



## **SUZUKI ITALIA**

Joint-stock Company

Registered Office: TORINO (TO) Via De Sonnaz 19 - 10121

Administrative Office: ROBASSOMERO (TO) Corso Fratelli Kennedy 12 - 10070

Register of Companies of Torino 01626560013

Econ. & Admin. Index TO - 511513

Share capital € 10.811.500

Telephone +39.0119213711

[www.suzuki.it](http://www.suzuki.it)

[suzukiitalia@pecsocio.ui.torino.it](mailto:suzukiitalia@pecsocio.ui.torino.it)

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# **Organization and Management Model**

**According to Italian leg. Decree no. 231 dated June 8<sup>th</sup>, 2001**

## **General Section**



# ORGANIZATION MODEL

GENERAL SECTION

## Document history

Rev.	Approved by	Description of modifications
00	Board of Directors as of May 2 <sup>nd</sup> , 2014	Adoption
01	Board of Directors as of May 3 <sup>rd</sup> , 2016	Revision paragraph 0; update of types of offenses
02	Board of Directors as of May 5 <sup>th</sup> , 2017	Update of types of offenses
03	Board of Directors as of May 5 <sup>th</sup> , 2018	Revision of types of offenses; Inclusion of paragraph relating to whistleblowing procedures

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# ORGANIZATION MODEL

GENERAL SECTION

## PART ONE

### THE COMPANY

#### 0 THE COMPANY AND ITS ORGANIZATION

##### 0.1 The Company

The general information about the company **SUZUKI ITALIA Joint stock company with sole shareholder** (hereafter "**SUZUKI ITALIA SPA**") are reported in the table below.

<i>COMPANY</i>	<b>SUZUKI ITALIA Joint stock company with sole shareholder</b>
<i>Registered Office</i>	TORINO (TO) Via De Sonnaz 19 - 10121
<i>Operating Branch</i>	ROBASSOMERO (TO) Corso Fratelli Kennedy 12 - 10070
<i>Register of Companies</i>	01626560013
<i>Econ. &amp; Admin. Index no.</i>	TO 511513
<i>Share capital</i>	€ 10,811,500
<i>Telephone</i>	+39.0119213711
<i>Website</i>	www.suzuki.it
<i>PEC</i>	suzukiitalia@pecsoci.ui.torino.it

##### 0.2 Corporate Purpose

The purpose of the company SUZUKI ITALIA SPA is the following:

- trade in Italy as well as abroad, on its own account and in outsourcing, of goods from domestic and foreign products of the automotive industry (cars, motorcycling, motor boating, etc.) and their accessories in general;
- Research & Development; experimentation; study of style, method and manufacturing equipment; execution of projects and industrial designs; building of models and prototypes; everything in the automotive sector and relating mechanical parts, including engines and bodies, in its own behalf or that of third parties.



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The company will carry out the customer service in relation to commercial goods, will manage repair shops, will act as agent, representative, dealer; may also assemble, modify and produce directly vehicles and in particular automobiles and motorcycles. The company will also organize and/or carry out, also directly, sporting activities and events, provided that they are functionally related to the traded goods, in compliance with applicable laws and regulations.

The company may also carry out all the financial transactions, and those involving movable and immovable property, if deemed appropriate and useful for the achievement of the company purpose, provided that they are functionally related to the achievement of the company purpose itself; it may acquire and sell holdings of companies or businesses with similar or related company purpose; it may grant guarantees, sureties and any other real and personal guarantee, also in the interest of third parties.

It is subject to compliance with existing rules for the execution of activities for which the law requires appropriate authorizations or registrations.

All these activities must be carried out within the limits and in accordance with existing regulations.

### 0.3 Business Model

SUZUKI ITALY SPA is a joint stock company fully controlled by the Japanese parent company Suzuki Motor Corporation, established in 1976, which trades cars, motorcycles, outboard engines, spare parts, merchandising products (i.e. cups, jackets, sweaters, shirts, etc.) of the Japanese group in the Italian market. The business of SUZUKI ITALY SPA is finalized to promote and sell automobiles, motorcycles, outboard motors and spare parts of the Suzuki manufacturer, through a network of authorized dealers and workshops located Italy-wide.

SUZUKI ITALY SPA also covers every activity aimed at the promotion of the Suzuki brand via advertising and coordination of marketing actions and support to the dealers' network.

Dealers are considered as customers, as they are the actual buyers of the Suzuki products, and at the same time are suppliers against whom quality and quantity rebates are recognized and with whom SUZUKI ITALY SPA shares marketing expenses, advertising and promotions in general.

Supplies of the Suzuki products are received from the manufacturers of the Suzuki Group and mainly from the parent company Suzuki Motor Corporation.

SUZUKI ITALY SPA complies with the business model and the operating procedures provided by the parent company and applied in the Italian market, in line with every other branch worldwide.

### 0.4 Governance

#### 0.4.1 Governance structure

According to art. 13 of the Articles of Association, *"The Company is managed by a Sole Director or by a Board of Directors consisting of two to nine members, who serve for three years, after shareholders' assembly has determined the number of Directors."*

Currently the Board consists of two members.

Regarding the powers of the Board, art.14 of the Articles of Association provides:

*"The Sole Director or the Board of Directors has the powers of ordinary / extraordinary management and administration."*

*The Board of Directors may appoint one or more Vice Chairmen, and may delegate its powers and the power of attorney to one or more members of the Board - who will be appointed as Managing Director - and to officers of the company, who must meet the legal requirements provided for in the laws in force regulating businesses."*

For this reason the current corporate governance states **that every ordinary and extraordinary management power is assigned to the Board of Directors (subject to the above delegations).**

Moreover, art.14 of the Articles of Association provides that "*The corporate signature and the legal representation of the company is assigned to the Sole Director or the Chairman of the Board of Directors.*"

Again, in accordance with art.14, in case of delegation of powers to one or more members of the Board - who will be appointed as Managing Director - he / they will be entitled to sign off on behalf of the company.

It is allowed to appoint directors, managers, attorneys and agents for specific acts or categories of acts.

According to art.17 of the Articles of Association, the company control is appointed to a **Board of Statutory Auditors**, composed of three members and two deputies, who - under legal provisions - is **entitled of the accounting audit.**

### **0.4.2 Principles of control regarding delegations and powers of attorney**

The system of proxies and powers of attorney must be characterized by elements of "certainty" for the purposes of crime prevention and to enable an efficient management of the business.

A "proxy" is an internal act of conferral of functions and tasks, reflected in the communications system of the organization. "Powers of attorney" are the unilateral legal documents with which the legal entity establishes that a particular individual represents and acts on behalf of legal entity itself.

The essential requirements of proxies and powers of attorney are the following:

- Whoever has relations with P.A. on behalf of the legal entity must have formal proxy and - if necessary - also formal powers of attorney;
- each proxy implying the representation of the legal entity against third parties shall be reflected in an internal delegation which describes the related power;
- proxies must combine each power with its responsibility and with an appropriate position in the organization;
- Each proxy must specifically and unequivocally define:
  - the power conferred on the delegated party, establishing its limits;
  - the subject (body or individual) whom the delegated party reports to;
  - the spending powers recognized to the delegated party and appropriate to the function established;
  - the system of proxies and powers of attorney must be promptly updated.

The system of proxies and powers of attorney represents a control procedure applicable to every kind of relevant activity.

### 0.4.3 Principles of control regarding the general organization system

All sensitive activities must be carried out in compliance with applicable laws, Company values, policies and rules contained in this Model.

In general, the **Company's organization system must comply with the basic requirements of formalization and clarity, communication and segregation of duties**, in particular with regards to the assignment of responsibility, representation, definition of the hierarchical lines and business operations.

The Company must rely on **organizational instruments (organization charts, organizational communications, procedures, etc.) based upon some general principles** such as:

- clear description of the reporting lines;
- knowability, transparency and publicity of the conferred powers (within the Company and against third parties);
- clear and formal definition of job roles, with a complete description of the tasks of each function, its related powers and responsibilities.

Internal procedures must be characterized by the following elements:

- (A) segregation, within each process, of the decision maker from the executor of the action deriving from the decision, finally from the controller of the process ("segregation of duties");
- (B) written record of each important step of the process ("traceability");
- (C) adequate level of formalization.

In particular:

- the company organization and roles and responsibilities of business functions must be defined clearly and precisely by means of adequate documentation, always available and circulated among all employees;
- appropriate policies and operating procedures must be provided, with particular reference to the processes involving risks of offense;
- roles and duties of internal managers of each area at risk, who are assigned powers of direction, coordination and supervision of underlying functions, must be determined with clarity and precision.



## PART TWO

# The Italian Legislative Decree no. 231 dated June 8th, 2001

## 1 CORPORATE RESPONSIBILITY: LEGAL PROFILES

### 1.1 The discipline of administrative liability of legal persons, companies and associations according to Italian Legislative Decree no. 231/2001

Implementing Italian Law no. 300 of September 29<sup>th</sup> 2000, the Italian Legislative Decree no. 231 dated June 8th 2001 (hereafter the "Decree") gives for the first time in the Italian regulations a provision concerning the administrative liability of legal persons, of companies and of associations, even if they have no legal personality ("Enti"). According to the Italian law, prior to the introduction of said legal provision, collective entities were not subject to any prosecution for any kind of criminal and administrative liability and only physical persons (directors, managers, etc.) could have been prosecuted in case of offense committed for the interest of the company.

This rule has been profoundly changed by the Decree, which marked the adjustment of the Italian legislation according to a number of international conventions Italy has already adhered to: in fact, these are the Convention on the financial protection of the European Communities as of July 26<sup>th</sup> 1995, the EU Convention against corruption as of May 26<sup>th</sup> 1997, as well as the OECD Convention of 17<sup>th</sup> September 1997 on bribery of foreign public officials in international business transactions. With this Decree, the Italian legislator has enforced the compliance with the obligations imposed by such international and EU regulations, which provide precise paradigms about the liability of legal persons and a corresponding penalty system, to affect the business crime in the most direct and effective way.

The Decree is included therefore in the context of the implementation of international obligations and - in line with the regulatory systems of many European countries - establishes the responsibility of the company, considered as "an independent center of interests and legal relations, reference point of various precepts and a matrix of decisions and activities of persons operating in the name of, on behalf of and however in the interest of the entity" (as reported in the Penal Code reform preliminary draft, prepared by the Commission guided by prof. Carlo Federico Grosso, Chairman).

The establishment of the administrative liability of companies is based on the empirical finding that illegal activities carried out in the company, far from being initiated for a private initiative of an individual, often depend on a common corporate policy and follow decisions of its top managers.

It is a particular "administrative" liability, because it is originated from an offense and has the guarantees which are specific to the criminal trial proceedings, although it entails administrative sanctions.

In fact, the Decree provides a detailed system of sanctions that begins from the application of financial penalties, to which more sanctions can be added, according to the severity of the offense,

like prohibitive measures such as suspension or revocation of authorizations and permissions, prohibition of contracting with public administration, exclusion or revocation of funding and grants, prohibition of advertising goods and services, as far as the heavier prohibitive sanctions, which may reach even the prohibition to continue the business activity itself.

The administrative sanction for the company, however, can be applied only by the criminal court, in the framework of guarantees provided for by criminal regulations, and only if all objective and subjective requirements set by the legislator are applicable: in fact, at least one of the offenses from which the administrative liability of the entity derives must take place, and that offense must be found in the interest or for the advantage of the company, by its top management or their subordinates.

Corporate liability includes also crimes accomplished abroad, provided that offenders are not prosecuted in the Country where the crime was accomplished, and provided that the special conditions identified by the Decree are found: for the purposes of this organization model, this means that also operations SUZUKI ITALIA SPA performs abroad are to be taken into consideration, e.g. purchases from countries other than Italy and sales of products on foreign markets. This aspect will be examined, for what is relevant here, in the second part of this document, where we will analyze the individual elements of those offenses which, according to the legislator, entail liability for the legal entity.

With regards to the requirements for finding the administrative responsibility of the legal person, in addition to the criminal liability of physical persons, it should be noted that there must be, at least, an offense committed in the interest or for the benefit of the entity. The unique advantage of the actor (or a third party different from the entity) does not imply any responsibility for the entity, considering the evident lack of responsibility of the legal entity for the crime.

With respect to subjects, the legislator defines, in art.5 of the Decree, the liability of the entity when the offense is committed:

- "by persons covering functions of representation, administration or management of the entity itself or one of its business units having financial and functional autonomy, as well as by persons who manage, even *de facto*, and control them" ( so-called top management);
- "by persons subject to the direction or supervision of one of the subjects mentioned in sub a)" ( so-called subordinates).

As evident, the aforementioned subjects are those who perform functions related to the management and control of the entity or its branches: the legislator therefore decided to undertake a "functionalist" rather than a "nominalistic" choice, reserving attention to the concrete activity rather than the qualification formally covered.

In this perspective, it should be highlighted the equalization – as regards the individuals who cover roles of representation, administration or management of the entity - of persons who cover the same functions in a "business unit with financial and functional autonomy": as well known, this is a role more and more prevalent in the present economic scenario, especially in the context of companies with multiple locations, and this requires a special attention in order to develop an organization model that may prove to be very effective practically. In the specific section dedicated to individual crimes, you will be able to find that it is necessary to ensure that every single professional potentially at risk of committing crimes in SUZUKI ITALIA SPA is monitored through appropriate procedures to ensure an appropriate control and an effective supervision of those "sensitive" activities, under the perspective of possible offenses described in the Decree.

Again, with respect to subjects, it was already stated that sub b) of art.5 refers to "persons under the direction or supervision of top management persons". In this regard, the Ministerial Report states that "the decision to limit the responsibility of the " *Societas* " (Company) to the unique case of an offense committed by the top managers would not have turned out to be plausible from the

point of view of logic and political-criminal." On the one hand, it would be absurd to exempt the entity from liability for crimes committed in its interest or for its advantage by staff; on the other hand, the modern economic scenarios are characterized by a clear fragmentation of operational processes and decision making, with the result that the importance of personnel involved in the choices and activities of the entity is becoming more and more important.

Easy to understand, this requires a detailed analysis of every procedure which rules the different activities conducted by the company, in such a way as to provide effective controls, able to prevent crimes or in any case to determine a rapid detection, and complaint by internal supervision and control bodies. This model will describe these aspects further on.

For the purpose of declaring the liability of the entity, as well as the existence of the requirements mentioned so far which allow us to make an objective link between the crime committed and the business, the legislator requires also the establishment of a subjective requirement, i.e. the guilt of the entity for the offense committed. This subjective requirement is identified with the detection of an organizational fault, i.e. a violation of adequate rules of diligence self-imposed by the entity itself and finalized to prevent the specific risk of crime. Said rules of diligence are just the central content of this organization model.

