 no. 58, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree 24 February 1998 no. 58. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). The breaches committed before 8.3.2016 shall continue to apply the provisions of Part V of Legislative Decree 24 February 1998 no. 58 applicable before the date of entry into force of this decree". Below is the text of Article 192-ter in force until the entry into force of Legislative Decree no. 72/2015: "Article 192-ter – (Admission to trading) 1. The issuer or person requesting permission to trade that violates the provisions of article 113, paragraphs 2, 3 paragraphs a), d) and f), 4, and article 113-bis, paragraphs 1, 2, paragraphs a) and b) and 4, or general or special provisions issued by CONSOB on the basis of said articles, shall be punished by a financial penalty of between Euro five thousand and Euro five hundred thousand. 2. For the purpose of article 195, paragraph 3, CONSOB shall publish the measures and sanctions applied for violation of the provisions mentioned in this article, except where such publication could seriously disrupt the markets or cause disproportionate damage to the parties concerned. 3. Article 16, Law no. 689 of 24 November 1981 shall not apply to the financial penalties envisaged under this article.".

1404 Article included by Article 5 of Legislative Decree no. 72 of 12.5.2015.

1405 Article first introduced by Article 4 of Legislative Decree no. 49 of 10.5.2019 and then amended by Article 2 of Legislative Decree no. 84 of 14.7.2020 according to the terms indicated in the following notes.

1406 Paragraph thus amended by Article 2 of Legislative Decree no. 84 of 14.7.2020, which replaced the words: «one hundred and fifty thousand» with the words: «ten million». Article 4 of Legislative Decree no. 84 of 14.7.2020 provides that: "1. Without prejudice to the provisions of article 7 of Legislative Decree no. 49 of 10 May 2019, article 2 shall apply to the infringements committed after the date of entry into force of this decree."

1407 Paragraph thus amended by Article 2 of Legislative Decree no. 84 of 14.7.2020, which replaced the words: «one hundred and fifty thousand» with the words: «one million and five hundred thousand». Article 4 of Legislative Decree no. 84 of 14.7.2020 provides that: "1. Without prejudice to the provisions of article 7 of Legislative Decree no. 49 of 10 May 2019, article 2 shall apply to the infringements committed after the date of entry into force of this decree.

Article 193[1408]
Fines regarding corporate disclosures and the duties of auditors, statutory auditors and auditing firms[1409]

1. Unless the fact is an offence against companies, entities or associations held to make the disclosures contemplated by Articles 114 paragraphs 5, 7 and 9, 114-bis, 115, 154-bis, 154-ter, and 154-quater for non-compliance with the provisions of the said articles or the relative implementation provisions, one the following administrative sanctions are applied:

a) a public statement indicating the legal person responsible for the breach and the nature of the same, when it is characterised by low-level offence or danger and the infringement noted has ceased;

b) an order to eliminate the infringements charged, with possible indication of the measures to be adopted and of the term for compliance, and to refrain from repeating the offence, when the said infringements feature scarce offensiveness or danger;

1408 Paragraph 2 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Part V of Legislative Decree 24 February 1998 no. 58, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree 24 February 1998 no. 58. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). To the breaches committed before 8.3.2016 continue to apply the provisions of Part V of Legislative Decree 24 February 1998 no. 58 applicable before the date of entry into force of this decree". Below is the text of Article 193 in force until the entry into force of Legislative Decree no. 72/2015: "Article 193 – (Corporate disclosures and the duties of auditors, statutory auditors and independent statutory auditors) 1. Companies, entities and associations required to make the disclosures referred to in Articles 113,114, 114-bis, 115, 154-bis and 154-ter or subject as per requirements in Article 115-bis shall be punished by a pecuniary administrative sanction of between Euro five thousand and Euro five hundred thousand for non-compliance with such articles or the related implementing provisions. Where the disclosures are to be made by a natural person, in the event of violation the same sanction shall apply. 1-bis. The sanction referred to in paragraph 1 shall be imposed on persons who perform administrative, management or supervisory functions in companies or entities that engage in the activities referred to in Articles 114(8) and 114(11) and their employees and on persons referred to in Article 114(7) for non-compliance with such articles and the related implementing provisions issued by CONSOB. 1-ter. The sanction referred to in paragraph 1 shall also be imposed for non-compliance with Articles 114(8) and 114(11) and the related implementing provisions issued by CONSOB on natural persons who perform the activities referred to in paragraph 1-bis and, when the condition for exemption laid down in Article 114(10) is not met, on natural persons who exercise the profession of journalist. 1-quater. The same penalty as that referred to under paragraph 1 shall apply, in cases of failure to observe the enactment provisions issued by CONSOB pursuant to article 113-ter, paragraph 5, paragraphs b) and c), to persons authorised by CONSOB to provide disclosure and archiving services in relation to regulatory information. 1-quinquies. The pecuniary administrative sanction is applied from Euro five thousand to Euro one hundred and fifty thousand: a) to the issuers, bidders or persons asking for admission to trading on Italian regulated markets, in the event of breach of Article 4, paragraph 1, paragraph 2 of Regulation (EC) No 1060/2009 of the European Parliament and Council, of 16 September 2009, relative to the credit ratings agencies; b) to issuers, transferors or promoters of structured finance instruments, in the event of breach of Article 8-ter of the regulation pursuant to letter a); c) to issuers or related third parties as defined by Article 3, paragraph 1, letter i), of the regulation pursuant to letter a), in the event of violation of Articles 8-quater and 8-quinquies of said regulation. 2. Failure to report significant holdings and shareholders' agreements envisaged, respectively, under article 120 paragraphs 2, 2 bis, 3 and 4, and article 122 paragraphs 1, 2 and 5, and the violation of prohibitions envisaged by article 120 paragraph 5, article 121 paragraphs 1 and 3, and article 122 paragraph 4, shall be punished by an administrative fine ranging between Euro twenty-five thousand and Euro two million five hundred thousand. A delay not exceeding two months in issuing reports pursuant to article 120 paragraphs 2, 2 bis, 3 and 4 shall be punished by an administrative fine ranging between Euro five thousand and Euro five hundred thousand. 3. The sanction referred to in paragraph 2 shall apply to: a) members of boards of auditors, supervisory boards and management control committees who commit irregularities in performing the duties provided for in Articles 149(1), 149/(4-bis) and 149(4 ter) or omit the notifications referred to in Article 149(3); b) ...omissis... 3-bis. Unless the act constitutes a crime, members of internal control bodies who fail to make the communications referred to in Article 148(2-bis) within the prescribed time limits shall be punished by a pecuniary administrative sanction equal to twice the annual compensation provided for the position in relation to which the communication was omitted. The measure imposing the sanction shall also announce disqualification from the position.".

1409 Heading first replaced by Article 40 of Legislative Decree no. 39 of 27.01.2010 and then by Article 4 of Legislative Decree no. 49 of 10.5.2019.

c) a financial administrative sanction from Euro five thousand to Euro ten million, or up to five per cent of sales volume when that amount is more than Euro ten million and sales volume can be determined pursuant to Article 195, paragraph 1-bis[1410].

1.1. If the disclosures indicated in paragraph 1 are required of a natural person, unless the fact is a criminal offence, in the event of infringement, one of the following administrative sanctions are applied against the said person:

a) a public statement indicating the person responsible for the breach and the nature of the same, when it is characterised by low-level offence or danger and the infringement noted has ceased;

b) an order to eliminate the infringements charged, with possible indication of the measures to be adopted and of the term for compliance, and to refrain from repeating the offence, when the said infringements feature scarce offensiveness or danger;

c) a financial administrative sanction from Euro five thousand to Euro two million[1411].

1.2. For the breaches indicated under paragraph 1, the subjects who perform administrative, direction or control functions as well as the personnel, always if their behaviour has contributed to determining the said breach on the part of the legal person, are subjected, in the cases contemplated by Article 190-bis, paragraph 1, letter a), to the administrative sanctions contemplated by paragraph 1.1[1412].

1410 Paragraph first modified by the art. 9, paragraph 1 of Law no. 62 of 18.4.2005 (Community Law 2004); then replaced by art. 14 of Law no. 262 of 12.28.2005; modified by the art. 3 of Legislative Decree no. 303 of 29.12.2006, by art. 4 of Legislative Decree no. 51 of 28.3.2007, by art. 1 of Legislative Decree no. 195 of 6.11.2007 and art. 5 of Legislative Decree no. 72 of 12.5.2015; again replaced by art. 1 of Legislative Decree no. 25 of 15.2.2016; still modified by the art. 5 of Legislative Decree no. 129 of 3.8.2017, by art. 4 of Legislative Decree no. 107 of 10.8.2018 and art. 4 of Law no. 21 of 5.3.2024 which deleted the words: «116, paragraph 1-bis,». **Article 10, paragraphs 2 and 3 of Legislative Decree no. 125 of 6.9.2024 provides as follows: "2. For two years after the entry into force of this decree, pursuant to Article 17, paragraph 1, letters a), b) and c), the pecuniary administrative sanctions provided for in Article 193, paragraphs 1.2 and 3 of Legislative Decree no. 58 of 24 February 1998, applied in the event of violation of the obligations provided for in Article 154-ter, paragraph 1-quater, of the same Legislative Decree no. 58 of 1998, shall not exceed Euro 150,000.00. For the same period, the pecuniary administrative sanctions provided for in Article 193, paragraph 1 of Legislative Decree no. 58 of 1998, applied in the event of violation of the obligations provided for in Article 154-ter, paragraph 1-quater of the same Legislative Decree no. 58 of 1998, shall not exceed Euro 2,500,000.00. For the same period, the pecuniary administrative sanctions provided for in Articles 24 and 26-quater of Legislative Decree no. 39 of 27 January 2010 shall not exceed Euro 125,000.00 as for auditing firms and Euro 50,000.00 as for sustainability auditors. 3. If the violations are barely offensive or harmful, the provisions of Article 193, paragraph 1, letters a) and b), and paragraph 1.1, letters a) and b) of Legislative Decree no. 58 of 1998 shall apply".**

1411 Paragraph first inserted by Article 1 of Legislative Decree no. 25 of 15 February 2016 and then amended by Article 5 of Legislative Decree no. 129 of 3 August 2017 which replaced the words: "the following administrative measures and sanctions" with the words: "one of the following administrative sanctions" and in letter a) added, at the end, the following words: "when it is characterised by low offence or danger and the infringement disputed has ceased" and then by Article 4 of Legislative Decree 107 of 10.8.2018, which removed the words "unless a reason for exemption exists contemplated by article 114, paragraph 10,".

1412 Paragraph included by Article 1 of Legislative Decree no. 25 of 15.2.2016. **Article 10, paragraphs 2 and 3 of Legislative Decree no. 125 of 6.9.2024 provides as follows: "2. For two years after the entry into force of this decree, pursuant to Article 17, paragraph 1, letters a), b) and c), the pecuniary administrative sanctions provided for in Article 193, paragraphs 1.2 and 3 of Legislative Decree no. 58 of 24 February 1998, applied in the event of violation of the obligations provided for in Article 154-ter, paragraph 1-quater, of the same Legislative Decree no. 58 of 1998, shall not exceed Euro 150,000.00. For the same period, the pecuniary administrative sanctions provided for in Article 193, paragraph 1 of Legislative Decree no. 58 of 1998, applied in the event of violation of the obligations provided for in Article 154-ter, paragraph 1-quater of the same Legislative Decree no. 58 of 1998, shall not exceed Euro 2,500,000.00. For the same period, the pecuniary administrative sanctions provided for in Articles 24 and 26-quater of Legislative Decree no. 39 of 27 January 2010 shall not exceed Euro 125,000.00 as for auditing firms and Euro 50,000.00 as for sustainability auditors. 3. If the violations are barely offensive or harmful, the provisions of Article 193, paragraph 1, letters a) and b), and paragraph 1.1, letters a) and b) of Legislative Decree no. 58 of 1998 shall apply"**

1-bis. …omissis…[1413]

1-ter. …omissis…[1414]

1-quater. The same sanctions indicated under paragraphs 1, 1.1 and 1.2 are applied, in cases of failure to observe the enactment provisions issued by CONSOB pursuant to article 113-ter, paragraph 5, paragraphs b) and c), to persons authorised by CONSOB to provide disclosure and archiving services in relation to regulatory information[1415].

1-quinquies. …omissis…[1416]

1-sexies. A fine from ten thousand to one hundred thousand euros shall be applied to the subject referred to in article 123-ter, paragraph 8-bis who fails to verify the preparation of the second section of the report[1417].

2. Unless the fact is a criminal offence, in the case of failure to disclose major shareholdings and shareholders' agreements as envisaged respectively by Article 120, paragraphs 2, 2-bis, 4 and 4-bis, and 122, paragraphs 1, 2 and 5, and violation of the prohibitions established by Articles 120, paragraph 5, 121, paragraphs 1 and 3, and 122, paragraph 4, one of the following administrative sanctions are imposed on companies, entities and associations:

a) a public statement indicating the subject responsible for the breach and the nature of the same, when it is characterised by low-level offence or danger and the infringement noted has ceased;

b) an order to eliminate the infringements charged, with possible indication of the measures to be adopted and of the term for compliance, and to refrain from repeating the offence, when the said infringements feature scarce offensiveness or danger;

c) a financial administrative sanction from Euro ten thousand to Euro ten million, or up to five per cent of sales volume when that amount is more than Euro ten million and sales volume can be determined pursuant to Article 195, paragraph 1-bis[1418].

1413 Paragraph first included by Article 9, paragraph 1, of Legislative Decree no. 62 of 18.4.2005 (2004 Community Law) and then repealed by Article 5 of Legislative Decree no. 72 of 12.5.2015.

1414 Paragraph first included by Article 9, paragraph 1, of Legislative Decree no. 62 of 18.4.2005 (2004 Community Law) and then repealed by Article 5 of Legislative Decree no. 72 of 12.5.2015.

1415 Paragraph first introduced by Article 1 of Legislative Decree no. 195 of 6.11.2007 and then amended by Article 1 of Legislative Decree no. 25 of 15.2.2016 which has replaced the words: "The same sanction indicated under paragraph 1 is applicable" with the words: "The same sanctions indicated under paragraphs 1, 1.1 and 1.2 are applied".

1416 Paragraph first included by Article 1 of Legislative Decree no. 176 dated 5.10.2010, subsequently substituted by Article 1 of Legislative Decree no. 66 dated 7.5.2015 and in conclusion repealed by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

1417 Paragraph included by art.4 of Legislative Decree no. 49 of 10.5.2019.

1418 Paragraph first replaced by Article 1 of Legislative Decree no. 195 of November 6, 2007, by Article 7 of Law no. 33 of 9 April 2009 on the conversion of D.L. no. 5 of 10.2.2009, by Article 5 of Legislative Decree no. 72 of 12.5.2015, by Article 1 of Legislative Decree no. 25 of 15 February 2016 and subsequently amended by Article 5 of Legislative Decree no. 129 of 3 August 2017, which replaced the words "the following measures and administrative sanctions are imposed" with the words: "one of the following administrative sanctions are imposed"; to letter a) added, in the end, the following words: “when it is characterized by a low offense or danger and the disputed infringement has ceased” and in letter c), the words: “if greater, up to five percent of the total annual sales volume with the words:"or up to five per cent of sales volume when that amount is more than Euro ten million and sales volume can be determined pursuant to Article 195, paragraph 1-bis", and by Article 13 of Decree Law no. 148, of 16.10.2017, converted with amendments by Italian Law no. 172 of 4.12.2017, which replaced the words "respectively by Articles 120, 2, 2 and 4", with the words: " respectively by Article 120, paragraphs 2, 2-bis, 4 and 4-bis".

2.1. Unless the fact is a criminal offence, if the disclosures referred to under paragraph 2 are required of a natural person, in the case of breach one of the following administrative sanctions is applied:

a) a public statement indicating the person responsible for the breach and the nature of the same, when it is characterised by low-level offence or danger and the infringement noted has ceased;

b) an order to eliminate the infringements charged, with possible indication of the measures to be adopted and of the term for compliance, and to refrain from repeating the offence, when the said infringements feature scarce offensiveness or danger;

c) a financial administrative sanction from Euro ten thousand to Euro two million[1419].

2.2. For the breaches indicated under paragraph 2, the subjects who perform administrative, direction or control functions as well as the personnel, always if their behaviour has contributed to determining the said breach on the part of the legal person, are subjected, in the cases contemplated by Article 190-bis, paragraph 1, letter a), to the administrative sanctions contemplated by paragraph 2.1[1420].

