

Organisation, management and control model
(Leg. Decree No. 231/2001)

General Part

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1. FOREWORD

1.1. Legislative Decree No. 231/2001

Legislative Decree 231/2001 (the 'Decree') introduced the administrative liability of entities into the Italian legal system. This administrative liability applies - in addition to the criminal liability of the natural person who materially committed the prohibited conduct - in relation to certain types of offences committed, in *the interest* or to the *advantage of the* entities themselves, by natural persons who hold positions of representation, administration, management, of the entities themselves as well as by persons who exercise, even *de facto*, the management and control of the same (so-called 'senior managers') or by persons subject to the management and/or supervision of senior managers (so-called 'subordinates').

The adoption of Organisation, Management and Control Models may lead to exoneration from administrative liability if the entity has approved a system for the prevention of offences through the adoption of suitable measures, capable of preventing unlawful conduct and reducing the risk of their commission.

This document aims at illustrating the Organisation, Management and Control Model adopted by Andersen Italy (hereinafter the 'Model').

The definition of the organisational and operational set-up and of the relevant control system, of which this document is a part, responds to the principles drawn from the Decree itself and from the main Guidelines issued by the relevant bodies, as well as to *best practices* in the sector. In this regard, the Model has been defined through:

- identification of the areas at risk of commission of the offences provided for in the Decree;
- the drafting of specific protocols and procedures in order to plan the formation and implementation of the entity's decisions in relation to the offences to be prevented;
- the identification and control of financial resources suitable to prevent the commission of the offences in question;
- the provision of information obligations vis-à-vis the body responsible for supervising the operation of and compliance with the Model (the Supervisory Body);
- the implementation of training programmes for the addressees of the Model;
- the adoption of a *Whistleblowing* system to enable the addressees of the Model to report any conduct or acts that may constitute, even potentially, an offence with respect to the reporting subject;
- the configuration of an internal disciplinary system suitable for penalising non-compliance with the measures indicated in the Model.

1.2. Structure of the offence according to Lg. Decree No. 231/2001

The administrative offence, for which the entity may be held liable, is a complex case, consisting first and foremost of the offence itself (among those expressly provided for in Legislative Decree No. 231/2001) committed by managers or by a person subordinate to them:

- **managers** are defined as persons who hold positions of representation, administration or management of the entity or of one of its organisational units with financial and functional autonomy, as well as persons who exercise, also *de facto*, the management and control of the entity;
- **subordinates** are persons subject to the direction or supervision of managers.

In addition to the crime or offence committed by the natural person, which is the indispensable prerequisite for the possible assertion of the administrative liability of the entity, two other elements are required for determining the corporate offence, one objective and the other subjective:

- with regard to the **objective element**, it is necessary that the fact constituting the offence (e.g. fraud, money laundering, bribery, etc.) is committed in the interest or to the advantage of the company, so that if the individual acts unlawfully in his /her own interest or in the interest of a third party, the company to which he/she belongs will not be held liable;



- whereas with regard to the **subjective element**, the guilt of the entity is anchored to the lack of organisation, i.e. to the entity's failure to adopt an organisational, management and control model capable of preventing the risk of offence.

Ultimately, therefore, there are three elements that make up the entity's liability according to Leg. Decree No. 231/2001: the offence, the interest or advantage for the entity, and the lack of an organisational model.

The verification of the entity's liability usually takes place in accordance with the rules of criminal proceedings and at the same time as the verification of the offences committed by the managers or subordinates (*simultaneous processus*).

2. THE ANDERSEN ORGANISATION AND MANAGEMENT MODEL

2.1. Purpose of the 231 Model

The main purpose of the organisational, management and control model ('hereinafter, the Model') is to set up a system to prevent and reduce the risk of offences being committed in order to exclude the liability of the entity and thus the imposition of penalties against the entity pursuant to Legislative Decree 231/2001. Employees and all persons connected to the company should therefore be encouraged to behave correctly and transparently.

The Model set up in 2001 and designed along the lines of the US compliance programs, represents - looking at the structure of the offence analysed above - the condition for exemption from liability. In fact, the organisational model has exonerating effect and allows the entity to obtain an acquittal in the event of criminal proceedings, as long as the other conditions required by law are met, i.e. the appointment of a Supervisory Body, the compliance with the model, and the supervision by the supervisory body.