## **1.2 Types of offenses**

According to the Decree, the entity can be considered liable only for the offenses specified in the Decree itself, if committed in its interest or for its benefit by qualified persons pursuant to art.5, par.1 of the Decree.

Prior to going into the details of the activities carried out by SUZUKI ITALIA SPA and in order to assess which of them expose the entity to the possible commission of offenses under the Decree, it is convenient to complete the general picture of the boundaries described in such legal source.

Originally designed for offenses against Public Administration (art. 25 of the Decree) or against P.A. property (Art. 24), the liability of the entity was extended via legislative measures subsequent to the Decree, to offenses relating to forgery of money, public credit cards and tax stamps and tools or signs for personal identification (art. 25 bis), corporate crimes (art. 25 ter), offenses related to terrorism or subversion of the democratic order (art. 25 quater), crimes committed for practices of female genital mutilation (art. 25 quater -1), offenses against individual persons (art. 25 quinquies), as well as via the recent law no. 62 as of 18<sup>th</sup> April 2005, to offenses of market abuse (insider trading and market manipulation, art. 25 sexties).

The intention of the legislator to include in such decree of 2001 every possible crime an entity could commit is made evident by the continuous increase of "predicate" offenses: in fact, the crimes of injury and manslaughter were introduced in 2007, derived from the violation of safety rules and protection of hygiene and health at work (art. 25 septies) - then modified by Italian Legislative Decree no. 81/2008 -, along with the offenses of receiving stolen goods, money laundering and use of money or other benefits of unlawful origin (art. 25 octies), cybercrime and illegal use of data (Art. 24 bis), offenses of the organized crime (Art. 24 ter), crimes against industry and trade (Article 25 bis-1 of the Decree), offenses concerning the breach of copyright (Art. 25 novies of the Decree).

In the provision of Decree No. 121 of 7 July 2011, the references to offenses concerning inducement to make false statements to the Court (Article 25 decies of the Decree) have been modified and environmental crimes have been introduced (Article 25 undecies of the Decree).

In the Decree No. 109 of 25 July 2012, the legislator introduced the offense of employment of third-country citizens illegally immigrated (Article 25 duodecies).

Law n. 190, 6<sup>th</sup> November 2012 amended the article 25 of the Decree, adding "Extortion, undue inducement to give or promise benefits, and corruption", with insertion of such offense in the new art. 319 quater; finally, in the catalog of offenses reported in Article. 25 ter (corporate crimes), art. 2635 Italian Civil Code is added. The new offense punishes the corrupter (anyone) that provides money or other benefits to a qualified person (as indicated in the first paragraph of Article 2635) or his subordinates, belonging to a third Party, who must carry out actions contrary to their duties causing harm to the company they work for (corruption between private subjects).

In the National Gazette no. 292 as of 17<sup>th</sup> December 2014, the Law no. 186 as of 15<sup>th</sup> December 2014 was published, concerning "*Provisions relating to emersion and return of funds held abroad, as well as to enforcement of tax compliance. Provisions concerning money self-laundering*", which introduced the offense of self-laundering in the Criminal Code and modified art. 25 octies by including the new type of offense in the liability of companies. This new category creates particularly complex consequences in the process of risk assessment, since the new offense seems to determine types currently not included "in the 231". Among the offenses to examine there is, at least theoretically, every non-malicious crime that do not immediately give rise to responsibility under the "231", in particular those concerning tax offenses: for example, income derived from tax evasion or tax savings generated by false or misleading statements may well give rise to such new offense, when used in economic, financial, business or speculative operations so as to hinder recognition of their source. Moreover, if such re-use is in the interest or for the benefit of the company, then this could be pursued according to Law 231.

In the National Gazette no. 122 as of 28<sup>th</sup> May 2015, the Law no. 68 as of 22<sup>nd</sup> May 2015 was published, concerning "*Provisions about crimes against the environment*". The provision introduces the following new type of offense in the Criminal Code at title VI-bis ("crimes against the environment"): environmental pollution (art. 452-bis) and its equivalent aggravated by death or injury (art. 452-ter); environmental disaster (art. 452-quater); unintentional crimes against the environment (art. 452-quinquies); traffic and littering of highly radioactive materials (art. 452-sexties); impediment of controls (art. 452-septies); omitted cleaning up (art. 452-terdecies).

In addition to reforming the environmental crimes system, the Law 68/2015 spoke also on the liability of legal entities: it modified art. 25-undecies of the Decree 231 by adding new types of predicate offenses.

In the National Gazette no. 124 dated 30<sup>th</sup> May 2015, the Law no. 69 as of 27<sup>th</sup> May 2015 was published, about "*Provisions about crimes against Public Administration, mafia-like organizations, false accounting, as well as further amendments to the Criminal Procedural Code, its implementing rules and law no. 190 as of 6<sup>th</sup> November 2012*".

The new law speaks, inter alia, on a few offenses against Public Administration (misappropriation, corruption and illegal induction), increasing related sanctions; it reintroduces the crime of false accounting (with more severe sanctions for the company itself and for directors who make "false corporate disclosures/communications"); it increases sanctions for mafia-like criminal organizations.

The main novelty is the reintroduction of "false accounting" which after 13 years reverts to be a crime, whatever the corporate reality is, where it occurs. Changes are included in art. 25 ter-1, which reports more severe financial sanctions for the different types of offenses illustrated therein.

In particular, art. 8 provides that "directors, managing directors, managers responsible for preparing corporate accounting documents, statutory auditors and liquidators are punished with **imprisonment from one to five years** if, in order to obtain for themselves or others an unjust profit, they register knowingly in the financial statements, reports or other corporate documents addressed to shareholders or to the public, as provided by law, either relevant material facts that are untrue or omit relevant material facts whose disclosure is mandatory about the economic, asset

or financial situation of the company or of the group to which it belongs, so as to actually mislead others.

With the publication in the Official Gazette no. 17 of January 22<sup>nd</sup> 2016 of the Legislative Decree no. 7/2016, which reports "*Provisions about repeal of offenses and introduction of violations followed by monetary sanctions, pursuant to Art. 2, par. 3, of Law no. 67 dated 28<sup>th</sup> April 2014*" and of the Legislative Decree no. 8/2016, which reports about "*Provisions for decriminalization, pursuant to Art.2, par.2 of Law no. 67 dated 28<sup>th</sup> April 2014*", two measures have been issued relating to decriminalization and repeal of crimes. Although it is significant from a legal and criminal points of view, such provision has a limited impact on Legislative Decree 231/2001, restricted to the variation of sanctions and penalties in case of some offenses referred to in Art. 491 bis Italian Criminal Code, 635 ter, 635 quater and 635 quinquies.

The Italian Legislative Decree 125/2016 "*Enforcement of the Directive 2014/62/EU about the protection of the Euro and other currencies under the criminal Law against counterfeiting and which replaces the framework Decision 2000/383/GAI*", published in Official Gazette no. 161 dated July 12<sup>th</sup> 2016, made some changes to a few provisions of the Criminal Code relating to crimes of falsification of currencies, public debit cards and tax stamps, referred to in Art.25-bis (Falsification of banknotes, public debit cards, tax stamps and cards or marks for identification) of Italian Legislative Decree 231/2001.

The enforcement of Directive 2014/62/EU modified Art. 453 Italian Criminal Code (Falsification of banknotes, their spending and introduction into the Country of counterfeit banknotes), extending the criminal liability for the unlawful manufacture of quantities of banknotes in excess, by those who are authorized to manufacture the same but abusing the instruments or the materials in their availability. By modifying art. 461 Italian Criminal Code, instead, the Italian legislator explicitly included the data in the list of instruments which can be counterfeit, which already included watermarks and computer programs in the list, and specified that the offense also exists whereas such instruments do not have their exclusive destination for falsification.

With the publication in the Official Gazette no. 257 of 3<sup>rd</sup> of November 2016, the **Law no. 199 as of 29<sup>th</sup> October 2016** came into force: "*Provisions about countering the phenomenon of black labor, the exploitation of labor in agriculture and the remuneration realignment in the agricultural sector*" which modified Art. 603 Italian Criminal Code (Illicit brokerage and Exploitation of Labor) and later the subsequent insertion in Art.25-quinquies, par. 1, letter a) of Italian Legislative Decree 231/2001, in the list of crimes against individual personality: the offense of the Public Authority is punishable via a monetary sanction of 400 to 1000 quotas and via penalty of interdiction, under Art. 9, par.2, for a period not less than one year.

Italian Legislative Decree no. 38 dated 15<sup>th</sup> March 2017 providing for "Implementation of the Council Framework Decision no. 2003/568/GAI made on 22<sup>nd</sup> July 2003, relating to the fight against corruption in the private sector" was published in the Official Gazette no. 75 dated 30<sup>th</sup> March 2017. The innovations introduced by the enactment relate to the reformulation of the crime of private bribery referred to in art. 2635 of the Italian Civil Code, the introduction of the new offence of incitement to private bribery (art. 2635-bis), the provision made for supplementary penalties to be applied to both cases, and also the modification of the sanctions laid down in Italian Legislative Decree no. 231/2001 with regard to the liability of legal entities for administrative offences stemming from the criminal act;

Italian Law no. 161 dated 17 October 2017 "Amendments to the code dealing with anti-mafia laws and prevention measures, referred to in Italian Legislative Decree no. 159 dated 6 September 2011, the Italian Criminal Code and in the transitory enactments implementing and coordinating the Italian Code of Criminal Procedure and other provisions. Delegation to the State of the task of safeguarding work in enterprises that have been made the subject of seizure and confiscation orders" was published in the Official Gazette no. 258 dated 4 November 2017. When the enactment came into force, the crimes of aiding and abetting illegal entry and aiding and abetting illegal immigration envisaged in art. 12, paragraphs 3, 3-bis and 3-ter and art. 12, paragraph 5, of Italian Legislative Decree no. 286/1998 (Immigration Consolidation Act) respectively, were introduced to the predicate offences referred to in Italian Legislative Decree no. 231/2001;

Italian Law no. 167 dated 20 November 2017 "Provisions regulating the performance of the obligations arising from Italy's membership in the European Union – European Law passed in 2017" was published in the Official Gazette no. 277 dated 27 November 2017, providing for the amplification of the catalogue of predicate offences for which collective entities can be held responsible pursuant to Italian Legislative Decree no. 231/2001. More precisely, article 5, paragraph 2, introduces article 25-terdecies to Italian Legislative Decree no. 231/2001, which provides for the offence of Racism and Xenophobia (art. 3, paragraph 3-bis, Italian Law no. 654 dated 13 October 1975), imposing both monetary and prohibitive sanctions on any legal entity that is responsible for the aforementioned offences;

Italian Law no. 179 dated 30 November 2017, laying down "Provisions for the protection of persons reporting crimes or unlawful conduct brought to their knowledge when working in the public or private sector" was published in the Official Gazette no. 277 dated 27 November 2017. This enactment enforces the protection of an employee involved in what is referred to as Whistleblowing (the reporting of unlawful activities in the public sector or in private enterprises on the part of the employee to whose knowledge they are brought). The approach taken is based on the protection of the employee who reports the unlawful conduct against measures of a discriminatory or at least prejudicial nature, taken within the context of his working relationship, whether in the private or public sector.

The new legislation provides that an employee working in the public sector who – acting in good faith and in the interests of the integrity of the public administration – reports unlawful conduct or misconduct brought to his knowledge during his working activities, to the anti-corruption officer of the entity or to the national anti-corruption authority, or reports the matter to the ordinary judicial or audit authorities, cannot – on grounds connected with the report – be made the subject of sanctions, dismissed or subjected to organizational measures that may have negative effects of any kind on his working conditions.

The protection of an employee or working associate who reports unlawful conduct in the private sector is guaranteed by the amendment made to Italian Legislative Decree no. 231 passed in 2001. Art. 6 of Italian Legislative Decree no. 231 is examined in further detail, with regard to organisation and management models of legal entities capable of preventing crimes of the kind observed. The adoption of these models rules out any liability on the part of the entity in question. The article introduces three new paragraphs to article 6 of Italian Legislative Decree no. 231: 2-bis, 2-ter and 2-quater; defining the characteristics of the organisation and control models, the invalidity of discriminatory measures taken against persons reporting unlawful conduct and the allocation to the employer of the burden of proving that the punitive measures taken cannot be considered to have any connection with the conduct on the part of the employee.

The types of offenses covered in the Decree can be found in these categories:

**1) Crimes against Public Administration and its assets (Art. 24 and 25 It- Leg. Decree no. 231/2001) [amended by Italian Law no. 161 dated 17 November 2017]:**

- misappropriation of funds causing damage to the State or other public agency (Article 316 ter of the Italian Criminal Code);
- embezzlement to the prejudice of the State or other public agency (art. 316 bis of the Italian Criminal Code);
- fraud against the State or other public agency (Article 640, par.2 no. 1, Italian Crim.Code);
- aggravated fraud to obtain public funds (Article 640 bis of the Italian Criminal Code);
- cyber fraud against the State or other public agency (Article 640 ter, Italian Criminal Code);
- corruption (Articles 318, 319, 320, 321 and 322 bis of the Italian Criminal Code);
- incitement to corruption (322 of the Italian Criminal Code);
- corruption in judicial acts (319 ter of the Italian Criminal Code);
- extortion (Article 317 of the Italian Criminal Code);
- inducement or promise to give undue benefit (Article 319 quater of the Italian Criminal Code);

**2) Cyber-crimes and illicit data treatment (Art 24 bis) - [Article added by Law 18<sup>th</sup> March 2008 no. 48 art. 7]. [Article modified by Italian Legislative Decree 14<sup>th</sup> Aug 2013 no. 93 art. 9 comma 2 converted into Law 15<sup>th</sup> Oct. 2013 no. 119]. [Article modified by It. Leg. Decree 15<sup>th</sup> Jan 2016 no. 7 and by It. Leg. Decree 15<sup>th</sup> Jan 2016 no. 8].**

- Forgery of public IT documents or with probative value (Article 491 bis of the Italian Criminal Code);
- Unauthorized access to information or telecommunication systems (Article 615 ter, Italian Crimin.Code);
- Unauthorized possession and circulation of access codes to information or telecommunication systems (Article 615 quater of the Italian Criminal Code);
- Distribution of electronic equipment, devices or software programs designed to damage or disrupt another information or telecommunication system (art. 615 quinquies of the Italian Criminal Code);
- Illicit interception, prevention or interruption of computer or network communications (Article 617 quater of the Italian Criminal Code),
- Installation of devices finalized to intercept, prevent or interrupt computer or network communications (Article 617 quinquies of the Italian Criminal Code),
- Damage to information, data and computer programs (Article 635 bis of the Italian Criminal Code);
- Damage to information, data and computer programs used by the State or other public entity or public utility (Article 635 ter of the Italian Criminal Code),
- Damage to information or telecommunications systems (Article 635 quarter, Italian Criminal Code);
- Damage to public-utility information or telecommunication systems (art. 635 quinquies of the Italian Criminal Code);
- Computer fraud by the subjects which provide electronic signature certification services (Article 640 ter and art. 640 d of the Italian Criminal Code).