2.3. In the case of a delay in making the disclosures contemplated by Article 120, paragraphs 2, 2-bis and 4, of no more than two months, the minimum statutory amount of the financial administrative sanctions indicated in paragraphs 2 and 2.1 is Euro five thousand[1421].

2.4. If the benefit obtained by the perpetrator of the breach as a result of the breach itself is above the maximum statutory limits set out in Articles 1, 1.1, 2 and 2.1, of this Article, the financial administrative sanction is increased up to twice the amount of the benefit obtained, provided that this amount can be determined[1422].

2-bis. …omissis…[1423].

3. A financial administrative sanction from Euro ten thousand to Euro one million five hundred thousand is applied[1424]:

a) members of boards of auditors, supervisory boards and management control committees who commit irregularities in performing the duties provided for in Articles 149(1), 149/(4-bis) and 149(4-ter) or omit the notifications referred to in Article 149(3);[1425]

1419 Paragraph first inserted by Article 1 of Legislative Decree no. 25 of 15 February 2016 and then amended by Article 5 of Legislative Decree no. 129 of 3 August 2017, which replaced the words: "the following measures and administrative sanctions are applied " with the words "one of the following administrative sanctions is applied" and in letter a), he added in the end the following words: “when it is characterised by low-level offence or danger and the infringement noted has ceased”.

1420 Paragraph included by Article 1 of Legislative Decree no. 25 of 15.2.2016.

1421 Paragraph included by Article 1 of Legislative Decree no. 25 of 15.2.2016.

1422 Paragraph included by Article 1 of Legislative Decree no. 25 of 15.2.2016.

1423 Article first introduced by Article 5 of Legislative Decree no. 72 of 12.5.2015 and then eliminated by Article 1 of Legislative Decree no. 25 of 15.2.2016.

1424 Line first amended by Article 5 of Legislative Decree no. 72 of 12.5.2015 which after the words: "in paragraph 2" has included the words: ", first sentence," and then by Article 1 of Legislative Decree no. 25 of 15.2.2016 which has replaced the words: "The sanction referred to paragraph 2, first sentence, is applied" with the words: "A financial administrative sanction from Euro ten thousand to Euro one million five hundred thousand is applied".

1425 Letter thus replaced by Article 2 of Law 262/2005.

b) ...omissis...[1426]/[1427].

3-bis. Unless the act constitutes a crime, members of internal control bodies who fail to make the communications referred to in Article 148(2-bis) within the prescribed time limits shall be punished by a pecuniary administrative sanction equal to twice the annual compensation provided for the position in relation to which the communication was omitted. The measure imposing the sanction shall also announce disqualification from the position.[1428]

3-ter. …omissis…[1429]

3-quater. Breach of the orders contemplated by this Article is punished pursuant to Article 192-bis, paragraph 1-quater[1430].

Article 193-bis
Business dealings with foreign companies with their registered office in a country that does not ensure corporate transparency

1. Persons who sign the annual accounts of foreign companies referred to in Article 165-quater(2), the reports and opinions referred to in Articles 165-quater(2), 165-quater(3), 165-quinquies(1) and 165-sexies(4) and those who perform audits pursuant to Article 165-quater(4) shall be subject to civil, penal and administrative liability in accordance with what is provided for in relation to the annual accounts of Italian companies.

2. Unless the act constitutes a crime, violation of the obligations deriving from the exercise of the powers assigned to CONSOB by Article 165-septies(1) shall be punished by the pecuniary administrative sanction provided for in Article 193(1).[1431]

1426 Letter repealed by Article 40 of Legislative Decree no. 39 of 27.1.2010. The following is the text of the letter b) of paragraph 3 of Article 193 which continues to be applied pursuant to the transitional arrangements for the Article 162, paragraph 3: [...] "b) the directors of the auditing firms that violate the provisions of article 162, paragraph 3."

1427 **Article 10, paragraphs 2 and 3 of Legislative Decree no. 125 of 6.9.2024 provides as follows: "2. For two years after the entry into force of this decree, pursuant to Article 17, paragraph 1, letters a), b) and c), the pecuniary administrative sanctions provided for in Article 193, paragraphs 1.2 and 3 of Legislative Decree no. 58 of 24 February 1998, applied in the event of violation of the obligations provided for in Article 154-ter, paragraph 1-quater, of the same Legislative Decree no. 58 of 1998, shall not exceed Euro 150,000.00. For the same period, the pecuniary administrative sanctions provided for in Article 193, paragraph 1 of Legislative Decree no. 58 of 1998, applied in the event of violation of the obligations provided for in Article 154-ter, paragraph 1-quater of the same Legislative Decree no. 58 of 1998, shall not exceed Euro 2,500,000.00. For the same period, the pecuniary administrative sanctions provided for in Articles 24 and 26-quater of Legislative Decree no. 39 of 27 January 2010 shall not exceed Euro 125,000.00 as for auditing firms and Euro 50,000.00 as for sustainability auditors. 3. If the violations are barely offensive or harmful, the provisions of Article 193, paragraph 1, letters a) and b), and paragraph 1.1, letters a) and b) of Legislative Decree no. 58 of 1998 shall apply."**

1428 Paragraph added by Article 9 of Law 62/2005 (the 2004 Community Law) and amended by Article 37 of Law 262/2005.

1429 Paragraph first included by Article 5 of Legislative Decree no. 72 dated 12.5.2015 and then repealed by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

1430 Paragraph added by Article 1 of Legislative Decree no. 25 of 15.2.2016.

1431 Article added by Article 6 of Law 262/2005.

Article 193-bis.1
Fines regarding the transparency of institutional investors, asset managers and proxy advisors

1. Unless the act constitutes a crime, a fine from two thousand five hundred euros to one hundred and fifty thousand euros shall be applied to institutional investors and asset managers in the event of violation of articles 124-quinquies, 124-sexies and 124-septies, as well as to proxy advisors in the event of violation of article 124-octies or the related implementing provisions.

2. The sanctions envisaged in paragraph 1 shall be applied, according to their respective powers and respective sanctioning procedures, by CONSOB for violations carried out by asset managers and by proxy advisors, by IVASS for violations committed by institutional investors as defined by Article 124-quater, paragraph 1, letter b), no. 1) and by COVIP for violations carried out by the pension funds indicated in article 124-quater, paragraph 1, letter b), no. 2). With regard to IVASS and COVIP, however, Article 194-bis applies. IVASS and COVIP shall publish the sanctions imposed according to sector procedures[1432].

Article 193-ter[1433]
Fines for breach of the prescriptions of regulation (EU) n° 236/2012

1. Anyone who does not comply with the provisions of articles 5, 6, 7, 8, 9, 15, 17, 18 and 19 of Regulation (EU) n° 236/2012 and relative implementation rules, shall be fined from Euro twenty-five thousand to Euro two million five hundred thousand.

2. The same sanction of paragraph 1 is applicable to anyone who:

a) breaches the provisions of articles 12, 13 and 14 of the regulation indicated in paragraph 1 and relative implementation rules[1434];

b) breaches the measures adopted by the competent authorities contemplated by article 4-ter pursuant to articles 20, 21 and 23 of the same Regulation.

3. The fines contemplated by paragraph 2, letters a) and b), shall be increased up to the greater sum of either three times the amount or ten times the product or profit gained by the illicit fact when, for the personal qualities of the guilty subject, for the entity of the product or profit gained by the illicit fact or by the effects produced on the market, the maximum sum seems inadequate.

4. The application of the fines contemplated by this article always entails the confiscation of the product or profit gained by the illicit fact. If confiscation is not possible, sums of money, assets or other benefits of equivalent value shall be confiscated.

5. …omissis…[1435]

1432 Article included by article 4 of Legislative Decree no. 49 of 10.5.2019.

1433 Article first inserted by Article 24 of D.L. no. 179 of 18.10.2012 and then amended by Article 5 of Legislative Decree no. 129 of 3 August 2017 in the terms indicated in the following notes.

1434 Letter thus amended by Article 5 of Legislative Decree no. 129 of 3 August 2017 replacing the word: “Regulation” with the word: “regulation”.

1435 Paragraph repealed by Article 5 of Legislative Decree no. 129 of 3.8.2017.

Article 193-quater[1436]
Fines relative to breach of the provisions issued by Regulation (EU) no. 648/2012 of the European Parliament and of the Council, of 4 July 2012, by Regulation (EU) 2015/2365 of the European Parliament and of the Council, of 25 November 2015 and by Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020 [1437]

1. The central counterparties, the trading venue managers, the financial counterparties and the non-financial counterparties, as defined in Article 2, points 1), 4), 8) and 9), of Regulation (EU) no. 648/2012 of the European Parliament and of the Council, of 4 July 2012, the subjects which act as participants of the central counterparties or as customers of these latter, as defined by Article 2, point 15) of the aforesaid Regulation, which do not observe the provisions contemplated by titles II, III, IV and V of the said regulation and the relative implementation provisions, are punished with a fine from Euro five thousand to Euro five million if they are natural persons. If the offence is committed by a company or an entity, the fine applied will be from Euro thirty thousand to Euro five million or up to ten percent of sales volume if this amount is more than Euro five million and if the sales volume figure is available and can be determined or up to ten percent of the sales volume, when that amount is more than Euro five million and the sales volume can be determined pursuant to article 195, paragraph 1-bis of the present decree and pursuant to article 325-bis of the Legislative Decree no. 209 of 7 September 2005[1438].

1436 Article first included by Article 33 of Law no. 97 of 6.8.2013 and subsequently amended by Article 11 of Law no. 161 of 30.10.2014, by Article 5 of Legislative Decree no. 72 of 12.5.2015, by Article 3 of Legislative Decree no. 176 of 12.8.2016, by Article 5 of Legislative Decree no. 129 of 3 August 2017, by Article 2 of Legislative Decree no.19 of 13.2.2019 and by Article 25 of Legislative Decree n. 224 of 6.12.2023 within the terms specified in the successive notes. Paragraph 2 of Article 5 of Legislative Decree no. 176 of 12.8.2016 rules that “Until the date of the application of the implementation provisions of Directive 2014/65/EU and of adoption of the Regulation (EU) no. 600/2014, the term "trading venues" refers to regulated markets and to multi-lateral trading systems and the term "managers" refers to the management companies, as far as concerning regulated markets, and to the subjects that manage multi-lateral trading systems, as far as concerning these latter”. Paragraph 2 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Part V of Legislative Decree 24 February 1998 no. 58, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree 24 February 1998 no. 58. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). To the breaches committed before 8.3.2016 continue to apply the provisions of Part V of Legislative Decree 24 February 1998 no. 58 applicable before the date of entry into force of this decree”. The provisions of part V of the Legislative Decree no. 58 of 24 February 1998, in force before the date of entry into force of Legislative Decree no. 72 of 12.5.2015, continue to apply to violations committed before 8.3.2016. Below is the text of Article 193-quater in force until the entry into force of Legislative Decree no. 72/2015: “Article 193-quater – (Fines relative to breach of the provisions issued by Regulation (EU) no. 648/2012 of the European Parliament and of the Council, of 4 July 2012) 1. The subjects which perform administrative or management functions of the central counterparties, of the trading head offices, of the financial counterparties and of the non-financial counterparties, as defined in article 2, points 1), 4), 8) and 9), of regulation (EU) no. 648/2012 of the European Parliament and of the Council, of 4 July 2012, which do not observe the provisions contemplated by titles II, III, IV and V of the said regulation and of the relative implementation provisions, are punished with a fine from Euro two thousand five hundred to Euro two hundred and fifty thousand. 2. The sanctions contemplated by section 1 are also applied to the subjects which perform control functions within the central counterparties, the trading seats, the financial counterparties and the non-financial counterparties, as defined in section 1, which have breached the provisions laid down by titles II, III, IV and V of the regulation referred to in section 1 or who have not supervised, according to the duties inherent to their office, to ensure that the said provisions are not breached by others. 3. The fines contemplated by sections 1 and 2 are applied by Bank of Italy, CONSOB, IVASS and COVIP according to the respective powers of supervision. 4. The fines contemplated by this article are not subject to article 16 of Law no. 689 of 24 November 1981.”.

1437 Heading replaced initially by Article 2 of Legislative Decree no. 19 of 13.2.2019 and then by Article 25 of Legislative Decree no. 224 of 6.12.2023.

1438 Paragraph first replaced by Article 1 of Legislative Decree no. 195 of November 6, 2007, then Article 7 of Law no.

1-bis. Financial counterparties and the non/-financial counterparties, as defined by article 3, points 3) and 4) of Regulation (EU) 2015/2365 of the European Parliament and of the Council, of 25 November 2015, which do not comply with the provisions of article 4 of the same Regulation and the regulatory and implementing technical standards envisaged by the same Regulation, are punished with the pecuniary administrative sanction from Euro five thousand to Euro five million, if they are natural persons. If the breach is committed by a company or an entity, the pecuniary administrative sanction from Euro thirty thousand to Euro five million, or up to ten percent of the total annual turnover, if this amount is greater than Euro five million and the turnover can be determined under article 195, paragraph 1-bis of the present decree and under article 325-bis of the Legislative Decree no. 209 of 7 September 2005, is applied[1439].

1-ter. Against the counterparties indicated in paragraph 1-bis, which do not comply with the provisions of article 15 of Regulation (EU) 2015/2365, the pecuniary administrative sanction from Euro five thousand to Euro five million is applied, if they are natural persons. If the breach is committed by a company or an entity, the pecuniary administrative sanction from Euro thirty thousand to Euro fifteen million, or up to ten percent of the turnover, if this amount is greater than Euro fifteen million and the turnover can be determined under article 195, paragraph 1-bis of the present decree and under article 325-bis of the Legislative Decree no. 209 of 7 September 2005, is applied[1440].

1-quater. With regard to central counterparties and direct participants, as defined in Article 2, points 1) and 12), of Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020, for failure to comply with the obligations deriving from the same Regulation (EU) 2021/23 and its national implementing legislation, or from the related delegated acts or from the regulatory and implementing technical standards issued by the European Commission, as well as in the event of non-compliance with the related general or particular provisions issued by the Bank of Italy and Consob, a pecuniary administrative sanction from 30,000 euro up to 10 percent of turnover shall be applied, determined pursuant to Article 195, paragraph 1-bis, of this decree and pursuant to Article 325-bis of Legislative Decree no. 209 of 7 September 2005. For non-compliance with the same provisions, the pecuniary administrative sanction of 5,000 euro to 5 million euro shall apply to natural persons. The Bank of Italy and Consob do not challenge breaches in cases of absolute lack of prejudice to investor protection and to the transparency of the corporate control market and the capital market, or for the timely performance of supervisory functions[1441].

2. …omissis…[1442]

2-bis. Without prejudice to the provisions for the companies and entities against which a breach has been, the sanctions envisaged for natural persons by paragraphs 1, 1-bis, 1-ter and 1-quater, in the

33 of 9 April 2009 on the conversion of D.L. no. 5 of 10.2.2009, by Article 5 of Legislative Decree no. 72 of 12.5.2015, from Article 3 of Legislative Decree no. 176 of 12.8.2016 and finally amended by Article 5 of Legislative Decree no. 129 of 3 August 2017, which replaced the words "are punished" with the words "are punished" and the words: " or up to ten percent of sales volume if this amount is more than Euro five million and if the sales volume figure is available" with the words:" or up to ten percent of the sales volume, when that amount is more than Euro five million and the sales volume can be determined pursuant to article 195, paragraph 1-bis" and by Article 2 of Legislative Decree no. 19 of 13.2.2019 which after the words "paragraph 1-bis" has added, finally, the words: "of the present decree and pursuant to article 325-bis of the Legislative Decree no. 209 of 7 September 2005".

1439 Paragraph inserted by Article 2 of Legislative Decree no. 19 of 13.2.2019.

1440 Paragraph inserted by Article 2 of Legislative Decree no. 19 of 13.2.2019.

1441 Paragraph inserted by Article 25 of Legislative Decree no. 224 of 6.12.2023.

1442 Paragraph repealed by Article 5 of Legislative Decree no. 72 of 12.05.2015.

cases provided for by article 190-bis, paragraph 1, letter a), are applied to subjects that perform administration, management or control functions and personnel[1443].