Drawing up and implementing the organisational model therefore means equipping the entity with a tool aimed at reducing the risk of the commission of predicate offences and, if the offence is committed, avoiding for the entity the criminal conviction and the application of precautionary sanctions (interdiction, financial penalties, confiscation) - preventive model - or reducing the same sanctions - remedial model -.

2.2. Risk mapping

In order to assess whether the Model effectively met the objective of preventing the perpetration of one of the offences provided for in the Decree, a mapping of the activities performed was carried out, identifying, in particular, the so-called '**risk' activities**, i.e. activities that, by their nature, are among those to be analysed and monitored in the light of the Decree's provisions.

On the basis of each predicate offence, a risk analysis was prepared, highlighting the safeguards to be implemented through an organic system of procedures and control activities.

The result of the risk mapping led Andersen to focus its organisational set-up on the prevention of so-called 'major' risks, the list of residual or 'minor' risks find a measure of prevention in the professional requirements of the recipients of the Model and in the provisions of the **Code of Ethics** adopted by Andersen and constituting an integral part of the Model (**Annex 01**).

2.3. Andersen's activity



Andersen Italy is the Italian firm of Andersen Global, an international association of tax and legal firms. Andersen Italy is a professional association whose purpose is the exercise of the profession of chartered accountant, lawyer and possibly other liberal professions, provided they are related and legally recognised.

((omissis))

2.4. Organisational chart

((omissis))

2.5. Powers and delegations

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3. SUPERVISORY BODY

3.1. Identification and location of the Supervisory Body

The Supervisory Body has the task of:

- supervise the functioning of the Model,
- monitor its effectiveness in relation to the structure of the firm and its effective capacity to prevent the commission of the offences referred to in the Decree,
- supervise compliance with the Model by the addressees,
- take care of its updating.

The Supervisory Body is currently composed of one external member, appointed by the Managing Body of Andersen, chosen from qualified and experienced persons, who have the characteristics illustrated below.

The members of the body must meet specific requirements of good reputation.

In particular:

- external professionals must be chosen from among experts (such as, for example, professors or freelancers) in legal, economic, financial or technical-scientific subjects or, in any case, from among persons possessing specialist skills appropriate to the function and/or having an adequate knowledge of the organisation and the main corporate processes;
- external professionals must not be related to Andersen's directors or managers, nor must they be linked to Andersen, or to companies belonging to the same group, by employment or self-employment relationships, or by other significant professional or financial relationships that compromise their independence.

In addition to the possession of the above-mentioned requirements, members must also possess the following additional requirements of honourability, according to which cannot be appointed as Supervisory Body those who

- have been convicted, either irrevocably or with a non-definitive sentence, even if the sentence is conditionally suspended, without prejudice to the effects of rehabilitation, of one of the offences to which Legislative Decree no. 231/2001 applies. Conviction is also understood as a sentence pronounced pursuant to Article 444 of the Code of Criminal Procedure.



- have held the position of member of the Supervisory Body within Entities against which the sanctions provided for in Article 9 of the Decree have been applied, even with a non-definitive measure (including the judgment issued pursuant to Article 63 of the Decree), for omitted or insufficient supervision by the same members.
- who find themselves in situations of conflict of interest, even potential conflict of interest with Andersen and who compromise its independence.

Each member of the Supervisory Body shall issue, before appointment, together with his/her *curriculum vitae*, a declaration of non-existence of causes of ineligibility, made pursuant to Presidential Decree 445/00. The Managing Body reserves the right to carry out specific checks on the truthfulness of the declarations made.

The members of the Supervisory Body remain in office for at least three years, unless the Managing Body decides otherwise.

The Supervisory Body, in the performance of its functions, may avail itself of the services of external professionals, to whom it shall entrust the task of carrying out periodic checks on the compliance with and effectiveness of the Model, through the performance of activities of a technical nature, without prejudice to the obligation of said external professionals to report to the Supervisory Body itself, through the drafting of a specific report, and without prejudice to the fact that the entrusting of this type of delegation does not affect the responsibility of the Supervisory Body of the Entity for the function conferred on it by law.

The Supervisory Body shall regulate the aspects relating to the continuity of its action, among which are, in particular, the scheduling of supervisory and control activities, the keeping of minutes of the meetings it holds, and the drafting of a record of the control activities carried out.