**3) Offenses of organized Crime (Art 24 ter of the Decree) – [Article added by Law 15<sup>th</sup> Jul 2009 no. 94 art. 9 co. 29].**

- Criminal organization (Article 416 of the Italian Criminal Code with the exception of the sixth paragraph)
- Criminal organization finalized to reduction to slavery and maintenance in said condition, people trade, purchase and sale of slaves and offenses relating to breaches of the provisions on illegal immigration described in art. 12 It. Leg. Decree 286/1998 (Art. 416, sixth paragraph, Italian Criminal Code);
- Mafia-type association (Article 416 bis of the Italian Criminal Code);
- Electoral exchanges between politicians and the mafia (Article 416 ter of the Italian Criminal Code);
- Kidnapping for robbery or extortion (Article 630 of the Italian Criminal Code)
- Association for the illegal trade of narcotics and psychotropic substances (Article 74 of Italian Presidential Decree 309 of October 9, 1990)
- Illegal manufacture, introduction into the country, offering for sale, sale, possession and carrying in a public place or open to public, of war or warlike weapons or parts thereof, explosives, illegal weapons, and more common guns (Article 407, paragraph 2, letter a, no. 5).

**4) Crimes of extortion, illegal inducement to give or promise benefit and corruption (Art.25 of the Decree) [Article amended by Italian Law 6 November 2012, no. 190]:**

- Corruption for an official act (art. 318 Italian Criminal Code);
- Sanctions for the corrupter (Art. 321 Italian Criminal Code);
- Corruption for an act contrary to official duties (Art. 319 Italian Criminal Code);
- Aggravating circumstances (Art. 319 bis Italian Criminal Code);
- Corruption in judicial proceedings (Art. 319-ter Italian Criminal Code);
- Illegal induction to give or promise benefits (Art. 319-quater) [in addition to Italian Law 6 November 2012, no. 190];
- Incitement to corruption (Art. 322 Italian Criminal Code)
- Extortion (art. 317 Italian Criminal Code).

**5) Offenses relating to forgery of money, public credit cards, tax stamps and identification tools or signs (Art. 25 bis of the Decree) [Article added by Italian Legislative Decree 25/09/01 no. 350, art. 6, Italian Legislative Decree converted with modifications by law no. 409 of 23/11/01; modified by Law no. 99 dated 23/07/09]. [Article modified by It. Leg. Decree 21st Jun 2016 no. 125].**

- Forgery of money, spending and introduction into the Country of counterfeit money, through intermediaries (art. 453 Italian Criminal Code);
- Alteration of money (Article 454 of the Italian Criminal Code);
- Spending and introduction into the Country of counterfeit money, without intermediaries (Art. 455, Italian Criminal Code);
- Spending of counterfeit money received in good faith (Article 457 of the Italian Criminal Code);
- Falsification of official stamps, introduction into the Country, purchase, possession or circulation of counterfeit stamps (Article 459 of the Italian Criminal Code);



- Counterfeiting of watermarked paper used for manufacturing banknotes or tax stamps (Article 460 of the Italian Criminal Code);
- Manufacture or possession of watermarks or tools for counterfeiting money, stamps or watermarked paper (Article 461 of the Italian Criminal Code);
- Use of counterfeit or altered tax stamps (Article 464 of the Italian Criminal Code);
- Forgery, alteration or use of distinctive signs of intellectual or industrial products (Article 473 of the Italian Criminal Code);
- Introduction into the Country and trade of products with false marks (Art. 474, It. Crim. Code);

**6) Offenses against industry and commerce (Art 25 bis-1 of the Decree) - [Article added by law no. 99 of 23/07/09].**

- Obstructing industry or commerce (Art. 513 of the Italian Criminal Code);
- Fraudulent trading (Art. 515 of the Italian Criminal Code);
- Sale of non-genuine food as genuine (Art. 516 of the Italian Criminal Code);
- Sale of industrial products with misleading signs (Art. 517 of the Italian Criminal Code);
- Manufacture and sale of goods made by usurping industrial property (Art. 517 ter, Italian Criminal Code);
- Counterfeiting of geographical indications and designations of origin for agricultural and food products (Art. 517 quater of the Italian Criminal Code);
- Unfair competition with threats or violence (Art. 513 bis of the Italian Criminal Code);
- Fraud against national industries (Art. 514 of the Italian Criminal Code);

**7) Corporate offenses (Art. 25 ter of the Decree) - [Article added to It. Leg. Decree 11<sup>th</sup> Apr 2002 no. 61, art. 3]; [Article modified by Law n. 69 dated 27<sup>th</sup> May 2015].**

- False corporate communications (Article 2621 of the Italian Civil Code);
- False corporate communications causing detriment to shareholders or creditors (Article 2622, paragraph 1 and 3 of the Italian Civil Code);
- Obstruction of controls (Article 2625, par. 2 of the Italian Civil Code);
- Fictitious capital formation (Article 2632 of the Italian Civil Code);
- Improper return of capital (Article 2626 of the Italian Civil Code);
- Illegal distribution of profits and reserves (Art. 2627 of the Italian Civil Code);
- Illegal transactions involving shares or quotas or parent company shares (Art. 2628 of the Italian Civil Code);
- Transactions causing detriment to creditors (Art. 2629 of the Italian Civil Code);
- Improper distribution of corporate assets by liquidators (Art. 2633 of the Italian Civil Code);
- Undue influence over Assembly (Art. 2636 Italian Civil Code);
- Manipulating the Market (Art. 2637 of the Italian Civil Code);
- Omitted disclosure of conflict of interest (Art. 2629 bis of the Italian Civil Code) - [Article added by Art. 31 of Law no. 262 dated 28 December 2005];
- Obstruction of the functions of public supervisory authorities (Art. 2638, par. 1 and 2 of the Italian Civil Code);

**8) Private bribery (Art. 25 ter, paragraph 1, letter s) [article added by Italian Law no. 190 dated 6 November 2012, art. 1, paragraph 77, letter b]; [Article amended by Italian Legislative Decree no. 38 dated 15 March 2017].**

- Private bribery (Art. 2635 of the Italian Civil Code) [Article added by Italian Law no. 190 dated 6 November 2012], [crime reformulated by Italian Legislative Decree no. 38 dated 15 March 2017]
- Incitement to private bribery (Art. 2635-bis of the Italian Civil Code) [crime introduced by Italian Legislative Decree no. 38 dated 15 March 2017];

**9) Crimes with purposes of terrorism or subversion of the democratic order (Art. 25 quater of the Decree) - [Article added by art. 3 of It. Law no. 7 dated 14<sup>th</sup> Jan 2003].**

The following can be taken into consideration, even though the Decree does not produce a complete list of offenses:

- Association finalized to terrorism (also international terrorism) or subversion of the democratic order (art. 270-bis of the Italian Criminal Code);
- Assistance to associates (Article 270-ter of the Italian Criminal Code);
- Attack for purposes of terrorism or subversion (art. 280 of the Italian Criminal Code);
- Terrorist attack with murderous weapons or explosives (Article 280-bis of the Italian Criminal Code);
- Kidnapping for the purpose of terrorism or subversion (Article 289 -bis of the Italian Criminal Code);
- Incitement to commit any of the crimes against the State (Art. 302 of the Italian Criminal Code);
- Political conspiracy by agreement and political conspiracy by association (Articles 304 and 305 of the Italian Criminal Code);
- Armed association and training, participation and assistance to participants in conspiracy or armed gangs (Articles 306 and 307 of the Italian Criminal Code);
- Crimes of terrorism provided for by special laws: they consist in the part of the Italian legislation enacted in the '70s and '80s, finalized to fight terrorism;
- Offences other than those specified in the Italian Criminal Code and special laws, in violation of Art. 2 of the International Convention for the Suppression of the Financing of Terrorism, subscribed in New York on 9<sup>th</sup> December 1999.

**10) Crimes of female genital mutilation (Art. 25-quater-1 of the Decree);**

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

**11) Crimes against individuals (Art. 25-quinquies of the Decree) [Article added by Art. 5 of It. Law no. 228 dated 11/08/2003]. [Article modified by It. Law no. 199 dated 29th October 2016].**

- Enslavement (Article 600 of the Italian Criminal Code);
- Child prostitution (Article 600-bis, of the Italian Criminal Code);
- Child pornography (Article 600-ter of the Italian Criminal Code);
- Possession of pornographic material (Article 600-quater of the Italian Criminal Code);
- Tourism initiatives finalized to the exploitation of child prostitution (Art. 600 quinquies c.p.);

- Virtual pornography (Article 600-quater 1 of the Italian Criminal Code) [added by art.10, It.Law no. 38 dated Feb. 6, 2006];
- Trade of slaves (Article 601 of the Italian Criminal Code);
- Buying and selling slaves (Article 602 of the Italian Criminal Code);
- Illegal intermediation and labor exploitation (Art. 603-bis);
- Lure of minors (Art. 609-undecies).

**12) Crimes of insider trading and market manipulation (Art. 25-sexies of the Decree) - [Article added by art. 9, It. Law no. 62 dated 18<sup>th</sup> Apr 2005].**

- Abuse of insider information (Art.184 of It. Leg. Decree no. 58 dated February 24, 1998 and following modifications);
- Market manipulation (Art.185 It. Leg. Decree no. 58 dated 24 February 1998, and following modifications).

**13) Crimes of manslaughter and unintentional personal injuries committed in violation of safety regulations and protection of hygiene and of safety at work (Art. 25-septies of the Decree) - [Article added by art. 9 of It. Law no. 123 dated 3rd Aug 2007].**

- Manslaughter (art. 589 of the Italian Criminal Code);
- Unintentional personal injuries (Art. 590, par. 3, of the Italian Criminal Code) both committed in violation of safety regulations and protection of hygiene and safety at work.

**14) Offences of receiving, laundering and use of money, goods or assets of illicit origin, as well as money self-laundering (Art. 25-octies of the Decree) - [Article added by Art. 63, par. 3 of It. Leg. Decree no. 231 dated 21<sup>st</sup> Nov 2007]. [Article modified by Art. 3, par. 1 of It. Law n. 186 dated 15<sup>th</sup> December 2014].**

- receiving stolen property (Art. 648 of the Italian Criminal Code);
- laundering (Art. 648 bis of the Italian Criminal Code);
- use of money, goods or assets of illicit origin (Art. 648 ter of the Italian Criminal Code);
- money self-laundering (Art. 648 ter-1 of the Italian Criminal Code).

**15) Crimes related to violation of copyright (Art 25 nonies of the Decree) [Article added by Italian law no. 99 dated 23 July 2009].**

- distribution to the public, in a system of computer networks by means of connections of any kind, of a work protected by copyright, or part of it (Article 171 of It. Law no. 633/1941, par. 1 letter a) bis);
- Aforementioned offenses committed on the work of others not intended for publication if it would offend the honor or reputation (Article 171 of It. Law no. 633/1941 , paragraph 3);
- Illegal copying of computer programs, for profit; import, distribution, sale or possession for commercial or business purposes, or leasing of programs distributed on media not marked by SIAE; provision of tools finalized to remove or circumvent protective devices of computer programs (Article 171- bis of It. Law no. 633/1941, paragraph 1);

- Reproduction, transfer to another medium, distribution, communication, display or performance to the public of the contents of a database; extraction or re-utilization of a database; distribution, sale or leasing of databases (Art. 171-bis It. Law no. 633/1941, par. 2);
- Illegal copying, reproduction, transmission or public distribution by any means, in whole or in part, of intellectual property intended for television, cinema or sale or rental of records, tapes or similar media or any other media containing phonograms or video recordings of musical, cinematographic or audiovisual works or sequences of video images; literary, dramatic, scientific, educational, musical or dramatic-musical, multi-media productions, even if included in bundles or composite productions or databases; unauthorized reproduction, duplication, transmission or distribution, sale or trade, or transfer of any kind or illegal import of more than fifty copies or copies of productions protected by copyright and related rights; entry into a system of computer networks, through connections of any kind, of a product protected by copyright, or part of it (Article 171 -ter of It. Law no. 633/1941);
- Omitted notification to SIAE of identification data of media not subject to marking or false declaration (Section 171- septies It. Law no. 633/1941);
- Fraudulent production, sale, import, promotion, installation, alteration, use for public and private use of equipment or parts of equipment for decoding of audiovisual transmissions subject to controlled access, via air, via satellite, cable, with signals both analogic and digital (Article It. Law no. 171- g 633/1941).

**16) Inducement not to make or making false statements to the Court (Art. 25 decies of the Decree) - [Article added by Art. 4 of It. Law no. 116 dated 3<sup>rd</sup> Aug 2009].**

- Inducement not to make or making false statements to the Court (Art. 377bis of the Italian Criminal Code);

**17) Crimes against environment (Art 25 undecies of the Decree) – [article added by Art. 2 of It. Leg. Decree no. 121 dated 7<sup>th</sup> Jul 2011]; [article modified by Art. 1 of It. Law no. 68 dated 22<sup>nd</sup> May 2015].**

- Killing, destruction, catching, taking, possession of specimens of protected animal or plant species (Article 727bis of the Italian Criminal Code);
- Destruction or degradation of habitat inside a protected site (Article 733bis of the Italian Criminal Code);
- Discharge of industrial wastewater, without authorization, or keeping them even after the suspension or revocation of authorization (Article 137 of Italian Leg. Decree no. 152 dated August 3, 2006);
- Management activity of unauthorized waste (Article 256 of It. Leg. Decree no. 152 dated Aug 3, 2006);
- Failure to site remediation as a result of pollution of soil, subsoil, surface water or groundwater at concentrations exceeding the threshold of risk (Article 257 of It. Legislative Decree no. 152 dated August 3, 2006);
- Transportation of hazardous waste without the necessary form or if the form reports incomplete or inaccurate data (Article 258 of It. Legislative Decree no. 152 dated August 3, 2006);
- Illegal trade of waste (Article 259 of It. Legislative Decree no. 152 dated August 3, 2006);

- Activities organized for the illegal trade of waste (Art.260 of It. Leg. Decree no. 152 dated Aug 3, 2006);
- Computer system for checking the traceability of waste (Art. 260 bis of It. Legislative Decree no. 152 dated August 3, 2006);
- Violation of emission limits into the atmosphere and its provisions (Article 279 of It. Legislative Decree no. 152 dated August 3, 2006);
- Import, export or re-export of specimens, under procedures of any Customs, without the required certificate or license, or in case of invalid certificate or license for specimens belonging to the species listed in Annex A of Provision (EC) No. 338/97 dated 9 December 1996 and subsequent implementations and amendments (Art.1, 2 and 6 of It. Law no. 150 dated Feb.7, 1992);
- Forgery or alteration of certificates, licenses, import notifications, declarations, communication of information in order to acquire a license or certificate, of use of false or altered certificates or licenses (Article 3bis of It. Law no. 150 dated February 7, 1992);
- Termination and reduction of the use of stratospheric ozone depleting substances (Article 3 of It. Law no. 549 dated December 28, 1993);
- Pollution due to negligence with particularly serious or permanent damage to water quality, to animal or vegetable species, caused by a vessel (Article 9 of It. Legislative Decree no. 202 dated November 6, 2007);
- Intentional pollution with particularly serious or permanent damage to water quality, to animal or vegetable species, caused by a vessel (Article 8 of It. Legislative Decree no. 202 dated November 6, 2007);
- Environmental pollution (Art. 452-bis of the Italian Criminal Code) and its equivalent aggravated by death or injury (Art. 452-ter of the Italian Criminal Code);
- Environmental disaster (Art. 452-quarter of the Italian Criminal Code);
- Unintentional environment crimes (Art. 452-quinquies of the Italian Criminal Code);
- Traffic and littering of highly radioactive materials (Art. 452-sexages of the Italian Criminal Code);
- Impediment of controls (Art. 452-septies of the Italian Criminal Code);
- Omitted cleaning up (Art. 452 terdecies of the Italian Criminal Code).