2-ter. With the measure for the application of the pecuniary administrative sanction provided for by paragraph 2-bis, on the ground of the severity of the ascertained breach and taking into account the criteria established by article 194-bis, the accessory administrative sanction of disqualification, for a period of no less than six months and no more than three years, from the performance of administration, management and control functions within central counterparties, trading venue managers and financial counterparties, as respectively defined by articles 2, point 8), of Regulation (EU) no. 648/2012 and 3, point 3) of Regulation (EU) 2015/2365[1444].

2-quater. If the advantage obtained by the perpetrator of the breach, as a consequence of the breach itself, exceeds the maximum limits indicated in this article, the pecuniary administrative sanction is raised up to three times the amount of the advantage obtained, provided that this amount can be determined. In the cases referred to in paragraph 1-quater, if the advantage obtained by the perpetrator of the breach as a result of the breach itself exceeds the maximum limits indicated in the same paragraph, the pecuniary administrative sanction is raised up to twice the amount of the advantage obtained, provided that this amount can be determined[1445].

3. The sanctions envisaged by this article are applied by the Bank of Italy, by CONSOB, by IVASS and by the COVIP, to subjects supervised by the same and according to the supervisory powers specified in article 4-quarter and the respective sanctioning procedures. With regard to IVASS and the COVIP, however, articles 194-bis, 194-quater, 194-septies and 195-ter, paragraph 1-bis, are applicable, for matters under their respective competence and for the purposes of this article. IVASS and the COVIP publish the sanctions imposed according to the sector procedures[1446].

4. …omissis…[1447]

1443 Paragraph first inserted by Article 2 of Legislative Decree no. 19 of 13.2.2019 and then amended by Article 25 of Legislative Decree no. 224 of 6.12.2023 which replaced the words: «1, 1-bis and 1-ter» with the words: «1, 1-bis, 1-ter and 1-quater».

1444 Paragraph inserted by Article 2 of Legislative Decree no.19 of 13.2.2019.

1445 Paragraph first inserted by the Article. 2 of Legislative Decree no. 19 of 13.2.2019 and then amended by Article 25 of Legislative Decree no. 224 of 6.12.2023 which added the last sentence.

1446 Paragraph first replaced by Article 11 of Law no. 161 of 30.10.2014, then amended by Article 5 of Legislative Decree no.72 of 12.5.2015 and finally replaced again by Article 2 of Legislative Decree no.19 of 13.2.2019.

1447 Paragraph first replaced by Article 3 of Legislative Decree no.176 of 12.8.2016, then amended by Article 5 of Legislative Decree no. 129 of 3.8.2017 and finally repealed by Article 2 of Legislative Decree no. 19 of 13.2.2019.

Article 193-quinquies[1448]
Pecuniary administrative sanctions in the case of breach of the provisions of regulation (EU) no. 1286/2014

1. Breach of the provisions recalled by article 24, paragraph 1, of regulation (EU) no. 1286/2014, or non-observation of the measures adopted pursuant to article 4-sexies, paragraph 5, as well as the measures adopted pursuant to article 4-septies, paragraph 1, is punished by a fine from Euro five thousand to Euro seven hundred thousand with a provision adopted by CONSOB or by IVASS according to their respective duties defined pursuant to article 4-sexies. If the offence is committed by a company or an entity, the fine applied will be from Euro thirty thousand to Euro five million, or up to three percent of the relative sales volume when said amount is more than Euro five million and the sales volume can be determined pursuant to article 195 paragraph 1-bis[1449].

1448 Article first inserted by Article 1 of Legislative Decree no. 224 of 14.11.2016 and then amended by Article 5 of Legislative Decree no. 129 of 3.8.2017, by Article 5 of Legislative Decree no. 165 of 25.11.2019 and by Article 33 of Decree Law no. 34 of 19.5.2020 (converted with modifications by Law no. 77 of 17.7.2020) according to the terms indicated in the following note. Article 8, paragraph 1 of Legislative Decree no. 165 of 25.11.2019 states that: “Articles 4-sexies, 4-septies, 4-decies, 193-quinquies and 194-septies of Legislative Decree no. 58 of 24 February 1998, in effect on the day prior to the entry into force of this legislative decree [23.1.2020], shall continue to apply until the date of entry into force of the regulatory measures issued by Consob in compliance with the provisions of Article 4-sexies(5), for the purposes of exercising the supervisory responsibilities assigned by paragraph 2 of the same article. Consob, with no prejudice to the application of Article 193-quinquies of Legislative Decree no. 58 of 24 February 1998, shall adopt the aforementioned regulatory measures, in accordance with Article 1(1(e) and Article 5(6) of this decree, according to principles of proportionality and simplification, making provision for electronic procedures for acquiring the documentation necessary for fulfilling its supervisory duties, within one hundred and eighty days from the entry into force of this decree. In order to ensure the aforementioned supervisory duties are carried out, the measures in force stipulated by Consob pursuant to Article 4-sexies(5) shall continue to apply during the said period of one hundred and eighty days.” Article 33 (2-bis) of Decree Law no. 34 of 19 May 2020, converted with modifications by Law no. 77 of 17 July 2020, provides that: "Within the context of the measures referred to in this article aimed at simplifying the obligations concerning the financial and insurance contracts, and in consideration of the state of emergency in the national territory relating to the sanitary risk linked to the onset of diseases caused by transmissible viral agents, as declared in the O.J. no. 26 of 1 February 2020, articles 4-sexies, 4-septies, 4-decies, 193-quinquies and 194-septies of the Consolidated Law on Financial Intermediation, as referred to in Legislative Decree no. 58 of 24 February 1998, as in force on the day before the date of entry into force of Legislative Decree no. 165 of 25 November 2019, and the regulatory provisions issued by the National Commission for Companies and the Stock Exchange pursuant to the mentioned article 4-sexies (5), shall continue to apply until 31 December 2020." These are the provisions which shall continue to apply in compliance with the said transitional regulations: “Article 193-quinquies (Pecuniary administrative sanctions in the case of breach of the provisions of regulation (EU) no. 1286/2014) - 1. Breach of the provisions recalled by article 24, paragraph 1, of regulation (EU) no. 1286/2014, or non-observation of the measures adopted pursuant to article 4-septies, paragraph 1, is punished by a fine from Euro five thousand to Euro seven hundred thousand with a provision adopted by CONSOB or by IVASS according to their respective duties defined pursuant to article 4-sexies. If the offence is committed by a company or an entity, the fine applied will be from Euro thirty thousand to Euro five million, or up to three percent of the relative sales volume when said amount is more than Euro five million and the sales volume can be determined pursuant to article 195 paragraph 1-bis. 2. Breach of the notification obligations pursuant to article 4-decies and of the relative implementation provisions is punished with the sanctions contemplated by paragraph 1. 3. The sanctions contemplated by paragraphs 1 and 2 for natural persons apply to the corporate officers and the personnel of the company or entity in the cases contemplated by article 190-bis, paragraph 1, letter a). 4. If the profit obtained by the culprit as a result of the said breach or the loss avoided thanks to the breach are above the maximum limits set out in paragraph 1, the fine is increased up to twice the amount of the profit obtained or the loss avoided, provided that this amount can be determined. 5. CONSOB and IVASS may require, according to their respective duties imposed pursuant to article 4-sexies, the PRIIP developers or the subjects who provide advice on the PRIIP or who sell such products, to transmit a communication to the PRIIP retail investor concerned, giving information on the sanctions adopted and communicating the procedures for the presentation of possible complaints or requests for reimbursement also by resorting to the out-of-court settlement mechanisms of controversies contemplated by Italian Legislative Decree no. 179 of 08 October 2007.”.

1449 Paragraph as amended by Article 5 of Legislative Decree no. 129 of 3 August 2017 which deleted the words: “total annual amount determined in accordance with Article 24 of Regulation (EU) No. 1286/2014" and added, in the end, the words: “and the sales volume can be determined pursuant to article 195 paragraph 1-bis” and then by Article 5 of

2. …omissis…[1450]

3. The sanctions contemplated by paragraphs 1 and 2 for natural persons apply to the corporate officers and the personnel of the company or entity in the cases contemplated by article 190-bis, paragraph 1, letter a).

4. If the profit obtained by the culprit as a result of the said breach or the loss avoided thanks to the breach are above the maximum limits set out in paragraph 1, the fine is increased up to twice the amount of the profit obtained or the loss avoided, provided that this amount can be determined.

5. CONSOB and IVASS may require, according to their respective duties imposed pursuant to article 4-sexies, the PRIIP developers or the subjects who provide advice on the PRIIP or who sell such products, to transmit a communication to the PRIIP retail investor concerned, giving information on the sanctions adopted and communicating the procedures for the presentation of possible complaints or requests for reimbursement also by resorting to the out-of-court settlement mechanisms of controversies contemplated by Italian Legislative Decree no. 179 of 08 October 2007[1451].

Article 193-sexies
Internal reporting systems

1. Should the provisions specified in article 4-undecies and relative implementing provisions not be complied with, the pecuniary administrative sanction from Euro thirty thousand up to five million, or up to ten percent of the sales figures when this amount is higher than Euro five million and the sales figures can be determined pursuant to article 195, paragraph 1-bis is applied. In this case, without affecting what has been planned for the company and the entities against which the infringements were established, also the pecuniary administrative sanction from Euro five thousand up to Euro five million is applied against the corporate offices and the staff of the company or of the agency in cases provided for by article 190-bis, paragraph 1, letter a) [1452].

Legislative Decree no. 165 of 25.11.2019, which introduced the words “4-sexies, paragraph 5, as well as the measures adopted pursuant to article” after the words “pursuant to article”.

1450 Paragraph repealed by Article 5 of Legislative Decree no. 165 of 25.11.2019.

1451 Paragraph 12 of Article 10 of Legislative Decree no. 129 of 3 August 2017 states that: "Legislative Decree no. 179, is repealed and continues to apply until January 3, 2018. From that date, references to paragraphs 5-bis and 5-ter of Article 2 and paragraph 2 of Article 9 of the Legislative Decree of 8 October 2007, no. 179, are to be carried out respectively in paragraphs 1, 2 and 3 of Article 32-ter of Legislative Decree no. 58; references to Article 8 of Legislative Decree no. 179, are intended to be made in Article 32-ter of Legislative Decree no. 58.

1452 Article included by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

Article 194[1453]
Proxies

1. ...omissis...[1454]

2. A subject that promotes a solicitation of voting proxies that violates the rules of Articles 138, 142, paragraphs 1 and 2, 144, paragraph 4, and the regulation issued pursuant to Article 144, paragraph 1, shall be punished with an administrative fine of from Euro five thousand up to Euro seven hundred fifty thousand[1455].

2-bis. The sanction envisaged in paragraph 2 shall apply to an appointed representative of a listed company acting in violation of Article 135-undecies, paragraph 4[1456].

2-ter. If a company or entity is required to comply with the provisions of paragraph 2, the sanctions provided for therein shall apply to these latter; the same penalty shall be applied to company representatives and staff of a company or entity in the cases provided for in Article 190-bis, paragraph 1, letter a). If a natural person is required to comply with the same provisions, the sanction applies to the latter in case of violation[1457].

2-quater. …omissis…[1458].

1453 Paragraph 2 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Part V of Legislative Decree 24 February 1998 no. 58, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree 24 February 1998 no. 58. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). To the breaches committed before 8.3.2016 continue to apply the provisions of Part V of Legislative Decree 24 February 1998 no. 58 applicable before the date of entry into force of this decree". Below is the text of Article 194 in force until the entry into force of Legislative Decree no. 72/2015: "Article 194 – (Proxies) 1. ...omissis... 2. Any promoter soliciting proxies in violation of Article 138, Article 142 paragraphs 1 and 2, Article 144 paragraph 4 and the Regulation issued pursuant to Article 144 paragraph 1 shall be punished by a financial penalty of between Euro twenty-five thousand and Euro five hundred thousand. 2-bis. The sanction envisaged in paragraph 2 shall apply to an appointed representative of a listed company acting in violation of Article 135-undecies, paragraph 4.".

1454 Paragraph repealed by Article 4, Legislative Decree no. 27 of 27.01.2010.

1455 Paragraph first replaced by Article 4 of Legislative Decree no. 27 of 27.1.2010 and subsequently by Article 5 of Legislative Decree no. 72 of 12.5.2015.

1456 Paragraph added by Article 4, Legislative Decree no. 27 of 27.1.2010.

1457 Paragraph included by Article 5 of Legislative Decree no. 72 of 12.5.2015.

1458 Paragraph first inserted by Article 5 of Legislative Decree no. 72 of 12.5.2015 and then repealed by Article 5 of Legislative Decree no. 129 of 3.8. 2017..

Article 194-bis[1459]
Criteria for determining sanctions

1. In determining the type, duration and amount of the sanctions contemplated by this decree the Bank of Italy or CONSOB shall consider all relevant circumstances and, in particular, taking into account whether the recipient of the sanction is an individual or legal person, the following, where relevant:

a) severity and duration of the violation;

b) degree of responsibility;

c) financial capacity of the person responsible for the violation;

d) amount of the benefit gained or losses avoided through the violation, insofar as it can be determined;

e) damages caused to third parties through the violation, to the extent that their amount can be determined;

f) level of cooperation of the person responsible of the violation with the Bank of Italy or CONSOB;

g) previous banking or financial violations committed by the same subject;

g-bis) the criticality of the benchmark for financial stability[1460];

h) potential systemic consequences of the violation;

h-bis) measures adopted by the person responsible for the breach, after the breach itself, to prevent it being repeated in the future[1461].

1459 Article first introduced by Article 5 of Legislative Decree no. 72 of 12.5.2015, then amended by Article 1 of Legislative Decree no. 25 of 15.2.2016, by Article 1 of Legislative Decree no. 71 of 18.4.2016 and by Article 2 of Legislative Decree no. 19 of 13.2.2019 in the terms indicated in the following note. Paragraph 2 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Part V of Legislative Decree 24 February 1998 no. 58, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree 24 February 1998 no. 58. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). To the breaches committed before 8.3.2016 continue to apply the provisions of Part V of Legislative Decree 24 February 1998 no. 58 applicable before the date of entry into force of this decree". CONSOB is also responsible for the ascertainment and issuing of the pecuniary administrative sanctions pursuant to Article 8 of Legislative Decree no. 254 of 30.12.2016 and complies with the provisions of articles 194-bis, 195, 195-bis and 196-bis of this Legislative Decree. **Article 10, paragraph 4 of Legislative Decree no. 125 of 6.9.2024 provides as follows: " 4. For the purpose of the determination of the type and amount of the pecuniary administrative sanctions in the event of violation of the obligations provided for in Article 154-ter, paragraph 1-quater of Legislative Decree no. 58 of 1998, and Article 26-quater, paragraph 1 of Legislative Decree no. 39 of 27 January 2010, pursuant to Article 194-bis of the aforementioned Legislative Decree no. 58 of 1998, Consob shall take into account at least one of the following circumstances: a) the procedures adopted by the company administration body for the preparation of sustainability reports in accordance with this decree, also in the light of any guidelines or indications provided by national and European Authorities, regarding sustainability information; b) the violation of the obligations of this decree if connected to the omission or communication of information by the enterprises in the value chain, which are not subject to control of the same company."**

1460 Letter included by Article 2 of Legislative Decree no. 19 of 13.2.2019.

1461 Paragraph first amended by Article 1 of Legislative Decree no. 25 of 15.2.2016 which, in the line, after the words: "In the determination" has introduced the words: "of the type and" and then by Article 1 of Legislative Decree no. 71 of 18.4.2016 which, in the line, has substituted the words: "In determining the type and amount of the fines or the duration of the additional sanctions" with the words: "In determining the type, the duration and the amount of the sanctions" and has added letter h-bis).

Article 194-ter[1462]

Pecuniary administrative sanctions for infringements of the provisions of Regulation (EU) no. 575/2013, the delegated acts and the regulatory and implementing technical standards of Directive 2013/36/EU and Regulation (EU) no. 575/2013[1463]

1. In the matters referred to in the provisions cited in Articles 189, 190, 190.3 and 190-bis, the sanctions provided for therein apply, in the measure, according to the allocation of competences and in the manner laid down therein, also in the case of non-compliance with Regulation (EU) no. 575/2013, as well as the delegated acts and the regulatory and implementing technical standards of the same Regulation and Directive 2013/36/EU issued by the European Commission under Articles 10 and 15 of Regulation (EU) no. 1093/2010, or in the event of non-compliance with the acts of the ESMA or EBA directly applicable to supervised entities adopted pursuant to this last Regulation or Regulation (EU) no. 1095/2010[1464].