In particular, the Supervisory Body, in the performance of its ordinary activities, generally supervises:

- the efficiency, effectiveness and adequacy of the Model in preventing and combating the commission of the offences to which Legislative Decree 231 of 2001 applies, including those which may in the future entail administrative liability of the legal person;
- observance of the provisions contained in the Model by the addressees, noting the consistency and any deviations in the conduct implemented, through the analysis of the information flows and the reports to which the heads of the various organisational functions are subject;
- the updating of the Model where the need for adaptation is identified, formulating proposals to the competent Corporate Bodies, where changes and/or additions become necessary as a result of significant violations of the provisions of the Model itself, significant changes in the organisational and procedural structure of the Entity, as well as new legislation on the subject;
- on the implementation of the Staff training plan;
- on the initiation and conduct of the procedure for the imposition of any disciplinary sanction, following the ascertained violation of the Model.

Supervisory activities follow special protocols that are drawn up and constantly updated on the basis of the results of risk analysis and control interventions.

3.2. Reporting to Corporate Bodies

The Supervisory Body of Andersen shall prepare an annual report on the activities carried out during each year. This report shall be sent to the Managing Body.

The SB, whenever it deems it necessary, may still make reports to the Managing Body.

The annual report must contain at least the following:

- critical issues emerged on the implementation of the procedures laid down in the Model,



- the content of the reports received,
- any disciplinary procedures applied,
- general considerations regarding the application and dissemination of the Model.

The Supervisory Body may be convened at any time by the aforementioned bodies or may submit a request to that effect, in order to report on the functioning of the Model as well as the analysis of specific situations deserving investigation.

The meetings to be held by the Supervisory Body with the aforementioned bodies shall be minuted, and the Supervisory Body shall keep a copy of the minutes.

4. INFORMATION FLOWS TO THE SUPERVISORY BODY

4.1. Reports by company representatives or third parties

All the documentation provided for in this Model and any other information of any kind, also from third parties, pertaining to the implementation of the Model, in the areas of activity 'at risk', must be brought to the attention of the Supervisory Body.

4.1.1. Whistleblowing

The Supervisory Body will assess the reports received through the whistleblowing channel according to the specific whistleblowing policy (**Annex 03**).

4.2. Disclosure obligations relating to official acts

Information concerning the following must be mandatorily transmitted to the Supervisory Body:

- measures and/or information from judicial police bodies, or any other authority, from which it can be inferred that investigations are being carried out, even against unknown persons, for the predicate offences referred to in Legislative Decree no. 231/01;
- requests for legal assistance forwarded by managers, employees and/or non-subordinate collaborators of the Entity in the event of legal proceedings being commenced for the predicate offences referred to in Legislative Decree no. 231/01;
- reports prepared by the heads of other organisational functions as part of their control activities and from which facts, acts, events or omissions may emerge with critical profiles with respect to compliance with the provisions of the Decree;
- information on the effective implementation, at all levels of the company, of the MODEL, with evidence of disciplinary proceedings carried out and any sanctions imposed (including measures against employees), or of the orders to dismiss such proceedings with the relevant reasons;
- summaries of contracts awarded to the organisation following tenders or private treaty procedures;
- detailed description of how public funding or contributions have been used;
- the system of delegated and proxy powers adopted by the Entity and any subsequent amendments thereto.



5. ARRANGEMENTS FOR THE MANAGEMENT OF FINANCIAL RESOURCES

Since financial flows represent a particularly delicate area, procedures are adopted, aimed at identifying and managing financial resources, suitable for preventing the perpetration of the offences set out in Legislative Decree no. 231/01. On this point, please refer to what is regulated in the special section of this Model.

6. TRAINING AND INFORMATION, ADOPTION OF THE MODEL

The adoption and implementation of the Model is the task of the Managing Body. Implementing the Model means:

1. making the Model available to all those who are bound to comply with its prescriptions; a copy of the Model, its attachments and updates shall therefore be filed at the company's headquarter to allow consultation by each person bound to comply with them;
2. ensuring that the communication of the requirements of the Model related to the specific activity or function to those who are required to comply with them takes place in an appropriate and traceable manner;
3. scheduling Model-related training for personnel in risk areas, which should be tailored to the levels of the addressees.

The Model is updated, also at the request of the Supervisory Body, when it is necessary to adjust it, for instance in the following cases:

- major violation of the rules and protocols laid down in the Model, which makes it necessary or appropriate to revise the reference procedures;
- changes in the organisation or fields of activity of the company;
- changes in relevant legislation or case law.

6.1. Training of persons referred to in Article 5 of Legislative Decree No. 231/01

Andersen periodically implements a specific training programme addressed to all apical and subordinate persons pursuant to art. 5 of Legislative Decree no. 231/01 aimed at the effective implementation of the Model.