**18) Employment of citizens of other countries without a valid residence permit (Art 25 duodecies of the Decree) – [article added by Art. 1 of the Italian Legislative Decree no. 109 dated 25 July 2012 (Italian Immigration Consolidation Act), amended by Italian Law no. 161 dated 17 November 2017]**

- An employer who employs foreign workers who are not in possession of the valid residence permit referred to in this article, or whose permit has expired, or for which an application for renewal has not been made or whose permit has been revoked or cancelled, will be sentenced to between six months and three years imprisonment and will be subject to a 5,000 Euros for every worker employed (Art. 22, paragraph 12, of Italian Legislative Decree no. 286/1998);
- Employment of citizens of other countries without a valid residence permit (Art. 22, paragraph 12 bis, of Italian Legislative Decree no. 286/1998);
- Aiding and abetting illegal entry (paragraphs 3, 3-bis and 3-ter of Art. 12, of Italian Legislative Decree no. 286/1998 Italian Immigration Consolidation Act);
- Aiding and abetting illegal immigration (paragraph 5 of Art. 12, of Italian Legislative Decree no. 286/1998 Italian Immigration Consolidation Act);

**19) Crimes of racism and xenophobia (Art 25 terdecies of the Decree) – [article added by Art. 5, par. 2 of Italian Law no. 167 dated 20 November 2017]**

- Crimes of racism and xenophobia

**20) “Trans-national” crimes [Articles 3 and 10 of It. Law no. 146 dated 16th March 2006].**

Article n.3 of the Law defines as trans-national offense the crime punishable by max imprisonment of not less than four years, if it involves an organized criminal group, as well as:

a) it is committed in more than one Country; b) it is committed in one Country but a substantial part of its preparation, planning, direction or control takes place in another Country; c) it is committed in one Country but involves an organized criminal group engaged in criminal activities in more than one Country; d) it is committed in one Country but has substantial effects in another Country.

- Criminal association (Article 416 of the Italian Criminal Code);
- Mafia association (Article 416 bis of the Italian Criminal Code);
- Criminal association involving the smuggling of foreign tobacco products (Article 291 quater of Presidential Decree no. 43 dated January 23, 1973);
- Association for the illegal trade of narcotic substances (Article 74 of Presidential Decree no. 309 dated October 9, 1990);
- Acts intended to provide illegal entry of foreigners into the Country and abetting their stay, in order to achieve unfair profit (Art.12 c.3, 3bis, 3ter and 5 of It. Leg. Decree no. 286 dated July 25, 1998);
- Inducement not to make or to make false statements to the Court (Art. 377 bis of the Italian Criminal Code);
- Aiding and abetting (Article 378 of the Italian Criminal Code).

It seems appropriate to point out that the aforementioned offenses can determine the liability of the entity on the sole condition that they are connoted by the character of "trans-nationality". In order the crime to be declared trans-national, it must have been committed by an organized criminal group and one of the following circumstances must occur:

- the offense is committed in more than one Country;
- the offense is committed in one Country but a part of its preparation, planning, direction or control takes place in another Country;
- the offense is committed in one Country but involves an organized criminal group that engages in criminal activities in more than one Country;
- the offense is committed in one Country but has substantial effects in another Country.

In the absence of such requirements, sanctions resulting from the commission of the aforesaid offenses continue to cover only people who committed them.

## 1.3 Sanctions

Briefly, penalties charged by the Decree against the company are reported, as a result of the commission or attempted commission of the aforementioned offenses:

- fine of up to a maximum of Euro 1,549,370.69 (with seizure as precautionary measure);

- interdiction penalties (also applicable as a precautionary measure) of a duration not less than three months and not more than two years (with the clarification that, pursuant to Art.14, paragraph 1 of the Decree, "The disqualification sanctions concern the specific activity which the offense of the entity is referred to") which, in turn, may consist of:
- prohibition of continuing business;
- suspension or revocation of permits, licenses or concessions necessary for committing the offense;
- prohibition from contracting with the Public Administration;
- exclusion from grants, loans, financing or subsidies and possible revocation of those already granted;
- ban on advertising goods or services;
- confiscation (and seizure as precautionary measure);
- publication of the sentence (in case of application of a disqualification).

"Fines" are determined by the Criminal Court through a system based on "quotas", in a number not lower than one hundred and not higher than one thousand, and for different amounts, between a minimum of € 258.22 to a maximum of € 1,549.37. About monetary sanctions, the Court determines:

- the number of quotas, taking into account the seriousness of the offense, the degree of liability of the company as well as activities accomplished to eliminate or mitigate the consequences of the offense and to prevent the commission of further offenses;
- the amount of the single quota, on the basis of economic and financial conditions of the company.

"Disqualification penalties" shall apply in relation to offenses for which they are expressly provided:

- offenses against the Public Administration, under Art. 24 and 25 of the Decree;
- offenses, such as forgery of money, under art. 25-bis of the Decree;
- crimes related to terrorism and subversion of the democratic order, under art.25-quarter;
- crimes against the individual, under art. 25 - quinquies of the Decree;
- offenses of manslaughter and unintentional personal injuries committed in violation of safety regulations and protection of hygiene and health at work, under art. 25 septies of the Decree;
- environmental Crimes, under Art 25 undecies of the Decree.

The application is due as long as at least one of the following conditions occurs:

- the company has achieved a substantial profit from the execution of the crime and the offense has been committed by top managers or individuals under supervision of others when, in this case, the commission of the offense has been determined or facilitated by serious organizational shortage;
- In case of repetition of the offenses.

The judge determines the type and duration of the disqualification sanction, taking into consideration the appropriateness of single sanctions to prevent the type of offense committed and if necessary, he can apply them jointly (Article 14, paragraph 1 and paragraph 3 of the Decree).

The penalties of disqualification from the business activity, of prohibition of contracting with the public administration and the ban on advertising goods or services, can be applied permanently, in particularly severe cases. It should be noted, however, that instead of disqualification penalty, the business activity of the company could possibly continue under a commissioner appointed by the Court in accordance with and subject to the conditions mentioned in Art. 15 of the Decree.

### **1.4 Exemption of liability: The organization and management model**

As mentioned above, articles 6 and 7 of the Decree provide for exemption from administrative liability if the entity has been organized under efficient and effective organization and management models suitable to prevent the same kind of offenses which actually occurred.

Based on such provisions of the Decree, there is a difference of discipline and rules of evidence, in relation to the offenses committed by top managers with respect to crimes committed by their subordinates.

Remarkably, liability is excluded if the entity can prove that:

- the managing body has adopted and effectively implemented, before the offense was accomplished, a organization and management model finalized to prevent crimes of the kind that occurred (hereinafter the "Model");
- the task of supervising execution and compliance with the model, along with its update, has been entrusted to a Supervision Body of the entity (hereafter, "Supervisory Board"), with independent powers of initiative and control;
- the persons who committed the crime acted fraudulently, eluding the above model;
- there was no lack or insufficient supervision by the Supervisory Board.

The adoption of the model is therefore a measure of diligence as defined by the legislator and for the entity it represents the chance to be free from liability.

The introduction of the culpable offense in the system 231 occurred with Italian Law 123/2007 replaced by Italian Legislative Decree no. 81/2008 "Consolidated act about health and safety in the workplace". In the absence of any provision able to harmonize the rules over the liability of the entity - as configured so far - with the new archetype of crime, said introduction brings out a number of compatibility issues with no easy solution.

The traditional structure of the charge of "organization liability", which gives rise to the administrative liability of the entity, must now be compared with crimes, whose identifying elements and whose execution are very different from those typical of crimes taken into examination until recently for the construction of the Model.

Firstly, the not easy harmonization concerns the necessary existence of an interest or an advantage of the entity in relation to the accomplishment of the offense. But the most problematic point is that the criterion for exemption from liability indicated in the previous point - i.e. the proof that the act was committed by the agent through the fraudulent elusion of controls placed by the entity within its organization - can correspond to the set of characteristics which are typical of a criminal offense while on the other hand, it cannot be identified as an unintentional crime.

It should be considered that, in order to be exempted from liability, the entity must be able to prove that the negligent violation committed by its fellow has been accomplished, despite an effective system of monitoring of the application of general and special rules had been put in place, finalized to avoid the risk of such an event.



However, the mere adoption of the Model by the managing body - which is to be identified in the body which rules the company, the Board of Directors - does not seem to be sufficient to determine the exemption from liability, as it is necessary that the Model is also efficient and effective.

With respect to the effectiveness of the model, Art. 6 par.2 of Legislative Decree no. 231/2001 states that the Model must meet the following requirements:

- identify the activities where offenses may be committed (so-called "mapping" of the activities at risk);
- define specific protocols finalized to plan decisions-making and their execution by the entity, in relation to the prevention of offenses;
- identify ways to manage financial resources, in order to prevent offenses;
- design duties to provide information to the body responsible for the supervision of the functioning and compliance with the models.

According to Art.7, for offenses committed by persons subject to the supervision of others, the entity is responsible only if the accomplishment of the offense was made possible by the lack of compliance with the obligations of management or supervision (in this case the burden of proof is borne by the prosecutor). In any case, these obligations are considered appropriate if the entity, prior to the commission of the offense, has adopted and effectively implemented a model of organization, management and control finalized to prevent the same type of crime occurred.

Therefore, the characteristic of the effectiveness of the model is related to its effective implementation, which requires the following, in accordance with art. 7 par. 4 of the Decree:

- a periodic review and possible amendment of the same model, whereas significant violations of the requirements are reported or when changes occur in the organization or activity (update of the Model);
- a disciplinary system suitable to punish circumstances which are non-compliant with the measures specified in the Model.

According to art. 6, paragraph 3, of the Decree, the organizational models "may be adopted (...) based on codes of conduct drawn up by the associations representing the entity and communicated to the Ministry of Justice which, in consultation with other competent Ministries, may formulate comments on the suitability of the models aimed to prevent crime, within thirty days". However, it should be noted that the information contained in the guidelines drawn up by trade associations represent only a framework and does not cover all precautions which individual entities could decide to analyze, in the autonomy of choice of the organization models deemed most appropriate.

## PART THREE

### CREATION OF THE ORGANIZATION MODEL

## 2 THE ORGANIZATION MODEL FOR MANAGEMENT AND CONTROL

### 2.1 Guidelines established by Trade Associations

Art. 6, Par. 3 of the Decree provides that "models of organization and management can be adopted, guaranteeing the requirements referred to in Par. 2, on the basis of codes of conduct drawn up by associations representing the entity; these models are communicated to the Ministry of Justice which, in consultation with other competent Ministries, may formulate comments on the suitability of the models to prevent crime, within thirty days."

Confindustria has defined Guidelines for the creation of models of organization, management and control (hereinafter, Confindustria Guidelines") providing, among other things, methodological guidance for the identification of areas at risk (sector/activity where crimes can be committed), design of a control system (the so-called protocols for planning of formation and implementation of the decisions of the entity) and contents of the model of organization, management and control.

In the area of business of this company, guidelines do not exist to date, therefore those set out by Confindustria will be followed, considering the company scenario and the peculiarities of the specific business area. The preparation of this Model is inspired by the Guidelines issued by Confindustria on March 7<sup>th</sup>, 2002 and updated on March 31<sup>st</sup>, 2008. The roadmap derived from them for the design of the Model can be summarized according to the following key points:

- identification of areas at risk, to verify areas / sectors in which offenses are possible;
- preparation of a control system aimed at reducing risks by means of the adoption of specific protocols.

To support this, a coordinated set of organizational structures, activities and operational rules applied by the management and the personnel in charge and sponsored by the top management and finalized to provide a reasonable level regarding the achievement of the objectives covered in a good internal control system is needed. The most important components of the preventive control system proposed by Confindustria are:

- code of ethics;
- organization system;
- manual and computerized protocols;
- authorization and signatory power;
- control and management systems;
- communication to staff and subsequent training.

The control system must also conform to the following principles:

- verifiability, documentation, coherence and consistency of each transaction;
- segregation of duties (no one can independently manage all phases of a process);
- documentation of controls;
- introduction of an adequate system of sanctions for violations of the rules and procedures laid down in the model.

In addition, it is necessary to identify a Supervisory Board, whose main requirements are:

- autonomy and independence;
- professionalism;
- continuity of action.

to which the various business functions must send a variety of information.

## 2.2 Introduction

Besides being a ground for the exemption from liability of the Company with reference to a few types of crime, the decision of SUZUKI ITALIA SPA to adopt a model of organization and management in line with the Decree represents an act of social responsibility of the company towards its stakeholders.

In order to ensure more and more fairness and transparency in the management of business operations, SUZUKI ITALIA SPA decided to adopt a model of organization, management and control pursuant to the Decree which, together with the Code of Ethics, organizational procedures and other policies and provisions of the company, constitutes its program to ensure an effective prevention and detection of violations of law, along with a set of corporate governance tools aimed at allowing a conduct of business consistent with company objectives.