Article 194-ter.1

Pecuniary administrative sanctions for infringements of the provisions of Regulation (EU) no. 2019/2033, the delegated acts and the regulatory and implementing technical standards of Directive 2019/2034/EU and Regulation (EU) no. 2019/2033

1. In the matters and for the infringements referred to by the provisions cited in Articles 190, 190.3 and 190-bis, the sanctions provided for therein apply in the measure, according to the allocation of competences and in the manner laid down therein, also in the case of non-compliance with Regulation (EU) no. 2019/2033, as well as the delegated acts and the regulatory and implementing technical standards of the same regulation and Directive 2019/2034/EU, or in the event of non-compliance with the acts of the EBA or ESMA directly applicable to supervised entities adopted pursuant to Regulation (EU) no. 1093/2010 or Regulation (EU) no. 1095/2010.

2. Article 187-quinquiesdecies, paragraph 1-quater is applicable[1465].

1462 Article first inserted by Article 5 of Legislative Decree no. 72 of 12.5.2015 and then amended by Article 5 of Legislative Decree no. 129 of 3 August 2017 and by Article 1 of Legislative Decree no. 201 of 5.11.2021 in the terms indicated in the following notes. Paragraph 2 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Part V of Legislative Decree 24 February 1998 no. 58, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree 24 February 1998 no. 58. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). To the breaches committed before 8.3.2016 continue to apply the provisions of Part V of Legislative Decree 24 February 1998 no. 58 applicable before the date of entry into force of this decree".

1463 Chapter first replaced by Article 5 of Legislative Decree no. 129 dated 3.8.2017 and then amended by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: "575/2013 and the relevant technical regulations for regulation and implementation" with the words: "575/2013, the delegated acts and the regulatory and implementing technical standards of Directive 2013/36/EU and Regulation (EU) no. 575/2013".

1464 Paragraph first amended by Article 5 of Legislative Decree no. 129 of 3.8.2017 that after the word: "190" added the word: ", 190.3" and then by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: "575/2013 and the relevant technical regulations for regulation and implementation issued" with the words: "575/2013, as well as the delegated acts and the regulatory and implementing technical standards of the same regulation and Directive 2013/36/EU issued".

1465 Article included by Article 1 of Legislative Decree no. 201 of 5.11.2021.

Article 194-quater[1466]
Order to cease violations

1. When the violations infer scarce offensiveness or danger, the companies or entities involved may be subjected, as an alternative to the fines, to a sanction consisting of the order to eliminate the infringements reported, also with indication of the measures to be adopted and the deadline for performance, in the case of non-observance:

a) of the provisions specified in articles 4-undecies; 6; 12; 21; 33, paragraph 4; 35-decies; 67-ter; 68, paragraphs 1 and 2; 68-quater, paragraphs 2 and 3; 98-ter, paragraph 3; 98-ter.1, paragraphs 3 and 4; and the relative implementing provisions[1467];

b) of the general or specific provisions issued by CONSOB pursuant to Article 98-quater;

c) of the provisions referred to under Article 63, sub-section 1, of Regulation (EU) no. 909/2014 and of the relative implementation provisions;

c-bis) of the provision of (EU) regulation no. 600/2014 referred to in article 70, paragraph 3, letter b), of the directive 2014/65/EU and the relative implementing provisions[1468];

c-ter) of article 59, paragraphs 2, 3 and 5, of Regulation (EU) no. 1031/2010 and of the related implementing provisions, referred to in article 190, paragraph 2-quater[1469];

c-quater) of the provisions of Regulation (EU) no. 648/2012, Regulation (EU) 2015/2365 and of Regulation (EU) 2021/23 referred to by article 193-quater, paragraphs 1, 1-bis and 1-ter[1470];

c-quinquies) of the provisions of Regulation (EU) 2016/1011 referred to in article 190-bis.1, paragraphs 1 and 3[1471].

c-sexies) of the rules provided for in articles 124-quinquies, 124-sexies, 124-septies, 124-octies and the related implementing provisions[1472];

1466 Article first inserted by Article 5 of Legislative Decree no. 72 of 12.5.2015, subsequently amended by Article 1 of Legislative Decree no. 25 of 15 February 2016 and Article 71 of Legislative Decree no. 71 of 18.4.2016, replaced by Article 3 of Legislative Decree no. 176 of 12.8.2016, amended by Article 5 of Legislative Decree no. 129 of 3 August 2017, by Article 2 of Legislative Decree no. 19 of 13.2.2019, by Article 45 of the Decree Law no. 34 of 30.4.2019 (converted with modifications by Law no. 58 of 28.6.2019), by Article 13 of Law no. 37 of 37 of 3.5.2019, by Article 4 of Legislative Decree no. 49 of 10.5.2019, by Article 4 of Legislative Decree no. 17 of 2.2.2021, by Article 1 of Legislative Decree no. 201 of 5.11.2021, by art. 1 of Legislative Decree no. 131 of 3.8.2022, by Article 1 of Legislative Decree no. 29 of 10.3.2023 and by Article 25 of. Legilslative Decree no. 224 of 6.12.2023 according to the terms indicated in the following notes. Paragraph 2 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Part V of Legislative Decree 24 February 1998 no. 58, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree 24 February 1998 no. 58. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). To the breaches committed before 8.3.2016 continue to apply the provisions of Part V of Legislative Decree 24 February 1998 no. 58 applicable before the date of entry into force of this decree". The provisions of part V of the Legislative Decree no. 58 of 24 February 1998, in force before the date of entry into force of Legislative Decree no. 72 of 12.5.2015, continue to apply to violations committed before 8.3.2016.

1467 Letter first replaced by Article 5 of Legislative Decree no. 129 dated 3.8.2017 and then by art. 1 of Legislative Decree no. 29 of 10.3.2023.

1468 Letter added by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

1469 Letter included by art.13 of Law no. 37 of 3.5.2019 (European Law 2018).

1470 Letter first inserted by the Article. 2 of Legislative Decree no. 19 of 13.2.2019, subsequently modified by Article 45 of the Legislative Decree. n. 34 of 30.4.2019, converted with amendments by Law no. 58 of 28.6.2019, which renamed it to c-quater) and finally replaced by Article 25 of Legislative Decree no. 224 of 6.12.2023.

1471 Letter first included by Article 2 of Legislative Decree no.19 of 13.2.2019 and then amended by Article 45 of the Decree Law no. 34 of 30.4.2019, converted with modifications by Law no. 58 of 28.6.2019 which renamed it in c-quinquies).

1472 Letter included by Article 4 of Legislative Decree no. 49 of 10.5.2019.

c-septies) of the provisions referred to by Article 191, paragraphs 1, 4 and 5[1473];

c-octies) of the provisions of Regulation (EU) no. 2019/2033 referred to by Article 194.ter.1 and of the related implementing provisions[1474];

c-novies) of the provisions of Regulation (EU) no. 575/2013 referred to by Article 194.ter and of the related implementing provisions[1475];

c-decies) of the provisions of Regulation (EU) 2017/2402 referred to by Article 190-bis.2, paragraph 1[1476].

2. For failure to comply with the order within the specified deadline, the originally contemplated fine, increased by up to a third, shall be imposed.

Article 194-quinquies[1477]
Payment of a reduced amount

1. It is possible to settle, by payment, within thirty days of notification of the dispute letter, of a sum equal to twice the minimum penalty prescribed by law, when there are none of the circumstances provided for in paragraph 2, the following violations as provided by:

a) by article 190, for the infringement of articles 45, paragraph 1, 46, paragraph 1, 65 and the relative implementing provisions[1478];

a-bis) by Article 190.1, for the violation of Articles 83-quater, paragraph 3, 83-novies, paragraph 1, 83-novies.1, paragraph 1, 83-duodecies and the related implementing provisions[1479];

a-bis.1) … omissis…[1480];

a-ter) by article 190.3, for the infringement of the articles 64-ter, paras 2, 3 and 4, and the

1473 Letter included by Article 4 of Legislative Decree no. 17 of 2.2.2021.

1474 Letter included by Article 1 of Legislative Decree no. 201 of 5.11.2021.

1475 Letter included by Article 1 of Legislative Decree no. 201 of 5.11.2021.

1476 Letter included by Article 1 of Legislative Decree no. 131 of 3.8.2022.

1477 Article first inserted by Article 5 of Legislative Decree no. 72 of 12.5.2015 and then amended by Article 1 of Legislative Decree no. 25 of 15 February 2016, Article 3 of Legislative Decree no. 176 of 12.8.2016, Article 5 of Legislative Decree no. 129 of 3 August 2017, Article 4 of Legislative Decree no. 49 of 10.5.2019, Article 2 of Legislative Decree no. 84 of 14.7.2020, by Article 4 of Legislative Decree no. 17 of 2.2.2021 and by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022 in the terms indicated in the following notes. Paragraph 2 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Part V of Legislative Decree 24 February 1998 no. 58, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree 24 February 1998 no. 58. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). To the breaches committed before 8.3.2016 continue to apply the provisions of Part V of Legislative Decree 24 February 1998 no. 58 applicable before the date of entry into force of this decree".

1478 Letter first amended by Article 3 of Legislative Decree no. 176 of 12.8.2016, which removed the words "83-novies, paragraph 1, letters c), d) e) and f), 83-duodecies," and then by Article 5 of Legislative Decree no. 129 of 3.8.2017, which removed the words "adopted by Consob".

1479 Letter first included by Article 3 of Legislative Decree no. 176 of 12.8.2016 and then thus amended by Article 2 of Legislative Decree no. 84 of 14.7.2020, which replaced the words: «83-novies, paragraph 1, letters c), d), e) and f)» with the words: «83-quater, paragraph 3, 83-novies, paragraph 1, 83-novies.1, paragraph 1». Article 4 of Legislative Decree no. 84 of 14.7.2020 provides that: "1. Without prejudice to the provisions of article 7 of Legislative Decree no. 49 of 10 May 2019, article 2 shall apply to the infringements committed after the date of entry into force of this decree."

1480 Letter first included by Article 4 of Legislative Decree no. 49 of 10.5.2019 and then repealed by Article 2 of Legislative Decree no. 84 of 14.7.2020. Article 4 of Legislative Decree no. 84 of 14.7.2020 provides that: "1. Without prejudice to the provisions of article 7 of Legislative Decree no. 49 of 10 May 2019, article 2 shall apply to the infringements committed after the date of entry into force of this decree."

relative implementing provisions[1481];

a-quater) by article 190.4, for the infringement of article 3, section 1; article 6, section 1; article 8, section 1; article 10, section 1; article 12, section 1; of article 15, section 1, first paragraph, section 2 and section 4, second sentence; of article 18, section 6, first paragraph; article 20, sections 1 and 2, first sentence; of the article 21, sections 1, 2 and 3; article 26, section 1, first paragraph, sections from 2 to 5 and 6, first paragraph, and section 7, paras from the first to the third, of (EU) regulation no. 600/2014, and of the relative implementing provisions and, in the case of APA or ARM, of Articles 27-octies, paragraphs 1 to 5, and 27-decies, paragraphs 1 to 4, of the same regulation [1482];

b) Article 191, paragraph 5, for the violation of Articles 96 and 101, paragraphs 2 and 3 and relative implementing provisions, and Article 191-ter, paragraph 2, for the violation of Article 101, paragraphs 2 and 3, and relative implementing provisions [1483];

c) Article 193, paragraphs 1, 1.1 and 1.2, for the violation of Articles 113-ter, paragraph 5, letter b), 114, paragraphs 2 and 7, and Article 193 paragraphs 2, 2.1, 2.2 and 2.3, paragraph 2, for a violation of Article 120[1484];

d) Article 194, paragraph 2, for the violation of Article 142 and Article 194, paragraph 2-bis and of the relative implementing provisions[1485].

2. The reduced payment cannot be made if the person concerned has already benefited from this measure in the twelve months prior to the disputed violation.

Article 194-sexies
Harmless conduct

1. In cases provided for in Article 194-quinquies, CONSOB shall not dispute violations in cases of absolute lack of damage to investor protection and transparency of the market for corporate control and the capital market, or for the timely exercise of supervisory functions[1486].

1481 Letter first inserted by Article 5 of Legislative Decree no. 129 of 3.8.2017 and then amended by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022, which deleted the words: "and 79-ter.1,".

1482 Letter first included by Article 5 of Legislative Decree no. 129 of 3.8.2017 and then amended by Article 50 of the Decree Law no. 50 of 17.5.2022, converted with amendments by Law no. 91 of 15.7.2022, which after the words: "and of the relative implementing provisions" added the following words: "and, in the case of APA or ARM, of Articles 27-octies, paragraphs 1 to 5, and 27-decies, paragraphs 1 to 4, of the same regulation".

1483 Letter first amended by Article 3 of Legislative Decree no. 176 of 12.8.2016, which replaced the words: "paragraph 2" with the words: "paragraphs 2 and 4"; and by Article 5 of Legislative Decree no. 129 of 3 August 2017 which added, in the end, the following words: "and the relevant implementing provisions" and finally thus replaced by Article 4 of Legislative Decree no. 17 of 2.2.2021.

1484 Letter thus amended by Article 1 of Legislative Decree no. 25 of 15.2.2016 which has replaced the words: "paragraph 1," with the words: “paragraphs 1, 1.1 and 1.2” and the words: "paragraph 2" with the words: "paragraphs 2, 2.1, 2.2 and 2.3,".

1485 Letter amended by Article 5 of Legislative Decree no. 129 dated 3.8.2017 that has added, in the end, the following words: «and of the relative implementing provisions».

1486 Article included by Article 5 of Legislative Decree no. 72 of 12.5.2015. Paragraph 2 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Part V of Legislative Decree 24 February 1998 no. 58, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree 24 February 1998 no. 58. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). To breaches committed before 8.3.2016 continue to apply the provisions of Part V of Legislative Decree 24 February 1998 no. 58 applicable before the date of entry into force of this decree”.

