Internal Procedure

regarding Transactions with

Connected Parties and "Article 136 of the Consolidated Banking Law"

(Adopted by the Board of Directors of Banco Desio on 25 November 2010
in compliance with Consob Regulation no. 17221/2010
***
Updated by the Board of Directors of Banco Desio on 21 June 2012 and 29 January 2013 in compliance with the instructions of the Bank of Italy of 12 December 2011 and accepted by the Board of Directors of Banca Popolare di Spoleto on 30 July together with a special "Addendum" dated 9 September 2014)

Rules relating to Sensitive Areas pursuant to Legislative Decree 231/2001

Area of Risk: Company offences

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Section I –Guidelines

Chapter I.1 – Sources of law

This Internal Procedure with Related Parties, connected persons and "Article 136 of the Consolidated Banking Law" (hereinafter to be called the "Internal Procedure") was adopted by the Banco Desio Group in compliance with the reference legal provisions listed below.

Special Laws for listed Companies

Article 2391-bis of the Italian Civil Code together with Articles 113-ter, 114, 115 and 154-ter of Legislative Decree no. 58 of 24 February 1998 (Consolidated Finance Law, set out in the Legislative Appendix.

Consob Regulation no. 17221 of 12.3.2010 containing provisions concerned with Related Party transactions (hereinafter to be referred to by the initials RRPT) and the Consob communication no. DEM10078683 of 24.9.2010 (hereinafter to be abbreviated as "DEM1") set out in the Annex **(Annex A)**

The General law concerned with Stockholding companies

Articles 2343-bis (Acquisition by the Company [within the two years from its formation] from promoters, founders, shareholders and directors), 2358 (other transactions [loans and security] on own shares), 2373 (Conflict of interest [in General Meetings]), **2391 (directors' interests)**, from **2497 to 2497-septies of the Italian Civil Code (the direction and co-ordination of companies)**, set out in the legislative appendix.

Special provisions for banking businesses

Article 53 of Legislative Decree no. 385 of 1 September 1993 (Consolidated Banking Law), paragraphs 4 onwards, set out in the legislative appendix.

Supervisory provisions in the matter of risk-bearing activities and conflicts of interest with parties connected with the bank or the banking group pursuant to Article 53 of the Consolidated Banking Law (Circular no. 263 of 27.12.2006 - Title V, Chapter V - 9 update of 12 December 2011, hereinafter to be referred to by the abbreviation "C263")

Article 136 of the Consolidated Banking Law – Obligations of banking office-holders, set out in the legislative appendix**.**

Supervisory instructions for banks - Title II Chapter III **(Obligations of office-holders)** as annexed **(Annex B2)**

Accounting Standards

IAS 24 – Information to be disclosed in Financial Statements regarding Related Party transactions, reviewed in EU Regulation no. 632 of 19.7.2010, set out in **Annex C**

Chapter I.2 – Purposes and scope of application

1. The main purpose of the Internal Procedure is that of ensuring the maintenance of **transparency and substantive and procedural propriety** in transactions with related parties and connected persons pursuant to Article 53 of the Consolidated Banking Law and/or with relevant parties pursuant to Article 136 of the Consolidated Banking Law **effected either directly or through subsidiary companies**.
2. The scope of application of the Internal Procedure - in particular with respect to the decision-making and disclosure procedures described in Chapter II .1, will be transactions with related parties and with connected persons pursuant to Article 53 of the Consolidated Banking Law and/or with relevant parties pursuant to Article 136 of the Consolidated Banking Law (as defined in Chapter I.3) effected:
   - By **Banco di Desio e della Brianza SpA** (hereinafter to be called "Banco Desio" or "the Group Holding Company") as a bank with shares listed on a regulated market;
   - By the subsidiary company **Banca Popolare di Spoleto SpA** (hereinafter to be called "BPS") as a bank whose shares are listed on a regulated market;
   - By **all the other Italian and foreign companies directly or indirectly controlled by Banco Desio** (hereinafter to be called "Subsidiary Companies" or, together with the Bank itself, "group companies"**)**, notwithstanding the fact that, where not subject to inspection or approval by the Group Holding Company, Related Party transactions effected autonomously by such subsidiary companies will not be subject to the decision-making procedures described in Chapter II.1.1 without prejudice to the need to comply with the public disclosure obligations described in Chapter II.1.5.
3. Without prejudice to the exclusions described in paragraph II.1.4, any transfer of resources, services or obligations will be covered by the Internal Procedure irrespective of whether or not a payment has been agreed. The following will be deemed to come within the scope of application in any case:
   - Transactions of merger, demerger arising from incorporation or non-proportional demerger in the strict sense;
   - **Every decision relating to the attribution of remuneration and economic benefits of any kind to the members of the Administrative and Control Bodies and to managers with strategic responsibilities.**

Chapter I.3 – General Definitions

Related Parties

A party will be a "Related Party" to a company if it:

(a) Directly or indirectly, including through subsidiary or trust companies or intermediates:
   (i) **controls** the company, is controlled by it or is subject to joint control with the same;
   (ii) holds a shareholding in the company of such a nature as to be able to exercise significant influence over the latter;
   (iii) exercises control over the company jointly with other parties;

(b) is a **connected** company of the company;

(c) is a joint venture in which the company is a shareholder;

(d) is one of the **managers with strategic responsibility in the company or in its controlling company;**

(e) is a **close family member of one of persons described in letters (a) or (d);**

(f) is **a body in which one of the persons described in letters (d) or (e) exercises control, joint control or a significant influence or holds, whether directly or indirectly, a significant share, in any case not less than 20%, of voting rights**;

(g) is an Italian or foreign supplementary, collective or individual pension fund set up for the benefit of company employees or any other body related to the latter;

(h) is a party not described in letters (a) to (g), but defined as a "Related Party" by C263.