SUZUKI ITALIA SPA is also determined to ensure that the tools of corporate governance adopted by the company are capable of preventing crimes now and do not lose this capability in the future: for this purpose, the Company shall make an ongoing assessment of the effectiveness of the model adopted in relation to its organizational and business scenarios and possible changes in the Decree, and with respect to critical issues that could arise in the application of the Model itself. Moreover, as part of periodic updating of the Model, SUZUKI ITALIA SPA considered not only the introduction of new types of offenses relating to the evolution of the relevant legislation, but also the corporate events that occurred, along with any evidence of risk identified and also relevant for the purposes of such legislation.

Precise internal rules perform the function of organizing the system of powers and proxies, to regulate and prepare the protocols of the activities carried out in the company as well as to regulate the flows of information among the various functions and bodies.

In this context, the adoption of an organization model offers also the important result of providing the staff in the company, contractors and external partners with information about the severe administrative sanctions imposed to the company in case of crimes, ensuring the prevention of illegal actions, including criminal actions, as part of the company activity through the continuous monitoring of every area at risk and the training of personnel to perform correctly their duties.

For the preparation of its Model of organization and management, SUZUKI ITALIA SPA has therefore explicitly taken into account:

- the provisions of Legislative Decree no. 231/2001,
- the annexed Ministerial report and Ministerial Decree no. 201 dated 26<sup>th</sup> June 2003 including the enforcement rules for Legislative Decree no. 231/2001;

- the Guidelines issued by Confindustria.

### 2.3 Objectives and goals of the model

The adoption of the Model aims at improving its internal control system, significantly reducing the risk of offenses against reported regulations and at the same time at allowing SUZUKI ITALIA SPA to benefit from the exemption according to the provisions of the Decree.

The decision of the Board of Directors of SUZUKI ITALIA SPA to acquire a Model of organization and management is part of a broader scenario of the company that originates actions and initiatives to raise awareness to all personnel belonging to SUZUKI ITALIA SPA (from management to employees) as well as contractors and business partners about the correct and transparent management of the company, about the compliance with existing regulations and fundamental principles of business ethics in the pursuit of the social object.

Through the adoption of the Model, SUZUKI ITALIA SPA aims at achieving the following objectives:

- identify the activities performed by the individual business functions which, for their particular type, could involve a risk of crime pursuant to the Decree;
- analyze the potential risks with regard to the possible methods of committing the offenses with respect to internal and external operating environment in which the company operates;
- evaluate the system of preventive controls and its adaptation to ensure that the risk of offenses is reduced to an "acceptable level";
- establish a system of rules that defines general lines of conduct (Code of Ethics and Guidelines of Conduct included in the Special Sections) and specific lines of conduct (organizational procedures) to regulate business activities in "sensitive" areas;
- establish a system of authorization and signatory powers, to ensure a timely and transparent representation of the business process of decision making and execution;
- implement a monitoring system capable of promptly report the existence and occurrence of critical situations, general and/or particular;
- train the staff on the content of the model and, more generally, on the authorization powers, the reporting lines, procedures, information flows and other elements which promote transparency of corporate activity;
- raise awareness in every Recipient of the Model about the need for strict compliance with the Model itself, the violation of which would result in severe disciplinary measures;
- establish a system of sanctions concerning the violation of the provisions of the Code of Ethics and of the procedures provided by the Model;
- inform about the serious consequences that may arise for the company (and thus indirectly for all stakeholders) from the application of financial sanctions and disqualification, as described in the Decree, and about the possibility that these can be ordered as precautionary measures;
- appoint a Supervisory Board and assign to it specific power in order to control the actual functioning, the adequacy and the updating of the Model.

### 2.4 Imperatives of the model: the integrated system of internal controls

The Model has been founded on the concrete assessment of the operational and organizational characteristics of the company.

The existing system of internal controls, already in place by SUZUKI ITALIA SPA is the set of rules, procedures and organizational structures aimed at ensuring compliance with the company strategies and achieving effectiveness and efficiency of processes, preservation of the value of assets and protection from losses, of reliability and integrity of accounting and management, of compliance of operations with regulations, supervisory rules, the Articles of Association and the internal rules of the intermediary.

The control system involves every area of the company operational tasks through the segregation of execution tasks from control tasks, blunting any possible conflict of interest.

The main goals of the system of internal controls of the Company consist of operational objectives, information and compliance:

- the operational objective of the system of internal controls concerns effectiveness and efficiency of the Company in using its resources and in protecting itself from losses: in this case, the system of internal controls aims at ensuring that employees throughout the organization work for the achievement of corporate objectives, without putting other interests before those of the Company;
- the objective of information consists in the provision of timely and reliable reports for decision making in the organization and also responds to the need of making reliable documents available to external recipients;
- the objective of compliance ensures that all operations are conducted in compliance with applicable laws and regulations, with prudential requirements and relevant internal procedures.

In fact, the internal control system of the company is based on the following qualifying elements:

- code of ethics;
- organizational system formalized in the assignment of responsibilities;
- corporate structure and composition of the Board of Directors;
- policies and operating procedures;
- computer systems already ready for the segregation of duties;
- measures of control, with regards to administrative and accounting subjects, present in the Accounting Control Model required by the J-SOX Financial Instruments and Exchange Act dated June 14, 2006;
- management control and reporting system;
- authorization and signatory powers assigned in accordance with responsibilities;
- internal communication system and staff training.

Controls involve, with different roles, the Board of Directors, Statutory Auditors, as well as all the corporate departments and all staff at all levels.

The responsibility for the proper functioning of the internal control system is assigned to each organizational structure for all processes it is responsible for.

The tasks of the different bodies are defined in accordance with the following types of control structure:

- line controls performed by the individual operating units on processes for which they have management responsibility, aimed at ensuring the proper conduct of operations;
- monitoring activities, carried out by the managers for each process and aimed at verifying the proper performance of the underlying assets, based on hierarchical controls;

- internal review, aimed at detecting anomalies and possible violations of procedures and regulations, and at assessing the adequacy of the overall system of internal controls; it is conducted by structures independent of operational units.

Although the existing internal control system is suitable for the prevention also of offenses covered by the Decree, the Board of Directors, sensitive to the need of ensuring fairness and transparency in the conduct of business and corporate activities, in order to protect its own position and image, as well as expectations of its shareholders and the work of its employees, decided to assess its organization, management and control tools, in order to verify if behavioral principles and procedures already adopted are consistent with the objectives of the Decree and, if necessary, to adapt them to ensure compliance.

## 2.5 The control system

The methodology selected to implement the Model, in terms of organization, definition of operating modes, design of phases, assignment of responsibilities among the various business functions, has been drafted in order to ensure quality and authority of the results.

The Model was prepared by SUZUKI ITALIA SPA bearing in mind, as already stated, the provisions of the Decree and the guidelines drawn up by Confindustria.

The following pages describe the phases in which SUZUKI ITALIA SPA has organized the task of identification of the areas at risk and of detection of the current system of monitoring and controls to prevent crimes.

### 2.5.1 Introduction

A fundamental concept in the construction of a system of preventive control is that of "acceptable risk". In the design of control systems for the protection of business risks, the definition of acceptable risk is relatively simple, at least from a conceptual point of view.

The risk is considered acceptable when additional controls "cost" more than the resource to be protected (for example: common cars are equipped with anti-theft systems and not even an armed warden).

In the case of the Decree, indeed, the economic logic of costs cannot be an exclusive reference. To implement the provisions of the Decree, therefore, it is important that an actual threshold is established so as to allow putting a limit on the quantity/quality of the preventive measures to be introduced to prevent the crimes under investigation.

In the absence of determination of the acceptable risk, the quantity/quality of preventive controls which can be established is in fact virtually endless, with the obvious consequences in terms of business operations. Moreover, the general principle, also invoked in criminal law, of the applicable behavior, summed up by the Latin "*impossibilia nemo tenetur*", represents a sound criterion even if the limit often seems difficult to be identified.

With regard to the preventive control system to be built in relation to the risk of the possibility of offenses covered by the Decree, in cases of intentional offenses the conceptual threshold of acceptability is represented by a system of prevention that cannot be bypassed except fraudulently.

This solution is in line with the logic of "fraudulent elusion" of the organization model which is recognized by the Decree as a basis for the exclusion from entity administrative liability (Art. 6, Par. 1, Letter c), "people have committed the offense by fraudulently circumventing the model of organization and management."

By contrast, in cases of manslaughter and unintentional personal injuries committed in violation of the rules of health and safety at work, the conceptual threshold of acceptability - to claim exemption under the Decree - is represented by a conduct (not accompanied by the will to cause death/personal injury) in violation of the organizational model of prevention (and the underlying mandatory requirements provided by the accidents prevention regulations) despite the strict observance of the monitoring requirements specified in the Decree by the competent Supervisory Board. This is because the fraudulent circumvention of organizational models appears incompatible with the subjective element of the offenses of manslaughter and unintentional personal injury, under Articles 589 and 590 of the Criminal Code.

Therefore, given that the organizational models must be suitable to prevent crimes, both intentional and unintentional, as provided for by the Decree, the first goal for the creation of an organizational model is to rule and supervise activities that are exposed to risk of crime, in order to avoid it, considering that the same offenses may nevertheless be accomplished even after the implementation of the model, as mentioned above (however, in the case of intentional offenses, only if they are intentionally planned by the actor in terms of conduct as well as event).

The Model and related measures must be implemented in such a way that the actor should not only "want" the crime to occur (e.g., bribe a public officer), but also he can execute his criminal purpose only bypassing fraudulently (e.g., through artifices and/or tricks) the provisions of the company. The set of measures that the actor is obliged to "force", if he wants to commit a crime, must be set forth in relation to the specific activities of the entity which have been identified as at risk and to individual crimes supposedly connected to them.

On the other hand, in the case of culpable offenses, these must be wanted by the actor only on the basis of his conduct and not as an event to occur.

The methodology for the construction of a system of risk management, as described below, has general validity. The process described can in fact be applied to various types of risks.

### **2.5.2 Construction of the system of preventive control**

The preventive control system shall be such as to ensure that the risks of offenses, according to what illustrated in the previous phase, are reduced to an "acceptable level", according to the definition in the preamble. Basically, as described in the Decree, "specific protocols aimed at planning the formation and implementation of decisions in relation to the crimes to prevent" are to be designed.

The components of an internal control system (preventive), for which there are established methodological references, are many. However, it should be noted that the control components which will be indicated should be integrated into a comprehensive system, which need not include all of them and where the possible weakness of a component may be compensated by the strengthening of one or more other components.

This is particularly true for small businesses, for which it is unrealistic to require the use of the whole set of control tools available for large organizations. Depending on the size, only some control components may then be used, whilst others may be excluded (perhaps because already implicit in the business model) or be present in extremely simplified terms.

However, it should be noted that, for every entity, whether large, medium or small, the system of preventive controls should be essentially the following:

- in case of intentional offenses, it cannot be circumvented unless intentionally;
- in case of unintentional offenses, thus incompatible with fraudulent intent, it should appear violated, despite the strict observance of the obligations of supervision by the Supervisory Body.

## 2.5.3 Components of the Model for intentional offenses

The components of the Model related to intentional offenses are:

### **Code of Ethics (or Code of Conduct) related to intentional offenses.**

The adoption of ethical principles in relation to behaviors which can integrate the kind of offenses described in the Decree form the basis on which to create a system of preventive control. These principles can be incorporated into Codes of Ethics of more general nature, if any, or anyway be subject to independent definition.

### **Organization system**

It must be sufficiently formalized and clear, especially with regard to the assignment of responsibility, to hierarchical reporting lines and to the description of tasks, with specific provisions of control principles such as, for example, the opposition of functions.

With respect to the organization system, attention should be paid to the systems of staff management. Such systems are needed to guide and direct staff and management activities towards the efficient achievement of corporate objectives.

### **Best practices or manual and computerized procedures**

The use of practices or procedures that regulate the execution of activities by providing the necessary check points (reconciliations, information details on particular subjects such as consultants and contractors). The segregation of duties plays a particularly effective preventive role, i.e. the separation of duties between those who perform steps (tasks) of a critical process at risk.

In this field, financial management covers a specific interest, whereas the procedural check uses best practices in the administrative tasks, including joint signatures; frequent reconciliations; supervision; segregation of tasks with the aforementioned opposition of functions, such as the procurement function and the administrative, financial function and/or treasury.

Particular attention should be paid to cash flows which are not typical in the current business processes, especially if these areas are not adequately covered by procedures and if they are occasional and discretionary. In any case, it is necessary that the principles of transparency, verifiability, pertinence to the business activity are always respected.

### **Authorization and signatory powers**

They should be assigned in accordance with the established organization and management responsibility and provide an indication of approval thresholds for expenditures, if necessary.

### **System of management control**

It must be able to provide timely warning of critical situations of general and/or particular relevance. The definition of appropriate indicators for individual risk types detected (e.g. brokerage agreements that provide for payments off-shore) and risk assessment processes, internal to the individual business functions, are functional to this.

### **Communication and training of personnel.**

They are two important features of the model for the purposes of its proper functioning. With regard to communication, it must obviously relate to the Code of Ethics, but also other tools such as authorization powers, reporting lines, procedures, information flows and everything which promotes transparency in daily operations.



The communication must be: capillary, effective, authoritative (i.e. issued by an appropriate level), clear and detailed, repeated on a periodical basis. In addition to the communication, an adequate training program for the personnel working in areas at risk must be developed, appropriately calibrated according to the levels of the recipients, in order to explain the reasons of convenience, as well as legality that inspire the rules and their practical extent.

### **2.5.4 Components of the Model for culpable offenses**

Without prejudice to the above, the following relates to culpable offenses.

#### **Code of Ethics (or Code of Conduct) related to offenses under consideration.**

It is also an expression of corporate policy for health and safety at work and shows the vision, the core values and the beliefs of the company in this topic. Therefore it is helpful to define direction, principles of action and results to achieve.

#### **Organization structure.**

An organizational structure with duties and responsibilities related to health and safety at work is required; these are formally defined in accordance with the organizational and functional framework of the company, starting from the employer down to the employee.

Particular attention should be paid to specific roles working in this field (RSPP - Head of the Prevention and Protection Service, ASPP - Operators of the Prevention and Protection Service, RLS - Representative of Employee for Safety, MC - Competent Doctor, first aid personnel, person responsible for emergency in case of fire).

Other roles must also be taken into account, i.e. the specific roles required by other relevant regulations, along with the requirements and documentation relating to the monitoring of safety.

Basically, this approach implies that:

- in the definition of the organizational and operational tasks of top management, managers, officers and workers, also tasks relating to security activities with their respective competence must be included, along with responsibilities related to the execution of these activities;
- the duties of the Head of the Prevention and Protection Service and of the staff of the same service, of the Representative of Employee for Safety, of those involved in emergency management and of the competent physician are to be documented.