Article 194-septies[1487]
Public declaration

1. When the infringements have constituted low level offence or danger and the disputed crime has ceased, a sanction consisting of the public declaration specifying the infringement committed and the responsible party can be applied instead of pecuniary administrative sanctions in the case of the non-compliance with:

a) provisions specified by articles 4-undecies; 6; 12; 21; 22; 24, paragraph 1-bis; 24-bis; 29; 33, paragraph 4; 35-decies; 67-ter; 68, paras 1 and 2; 68-quater, paras 2 and 3; 98-ter, paragraph 3; 98-ter.1, paras 3 and 4; and 187-quinquiesdecies, paragraph 1, and the relative implementing provisions[1488];

b) of the general or particular provisions issued by CONSOB pursuant to article 98-quater;

1487 Article first included by Article 1 of Legislative Decree no. 71 dated 18.4.2016, then replaced by Article 5 of Legislative Decree no. 129 dated 3.8.2017, lastly amended by Article 2 of Legislative Decree no. 19 of 13.2.2019, by Decree Law no. 34 of 30.4.2019 (converted with amendments into Law no. 58 of 28.6.2019), by Article 13 of Law no. 37 of 3.5.3019 and by Article 4 of Legislative Decree no. 49 of 10.5.2019, by Article 5 of Legislative Decree no. 165 dated 25.11.2019, by Article 33 of Decree Law no. 34 of 19.5.2020 (converted with amendments into Law no. 77 of 17.7.2020), by Article 4 of Legislative Decree no. 17 of 2.2.2021, by Article 1 of Legislative Decree no. 201 of 5.11.2021, by art. 1 of Legislative Decree no. 131 of 3.8.2022 and by art. 1 of Legislative Decree no. 29 of 10.3.2023 according to the terms indicated in the following notes. Article 8, paragraph 1 of Legislative Decree no. 165 of 25.11.2019 states that: "Articles 4-sexies, 4-septies, 4-decies, 193-quinquies and 194-septies of Legislative Decree no. 58 of 24 February 1998, in effect on the day prior to the entry into force of this legislative decree [23.1.2020], shall continue to apply until the date of entry into force of the regulatory measures issued by Consob in compliance with the provisions of Article 4-sexies(5), for the purposes of exercising the supervisory responsibilities assigned by paragraph 2 of the same article. Consob, with no prejudice to the application of Article 193-quinquies of Legislative Decree no. 58 of 24 February 1998, shall adopt the aforementioned regulatory measures, in accordance with Article 1(1(e) and Article 5(6) of this decree, according to principles of proportionality and simplification, making provision for electronic procedures for acquiring the documentation necessary for fulfilling its supervisory duties, within one hundred and eighty days from the entry into force of this decree. In order to ensure the aforementioned supervisory duties are carried out, the measures in force stipulated by Consob pursuant to Article 4-sexies(5) shall continue to apply during the said period of one hundred and eighty days." Article 33 (2-bis) of Decree Law no. 34 of 19 May 2020, converted with modifications by Law no. 77 of 17 July 2020, provides that: "Within the context of the measures referred to in this article aimed at simplifying the obligations concerning the financial and insurance contracts, and in consideration of the state of emergency in the national territory relating to the sanitary risk linked to the onset of diseases caused by transmissible viral agents, as declared in the O.J. no. 26 of 1 February 2020, articles 4-sexies, 4-septies, 4-decies, 193-quinquies and 194-septies of the Consolidated Law on Financial Intermediation, as referred to in Legislative Decree no. 58 of 24 February 1998, as in force on the day before the date of entry into force of Legislative Decree no. 165 of 25 November 2019, and the regulatory provisions issued by the National Commission for Companies and the Stock Exchange pursuant to the mentioned article 4-sexies (5), shall continue to apply until 31 December 2020" These are the provisions which shall continue to apply in compliance with the said transitional regulations: "Article 194-septies - (Public declaration) - 1. When the infringements have constituted low level offence or danger and the disputed crime has ceased, a sanction consisting of the public declaration specifying the infringement committed and the responsible party can be applied instead of pecuniary administrative sanctions in the case of non-compliance with: a) the provisions specified by articles 4-undecies; 6; 12; 21; 22; 24, paragraph 1-bis; 24-bis; 29; 33, paragraph 4; 35-decies; 67-ter; 68, paras 1 and 2; 68-quater, paras 2 and 3; 98-ter, paras 2 and 3; b) the general or particular provisions issued by CONSOB pursuant to article 98-quater; c) the regulations referred to in article 63, section 1, of (EU) regulation no. 909/2014 and of the relative implementing provisions; d) the provision referred to in article 24, section 1, of (EU) regulation no. 1286/2014, of the reporting obligation referred to in article 4-decies and the relative implementing provisions, as well as the non-compliance with the measures adopted pursuant to article 4-septies, paragraph 1; e) the provisions of (EU) regulation no. 600/2014 referred to in article 70, section 3, letter b), of the directive 2014/65/EU and of the relative implementing provisions and of the measures adopted by CONSOB pursuant to article 42 of the same regulation; e-bis) article 59, paragraphs 2, 3 and 5 of Regulation (EU) no. 1031/2010 and the related implementing provisions, referred to in article 190, paragraph 2-quater; e-ter) the provisions of Regulation (EU) no. 648/2012 and Regulation (EU) 2015/2365 referred to in article 193-quater, paragraphs 1, 1-bis and 1-ter; e-quater) the provisions of Regulation (EU) 2016/1011 recalled by article 190-bis.1, paragraphs 1 and 3; e-quinquies) the rules provided for by articles 124-quinquies, 124-sexies, 124-septies, 124-octies and the related implementing provisions.".

1488 Letter thus replaced by Article 1 of Legislative Decree no. 29 of 10.3.2023.

c) of the regulations referred to in article 63, section 1, of (EU) regulation no. 909/2014 and of the relative implementing provisions[1489];

d) of the provision referred to in article 24, section 1, of (EU) regulation no. 1286/2014, of the reporting obligation referred to in article 4-decies and the relative implementing provisions, as well as the non-compliance with the measures adopted pursuant to article 4-sexies, paragraph 5, and article 4-septies, paragraph 1[1490];

e) of the provisions of (EU) regulation no. 600/2014 referred to in article 70, section 3, letter b), of the directive 2014/65/EU and of the relative implementing provisions and of the measures adopted by CONSOB pursuant to article 42 of the same regulation.

e-bis) of article 59, paragraphs 2, 3 and 5 of Regulation (EU) no. 1031/2010 and the related implementing provisions, referred to in article 190, paragraph 2-quater[1491];

e-ter) of the provisions of Regulation (EU) no. 648/2012, Regulation (EU) 2015/2365 and Regulation (EU) 2021/23 referred to in article 193-quater, paragraphs 1, 1-bis and 1-ter[1492];

e-quater) of the provisions of Regulation (EU) 2016/1011 recalled by article 190-bis.1, paragraphs 1 and 3[1493].

e-quinquies) of the rules provided for by articles 124-quinquies, 124-sexies, 124-septies, 124-octies and the related implementing provisions[1494];

e-sexies) of the provisions referred to by Article 191, paragraphs 1, 4 and 5[1495];

e-septies) of the provisions of Regulation (EU) no. 2019/2033 referred to by Article 194.ter.1 and of the related implementing provisions[1496];

e-octies) of the provisions of Regulation (EU) no. 575/2013 referred to by Article 194.ter and of the related implementing provisions[1497];

e-novies) of the provisions of Regulation (EU) 2017/2402 referred to in Article 190-bis.2, paragraph 1[1498].

1489 The reference to the standards by article 63, section 1, of the (EU) regulation no. 909/2014 and to the relative implementing provisions was introduced by Article 3 of Legislative Decree no. 176 dated 12.8.2016.

1490 Paragraph thus amended by Article 5 of Legislative Decree no. 165 of 25.11.2019, which removed the words “of the notification obligation pursuant to article 4-decies and the associated implementing provisions” and introduced the words “of article 4-sexies, paragraph 5, and” after the words “pursuant to”.

1491Letter included by art.13 of Law no. 37 of 3.5.2019 (European Law 2018).

1492 Letter first included by Article 2 of Legislative Decree no. 19 of 13.2.2019 and then amended by Article 45 of the Decree Law no. 34 of 30.4.2019, converted with modifications by Law no. 58 of 28.6.2019 which renamed it in e-ter) and then by Article 25 of Legislative Decree no. 224 of 6.12.2023.

1493 Letter first included by Article 2 of Legislative Decree no. 19 of 13.2.2019 and then amended by Article 45 of the Decree Law no. 34 of 30.4.2019, converted with modifications by Law no. 58 of 28.6.2019 which renamed it in e-quater).

1494 Letter included by Article 4 of Legislative Decree no. 49 of 10.5.2019.

1495 Letter added by Article 4 of Legislative Decree no. 17 of 2.2.2021.

1496 Letter included by Article 1 of Legislative Decree no. 201 of 5.11.2021.

1497 Letter included by Article 1 of Legislative Decree no. 201 of 5.11.2021.

1498 Letter included by Article 1 of Legislative Decree no. 131 of 3.8.2022.

Article 195[1499]
Sanction procedures

1. The administrative sanctions provided for in this Title shall be applied by the Bank of Italy or CONSOB, within their respective competences, with a reasoned order, after charging the interested parties, to be carried out within one hundred and eighty days from the ascertainment, or within three hundred sixty days, where the interested party resides or has its head office abroad. Interested parties may, within thirty days of the dispute, make submissions and request a personal hearing during the investigation stage, in which they may also participate with the assistance of a lawyer[1500].

1-bis. For the purposes of applying the pecuniary administrative sanctions specified under this title, sales figures are intended as the total annual sales figures of the company or the entity, as seen from the latest financial statements available approved by the competent organ, as defined by the implementing provisions referred to in article 196-bis[1501].

2. The proceedings shall afford all parties the opportunity to state their case and have access to the investigation file. Transcripts shall be taken of the proceedings. Investigatory and adjudicatory functions shall be separate.

1499 Article first replaced by Article 9 of Law no. 62 of 18.4.2005 (Community Law 2004) and then amended by Article 16 of Legislative Decree no. 164 of September 17, 2007, from Article 1, paragraph 25 of Legislative Decree no. 101 of July 17, 2009, by Article 4 of Annex 4 of Legislative Decree no. 104 of 2.7.2010, by Article 5 of Legislative Decree no. 72 of 12.5.2015 and Article 5 of Legislative Decree no. 129 of 3 August 2017 in the terms indicated in the following notes. Paragraph 8 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Article 195, paragraphs 4, 5, 6, 7, 7 bis, and 8 and 9 of Legislative Decree 24 February 1998 no. 58, shall apply to proceedings brought after the entry into force of this decree; in cases pending on that date the hearings are public". Below is the text of Article 195 in force until the entry into force of Legislative Decree no. 72/2015: “Article 195 – (Sanction procedures) 1. Except as provided by Article 196, administrative sanctions referred to in this title shall be imposed by the Bank of Italy or CONSOB, to the extent of their duties, with a decree stating the grounds for the decision, after notifying the charges to the interested parties to be implemented within one hundred eighty days from the investigation or within three hundred sixty days if the interested party resides or is headquartered abroad and evaluating the submissions they present within thirty days. 2. The proceedings shall afford all parties the opportunity to state their case and have access to the investigation file. Transcripts shall be taken of the proceedings. Investigatory and adjudicatory functions shall be separate. 3. The measure imposing sanctions shall be published in abridged form in the Bulletin of the Bank of Italy or CONSOB. Taking into account the nature of the offences and the interests involved, the Bank of Italy or CONSOB may establish further methods of publicizing the measure, charging the related expenses to the offender or excluding publication of the measure where such publication may place the financial markets at serious risk or cause disproportionate damage to the parties. 4. Opposition may be brought against the provision for the application of sanctions as per this title before the court of appeal of the place in which the company or entity to which the perpetrator of the breach belongs is located or, if these criteria do not apply, the place in which the breach was committed. Opposition must be notified to the Authority adopting the provision within thirty days of its communication and must be filed with the clerk of the court of appeal within thirty days of notification. 5. Opposition does not suspend enforcement of the provision. If serious grounds occur, the court of appeal may order suspension with grounded decree 6. At the request of the parties, the court of appeal may establish the terms for the presentation of briefs and documents and allow the hearing of the parties, including personally. 7. The court of appeal decides on the opposition in chambers, having heard the public prosecutor, with grounded decree 8. A copy of the decree is sent by the clerk of the court of appeal to the Authority adopting the provision for publication in extract form in the latter's Bulletin. 9. Companies and entities with which offenders are connected shall be jointly and severally liable with them for payment of the sanction and the publicity expenses referred to in the second sentence of paragraph 3 and shall be held to the exercise of the right of recourse against those responsible for the offences.”. CONSOB is also responsible for the ascertainment and issuing of the pecuniary administrative sanctions pursuant to Article 8 of Legislative Decree no. 254 of 30.12.2016 and complies with the provisions of articles 194-bis, 195, 195-bis and 196-bis of this Legislative Decree

1500 Paragraph first amended by Article 16 of Legislative Decree no. 164 of 17.9.2007 and then thus replaced by Article 5 of Legislative Decree no. 72 of 12.5.2015.

1501 Paragraph included by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

3. …omissis…[1502].

4. Opposition may be brought against the provision for the application of sanctions before the court of appeal of the place in which the company or entity to which the perpetrator of the violation belongs is located or, if these criteria do not apply, the place in which the violation was committed. The appeal shall be notified, under penalty of forfeiture, to the Authority that issued the provision within thirty days of notification of the contested measure, or sixty days if the applicant resides abroad, and is filed with the clerk of the court, together with the documents by the deadline of thirty days from notification[1503].

5. The appeal shall not stay enforcement of the decision. The court of Appeal, if there are serious reasons, may order suspension with an unchallengeable order[1504].

6. The President of the Court of Appeal shall designate the Judge-Rapporteur and fix, by decree, the public hearing to discuss the appeal. The decree shall be notified to the parties by the clerk of court at least sixty days before the hearing. The Authority shall file memorandums and documents within ten days before the hearing. If the appellant does not appear at the first hearing without presenting any legitimate excuse, the judge shall declare, with an order subject to appeal to the Court of Cassation, that the appeal cannot go forward and charging the appellant for the expenses of the procedure[1505].

1502 Paragraph first amended by Article 16 of Legislative Decree no. 164 of 17.9.2007 and then repealed by Article 5 of Legislative Decree no. 72 of 12.5.2015.

1503 Paragraph first amended by Article 1, paragraph 25 of Legislative Decree no. 101 of 17.7.2009 then repealed by Article 4 of Annex 4 of Legislative Decree no. 104 of 2.7.2010 (Article 133, paragraph 1, letter 1) of Legislative Decree no. 104/2010 thus arranged: "The following are submitted to the exclusive jurisdiction of the administrative court, unless otherwise ordered by the Law: … l) disputes regarding all the provisions including those relative to sanctions and excluding those regarding the ratios of privatised loans, adopted by the Bank of Italy, by the National Securities and Investments Board […]). Successively re-introduced by decision of the Constitutional Court no. 162 of 20/27 June 2012, which declared the constitutional illegitimacy of the provisions of Legislative Decree no. 104/2010 with the consequent reinstatement of the provisions of Legislative Decree no. 58/1998 which had been repealed. Yet later the aforesaid annex 4, Article 4, paragraph 1, number 19) of Legislative Decree no. 104 of 2.7.2010 was suppressed by Article 3, paragraph 1 of Legislative Decree no. 160 of 14.9.2012. Lastly, the Constitutional Court, with decision no. 94 of 9/15 April 2014 (Official Journal no. 18 of 23.4.2014 - First special series), declared, among other things, the constitutional illegitimacy of the aforesaid annex 4, Article 4, paragraph 1, number 19), in the part in which it repealed Article 187-septies, paragraphs 4 to 8, and Article 195, paragraphs 4 to 8, of this provision. This paragraph was finally thus replaced by Article 5 of Legislative Decree no. 72 of 12.05.2015.

1504 Paragraph first repealed by Article 4 of Annex 4 of Legislative Decree no. 104 of 2.7.2010. Successively re-introduced by decision of the Constitutional Court no. 162 of 20/27 June 2012, which declared the constitutional illegitimacy of the provisions of Legislative Decree no. 104/2010 with the consequent reinstatement of the provisions of Legislative Decree no. 58/1998 which had been repealed. Yet later the aforesaid annex 4, Article 4, paragraph 1, number 19) of Legislative Decree no. 104 of 2.7.2010 was suppressed by Article 3, paragraph 1 of Legislative Decree no. 160 of 14.9.2012. Lastly, the Constitutional Court, with decision no. 94 of 9/15 April 2014 (Official Journal no. 18 of 23.4.2014 - First special series), declared, among other things, the constitutional illegitimacy of the aforesaid annex 4, Article 4, paragraph 1, number 19), in the part in which it repealed Article 187-septies, paragraphs 4 to 8, and Article 195, paragraphs 4 to 8, of this provision. This paragraph was finally thus replaced by Article 5 of Legislative Decree no. 72 of 12.05.2015.

1505 Paragraph first repealed by Article 4 of Annex 4 of Legislative Decree no. 104 of 2.7.2010. Successively re-introduced by decision of the Constitutional Court no. 162 of 20/27 June 2012, which declared the constitutional illegitimacy of the provisions of Legislative Decree no. 104/2010 with the consequent reinstatement of the provisions of Legislative Decree no. 58/1998 which had been repealed. Yet later the aforesaid annex 4, Article 4, paragraph 1, number 19) of Legislative Decree no. 104 of 2.7.2010 was suppressed by Article 3, paragraph 1 of Legislative Decree no. 160 of 14.9.2012. Lastly, the Constitutional Court, with decision no. 94 of 9/15 April 2014 (Official Journal no. 18 of 23.4.2014

7. At the hearing the Court of Appeal shall have, even on its own motion, the evidence it deems necessary, as well as the personal hearing of the parties who have so requested. Then the parties shall proceed to an oral discussion of the case. The judgement is filed with the clerk of court within sixty days. When at least one of the parties would be interested in the advance publication of the order with respect to the judgement, the order is published by filing with the clerk of court no later than seven days from the discussion hearing[1506].

7-bis. With the decision, the court of appeal can dismiss the appeal, charging the appellant all the expenses of the procedure, or sustain it, annulling the order entirely or in part, or reducing the amount or term of the sanction[1507].

8. A copy of the judgement shall be forwarded, by the clerk of the court of appeal, to the Authority that issued the provision, also for the purposes of publication provided for in Article 195-bis[1508].