6.2. Information to external business partners

Guidance on the adoption of the Model must also be provided to persons outside the firm (suppliers, collaborators, consultants, agents).

7. DISCIPLINARY SYSTEM

7.1. General principles



The Model is binding:

- a) for persons who hold functions of representation, administration or management of the entity or one of its organisational units with financial and functional autonomy, as well as persons who exercise, also *de facto*, the management and control of the entity – **managers**;
- b) for persons subject to the direction or supervision of one of the persons referred to in (a) above - **subordinates**.

Pursuant to Articles 6, c. 2, lett. e), and 7, c. 4, lett. b) of the Decree, the Model can only be considered effectively implemented if it introduces a disciplinary system capable of sanctioning non-compliance with the measures indicated therein.

The application of disciplinary sanctions is irrespective of the outcome of any criminal proceedings, since the rules of conduct and internal procedures are adopted by the firm in full autonomy, regardless of the offence that any conduct may give rise to.

The procedure for the imposition of sanctions under this disciplinary system takes into account the particular features and *status* of the person against whom proceedings are being taken. In any case, the Supervisory Body must always be involved in the disciplinary proceedings.

7.2. Measures towards employees

Failure to comply with and/or violation of the rules of conduct and procedures imposed by the MODEL by employees of Andersen constitutes a breach of the obligations arising from the employment relationship, pursuant to Article 2104 of the Civil Code, and a disciplinary offence.

The adoption by an employee of Andersen of a behaviour that can be qualified, on the basis of the previous paragraph, as a disciplinary offence, also constitutes a violation of the obligation of employees to perform the tasks entrusted to them with the utmost diligence, following Andersen's directives, as provided for in the current CCNL.

With reference to the sanctions that can be imposed, it should be noted that they will be applied in compliance with the provisions of the company disciplinary system and the procedures laid down in the applicable CCNL. They can be divided into conservative disciplinary measures and resolutive disciplinary measures and are applied on the basis of the importance of the individual cases considered. The sanctions imposed will also be proportionate, depending on their severity, according to the provisions of the applicable CCNL in force.

In order to make explicit in advance the criteria for correlating workers' conduct with the disciplinary measures taken, it is provided that

- 1) disciplinary measures are imposed on an employee who:
 - violates internal procedures or behaves in a manner that is not compliant with the provisions of the Model (e.g. fails to observe the prescribed procedures, fails to provide the Supervisory Body with the prescribed information, fails to carry out checks, etc.) or adopts, when carrying out activities in areas at risk, a conduct that is not compliant with the provisions of the Model, such conduct being construed as a failure to comply with the orders issued by Andersen both in writing and verbally;
- 2) the termination disciplinary measures are imposed on an employee who:
 - adopts, in the performance of the activities in the areas "at risk", a conduct which does not comply with the provisions of the Model and which is unequivocally aimed at committing an offence sanctioned by Legislative Decree no. 231/01, such conduct being a serious breach of discipline or diligence at work and an act that radically undermines the Entity's trust in the worker;
 - adopts, in the performance of activities in areas "at risk", a conduct that is clearly in breach of the provisions of the Model, such as to determine the concrete application against Andersen of the measures provided for in the Decree,



such conduct being an act that causes serious moral or material damage to the Entity and that does not allow the continuation of the relationship, even temporarily.

With regard to the investigation of the aforementioned infringements, disciplinary proceedings and the imposition of sanctions, the powers already conferred, within the limits of their respective competences, on company management remain unchanged.

7.3. Measures towards collaborators and partners

Any behaviour adopted by non-subordinate collaborators, partners of the Firm, contrary to the provisions contained in the Model and such as to entail the risk of commission of an offence sanctioned by the Decree, may determine, in the most serious cases and upon report of the Managing Body to the Shareholders' Meeting, the termination of the contractual relationship or exclusion, without prejudice to any claim for compensation for greater damages, if such behaviour results in concrete damage to the Firm, as in the case of application by the competent judge of the measures provided for by the Decree.

8. PERIODIC AUDITS

The Model must be subject to two types of verification, by the heads of functions:

- audits of deeds: an annual audit of the main corporate deeds and contracts concluded by the firm in 'at risk' areas of activity will be carried out;
- verification of procedures: the effective functioning of this Model must be periodically verified in the manner established by the Supervisory Body.

At the end of the periodic or quarterly audits, a report must be drawn up and submitted to the Managing Body, highlighting possible shortcomings and suggesting actions to be taken.