#### **Education and training.**

These are essential components for the functioning of the model. The execution of tasks that may affect the health and safety at work requires appropriate expertise, to be verified and increased by means of educational and training courses, aimed at ensuring that all personnel involved at every level is aware of the importance of the compliance of his/her own actions with the organizational model and the possible consequences derived from behaviors deviating from the rules provided by the model.

In fact, each worker/operator in the company must receive sufficient and appropriate training with particular reference to his/her job and to his/her task. This must be done at the moment of recruitment, job rotation, change of duties or introduction of new work equipment/ technologies, new dangerous substances and preparations.

#### **Communication and involvement.**

Circulation of information within the company takes on a significant value as it encourages the involvement of all stakeholders and promotes adequate awareness and commitment at all levels.

The involvement should be accomplished through:

- advanced consultation on the identification and assessment of risks and the definition of preventive measures;
- regular meetings which take into account at least the requirements laid down by the current legislation, also using the regular meetings already planned for business management.

### **Operations.**

The control system, related to risks for health and safety at work, should be integrated and consistent with the overall management of business processes.

The procedures defined for the safe accomplishment of activities impacting significantly health and safety at work are based on the analysis of business processes, on their mutual relation as well as on the results of the risk assessment.

The company identifies the areas of intervention associated with health and safety aspects and provides a controlled operational management.

In this respect, particular attention should be paid to:

- selection, recruitment and qualification of personnel;
- organization of work and workplace;
- acquisition of goods and services used by the company, and communication of relevant information to suppliers and contractors;
- ordinary and extraordinary maintenance;
- qualification and selection of suppliers and contractors;
- management of emergencies;
- procedures for treating deviations from targets and rules of the control system.

### **Security Monitoring System**

The management of health and safety at work should include a verification phase of the continuation of the prevention and protection measures against risks, after their adoption as suitable and effective. Technical, organizational and procedural prevention and protection measures performed by the company should be subject to a monitoring plan.

Setting up a monitoring plan should be developed through:

- the scheduling of the audits (frequency);
- the assignment of tasks and responsibilities of the execution;
- the description of the operations to be executed;
- the reporting system for any anomalous situations.

### **2.5.5 Control principles**

The components of organizational models described above must be embedded in a system architecture that meets a series of control principles, including:

***"Every operation, transaction, action must be: verifiable, documented, consistent and appropriate"***

For each transaction, there must be an adequate documentation available at any time to execute checks to confirm the characteristics and motivations of the operator, in order to identify who authorized, performed, recorded and checked it.

The protection of data and procedures in computer systems can be ensured through the adoption of security measures already provided by Legislative Decree no. 196/2003 (Rules on the protection of personal data) for every data processing carried out by means of electronic tools.

Art. 31 of the Code, in fact, requires the adoption of security measures to minimize "the risk of destruction or loss, even accidental, of data, of unauthorized access or treatment not allowed or inconsistent with the purposes of the collection".

### ***"No one can independently manage the entire process".***

The system must ensure that the principle of segregation of duties: this means that the authorization to perform an operation must be under the responsibility of an individual different from the one in charge of the accounting, or who executes or controls the operation.

Furthermore, it is necessary that:

- no one may be granted unlimited powers;
- powers and responsibilities are clearly defined and known in the organization;
- authorization and signatory powers are consistent with the organizational responsibilities assigned.

### ***"Documentation of controls".***

The control system should document (possibly through the creation of reports, internal audit reports, reviews and any verification with top management and corporate roles) the monitoring of compliance checks with legal provisions, any extra regulation as well as internal rules laid down by the company.

## **2.6 Identification of activities at risk and definition of protocols**

Art. 6, Par. 2, Letter a) of the Decree indicates, among the requirements of the model, the identification of processes and activities where the offenses listed in the Decree can be accomplished. In other words, they are those activities and processes that are commonly defined as "sensitive" (hereinafter, the "sensitive activities" and "sensitive processes").

In this phase, it is necessary to identify the areas at potential risk of offense deemed significant for the purposes of the Decree and/or instrumental, i.e., respectively, the activity from which one of the offenses covered by the Decree could directly derive and the areas in which, in principle, the conditions, opportunities or means of committing the crimes in question may arise.

The outcome of this phase is the mapping of activities which could be exposed to the potential occurring of the crimes referred to in the Decree.

It is necessary to carry out an analysis of the various policies and procedures (or practices), to conduct interviews with several parties with different and specific skills, in order to promote the best knowledge in relation to the operations of each individual sector of the company. The results of the meetings allow the identification of the risk profiles of the offenses identified by the Decree, as well as the description of the content and mode of operation of each organizational unit. For each activity, the specific reasons for the existence or absence of each risk profile will be reported subsequently.

The Model was then developed in several stages, which have been carried out in compliance with the fundamental principles of documentation and verifiability of the activities, so as to enable the understanding and reconstruction of the entire project activity achieved and in compliance with the provisions of Legislative Decree 231/2001.

### **2.6.1 Collection and analysis of documentation**

The activity is carried out through the organization of specific interviews with directors and top managers of SUZUKI ITALIA SPA, made aware of the content and scope of the Decree during the interviews and the delivery of guidance material (when deemed necessary), including the list of offenses investigated in the Decree.

Firstly, the official documentation has been collected, useful for the analysis and available in the company, concerning:

- organizational charts;
- corporate governance guidelines;
- policies, codes of conduct and operating procedures;
- delegations and powers of attorney;
- existing system of sanctions;
- existing Code of Ethics;
- audit plans and reports of the Internal Audit Department.

The aforementioned documents were then examined in order to establish an information platform of the structure and of the operations of the company, as well as the assignment of powers and responsibilities.

### **2.6.2 Identification of activities at risk**

The activity is carried out through the organization of specific interviews with the top managers of SUZUKI ITALIA SPA, made aware of the content and of the scope of the Decree during the interviews and the delivery of guidance material (when deemed necessary), including the 'list of offenses investigated in the Decree.

A mapping of the entire activity of the company, categorized on the basis of the processes and sub-processes of each department has been completed. A detailed analysis of each individual activity followed, to verify specifically both the actual working methods and the assignment of powers.

Based on the activity of SUZUKI ITALIA SPA, it was decided to focus on the assessment of existing risk profiles of certain types of offenses, namely: corporate crimes, market abuse, money laundering, crimes against public properties or public bodies, crimes against the public administration, cyber-crimes, infringement of copyright, fraudulent trading, violations of health and safety at work regulations, environmental crimes and the use of third-country citizens staying illegally.

With regard to offenses against individual freedom, of money laundering and receiving stolen property and computer crimes, it was considered that the specific activity carried out by SUZUKI ITALIA SPA does not present a risk profile so as to make realistic the possibility of crimes in the interest or for the advantage of the company. Therefore the reference to the principles contained in the Model - Part Special - Crimes Residual as well as in the Code of Ethics of the company has been considered exhaustive, where corporate officers, employees and business partners are invited to respect the values of solidarity, protection of individual personality, fairness, morality and respect for the law.

Regarding crimes against industry and commerce, and in particular to fraud in trading with regards to consistency between quality of the product and quality declared, it should be noted that SUZUKI ITALIA SPA is not directly involved in the manufacturing of marketed products, but it remains liable for the control activities related to the declared quality of the product, with particular reference to any CE markings, and for the compliance with technical regulations and with aspects relating to the registration of products.

For other offenses not expressly mentioned, the considerations and warnings contained in this Model - General Part and in the Code of Ethics apply.

The identification of areas at risk for the committing of offenses pursuant to Legislative Decree no. 231/2001, was also carried out through the use of questionnaires or interviews with some of the heads of each department.

The results of this activity (Risk Assessment) are collected and formalized in the Special Part of this Model.

### **2.6.3 Identification and analysis of the current coverage of risk**

Concerning areas at risk, people responsible for the management of the activities identified have been asked to explain and provide the operational protocols and actual controls in place, acknowledgeable as suitable for monitoring the risk identified. The result of this activity is summarized in the documentation available in the Company.

The activity was performed by means of interviews of top managers and managers of SUZUKI ITALIA SPA, of collection of available data (procedures, practices, documents), possibly supplemented by personal interviews. The information gathered was also meant to indicate the potential risk profile and the reason for the existence of such risk profile (potential risk-offense profiles) for each of these activities and to establish management procedures and control tools, with a focus on preventive controls existing to monitor arising risks.

### **2.6.4 Gap Analysis**

The situation of risk and its monitoring reported in said documentation was compared with the needs and requirements of the Decree 231/2001, in order to identify the shortcomings of the existing system. In the cases where activities at risk have been identified and deemed not sufficiently monitored, action has been taken to identify, with the support of the persons responsible for such activities, interventions aimed at preventing more effectively the identified risky scenarios, taking into account even the existence of operational rules in force or even just observed in operational practice. At this stage, particular attention has been paid to the identification and explanation of the processes of management and control of financial resources in activities deemed sensitive to the realization of significant offenses, under the Decree.

The information investigated, with reference to each profile of risk - potential crime, identifies circumstances, also potential, for offenses and with reference to each of the main methods of implementation identified. The Gap Analysis allows to identify:

- control mechanisms related to the Function/Department investigated;
- their adequacy, i.e. their ability to prevent or detect unlawful conduct;
- useful suggestions to remedy any misalignment with respect to the Model.

### 2.6.5 Definition of protocols

Protocols contain the rules that the party responsible for has helped to identify as the most suitable to manage the identified risk profile: in fact, they are a set of rules derived from a detailed analysis of each activity and from the risk prevention system.

Protocols are inspired by the rule to verify and document the various stages of the decision-making process, in order to trace back to the motivation that drove the decision.

Being originated by the evaluation of the internal control system, protocols with reference to the aforementioned areas at risk and/or instrumental areas provide rules of conduct and operating procedures and controls which SUZUKI ITALIA SPA must comply with, with reference to execution of activities at risk and/or instrumental activities.

Therefore, the above protocols allow to achieve the following objectives:

- functional segregation of operations and controls;
- traceability of operations at risk and of controls in place to prevent crimes;
- distribution and attribution of powers of authorization and decision-making and responsibilities of each structure, based on principles of transparency, clarity and reliability of operations.

Protocols complement and integrate the rules laid down by the Code of Ethics, which represent a fundamental tool for expressing those principles of corporate conduct that the company acknowledges and uses as a foundation of a sound, transparent and fair management of the activities of the staff, as they have just been appropriately structured on the basis of the needs expressed by the Decree.

Therefore a protocol, i.e. a set of rules (guidelines, procedures, limitations of powers, control and verification systems) considered suitable to manage the risk profile identified, has been established for each area in which a risk profile was recognized. Protocols are inspired by the rule of verification and documentation of the various stages of the decision-making, operational and control processes, with reference to the identified sensible activities. The relevant operational unit will incorporate the protocol and will then have the responsibility to ensure that daily operations are effectively aligned with the stages of implementation and verification provided and summarized.

An effective system of protocols cannot ignore the comparison with the existing system of Delegations and Powers of Attorney, in order to verify the consistency of the assignment of powers with the decision-making processes investigated.

For this, SUZUKI ITALIA SPA adheres to the principle according to which only individuals with formal and specific assigned powers may enter into commitments towards third parties in the name and on behalf of the company. It also developed a coherent system which gives each individual (both with official powers of attorney and even with only internal proxies) powers corresponding to the organizational role covered and the tasks and responsibilities he/she has been entrusted.

## 2.7 Structure and organization of the Model

The Model consists of two different parts:

- **General Part** – It introduces the company, explains the function and the principles of the Model and the contents of Legislative Decree no. 231/2001 and of the principal relevant regulations; it ends with a section which is the core of the Model and refers to its contents: adoption, identification of activities at-risk, definition of protocols, characteristics and

functioning of the Supervisory Board, information flows, training and information activities, disciplinary system, updating of the model;

- **Special Part** – It is organized by categories based on various types of offenses/processes at risk of crime, illustrates and describes the analysis of the operational activities of the entity for the categories of offenses under the Decree, whereas potential risk-crime profiles have been identified, reporting the monitoring (system of proxies and protocols) designed to contain the risk itself.

The following documents are integral part of the Model adopted by SUZUKI ITALIA SPA:

- Code of Ethics;
- Corporate protocols (in addition to possible operational procedures and practices);

## 2.8 Recipients of the Model

The Model is addressed to the following subjects (hereafter, the "Recipients") who are committed to respect its provisions:

- directors and officers of the company (so-called *top* managers);
- the staff of the company (so-called internal subjects to *supervision of others*);
- employees, sale agents and representatives, consultants and in general self-employed subjects whereas they operate in the scenario of so-called sensitive areas of activity on behalf or in the interest of the company;
- clients for whom the company carries out its activities described in the corporate purpose;
- suppliers and partners (also under the form of a temporary association of companies, as well as any joint venture) which operate significantly and/or continuously in the context of so-called sensitive areas of activity on behalf or in the interest of SUZUKI ITALIA SPA;
- more generally, every subject who operates, for whatever reason, in the scenario of so-called sensitive areas of activity on behalf or in the interest of the company.

## 2.9 Model Adoption and Updating

The adoption and effective implementation of the Model constitute a responsibility of the Board of Directors, as expressly provided for by the law.

In fact, Art. 6, Par. 1, Letter a) of the Decree requires that the model is a "document issued by the administrative body."

The adoption of the Organization Model is therefore responsibility of the Board of Directors of SUZUKI ITALIA SPA, which decides by resolution.

The power to update the Model – which is an expression of the effective implementation of the same – is up to the Board of Directors, which executes directly by resolution or by delegation to the Chief Executive Officer and with the mechanism provided for the adoption of the Model.

The activity of updating, i.e. upgrade or modification, is finalized to ensure the adequacy and suitability of the model with respect to the function of prevention of offenses, as referred to in Legislative Decree 231/2001.

The Supervisory Board is in charge of taking care of the updating of the Model, as provided for in this Model, implemented also through the activity of Operational Unit Managers.



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# ORGANIZATION MODEL

## GENERAL SECTION

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The index of revisions ensures the traceability of the model and allows representing its evolution over time and in content.



## 3 SUPERVISORY BOARD

### 3.1 Structure and composition of the Supervisory Board

The exemption from administrative liability - as ruled by Art. 6, Par. 1 of Leg. Decree no. 231/2001 - also provides for the mandatory establishment of a Supervisory Board (SB) inside the entity, equipped with an independent control authority (which allows to keep constant watch on the functioning and the compliance with the Model), as well as with an independent power of initiative, to guarantee the updating of the Model itself.

As suggested by the Confindustria Guidelines, the council-like structure of such a body is the best solution to allow it to be able to effectively carry out its duties.

Another feature of the SB is the fact that its members have a thorough knowledge of the company business and that they have, at the same time, the authoritativeness and independence such as to ensure credibility and cogency of SB as well as its functions.

The appointment of the members of the SB and the possible dismissal are responsibility of the Board of Directors.