9. …omissis…[1509]

- First special series), declared, among other things, the constitutional illegitimacy of the aforesaid annex 4, Article 4, paragraph 1, number 19), in the part in which it repealed Article 187-septies, paragraphs 4 to 8, and Article 195, paragraphs 4 to 8, of this provision. This paragraph was finally thus replaced by Article 5 of Legislative Decree no. 72 of 12.05.2015.

1506 Paragraph first repealed by Article 4 of Annex 4 of Legislative Decree no. 104 of 2.7.2010. Successively re-introduced by decision of the Constitutional Court no. 162 of 20/27 June 2012, which declared the constitutional illegitimacy of the provisions of Legislative Decree no. 104/2010 with the consequent reinstatement of the provisions of Legislative Decree no. 58/1998 which had been repealed. Yet later the aforesaid annex 4, Article 4, paragraph 1, number 19) of Legislative Decree no. 104 of 2.7.2010 was suppressed by Article 3, paragraph 1 of Legislative Decree no. 160 of 14.9.2012. Lastly, the Constitutional Court, with decision no. 94 of 9/15 April 2014 (Official Journal no. 18 of 23.4.2014 - First special series), declared, among other things, the constitutional illegitimacy of the aforesaid annex 4, Article 4, paragraph 1, number 19), in the part in which it repealed Article 187-septies, paragraphs 4 to 8, and Article 195, paragraphs 4 to 8, of this provision. This paragraph was finally thus replaced by Article 5 of Legislative Decree no. 72 of 12.05.2015.

1507 Paragraph included by Article 5 of Legislative Decree no. 72 of 12.5.2015.

1508 Paragraph first repealed by Article 4 of Annex 4 of Legislative Decree no. 104 of 2.7.2010. Successively re-introduced by decision of the Constitutional Court no. 162 of 20/27 June 2012, which declared the constitutional illegitimacy of the provisions of Legislative Decree no. 104/2010 with the consequent reinstatement of the provisions of Legislative Decree no. 58/1998 which had been repealed. Yet later the aforesaid annex 4, Article 4, paragraph 1, number 19) of Legislative Decree no. 104 of 2.7.2010 was suppressed by Article 3, paragraph 1 of Legislative Decree no. 160 of 14.9.2012. Lastly, the Constitutional Court, with decision no. 94 of 9/15 April 2014 (Official Journal no. 18 of 23.4.2014 - First special series), declared, among other things, the constitutional illegitimacy of the aforesaid annex 4, Article 4, paragraph 1, number 19), in the part in which it repealed Article 187-septies, paragraphs 4 to 8, and Article 195, paragraphs 4 to 8, of this provision. This paragraph was finally thus replaced by Article 5 of Legislative Decree no. 72 of 12.05.2015.

1509 Paragraph repealed by Article 5 of Legislative Decree no. 72 of 12.05.2015.

Article 195-bis[1510]
Publication of sanctions

1. The provision of the application of the sanctions contemplated by this decree is published without delay and in extract form on the Internet site of either the Bank of Italy or CONSOB, in compliance with the European legislation of reference. In the case the provision to apply the sanction is appealed to the court, the Bank of Italy or CONSOB shall mention the filing of the case and its outcome in the margin of the publication. The Bank of Italy or CONSOB, taking account of the nature of the breach and the interests involved, may establish further ways of publicizing the measure, charging the related expenses to the perpetrator of the offence[1511].

2. In the measure to apply the sanction, can publish the sanction in anonymous form when the ordinary one:

a) relates to personal data pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, whose publication would be disproportionate to the violation sanctioned[1512];

b) might threaten the stability of the financial markets or affect the conduct of an ongoing criminal investigation;

c) would cause disproportionate damage to the parties involved, provided that the damage can be determined.

3. If the situations described in paragraph 2 are of a temporary nature, the publication may be deferred and carried out when these needs no longer exist.

3-bis. The Bank of Italy or CONSOB can exclude the publicity of the sanction provision if allowed by European Union law, if the options established by paragraphs 2 and 3 are deemed insufficient to ensure:

a) that the stability of the financial markets is not placed at risk;

b) the proportionality of the publication of the decisions in respect of the imposition of the sanction contemplated by Article 194-quater [1513].

1510 Article first introduced by Article 5 of Legislative Decree no. 72 of 12.5.2015 and then amended by Article 1 of Legislative Decree no. 25 of 15.2.2016, by Article 1 of Legislative Decree no. 71 of 18.4.2016 and by Article 4 of Legislative Decree no. 17 of 2.2.2021 in the terms indicated in the following notes. Paragraph 8 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Article 195, paragraphs 4, 5, 6, 7, 7 bis, and 8 and 9 of Legislative Decree 24 February 1998 no. 58, shall apply to proceedings brought after the entry into force of this decree; in cases pending on that date the hearings are public". Until the entry into force of the provisions of Legislative Decree no. 72 of 12.5.2015 for the publication of the sanctions the preceding Article 195 reported in the note to the same Article shall hold firm. CONSOB is also responsible for the ascertainment and issuing of the pecuniary administrative sanctions pursuant to Article 8 of Legislative Decree no. 254 of 30.12.2016 and complies with the provisions of articles 194-bis, 195, 195-bis and 196-bis of this Legislative Decree

1511 Paragraph first amended by Article 1 of Legislative Decree no. 25 of 15.2.2016 which has eliminated the words: “in the Bulletin" and after the words: "of CONSOB" has included the words: "in compliance with the European Law of reference", and then by Article 1 of Legislative Decree no. 71 of 18.4.2016 which, in the last sentence, has eliminated the words: «, or to exclude the publicity of the provision, when it can place the financial markets seriously at risk or cause the parties disproportionate damage".

1512 Letter thus amended by Article 4 of Legislative Decree no. 17 of 2.2.2021, which replaced the words: «Legislative Decree no. 196 of 30 June 2003» with the words: «Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016».

1513 Paragraph first included by Article 1 of Legislative Decree no. 71 of 18.4.2016 and subsequently amended by Article 3 of Legislative Decree no. 176 of 12.8.2016, which substituted the word: "exclude" with the words: "can exclude" and under letter a) substituted the words: "to the measures deemed of a minor nature" with the words: "the imposition of the sanction is contemplated by Article 194-quater».

Article 195-ter[1514]
Communication to EBA and to ESMA of the sanctions applied [1515]

1. The Bank of Italy shall inform EBA of the administrative sanctions applied to banks, to investment firms, to EU investment firms and to non-EU firms other than banks pursuant to Articles 189, 190, 190.3 190-bis, 194-ter, 194-ter.1,194-quater e 194-septies, including those published in anonymous form, as well as information received from interested parties on actions initiated by them against sanctions and their outcome[1516].

1-bis. CONSOB and the Bank of Italy, according to their respective competence, communicate to ESMA the information on the administrative sanctions applied by the same, and on the criminal sanctions applied by the Judicial Authority, necessary for the purpose of compliance with the information obligations towards ESMA contemplated by European law[1517].

Article 195-quater[1518]
Sanctions in the case of winding up

1. Investment firms disciplined by Chapter II-bis of Part II, Title IV and the permanent branches in Italy of non-European investment firms other than banks which perform the activities indicated by article 55-bis are subject to the application by the Bank of Italy of the fine contemplated by article 190, paragraph 1, for failure to observe articles 9, 15, 16, 19 paragraph 1, 33 paragraphs 6, 50, 58, 59, 60 paragraph 1, letters a) and h), 68-bis, 70 paragraphs 2 and 3, 80 paragraphs 1, 82 and 83 of legislative decree no. 180 of November 16 2015, , in as far as applicable pursuant to the Legislative Decree or the relative general or specific provisions issued by the Bank of Italy[1519]/[1520].

1514 Article first included by Article 5 of Legislative Decree no. 72 of 12.5.2015 and then amended by Article 1 of Legislative Decree no. 71 of 18.4.2016, by Article 3 of Legislative Decree no. 176 of 12.8.2016, by Article 5 of Legislative Decree no. 129 of 3.8.2017 and by Article 1 of Legislative Decree no. 201 of 5.11.2021 in the terms indicated in the following notes. Paragraph 8 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Article 195, paragraphs 4, 5, 6, 7, 7 bis, and 8 and 9 of Legislative Decree 24 February 1998 no. 58, shall apply to proceedings brought after the entry into force of this decree; in cases pending on that date the hearings are public.

1515 Title thus replaced by Article 1 of Legislative Decree no. 71 of 18.4.2016

1516 Paragraph first replaced by Article 3 of Legislative Decree no. 176 of 12.8.2016 and then amended by Article 5 of Legislative Decree no. 129 of 3 August 2017, which replaced the words: "or to investment firms" with the words: " to investment firms, to EU investment firms and to non-EU firms other than banks" and after the word: "190" inserted the word: "190.3," and by Article 1 of Legislative Decree no. 201 of 5.11.2021, which replaced the words: “194-ter, 194-quater” with the words: “194-ter, 194-ter.1, 194-quater”.

1517 Paragraph added by Article 1 of Legislative Decree no. 71 of 18.4.2016.

1518 Article first inserted by Article 2 of Legislative Decree no. 181 of 16.11.2015 and then amended by Article 5 of Legislative Decree no. 129 of 3 August 2017 and by Article 3 of Legislative Decree no. 193 of 8.11.2021 in the terms indicated in the following notes.

1519 Paragraph thus amended first by Article 5 of Legislative Decree no. 129 dated 3.8.2017 that replaced the words: «non-E.U. investment firms» with the words: «non-E.U. investment firms other than banks » and the words: «decree [implementing Directive 2014/59/EU]» with the words: «Legislative Decree 16 November 2015, no. 180» and then by Article 3 of Legislative Decree no. 193 of 8.11.2021, which after words “60 paragraph 1, letters a) and h),” added the words: “68-bis,”.

1520 Article 8 of Legislative Decree no. 193 of 8.11.2021 provides that the amendments made by the same decree to Part V of Legislative Decree no. 58 of 24.2.1998 apply to the violations committed from the date of entry into force of the same decree (1.12.2021). The provisions of Part V of Legislative Decree no. 58 of 24.2.1998, in force on the day before the date of entry into force of Legislative Decree no. 193 of 8.11.2021, continue to apply to the violations committed prior to said date.

2. For non-observance of the provisions referred to in paragraph 1, article 194-quater is applied, in the case of the conditions and in the manner established by the same. In the case of non-observance of the order to cease the infringements contained therein, the sanctions established by articles 194-quater paragraph 2, and 190-bis paragraph 2, will be imposed on the subjects and under the conditions contemplated therein.

3. Without prejudice to the provisions of paragraphs 1 and 2, for non-observance of the provisions referred to by the said paragraphs, the administrative sanctions contemplated by article 190-bis will be imposed on the subjects who perform administrative, management or control functions and on personnel in the case of the conditions and according to the methods contemplated by article 190-bis.

4. The administrative sanctions disciplined by this article are subject to the application of articles 194-bis, 195 and 196-bis.

5. In the case of matters referred to by the provisions indicated in paragraph 1, the sanctions contemplated therein shall be applied, to the same extent and in the same manner, also in the case of breach of the delegated acts or the technical regulatory and enactment standards issued by the European Commission pursuant to Directive 2014/59/EU or articles 10 and 15 of regulation (EU) no. 1093/2010, or in the case of breach of the EBA deeds directly applicable to supervised subjects adopted pursuant to the last-mentioned regulation.

6. The Bank of Italy shall inform EBA of the administrative sanctions applied pursuant to this article, including those published in anonymous form, as well as information received from interested parties on actions initiated by the same against the sanctions and their outcome.

Article 195-quinquies
Inapplicability of specific provisions of the law no. 689 of 24 November 1981

1. Articles 6, 10, 11 and 16 of the law no. 689 of 24 November 1981 do not apply to the pecuniary administrative sanctions specified by this title.

2. In derogation of what is specified by paragraph 1, the provisions contained in the law 24 November 1981, no. 689, with the exception of the article 16 apply to administrative sanctions specified in article 196[1521].

Article 196
Sanctions applicable to financial advisors[1522]

1. Persons registered in the Register referred to in Article 31, paragraph 4 that violate the regulations of this decree or the general or particular provisions issued on the strength of it, are punished, on the basis of the seriousness of the infringement and having taken account of a repeat offence, with one of the following sanctions:

a) a reprimand in writing;

b) a pecuniary administrative sanction of between one million lire and fifty million lire [ndr:

1521 Article included by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

1522 Chapter first amended by Article 39 of Law no. 208 dated 28.12.2015 that replaced the words: «financial promotors» with the words: «financial advisors authorised to make door to door sales » and then thus replaced by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

Euro Twenty-five thousand eight hundred twenty-three euros];[1523]

c) suspension from the register for a period of between one and four months;

d) deletion from the register[1524].

2. The sanctioning procedures is underpinned by the principles of cross-examination, knowledge of the investigative deeds, report writing and the distinction between investigative functions and decision-making function. The sanctions are applied by the Supervisory body and the keeping of the single register of financial advisors required by article 31, paragraph 4, with reasoned provision, after the charging with those involved with the charges, to be performed within one hundred and twenty days from the assessment or within three hundred and sixty days if the party involved is resident or has the principal place of business abroad, and having evaluated the defence this by the accused in the following thirty days. Within the same period the interested parties can also ask to be heard in person[1525].

3. …omissis…[1526]

4. The companies that use the services of the persons responsible for the violations shall answer jointly and severally with them for payment of the pecuniary sanctions and shall be held to the exercise of the right of recourse against them.

4-bis. Appeals to the Court of Appeal against decisions taken pursuant to paragraph 1 of the

1523 Paragraph 2 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "The changes to Part V of Legislative Decree 24 February 1998 no. 58, apply to offenses committed after the entry into force of the provisions adopted by CONSOB and the Bank of Italy in accordance with their responsibilities under Article 196-bis of Legislative Decree 24 February 1998 no. 58. (In implementation of this provision, CONSOB, with resolution no. 19521 of 24.2.2016, in force since 8.3.2016, has amended its own Regulation on the sanction procedure no. 18750 of 19 December 2013). To breaches committed before 8.3.2016 continue to apply the provisions of Part V of Legislative Decree 24 February 1998 no. 58 applicable before the date of entry into force of this decree". Paragraph 3 of Article 6 of Legislative Decree no. 72 of 05/12/2015 provides that: "At the administrative penalties applicable under Legislative Decree 24 February 1998 no. 58, are excluded the provisions of Article 39, paragraph 3, of the Law of 28 December 2005, no. 262". The amounts of pecuniary administrative sanctions were quintupled by Article 39(3) of Law 262/2005. Accordingly, here they are to be understood as having been increased respectively from Euro five hundred and sixteen to Euro two thousand five hundred and eighty and from Euro twenty-five thousand eight hundred and twenty-three to Euro one hundred and twenty-nine thousand one hundred and fifteen.

1524 Paragraph first thus amended by Article 39 of Italian Law no. 208 of 28.12.2015 which replaced the words: "financial advisors" with the words: "financial advisors authorised to make off-premises offers" and then by Article 5 of Legislative Decree no. 129 of 3 August 2017, which replaced the words: "financial advisors authorised to make off-premises offers" with the words: "Persons registered in the Register referred to in Article 31, paragraph 4" and deleted the words: "by Consob".

1525 Paragraph first amended by Article 1, paragraph 26 of Legislative Decree no. 101 dated 17.7.2009 and then thus substituted by Article 5 of Legislative Decree no. 129 dated 3.8.2017 Paragraph 41 of Law no. 208 of 28.12.2015 stipulates that: "within six months of the adoption of the regulation referred to in paragraph 36, CONSOB and the body responsible for keeping the sole agent of the financial salesmen shall establish by means of a Memorandum of Understanding operating procedures and timing of the transfer of functions, the fulfilment of the requirements necessary for implementation of the new statutory and organizational arrangements, as well as the preparatory activities related to the exemption from the assessment of physical persons by independent financial advisers and financial advisors. Persons registered on the date referred to in point (a) of this paragraph shall be included in the sole Register of financial salesmen held by the body referred to in Article 31 (4) of Legislative Decree no. 58 of 1998 are legally registered in the sole Register of financial advisers. By successive resolutions to be adopted, also in isolation, in accordance with the aforementioned regulation referred to in paragraph 36 and the Memorandum of Understanding referred to in the first paragraph of this paragraph, CONSOB shall establish: (a) the date of commencement of the operation of the single financial advisers; (b) the date of commencement of the operation of the supervisory body and the holding of the sole Register of the financial advisers.

1526 Paragraph repealed by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

Supervisory Body and the holding of the sole Register of financial advisers shall be admissible. Paragraphs 4, 5, 6, 7, 7-bis and 8 of Article 195 shall apply[1527].

Article 196-bis
Enactment provisions

1. CONSOB and the Bank of Italy, within their respective competences, shall issue provisions implementing this Title[1528].

TITLE II-BIS[1529]
COMMON PROVISIONS

Article 196-ter
(Commitments)

1. For infringements falling within the competence of CONSOB, the recipient of the letter of complaint can submit, within thirty days from notification thereof, a list of commitments which are suitable to mitigate the harm caused to the interests of the investors and the market subject matter of the complaint. To this purpose, CONSOB evaluates the seriousness of the infringements and the suitability of said commitments to also protect the interests harmed and, subject to a consultation with the market operators, within the boundaries of the EU law, it can make the commitments mandatory for the recipients of the sanction proceedings and publish the said commitments. This decision can be adopted for a definite period of time and ends the sanction proceedings with no finding of violations.

2. In the case of non-fulfillment of the commitments made mandatory in accordance with paragraph 1, the limits to the pecuniary administrative santion provided for by the relevant law is increased by 10 percent. To monitor fulfilment of the commitments, CONSOB can exercise the supervisory powers attributed to it to ascertain the infringement in question.

3. CONSOB can ex officio reinstate the sanction proceedings if:

a) the factual situation in respect of a fundamental element of the decision changes to a significant extent;

b) the parties involved contravene the commitments made;

c) the decision is based on information transmitted by the parties that is incomplete, incorrect or misleading.

4. CONSOB establishes with its own general provision, in compliance with the EU law and guaranteeing the right to be heard, the procedural rules that govern the submission and evaluation of the commitments referred to in this article.

1527 Paragraph added by Article 5 of Legislative Decree no. 129 dated 3.8.2017.

1528 Article included by Article 5 of Legislative Decree no. 72 of 12.5.2015. CONSOB is also responsible for the ascertainment and issuing of the pecuniary administrative sanctions pursuant to Article 8 of Legislative Decree no. 254 of 30.12.2016 and complies with the provisions of articles 194-bis, 195, 195-bis and 196-bis of this Legislative Decree

1529 Title included by Article 23 of Law no. 21 of 5.3.2024.

PART VI
TRANSITIONAL AND FINAL PROVISIONS

Article 197
CONSOB staff

1. In order to ensure the full and prompt exercise of the control functions established by Article 62 of Law 449/1997[1530] CONSOB shall carry out directly all the procedures necessary for the immediate filling of staff positions according to the competitive examination criteria referred to therein, within the limits of its own financial resources and without burdening the public finances.

Article 198
Endorsement of share certificates

1. The power to authenticate endorsements of share certificates provided for in Article 12 of Royal Decree Law 239/1942 may also be exercised by Italian investment companies.

Article 199
Trusts companies

1. Until the organic reform of the law on trust companies and on auditing firms the provisions of Italian Law n° 1966 of 23 November 1939, and of article 60, paragraph 4, of Italian Legislative Decree n° 415 of 23 July 1996, shall remain in force[1531].

2. Trust companies referred to by Italian Law n° 1966 of 23 November 1939, which practise the business of the custody and administration of securities and which, alternatively, are controlled directly or indirectly by a bank or a financial intermediary or have adopted the form of a joint stock company and which have paid capital amounting to no less than double the amount requested by article 2327 of the Italian Civil Code, are authorised and entered in a separate section of the register contemplated by article 106 of Italian Legislative Decree n° 385 of 1st September 1993, but which cannot exercise the activities listed in paragraph 1 of the same article. If requested article 107 of Italian Legislative Decree n° 385 of 1st September 1993 is applied, as far as compatible. The denial of the authorisation, with relative justification, is communicated to the Ministry of economic development and entails revocation of the authorisation contemplated by article 2 of Italian Law n° 1966 of 23 November 1939, unless, within the term of ninety days from the notification of the refusal provision, the conditions involving the registration obligation are no longer fulfilled. The Bank of

1530 Article 62 of Law 449/1997 reads as follows: "CONSOB's staff. - 1. In order to perform the control functions assigned by Legislative Decree no. 415 of 23 July 1996 and those that will follow from the amended version of the Consolidated Law on Finance referred to in Article 8 of Law 52 of 6 February 1996, the Commissione nazionale per le società e la borsa (CONSOB) shall complete its staff as redetermined by Article 2, paragraph 186, of Law 662 of 23 December 1996, by means of public competitive selection procedures (based on qualifications and exams) calling for very high standards of competence and experience and, for not more than 60 places, by means of a suitable internal selection procedure, without prejudice to Article 39, paragraph 3."

1531 The text of Article 60, paragraph 4, Legislative Decree 415/96 states: “4. Trusts which, as at the date of entry into force of this decree, are entered in the special section of the register pursuant to article 3, Italian Law no. 1 of 2 January 1991 shall introduce the words “securities intermediary” to their company name within ninety days. They shall continue to provide investment portfolio services, also under the name of the trust, and be legally registered in a special section of the register as envisaged in article 9. They may not be authorised to provide investment services other than investment portfolio management unless they cease operations under the name of the trust. From the date of entry in the special section of the register, trusts shall be subject to the regulations of this decree and shall not apply Italian Law no. 1966 of 23 November 1939 and Decree Law no. 233 of 5 June 1986, converted with amendments to Italian Law no. 430 of 1 August 1986".

Italy exercises the powers indicated in article 108 of Italian Legislative decree n° 385 of 1st September 1993, in order to ensure respect on the part of the trust companies registered in the separate section of the provisions contained in Italian Legislative Decree n° 231 of 21 November 2007. Registered trust companies are subject to articles 110, 113-bis and 113-ter of Italian Legislative Decree n° 385 of 1st September 1993, as far as compatible.

3. The Ministry of Economic Development and the Bank of Italy, as far as concerning the companies referred to in paragraph 2, are given reciprocal communication of the measures implemented for the purposes of the adoption of the respective provisions of competence[1532].

Article 200
Intermediaries already authorised

1. Investment companies that at the date of entry into force of this decree are entered in the register referred to in Article 9 of Legislative Decree 415/1996 shall be automatically entered in the register referred to in Article 20.

2. Asset management companies that at the date of entry into force of this decree are entered in the register referred to in Article 7(1) of Law 77/1983, the register referred to in Article 3 (1) of Law 344/1993 and the register referred to in Article 3(1) of Law 86/1994 shall be automatically entered in the register referred to in Article 35 and shall be deemed authorised in accordance with Article 34.

3. SICAVs that at the date of entry into force of this decree are entered in the register referred to in Article 9(1) of Legislative Decree 84/1992 shall be automatically entered in the register referred to in Article 44.

4. Banks that at the date of entry into force of this decree are authorised to provide investment services shall remain authorised to provide the same services.

Article 201
Stockbrokers

1. The National Council of Stockbrokers' Associations shall dissolve the professional associations referred to in Article 3 of Law 402/1967, except for the Milan and Rome associations.

2. Stockbrokers shall be entered in the professional register kept by one of the associations referred to in paragraph 1, which shall receive payments of the annual fee fixed by the association itself, having regard to entry in the special roll or the national roll referred to in paragraphs 5 and 6. The association must conserve the books of stockbrokers who are deceased or have been deleted from the single national roll.

3. The other provisions of Law 402/1967 shall be unaffected. Competitive examinations for the appointment of stockbrokers may not be held. Stockbrokers shall be removed from the rolls referred to in paragraphs 5 and 6 upon reaching the age of seventy. Stockbrokers who were appointed before the entry into force of Law 515/1956 shall be removed from the rolls upon reaching the age of seventy while preserving the rights and duties inherent in the office.

4. The funds in the stockbrokers' common fund and the sureties outstanding at the date of entry into

1532 Article thus replaced by Article 9 of Legislative Decree n° 141 of 13.8.2010 in the amended text of Article 4 of Legislative Decree n° 169 of 19.9.2012.

force of this decree shall be returned to those having entitlement.

5. Stockbrokers in office who are members, directors, managers, employees or collaborators of Italian investment companies, banks or asset management companies shall be entered in a special roll kept by the Ministry of the Economy and Finance.[1533] They may not provide investment services and may be directors, employees or collaborators of only one of the aforesaid intermediaries. They shall remain individually subject to the incompatibilities established in paragraph 11.

6. Stockbrokers in office who are not entered in the special roll referred to in paragraph 5 shall be entered in the single national roll kept by the Ministry of the Economy and Finance.[1534]

7. Stockbrokers entered in the single national roll may perform the investment services referred to in Articles 1(5)(b), (c-bis), (d) and (f). They may also provide their own investment services door-to-door and the non-core services referred to in Annex I, Section B, number 2), limited to the conclusion of repurchase agreements and other transactions commonplace on the markets, and number 4), as well as related and instrumental activities, without prejudice to the reservation of activities by law[1535].

8. Stockbrokers entered in the single national roll must keep the accounting records referred to in Articles 2144 ff. of the Civil Code; CONSOB shall lay down in a regulation the procedures for accounting control on the part of auditing firms entered in the special register referred to in Article 161[1536].

9. Failure to perform the service of executing orders on behalf of customers for a period exceeding six months shall result in disqualification from office, where documented reasons of health are pleaded, the Ministry of the Economy and Finance,[1537] after consulting CONSOB, may extend such time limit up to a maximum of 18 months[1538].

10. In order to perform investment services, stockbrokers shall be members of the compensation systems provided for in Article 59. Coordination of the operations of the compensation systems with the insolvency procedure for stockbrokers shall be governed by the regulation referred to in Article 59(3).

11. The position of stockbroker entered in the single national roll shall be incompatible with the performance of any commercial activity, with participation as a member with unlimited liability of companies of whatever nature, with the position of director or manager of companies that engage in commercial activity and, in particular, with the position of member, director, manager, employee or collaborator of a bank, an Italian investment company or asset management company or any other

1533 Name as amended by Legislative Decree 37/2004.

1534 Name as amended by Legislative Decree 37/2004.

1535 Paragraph first replaced by Article 17 of Legislative Decree no. 164 of September 17, 2007 and then amended by Article 6 of Legislative Decree no. 129 of 3 August 2017, which replaced the words: “Articles 1(6)(c), only as regards the conclusion of stock exchange repurchase agreements and other general market transactions, and 1(6)(g)” 'with the words: Annex I, Section B, number 2), limited to the conclusion of repurchase agreements and other transactions commonplace on the markets, and number 4)”.

1536 See CONSOB Regulation no. 20307 of 15.2.2008 (published in Ordinary Supplement no. 7, Official Journal no. 41 of 19.2.2018).

1537 Name as amended by Legislative Decree 37/2004.

1538 Paragraph thus amended by Article 6 of Legislative Decree no. 129 of 3 August 2017, which replaced the words: "service of dealing for customer account " with the words: "service of executing orders on behalf of customers".

kind of financial intermediary.

12. The following apply to the foreign exchange dealers on the single national register articles 6, paras 1, letter b) and letter c-bis), 2 and 2-bis; 6-bis and 6-ter, because they are compatible; 7-bis; 21; 22; 23; 24; 24-bis; 25; 25-bis; 31; 32; 167; 187-quinquiesdecies; 190; 190.4; 193-sexies; 194-bis; 194-quater; 194-septies; 195; 195-bis and 196-bis[1539].

13. Stockbrokers may not trade on own account in financial instruments, directly or through nominees, except to invest their personal wealth; such investments shall be immediately communicated to CONSOB.

14. The Chairman of CONSOB may as a matter of urgency, where customers or markets are in danger, order the suspension of a stockbroker entered in the single national roll from engaging in the activities performed and the appointment of a special administrator to take over the management thereof where serious violations of legislative or administrative provisions are found. Paragraphs 2, 3 and 4 of Article 7-sexies shall apply[1540].

15. The Ministry of the Economy and Finance,[1541] acting on a proposal from CONSOB, may issue a decree deleting the stockbroker from the single national roll where the irregularities or violations of legislative or administrative provisions are exceptionally serious. The decree may be also be adopted on a proposal from the special administrator referred to in paragraph 14 or at the request of the stockbroker.

16. In the case provided for in paragraph 15, the Ministry of the Economy and Finance[1542] shall appoint a special administrator for the protection and restitution of the assets belonging to customers. In the performance of his functions the special administrator shall be a public official; he shall act alongside the bodies responsible for bankruptcy proceedings, where these have been established. The Ministry may provide for special safeguards and limitations on the activity of the special administrator and may remove or replace him. The emoluments due to the special administrator shall be determined by the Ministry and charged to the stockbroker. The measures provided for in this paragraph may also be adopted following the death of the stockbroker, acting on a proposal from CONSOB or the special administrator appointed pursuant to paragraph 14, or at the request of customers.

17. Deletion of a stockbroker from the single national roll shall result automatically from a judicial finding of insolvency. CONSOB shall report insolvencies declared under Article 72 to the civil court.

18. Article 190 shall apply to violations of paragraphs 8, 11 and 13.

1539 Paragraph first amended by Article 17 of Legislative Decree no. 164 dated 17.9.2007 and then thus substituted by Article 6 of Legislative Decree no. 129 dated 3.8.2017. See Bank of Italy Regulation no. 1097 of October 29, 2007 (published in the O.J. No. 255 of November 2, 2007).

1540 Paragraph as amended by Article 6 of Legislative Decree no. 129 of 3 August 2017 replacing the word: "Article 53" with the word: "Article 7-sexies".

1541 Name as amended by Legislative Decree 37/2004.

1542 Name as amended by Legislative Decree 37/2004.

Article 202
Provisions on compulsory stock exchange settlement

…omissis…[1543]

Article 203
Forward contracts

1. Without prejudice to the time limits for the effects of compulsory administrative liquidation referred to in Article 83 of the Consolidated Law on Banking and to the provisions of Article 90(3) thereof, Article 76 of the Bankruptcy Law shall apply to derivative financial instruments, to the analogous instruments identified pursuant to Article 18(5)(a), to foreign exchange forward transactions, securities lending transactions, repurchase agreements and stock exchange repos. All contracts concluded, even if not yet executed in full or in part, by the date of declaration of bankruptcy or the date from which the decree of compulsory administrative liquidation has effect shall be included for the purposes of this article.

2. For the application of Article 76 of the Bankruptcy Law to financial instruments and transactions specified in paragraph 1, reference may also be made to the replacement cost of the same, calculated according to market values at the date of declaration of bankruptcy or the date from which the decree of compulsory administrative liquidation has effect.

Article 204
Central depository services

1. Within twenty-four months of the date of entry into force of this decree, the Bank of Italy shall arrange for the disposal of its shareholding in "Monte Titoli S.p.A. Istituto per la custodia e l'amministrazione accentrata di valori mobiliari".

2. Until the issue of the decrees provided for in Article 90, the central depository for government securities at the Bank of Italy shall continue to be governed by the provisions previously in force.

Article 205
Price quotations

1. The offers for the purchase and sale of financial products on regulated markets, in multilateral trading facilities and, if the conditions indicated by CONSOB by regulation are fulfilled, by systematic internalisers, do not represent the offer to the public of financial products or purchase or swap offers to the public pursuant to Part IV, Title II[1544].

1543 Article repealed by Article 4 of Legislative Decree no. 48 of 24.03.2011 as from 30.06.2011.

1544 Article first amended by Article 4 of Legislative Decree no. 51 of 28.3.2007 has replaced the words: "solicitation to invest" with the words: "offer of financial products to the public"; then by Article 17 of Legislative Decree n° 164 of 17.9.2007 which replaced the words: “or in the organised swaps indicated in articles 78 and 79 by subjects admitted for the trading of the same” with the words: “and, if the conditions indicated by CONSOB by regulation are not fulfilled, those carried out in the multilateral trading systems or by systematic internalisers”; lastly thus replaced by Article 1 of Legislative Decree no. 184 of 11.10.2012. See CONSOB Regulation no. 20249 of 28.12.2017 (published in the Official Journal no. 1 of 2.1.2018).

Article 206
Rules applicable to companies listed on markets other than the stock exchange

1. The provisions of the Civil Code referring to companies with shares listed on the stock exchange shall apply to all companies with shares listed on regulated markets in Italy or other EU countries.