At the subjective level, the members of the Body must be acknowledged for their professionalism and integrity, as required. These persons should possess the required technical know-how, experience and corporate knowledge, in line with their role and function, but also the necessary knowledge of laws (corporate, criminal, civil, procedural, administrative), accounting, management.

The SB members will also have to ensure the integrity, reliability and the lack of any position of conflict (for example: kinship relations with the administrative bodies or with the top management, conflicts of interest). In order to fulfill its multi-disciplinary functions, the Supervisory Board may decide to use collaborators of special expertise, to be found also outside the company, who can provide a useful specialized and technical support.

Other specific requirements of the SB must be:

#### **Autonomy and independence**

Requirements of autonomy and independence are essential to ensure that the SB is not directly involved in operations/management activities which constitute the object of its control activities.

These requirements are achieved by ensuring internal members of the SB a hierarchical dependency as high as possible, using external or independent professionals and not subject to other relationships with the company and providing a reporting activity addressed to the top management, namely to SUZUKI ITALIA SPA.

#### **Professionalism**

The Supervisory Board shall have some internal technical and professional skills appropriate for the functions they have to perform; in particular, it must possess specific skills in the field of audit and advisory (e.g., statistical sampling, analytical techniques, methods of fraud detection) as well as legal activities. These features, combined with independence, guarantee the objectivity of judgment.

#### **Continuity of action**

The Supervisory Board shall:

- work constantly on the supervision of the model with the necessary powers of investigation;
- be an "internal" body, even if it is composed by individuals independent of the administrative body of the company, so as to ensure continuity of supervision;
- oversee the implementation of the Model and ensure its constant updating;

- not engage in purely operational tasks which may affect the overall view of the business it is required to carry out.

### 3.2 Definition of tasks and powers of the Supervisory Board

The tasks of SB are explicitly defined by the Decree, see Art. 6, Par. 1, Letter b) as follows:

- supervise the operation and compliance with the model;
- updating it.

With regard to the former of such duties, the Supervisory Board is entrusted with the following tasks:

- preparing the annual plan of audits over the adequacy and functioning of the Model;
- carry out verifications on activities or transactions identified in the areas at risk, coordinating with those acknowledged and entrusted to the heads of each operating area, in order to assess the compliance and the functioning of the Model;
- examine the reports which are prepared on a semi-annual basis by the heads of each operating area, in order to identify possible shortcomings in the functioning of the Model and/or possible violations;
- promote appropriate initiatives aimed at disseminating knowledge and understanding of the organizational Model among the staff, consultants and partners;
- evaluate the reports of possible violations and/or breaches of the Model;
- conduct investigations aimed at ascertaining possible violations of the provisions of the Model.

While taking into account that the responsibility for the adoption and effective implementation of the Model is expressly attributed to the administrative body of the entity, as defined by Art. 6, Par. 1 Letter a), the decision has been taken to entrust the SB with the task of verifying compliance with the Model.

The task of the Supervisory Board of taking care of the compliance of the Model results in the following activities:

- to monitor the evolution of the relevant legislation;
- to establish appropriate measures to maintain current mapping of areas at risk, according to the procedures and principles followed in the adoption of this Model and also identified by the Unit Managers, regulating the mode of communication;
- monitoring the adequacy and updating of the protocols with respect to the prevention of crime;
- to check on a regular basis the activities of every individual operating area, in order to ensure the correct identification of activities at-risk and their possible integration, taking advantage of information and co-operation of the heads of each operating area;
- to ensure that each party which contributes to the Model is and remains consistent and appropriate to the needs of the Model, as identified by the law, taking advantage of information and co-operation of the heads of each individual operating and functional area;
- to evaluate, together with the relevant departments, initiatives (even if operational in nature) to take, in order to achieve an effective updating of the Model;
- to adopt changes to the Model on the basis of such an activity, if necessary due to significant violations of the requirements, to changes in the organization or activity, to legislative actions which require an adjustment or to the actual committing of a crime;

- to monitor the system of powers, in order to ensure consistency between the powers granted and the activities actually carried out;
- to verify the effectiveness and functionality of the Model changes, adopted from time to time by the competent bodies.

Should an intervention become necessary to update policies or procedures included in the handbooks for quality assurance and operations management, due to Model changes, the Supervisory Board may order the necessary changes.

In order to ensure full effectiveness of its action - the Supervisory Board has unrestricted access to every company document that might be relevant to verify the proper functioning of the Model.

In order to fulfil its duties, the Supervisory Board is assigned an adequate annual budget, established by resolution by the Board of Directors, which should allow the SB to carry out its tasks independently, without limitation possibly due to insufficient financial resources.

### **3.3 Reporting of the Supervisory Board**

To guarantee its full autonomy and independence while accomplishing its duties, the Supervisory Board reports directly to the Board of Directors and the Board of Auditors. Such direct reporting to these bodies, which may call an Shareholders' Meeting, is also the best guarantee of the final control on the work of the directors, entrusted to shareholders, as provided for by legislative and statutory provisions.

At least on a yearly basis, the Supervisory Board reports in writing to the Board of Directors and Board of Auditors (if required) on the implementation of the Model, with particular reference to the outcomes of the supervision carried out during the period under examination and to interventions required for the implementation of the Model.

The Supervisory Board may at any time ask to meet the Board of Directors whenever it deems that an examination or an intervention of such a body is appropriate with regard to the functioning and the effective implementation of the Model.

To ensure a smooth and efficient flow of information, the SB also has the option to ask for clarification or information directly to the legal representatives and the subjects with the main operational responsibilities, to fulfil correctly its duties.

The Supervisory Board may, in turn, be convened at any time by the Board of Directors and other corporate bodies to report about particular events or situations relating to the functioning and compliance with the Model.

The activities of the Supervisory Board are reported in the Minutes of Meeting available for the administrative bodies, according to the reporting procedures mentioned above. Each report shows:

- The control activities carried out by the Supervisory Board;
- Any critical situation arisen in terms of individual behavior or internal events as well as in terms of effectiveness of the Model.

### **3.4 Information flows to the Supervisory Board**

Among the requirements the Model must satisfy, the Decree includes also the establishment of reporting requirements to the SB.

The information flows concern any information and every document that needs to be brought to the attention of the SB, in accordance with the protocols and from each party that helps create the Model.

The Supervisory Board also establishes an internal communication channel that guarantees the confidentiality of any report, if the nature of the message requires this, also to avoid retaliatory actions from the top management against the whistleblower.

In fact, the managing bodies are required to report any relevant information to the SB concerning the respect and the functioning of the Model. The staff, employed or not, should report any information relating to any conduct which could represent a possible violations of the Model or relating to the committing of crimes.

For these purposes, a communication channel is established which consists in the sending of confidential messages to the SB to be addressed to the email address [odv@suzuki.it](mailto:odv@suzuki.it) by personnel who wishes to report; such a mode of transmission of information is intended to ensure confidentiality for the notifiers, in order to avoid retaliatory actions against the notifier.

The Supervisory Board evaluates the reports and if it deems it appropriate, may summon the alleged infringer and initiate all inquiries and investigations necessary to ascertain the facts reported.

If the report is received in anonymous writing, the Supervisory Board evaluates the possibility to carry out investigations, provided that the alert contains enough specific details to start an investigation.

### **Reports from within the company or by third parties**

Any information of any kind, even from third parties and related to the implementation of the Model in the areas at risk will have to be brought to the attention of the Supervisory Board.

### **Disclosure requirements relating to official acts**

In addition to reports, also unofficial, referred to in the previous chapter, information must be transmitted to the Supervisory Board if concerning:

- measures and/or information from the police or any other authority, reporting the carrying out of investigations, even against unknown persons for the offenses referred to in the Decree;
- Requests for legal assistance made by managers and/or staff in the event of judicial proceedings for offenses under the Decree;
- Reports prepared by the heads of other business functions under their control activity and from which critical facts, acts, events or omissions could arise with regard to the compliance with the provisions of the Decree;
- news about the actual implementation, at every level of the organization, of the organizational Model, including disciplinary proceedings performed and any sanctions imposed (including measures against employees) or decisions of dismissal of such proceedings and the corresponding reasons.

Any notification against illegal actions, under the provisions of the Decree, must be raised directly to the designated member of the Supervisory Board and will be raised in an anonymous way, following the procedure below.

### 3.4.1 Whistleblowing procedures

Approval of Italian Law no. 179 dated 30 November 2017 laying down "*Provisions for the protection of persons reporting crimes or unlawful conduct brought to their knowledge when working in the public or private sector*" (provision that reinforces the protection and security of an employee who has been responsible for Whistleblowing (the reporting of unlawful activities in the public sector or in private enterprises on the part of the employee been to whose knowledge they are brought). As a result of this reform, **a considerable number of innovations relating to the administrative liability of legal entities were introduced.**

The second paragraph of the enactment in fact amended article 6 of Italian Legislative Decree no. 231 dated 8 June 2001, by introducing three new paragraphs laying down the following requisites for organization and control models:

- persons in senior positions in legal entities or subjects under their supervision who, in any way collaborate with the entity, are obliged, in order to safeguard the integrity of the entity, to give a detailed report of any unlawful conduct that, acting in good faith, they believe has occurred, on the basis of a "reasonable conviction, substantiated by factual evidence". The type of conduct in question is that envisaged in the legislative decree amended herein or breaches of the organization and management model of the legal entity to whose knowledge it has been brought as a result of the functions performed;
- alternative reporting channels, of which at least one must be capable of guaranteeing, also through computerized procedures, that the identity of the person disclosing the information remains confidential;
- measures capable of safeguarding the identity of the person disclosing the information and of ensuring that the information remains confidential in any situation arising after the information was reported, in so far as anonymity and confidentiality are enforceable under the law;
- prohibition against retaliatory or discriminatory acts, whether direct or indirect, against the subject who disclosed the information, on grounds connected, either directly or indirectly, with the disclosure. This is without prejudice to the right on the part of the beneficiaries to safeguard themselves, should the subject disclosing the information be held civilly or criminally liable as a result of any falsity in the information reported;
- the disciplinary system adopted must provide for sanctions against anyone who breaches the confidentiality obligations or takes any retaliatory or discriminatory action against the subject disclosing the information.

The adoption of discriminatory measures against subjects disclosing information may be reported (to the National Labour Inspectorate, for measures to be taken within its jurisdiction) not only by the person who disclosed the information, but also by the trade union organization indicated by him (paragraph 2-ter). Retaliatory or discriminatory dismissal of the subject disclosing the information will, on the other hand, pursuant to the new paragraph 2-quarter, be considered invalid. Any change made to the tasks assigned, or any other retaliatory or discriminatory measures taken against the subject disclosing the information, will, pursuant to article 2103 of the Italian Civil Code, also be considered invalid.

The employer is obliged – whenever disputes arise linked to disciplinary sanctions or the adoption of measures that have adverse effects on working conditions (whether deskilling, dismissal, transfer or another organizational measure), after the information was reported – to demonstrate that the adoption of such measures had nothing to do with the report made by the employee in question

In order to regulate the whistleblowing procedures adopted more efficiently, specific "Guidelines on whistleblowing procedures" may be drawn up.

### 3.5 Appointment of members of the Supervisory Board

The Decree, by virtue of the regulatory changes made by Art. 1, sec. 82 of the Finance Act 2005, provides that the SB can consist of a single member or of more than one member.

In full compliance with the legal framework, SUZUKI ITALIA SPA has chosen a multi-member Supervisory Board, composed of individuals professionally qualified just in the areas of greatest risk of crime, with the statutory requirements.

The appointment of the members of the SB and their possible dismissal are responsibility of the Board of Directors. The administrative body shall carry out such operations in full compliance with the provisions of the law, also on the basis of Confindustria Guidelines and however in compliance with the rules set out in this Model.

The members of such Board are appointed under resolution of the Board of Directors; members shall receive a letter of appointment which must be signed for acceptance and for certifying the absence of impediments for the appointment.

In order to enable the Supervisory Body to fully carry out its functions, it is expected to use internal and external consultants. More precisely:

- it will use the expertise of specific functions inside the company;
- it is allowed to use, in any case, external consultants for specific expertise the Supervisory Board deems appropriate.

In order to allow the SB a better understanding on the implementation of the Model, its effectiveness and its effective functioning, as well as the need for updating the Model itself, it is critical that the SB is always in close liaison with business realities.

Concurrently with the appointment of the SB, it was decided to appoint also Reference Persons for the Supervisory Board (hereafter, the "SB Reference Persons"), to be selected among the heads of the functions covering the activities deemed most sensitive, i.e. the individuals who have operational responsibility of each business sector currently identified as at risk for crimes (as defined by the law) and who have contributed to the definition of appropriate protocols to monitor such risks.

The appointment of Reference Persons for the SB is aimed at ensuring a sound and therefore effective implementation of the Model, as these individual shall act as actual operational links between the SB and the individual operating units, within the framework of which risk profiles have been identified.

The presence of Reference Persons for the SB represents the best opportunity to fulfill the requirement for the effective implementation of the Model, given that they are the subjects who can best provide an effective aid for the obligation of vigilance, as they are supposed to know best the operations and the current functioning of the activities identified in areas at risk monitored by them.

Each identified Reference Person for the SB is then requested to report to the Supervisory Board, in order to better enable the SB to respect and to fulfill its obligation to ensure the implementation and compliance with the Model, as well as a constant adaptation of the Model itself.

For every other operational aspect, the SB will be self-regulated by means of a set of rules (defined by the Supervisory Board regulations) which guarantees the best performance, taking into account every legal provision, the Guidelines, the Code Ethics and the Model.

### **3.6 Causes of (in)eligibility, disqualification and suspension of members of the Supervisory Board**

#### **3.6.1 Ineligibility**

The members of the Supervisory Board must fulfill the requirements of integrity under Art. 109 of Legislative Decree no. 385 dated 1st September 1993: in particular, who is in the conditions provided for by Art. 2399 of the Civil Code may not be appointed as member of the Supervisory Board.