Article 207
Shareholders' agreements

1. Shareholders' agreements referred to in Article 122 and existing at the date of entry into force thereof shall be entered in the Company Register within one month of such date.

2. Fixed-term shareholders' agreements existing at the date of entry into force of this decree shall remain in effect until the time limit agreed but not beyond 1 July 2001.

3. Without prejudice to paragraph 2, Article 123 shall also apply to permanent agreements existing at the date of entry into force of this decree.

Article 208
Proxies, saving shares, boards of auditors and auditing firms

1. The provisions concerning proxies shall apply to shareholders' meetings called as of the sixtieth day following the issue of the regulations provided for in Article 144.

2. The provisions concerning saving shares shall also apply to Assets shares already issued at the date of entry into force of this decree.

3. Companies with listed shares shall apply the provisions concerning the appointment of the board of auditors as of the first renewal following the date of entry into force of this decree. Until the issue of the regulation provided for in Article 148(4), the second paragraph of Article 2397 of the Civil Code shall apply.

4. Boards of auditors appointed before the entry into force of this decree but following its publication in the Gazzetta Ufficiale della Repubblica italiana shall remain in office for one financial year only.

5. The other provisions concerning boards of auditors and those concerning auditing firms shall apply as of the financial year commencing on 1 July 1998 or thereafter.

Article 209
Auditing firms

1. Auditing firms that at the date of entry into force of this decree are entered in the register referred to in Article 8 of Presidential Decree 136/1975 shall be automatically entered in the register referred to in Article 161.

2. For the purposes of entering auditors in the register kept at the Ministry of Justice, the time limit laid down in Article 13(1) of Law 132/1997 shall be extended to the sixtieth day following the date of entry into force of this decree.

3. Companies with listed shares shall conserve a copy of the auditing firms' report on the annual accounts for the purposes of audits by the tax authorities of the corresponding income tax returns.

Where such conservation is omitted, Article 39, second paragraph, of Presidential Decree 600/1973 shall apply.

Article 210
Amendments to the Civil Code

1. In the fourth paragraph of Article 2372 of the Civil Code, the words "or on banks or credit institutions" shall be suppressed.

2. The seventh paragraph of Article 2441 shall be replaced by the following:
"The right of pre-emption shall not be considered excluded or limited where the resolution to increase the capital provides for the newly-issued shares to be subscribed for by banks, financial entities or companies subject to supervision by the Commissione Nazionale per le Società e la Borsa or other persons authorised to engage in the placement of financial instruments, with the obligation to offer them to the shareholders of the company, with whatsoever type of transaction, in conformity with the first three paragraphs of this article. During the period in which they hold the shares offered to the shareholders and in any case until the right of pre-emption has been exercised, such persons may not exercise the voting rights. The costs of the operation shall be borne by the company and the resolution to increase the capital must indicate their amount".

3. The following paragraph shall be inserted in the first paragraph of Article 2630 of the Civil Code:
"4) fail to offer on the stock exchange, within the time limits and in the manner established by the third paragraph of Article 2441, the unexercised pre-emption rights if the related shares are subscribed for."

4. The following paragraph shall be added to Article 2633 of the Civil Code:
"Directors who issue convertible bonds without the indications prescribed in the last paragraph of Article 2420-bis shall be punished by a fine of between 2 million and 10 million lire.

5. In the provisions for the implementation of the Civil Code and transitional provisions, approved with Royal Decree 318 of 30 March 1942, the following article shall be inserted after Article 211:
"211-bis. The second sentence of Article 2441, seventh paragraph, of the Code shall not apply to the shares held at 7 March 1992 by the persons indicated in the same paragraph, with the obligation to offer them to the shareholders."

Article 211
Amendments to the Consolidated Law on Banking

1. Article 52 of the Consolidated Law on Banking shall be replaced by the following:
"Article 52 - Notifications by the board of auditors and the persons engaged to perform the statutory audit of the accounts
1. The board of auditors shall inform the Bank of Italy without delay of any act or fact it comes to know of in the performance of their duties that may constitute an irregularity in the management of banks or a violation of the rules governing banking.
2. Firms engaged to audit the accounts of banks shall notify the Bank of Italy without delay of the acts or facts found in the performance of the engagement that may constitute a serious violation of the provisions governing banking, jeopardize the continued existence of the undertaking or result in their rendering an adverse opinion or a qualified opinion on the annual accounts or a disclaimer. Such firms shall send the Bank of Italy all other information and documents requested.
3. Paragraphs 1 and 2 shall also apply to persons who perform the duties referred to therein at companies that control banks or are controlled by them within the meaning of Article 23.

4. The Bank of Italy shall establish the manner and time limits for the transmission of the information referred to in paragraphs 1 and 2."

2. The following paragraph shall be added to Article 107 of the Consolidated Law on Banking:
"6. Financial intermediaries entered in the special register that have been authorised to provide investment services or have accepted repayable funds for an amount exceeding their capital shall be subject to Title IV, Chapter I, Sections I and III; in place of Articles 86(6), 86(7) and 87(1), Articles 57(4) and 57(5) of the consolidated law on financial markets, issued pursuant to Article 21 of Law 52/1996, shall apply."

3. The following paragraph shall be added to Article 111 of the Consolidated Law on Banking:
"5. This article shall not apply in the cases referred to in Article 107(6)."

4. Article 160 of the Consolidated Law on Banking is repealed.

Article 212
Provisions concerning privatizations

1. The second sentence of Article 3(3) of Decree Law 332/1994, ratified with amendments by Law 474/1994, shall be replaced by the following: "... omissis ...".

Article 213
Conversion of bankruptcy into compulsory administrative liquidation

1. From the date of entry into force of this decree bankruptcy procedures for intermediaries referred to in Article 107 of the Consolidated Law on Banking for which the conditions indicated in paragraph 6 thereof are satisfied and the statement of liabilities has not yet been declared enforceable shall be converted into compulsory administrative liquidation procedures.

2. Without prejudice to the judicial finding of insolvency already declared, the court, proceeding on its own authority or otherwise, shall declare the company subject to compulsory liquidation with a ruling in camera and shall order the transfer of the record to the Ministry of the Economy and Finance[1545] for the issue of the related decree and to the Bank of Italy.

3. The bodies of the terminated procedure and those of the compulsory liquidation shall promptly effect the handing over of the company and give notice thereof in the manner established by the Bank of Italy. The effects of acts legally completed shall not be prejudiced.

Article 214
Repeals

1. Without prejudice to what is provided for in paragraphs 2 and 3, the following provisions are or remain repealed:

a) Articles 11(1), 12-17, 22, 25, 26, 28, 31, 45-52 and 58-60 of Law no. 272 of 20 March 1913 and subsequent amendments;

b) Articles 26 to 43, 44(2), 46(2), 47, 49, 51, 54, last sentence, 56, 61(2), 97, and 106 to 108 of Royal Decree 1068 of 4 August 1913;

c) Articles 2 to 10 of Royal Decree Law no. 222 of 7 March 1925, ratified by Law no. 597 of

1545 The former wording “Ministry of the Treasury, Budget and Economic Planning” was replaced with the wording “Ministry of the Economy and Finance” by Article 1 of Legislative Decree no. 37 of 6.2.2004.

21 March 1926;

d) Royal Decree Law no. 375 of 9 April 1925, ratified by Law no. 597 of 21 March 1926;

e) Royal Decree 376 of 9 April 1925;

f) Articles 4, 6 and 7 of Royal Decree Law no. 601 of 14 May 1925, ratified by Law no. 562 of 18 March 1926;

g) Royal Decree Law no. 1047 of 26 June 1925, ratified by Law no. 562 of 18 March 1926;

h) Royal Decree Law no. 1261 of 29 July 1925, ratified by Law no. 562 of 18 March 1926;

i) Royal Decree Law no. 1748 of 11 October 1925, ratified by Law no. 562 of 18 March 1926;

j) Royal Decree Law no. 950 of 1 9 February 193 1, ratified by Law no. 1657 of 31 December 1931;

k) Articles 1 to 11 and 14 to 18 of Royal Decree Law no. 815 of 30 June 1932, ratified by Law no. 118 of 5 January 1933;

l) Royal Decree Law no. 1607 of 20 December 1932, ratified by Law no. 291 of 20 April 1932;

m) Law no. 1913 of 4 December 1939.

n) Article 2369-bis of the Civil Code, approved by Royal Decree 262 of 16 March 1942;

o) Viceregal Legislative Decree no. 250 of 18 September 1944.

p) Viceregal Legislative Decree no. 321 of 19 April 1946;

q) Law no. 515 of 23 May 1956;

r) Law no. 1778 of 31 December 1962;

s) Articles 1, eleventh paragraph, 2, tenth paragraph, first and second sentences, 3, 4, 4-bis, 4-ter, 5-quinquies, 5-sexies, 9, second paragraph, 13, second paragraph, 14, 15, 16, 17, 18, sixth paragraph, 18-ter 18-quinquies, fifth paragraph, and 18-septies, second sentence, of Decree Law no. 95 of 8 April 1974, ratified with amendments by Law no. 216 of 7 June 1974 and subsequent amendments;

t) Presidential Decree no. 136 of 31 March 1975;

u) Presidential Decree no. 137 of 31 March 1975;

v) Presidential Decree no. 138 of 31 March 1975, except for Articles 16 and 18;

w) Law no. 49 of 23 February 1977;

x) Law no. 77 of 23 March 1983, except for Articles 9 and 10-ter;

y) Law no. 289 of 19 June 1986;

z) Presidential Decree no. 556 of 12 December 1987;

aa) Law no. 1 of 2 January 1991;

bb) Law no. 157 of 17 May 1991, except for Article 10;

cc) Legislative Decree no. 84 of 25 January 1992, except for Article 14;

dd) Legislative Decree no. 86 of 27 January 1992, except for Article 4;

ee) Law no. 149 of 18 February 1992;

ff) Law no. 344 of 14 August 1993, except for Article 11;

gg) Article 1(1)(m) and Article 2(1)(f) of Law no. 561 of 28 December 1993;[1546]

hh) Law no. 86 of 25 January 1994, except for Articles 14-bis and 15;

ii) Article 5(3), 5(4), 5(5) and 8 of Decree Law no. 332 of 31 May 1994, ratified with amendments by Law no. 474 of 30 July 1994;

jj) Legislative Decree no. 415 of 23 July 1996, except for Articles 60(4), 62, 63, 64 and 65.

2. The following are repealed but shall continue to apply until the date of entry into force of the provisions issued pursuant to this decree:

a) Articles 5, 5-bis, 5-ter and 5-quater of Decree Law no. 95 of 8 April 1974, ratified with amendments by Law no. 216 of 7 June 1974 and subsequent amendments; related violations shall be punished under Articles 173 and 174 or sanctioned under Article 193(2);

1546 Paragraph as amended by Article 15 of Law 205 of 25.6.1999 (O.J. no. 149 of 28.6.1999).

b) Articles 18, except for the sixth paragraph, 18-bis, 18-quater, 18-quinquies, except for the fifth paragraph, 18-sexies and 18-septies, except for the second sentence, of Decree Law no. 95 of 8 April 1974, ratified with amendments by Law no. 216 of 7 June 1974 and subsequent amendments; related violations shall be sanctioned under Article 191;

c) Article 3 of Presidential Decree no. 136 of 31 March 1975;

d) Articles 1(1-9), 1(11), 2(2-3), 2-bis (3), 2-bis (4), 2-bis (5), 2-bis (7), 2-ter, 3(3-4), 4(2-14), 7(3), 7(5-6) and 10-bis of Law no. 77 of 23 March 1983; related violations shall be sanctioned under Article 190;

e) Articles 3(2)(b), 3(2)(c), 3(2)(d), 3(2)(e), 4(2), 9(12-14), and 15 of Law no. 1 of 2 January 1991; related violations shall be punished under Article 169 or sanctioned under Articles 189 and 190;

f) Article 6 of Law no. 157 of 17 May 1991; related violations shall be punished under Article 174 or sanctioned under Article 193;

g) Articles 2-4 and 6-7 of Law no. 149 of 18 February 1992; related violations shall be sanctioned under Article 191;

h) Articles 1O, 14, 15, 16(1), 20(1), 20(4), 22-25, 27 and 28 of Law no. 149 of 18 February 1992; related violations shall be sanctioned under Article 192;

i) Articles 1, 2(3), 2(4), 4(1), 4(4), 5(3), 5(6-11), 6(2), 7(1-6), 8 and 9(2-3) of Legislative Decree no. 84 of 25 January 1992; related violations shall be sanctioned under Article 190;

j) Articles 1 and 2(2)(a) of Legislative Decree no. 86 of 27 January 1992;

k) Articles 1(1-7), 3(2), last sentence, 4(1-5), 5(1-4). 8(2), 8(4-5), 9 and l0 of Law- 344 of 14 August 1993; related violations shall be sanctioned under Article 190;

l) Articles 1(1-6), 3(2), last sentence, 4(1-6), 5(1-4), 7, 8, 9, 12(2), 12(5), 13 and 14 of Law no. 86 of 25 January 1994; related violations shall be sanctioned under Article 190;

m) Articles 2(4), 6(3-4), 7, 8, 10. 13, 14, 15, 18(1), 18(3), 20(1)(e), 21(2-3), 22(2), 23(5-6), 24, 25, 35(2-3), 66(1)(b), 66(1)(c) and 66(1)(e) of Legislative Decree no. 415 of 23 July 1996; related violations shall be punished under Article 169 or sanctioned under Articles 189 and 190.

3. Until the issue of the regulations provided for in Articles 80(4), 80(5) and 80(6) and in any case until the completion of the sale referred to in Article 204(1), Articles 1 and 10-14 of Law no. 289 of 19 June 1986 shall apply.

4. Every other provision incompatible with this decree is repealed. Reference to the repealed provisions by statutory provisions, regulations or other measures shall be deemed to refer to the corresponding provisions of this decree and the measures provided for therein.

5. Provisions issued pursuant to provisions repealed or replaced shall continue to apply, insofar as they are compatible, until the date of entry into force of the provisions issued pursuant to this legislative decree concerning the corresponding matters. In the event of violations, Articles 190-193 shall apply, with the procedure provided for in Article 195, in relation to the matters respectively governed therein.

Article 215
Implementing provisions

1. The regulations and provisions of a general nature to be issued pursuant to this decree shall be adopted initially within six months of the date of its entry into force.

Article 216
Entry into force

1. This decree shall enter into force on 1 July 1998.

ANNEX I[1547]
LISTS OF SERVICES AND ACTIVITIES AND FINANCIAL INSTRUMENTS

SECTION A - Investment services and activities

(1) Reception and transmission of orders in relation to one or more financial instruments;
(2) Execution of orders on behalf of clients;
(3) Trading on own account;
(4) Portfolio management;
(5) Investment advice;
(6) Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis;
(7) Placing of financial instruments without a firm commitment basis;
(8) Operation of an MTF;
(9) Operation of an OTF.

SECTION B - Ancillary services

(1) Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management and excluding maintaining securities accounts at the top tier level;
(2) Granting credits or loans to an investor to allow him to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction;
(3) Advice to undertakings on capital structure, industrial strategy and related matters and advice and services relating to mergers and the purchase of undertakings;
(4) Foreign exchange services where these are connected to the provision of investment services;
(5) Investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments;
(6) Services related to underwriting.
(7) Investment services and activities as well as ancillary services of the type included under Section A or B of Annex 1 related to the underlying of the derivatives included under points (5), (6), (7) and (10) of Section C where these are connected to the provision of investment or ancillary services.

SECTION C - Financial instruments

(1) Transferable securities;
(2) Money-market instruments;
(3) Units in collective investment undertakings;
(4) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, emission allowances or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash;
(5) Options, futures, swaps, forwards and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event;

1547 Annex substituted first by Article 18 of Legislative Decree no. 164 dated 17.9.2007 and then by Article 7 of Legislative Decree no. 129 dated 3.8.2017.

(6) Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market, a MTF, or an OTF, except for wholesale energy products traded on an OTF that must be physically settled;
(7) Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in point 6 of this Section and not being for commercial purposes, which have the characteristics of other derivative financial instruments;
(8) Derivative instruments for the transfer of credit risk;
(9) Financial contracts for differences;
(10) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event, as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Section, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market, OTF, or an MTF;
(11) Emission allowances consisting of any units recognised for compliance with the requirements of Directive 2003/87/EC (Emissions Trading Scheme).