Those who have been convicted by a judgement which has become final, even if issued pursuant to Articles 444 et seq. of the Italian Code of Criminal Proceedings and even if its execution is conditionally suspended, may not be appointed as members of the Supervisory Board, without prejudice to the effects of rehabilitation, if sentenced:

- imprisonment for a term not less than one year, for one of the crimes provided for by Royal Decree no. 267 dated 16 March 1942;
- imprisonment for a term not less than one year for an offense under the rules governing the banking, financial, securities, insurance activities and the rules governing markets, securities and instruments of payment;
- imprisonment for a term not less than one year for an offense against public administration, against the public trust, against property, against the public economy, for a tax offense;
- imprisonment for a term not less than two years for any unintentional offense;
- for an offense under Title XI of Book V of the Civil Code, as reformulated under the Legislative Decree 61/02;
- for an offense which determines or has determined the ban, even temporarily, from holding public office, or temporary disqualification from executive offices of legal entities and enterprises;
- for one or more offenses among those specifically laid down by the Decree, even if sentenced to less than those given above;
- individuals who have served as a member of the Supervisory Board in companies against which sanctions provided for by Art. 9 of the Decree have been applied;
- individuals against whom one of the precautionary measures provided for by Art. 10, Par.3 of the Law no. 575 dated 31<sup>st</sup> May 1965, as replaced by Art. 3 of the Law no. 55 dated 19<sup>th</sup> March 1990 and subsequent modifications, was applied and which has become final;
- individuals against whom administrative sanctions provided for by Art. 187 quater of Legislative Decree no. 58/1998 have been applied.

Candidates as members of the Supervisory Board must self-certify with a declaration in lieu of affidavit that they do not fall under any of the conditions indicated from item 1 to item 10, expressly undertaking to communicate any changes with respect to the content of such statements.

The Board of Directors of SUZUKI ITALIA SPA may dismiss from office members of the Body in cases where significant breaches occur with respect to: the term; tasks specified in Article 6 of Annex 3; allegation of violation concerning the obligations of confidentiality under Article 3 of the same Annex; when reasons for ineligibility arise prior to appointment as member of the SB

and not indicated in the self-certification; and when grounds for dismissal arise as specified below.

### 3.6.2 Disqualification

The members of the Supervisory Board fall from office when they, following their appointment, are:

- in one of the situations referred to in Art. 2399 of the Civil Code;
- convicted by final judgment (including also the judgement delivered under Art. 444 of the Codes of Criminal Procedures) for one of the offenses listed in items 1, 2, 3, 4, 5, 6 and 7 of the conditions for ineligibility mentioned above;
- in the situation where, after the appointment, they are found to have served as member of the Supervisory Board within companies against which sanctions provided for by Art. 9 of the Decree have been applied, in relation to administrative offenses occurred during their term of office.

### 3.6.3 Suspension

The following constitute grounds for suspension of the function of member of the Supervisory Board:

- judgement, also with not yet final judgement, for an offense of items 1 to 7 of ineligibility mentioned above;
- application, on demand of the parties, of one of the punishments mentioned in items 1 to 7 of ineligibility mentioned above;
- application of a precautionary measure;
- temporary application of one of the precautionary measures provided for by Art. 10, Par. 3, of Law no. 575 dated 31<sup>st</sup> May 196, as replaced by Article 3 of Law no. 55 dated 19<sup>th</sup> March 1990 and subsequent amendments and additions.



## 4 THE DISCIPLINARY SYSTEM

In order to evaluate the effectiveness and suitability of the Model to prevent the crimes listed in the Legislative Decree no. 231/2001, it is necessary that the Model identifies and prosecutes behaviors which can lead to the committing of crimes. Art. 6, Par. 2 Letter e) of Legislative Decree no. 231/2001, when listing the items to be found in the Models prepared by the company, expressly provides for the obligation for the company to "introduce a disciplinary system appropriate to punish non-compliance with measures indicate in the Model".

The concept of disciplinary system leads to believe that the Company should proceed to a graduation of sanctions, depending on the different degree of danger which behaviors may present compared to the commission of offenses.

A disciplinary system has been therefore created, enabled to sanction any breach of the Model, from the lightest up to the most serious one, by means of a system of graduation of the sanction and which, secondarily, respects the principle of proportionality between the offense and the relevant sanction.

The application of sanctions depends on the actual commission of a crime and on the possible initiation of criminal proceedings: the purpose of the sanctions provided here is in fact to curb any violation of the provisions of the model laid down for the prevention of criminal offenses and raise awareness, among company's employees and everyone who collaborates in any way with the company, on its determination to prosecute any violation of the rules established and to monitor the correct execution of duties/tasks assigned.

The disciplinary procedure is initiated as a result of the occurrence of violations of the Model identified by the Supervisory Board during its monitoring and supervision activity. The assessment of any liability arising from the violation of the Model and the determination of the penalty must still be conducted in compliance with current legislation, privacy, dignity and reputation of the parties involved.

### 4.1 Violations of the Model

In order to comply with the Legislative Decree no. 231/2001, by way of example, the following constitute a breach of the Model:

- the initiation of actions or behaviors that do not comply with the requirements of the Model, or the omission of actions or practices required by the Model, during the execution of operations in areas where there is a risk of offenses (i.e. in the so-called sensitive processes) or activities related to these;
- the initiation of actions or behaviors that do not comply with the principles contained in the Code of Ethics, or the omission of actions or practices required by the Code of Ethics, during the execution of sensitive processes or activities related to these.

### 4.2 Measures with regards to employees

The behavior of employees (meaning all individuals linked to the company by an employment contract) in violation of the rules of conduct laid down in the model, constitutes a breach of the primary obligations of the employment relationship and, consequently, disciplinary offenses.

The possible penalties fall in the range of sanctions provided by law, by collective labor agreements and by the company's disciplinary code in compliance with current legislation, with procedures laid down by the Law no. 300 dated 30<sup>th</sup> May 1970 (Workers' Statute of Rights) and with related provisions in the current national collective labor agreement (CCLN). The violations will be identified and the resulting disciplinary proceedings initiated by the Human Resources Department, as provided for by the national collective labor agreement (CCNL) and in the company procedures and in accordance with current regulations.

The disciplinary measures provided for by the National Collective Labor Agreement (CCNL) of the sector, in a graded scale according to the gravity of the infringement, are:

- verbal warning;
- written warning;
- fine of up to an amount equivalent to 2 hours of remuneration including contingency allowance;
- Suspension from work for up to a maximum of 3 days;
- termination for cause, with immediate termination of employment without notice or allowance in lieu.

The warning, either verbal or written, shall be imposed, depending on the gravity, to the employee who violates the internal procedures set out in the Model (for example, who does not observe the required procedures, fails to submit the required information to the Supervisory Board, fails to execute the checks required etc.) or adopts, in its activity, a behavior not compliant with the requirements of the Model.

A fine of not more than 2 hours of remuneration is imposed to the employee who violates the internal procedures required by the Model or adopts, in executing activities in areas at risk, a behavior frequently not in compliance with the provisions of the Model.

A suspension from work for up to 3 days is imposed to a worker who, while violating the internal procedures established by the Model or adopting, during the execution of activities, a behavior not compliant with the requirements of the Model, but also, while performing acts opposed to the company interest, exposes the company to a situation of danger for the integrity of corporate assets.

An order of dismissal without notice is enforced upon an employee who adopts a behavior in violation of the provisions of the Model, while carrying out activities in areas at risk, and such as to result in the application to the company of measures provided for by Legislative Decree no. 231/2001, and/or other behavior likely to cause the company serious moral/material damage.

The Head of Human Resources reports about imposed measures to the Supervisory Board.

### **4.3 Measures with regards to executives**

The executive role is characterized by the nature of strong trust. The behavior of the executive reflects on the company image not only inside the company but also outside, for example, on the market. Accordingly, the compliance by the executives of the company, as provided in this Model, and the obligation for them to enforce the provisions of this Model is an essential element of the executive role, and a stimulus and example for everyone who reports to them hierarchically.

Any infringement will be assessed and the resulting disciplinary proceedings initiated by the Human Resources Department, as provided for in the national collective labor agreement (CCNL) applied to

executives as well as in the company procedures. If a manager violates any requirement of the Model or adopts, while executing activities in areas at risk, a behavior not compliant with the requirements of the Model or if he/she allows the employees hierarchically subjected to him/her to adopt a non-compliant behavior with the Model and/or in violation of it, measures against those responsible shall be imposed, according to the nature of the executive role, as provided for also by the law, in the National Labor agreement for executives of industrial companies and in any company agreement relating to company executives.

In particular, dismissal with notice shall be imposed on executives who, for failure to supervise, allows other employees hierarchically subjected to him/her to adopt a behavior not compliant with the requirements of the Model, or adopts a negative conduct, not so serious as to cause dismissal without notice, such to allow the continuation of the employment relationship, even if only temporary, without prejudice to the right of the company to convert the notice period into its allowance in lieu.

Dismissal without notice shall be imposed on executives who adopt a behavior in violation of the provisions of the Model and such as to result in the application to the company of measures provided for by Legislative Decree no. 231/2001 and/or other conduct that undermines the essential elements of an employment relationship and in particular trust, so as not to allow the continuation of even a temporary relationship, which is based on trust.

If the executive's violation of Model's provisions, or adoption of a behavior not compliant with the requirements of the model itself, while executing activities in areas at risk, constitute significant criminal cases, the company will act, at its discretion, against those liable, while waiting for the outcome of the criminal proceedings, with one of the following temporary measures, alternative among them:

- precautionary suspension of the manager from the working activity, without losing the right to full pay;
- transfer to a different position within the company.

By signing this Model, the executive expresses his explicit consent to the application of the aforementioned temporary measures, at the Company's discretion.

#### **4.4 Measures with regards to Directors and Auditors**

SUZUKI ITALIA SPA strictly evaluates any breach of this Model committed by those who fill top level roles in the Company and whose actions reflect on the company image for employees, shareholders, creditors and public. The creation and consolidation of a corporate ethics based on the values of fairness and transparency requires, first and foremost, that such values are endorsed and respected by those who drive business decisions, so as to constitute an example and an inspiration for all people working for the Company, at any level.

In the event Directors violate the internal procedures established by the Model, or adopt, when carrying out their duties, measures that conflict with the provisions and principles of the Model, the Supervisory Board will timely inform the entire Board of Directors and the Board of Auditors, which shall take any appropriate measures required by the applicable law.

Similarly, in the event of a breach by the members of the Board of Auditors, of the internal procedures set out in the Model, or the adoption, when carrying out their duties, of measures conflicting with the provisions and principles of the Model, the Supervisory Board shall inform promptly the full Board of Auditors and the Board of Directors, which shall take any appropriate measures required by applicable law.

#### **4.5 Measures with regards to contractors and partners**

In the contracts and agreements with companies, consultants, contractors, partners, etc. some specific clauses must be included, under which every behavior of such entities or other subcontractors in conflict with the guidelines provided by the Model and at risk of offense punished by Legislative Decree no. 231/2001 will allow the company to terminate the contract or, alternatively, to demand the fulfillment of the obligations of the contract, subject to payment of damages.

#### **4.6 Body responsible for the implementation of disciplinary measures**

Following a report of violations of the Model by the SB, as provided for in section 2.2., the Head of Human Resources initiates and carries on the disciplinary proceeding, according to the usual methods already provided for by law. The Head of Human Resources shall also see to implementation of the necessary measures.

## 5 TRAINING AND INFORMATION (Circulation of the Model)

Every member who operates inside the company, as well as partners and external contractors, is required to have full knowledge of the objectives of fairness and transparency which are to be achieved with the Model and of the way the company intends to achieve them, by setting up an adequate system of procedures and controls.

SUZUKI ITALIA SPA is committed to developing skills and competencies of its employees, so that the correctness, professionalism and commitment required from them are considered as fundamental values for the achievement of the objectives of the company.

### 5.1 Circulation of the model

SUZUKI ITALIA SPA promotes the circulation of the Model, with appropriate procedures to ensure the its effective dissemination and knowledge by all recipients.

The communication mode of the Model must ensure full disclosure of the contents of the Model itself and its controls, in order to ensure that individuals are aware of the procedures and practices to be followed for a proper fulfillment of their duties.

The adoption of the Model shall be communicated by the company to every employee and contractor of SUZUKI ITALIA SPA through (one of the two following options):

- a letter, signed by the Chairman of the Board of Directors, about the contents of the Decree, the importance of the actual Model implementation, the methods used by the Company to provide information/training;
- disclosure of the Model on the corporate network, along with a letter introducing the Model itself (including by e-mail) to all staff; this communication should point out that a copy of the documentation submitted is available in a corporate folder, addressed to the company's staff and collaborators.

With regard to recipients outside the company, the administrative body may decide to make the documentation concerning the Organizational Model available on the company website; alternatively; the material may also be available for consultation in paper format to all interested parties, who should request it, in a physical folder kept at the corporate premises.

### 5.2 Training of personnel

SUZUKI ITALIA SPA should organize training programs, aimed at ensuring the entire staff (employees, members of corporate bodies) knows effectively the Decree, the Code of Ethics and the Model.

Training programs vary in content and level of detail, in relation to the status of the stakeholders and to the role covered in the company (top management, personnel operating in sensitive areas as indicated in the model, people responsible for internal controls etc.).

The Supervisory Board, in agreement with the Board of Directors, monitors the adequacy and effective implementation of the training program. Participation in training programs is mandatory for all personnel in the Company involved in the conduct of sensitive activities.

Moreover, SUZUKI ITALIA SPA must organize the delivery of at least one specific classroom training session addressed to the managers of the single business units of the company which describes the content of the law and the offenses relevant for the Decree, identify responsibilities and illustrates



# ORGANIZATION MODEL

## GENERAL SECTION

the monitoring systems contained in the Model adopted by the company. The managers of the business units must be enabled to manage the initial basic information on the subject, to be addressed to all other employees.

Frequency and duration of the training courses are established by the administrative body (and/or by the Human Resources Head). The Supervisory Board carries out checks on the content of the programs and the effective participation of the staff; moreover it shall ensure that the courses are repeated over time. For those who could not attend the training sessions, for substantiated reasons, other specific sessions will be organized, which should be previously agreed with the relevant area/service manager.

During the recruitment phase/training of new recruits, the contents of both the Organization Model and the Code of Ethics are presented among others already planned. Upon delivery, they sign for acknowledgment and acceptance of the content and declare their commitment to respect the principles, rules and procedures contained therein, while executing their duties.

In addition, special attention is paid to the training of employees who they are transferred to different roles, although already part of the staff.

Every internal resource will be requested to sign a specific statement of knowledge, reception and acceptance of basic contents learnt from the Organization Model and the Code of Ethics, relating to the administrative liability of legal persons (Legislative Decree no. 231/2001).

### **5.3 Information/Training of contractors (and suppliers and clients)**

SUZUKI ITALIA SPA must also provide external contractors (especially suppliers) and clients with adequate information, aimed at ensuring a proper knowledge of the Decree, the Code of Ethics and the Organization Model.

With regard to contractors and/or suppliers, the Supervisory Board can play a supporting role to internal top management and to the Manager of the area which the contract or the report refers to, about the circulation, the procedures of communication of the Model to external parties (Recipients of the Model), and the procedures needed to comply with the provisions contained therein.

In any case, for the contracts ruling the deals with such subjects, the administrative body shall provide special clauses that indicate clear liability for the non-compliance with corporate policies, the Code of Ethics and the Model.