For greater detail please refer to pages 13 onwards of the RRPT (Annex A) and pages 3 onwards of C263 (Annex B1)

Connected Persons
"Connected Persons" will be deemed, for the purposes of the Internal Procedure, to be all persons not covered by the definition of related party under letters (a) to (h) above, and defined as a Connected Person by C263.

Connected Parties
"Connected Parties will be deemed to refer to all parties defined as either Related Parties or Connected Persons.

"Parties pursuant to Article 136 of the Consolidated Banking Law"
For the purposes of the Internal Procedure, parties will be deemed to be "Parties pursuant to Article 136 of the Consolidated Banking Law", which, in some cases already comes within the definitions of Related Parties and Connected Persons above, in relation to which Article 136 of the Consolidated Banking Law requires special treatment with respect to the decision-making and information disclosure procedure concerning specific obligations taken on, whether **directly or indirectly**, by **banking office-holders** as against the **banks and financial companies in which they hold positions of directors, managers or control,** as also against other banks and financial companies belonging to the same **banking group.** Parties pursuant to Article 136 of the Consolidated Banking Law thus include both banking office-holders and those parties through whom or which (by virtue of specific company, professional or family relations) the relationship giving rise to obligations, even if formally referring to a party different from the office-holder concerned, is held as a matter of fact.

Office-holders
"Office-holders" are defined as being directors, (permanent or supplementary) Statutory auditors, the General Manager and other managers with strategic responsibilities in group companies as defined from page **13 onwards of the RRPT (Annex A).** When referred to as "Banking Office-holders" this will mean exclusively office-holders of banks or financial companies belonging to the bank group as defined **in page 5 of C263 (Annex B1)** (and so not including those of insurance companies even though belonging to the group)

* * *

N.B.: reference to Related Parties in the remainder of this Internal Procedure will be deemed to include references to Connected Persons as well and thus Connected Parties as a whole.

* * *

Related Party transactions

"Transactions of lesser significance": all Related Party transactions **not** being Transactions of Greater significance and **transactions involving negligible amounts** identified as such according to the most prudential criteria pursuant to Article 13 of the RRPT (Annex A) and/or pursuant to the provisions set out at page 19 of C263 (Annex B1) **– please see paragraph II.1.3 (A)**;

"Transactions of Greater significance": Related Party transactions identified as such according to the most prudential criteria pursuant to Article 4, paragraph 1(a) of the RRPT (Annex A) and/or pursuant to the provisions set out at page 7 of C263 (Annex B1) **–please refer to paragraph II.1.3 (B);**

"Ordinary transactions": Transactions **of lesser significance** which, taking account of the type of contract and/or counterparty, come within the normal course of operational activities and the connected financial activities concluded at market or standard conditions;

"Conditions equivalent to market conditions": conditions analogous to those normally practiced in dealings with NON-related Parties for transactions of corresponding nature, size and risk or based on regulated charges or on imposed prices or conducted with parties to which the issuer is obliged to agree a given payment under law.

Independent directors

Directors will be defined as "independent" if they satisfy the requirements of independence as defined by Article 148, paragraph 3 of the Consolidated Finance Law (as referred to in **Article 16 paragraph 4 of the Articles of Association of Banco Desio and Article 9, paragraph 2 of Articles of Association of BPS**). Furthermore, given that Banco Desio and BPS declare, pursuant to Article 123-bis, paragraph 2 of the Consolidated Law, that they comply with a code of conduct providing for independence requirements at least equivalent to those laid down by the above-cited Article 48, paragraph 3 of the Consolidated Finance Law and that is, the **Self-Regulation Code of listed companies promoted by Borsa Italiana,** Directors of Banco Desio and BPS will be independent when recognised as such in application of the above Code. A copy of the related self-declaration required of such directors pursuant to law has been set out in **Annex D.**

NON-related Directors

Directors will be defined as NON-related" when not being a counterparty of a given transaction nor its related parties.

NON-Related Shareholders

The following will be defined as "non-related": shareholders and other parties entitled to exercise voting rights not being the counterparty of a given transaction nor of related parties either of the counterparty of a given transaction or of the company.

Section II – Operational Procedure

Chapter II.1 – Steps in the decision-making and information disclosure process

II.1.1– Manner of Approval, and specific purposes, of the Internal Procedure

1. The Internal Procedure (as also in the case of any amendment or integration of the same):
   - **Will be approved by the Board of Directors of Banco Desio on the proposal by the Chairman having obtained the prior and binding opinion on the same of the Related Party Transactions Committee (hereinafter to be referred to as the "RPTC") and the Board of Statutory Auditors;**
   - **It will be received by the Board of Directors of BPS on the proposal of the Chairman having obtained the prior and binding opinion of the RPTC and the Board of Statutory Auditors**.

2. The Internal Procedure (as also in the case of any amendment and/or integration of the same) will be published without delay on the Internet Site of both Banco Desio and of BPS, without prejudice to the obligation to publish the same, including by reference to such site, in the **Annual Report on Management of Banco Desio** pursuant to Article 2391-bis of the Italian Civil Code.

3. **The controlling parties and other parties indicated in Article 114, paragraph 5, of the Consolidated Banking Law** (that is, the members of the Administrative and Control Bodies, managers and parties owning a significant shareholding or being parties to a Shareholders' Agreement as defined in the provisions concerned with listed company ownership structures) which are **Banco Desio related parties, will give the latter the information necessary to permit the identification of related parties and of transactions with the same** in accordance with the operational procedures laid down in Chapter II.2. This provision will be deemed to refer to Banco Desio **subsidiary companies** where applicable. **In any case, the parties which are related parties, including of BPS and the other subsidiary companies, will co-operate with Banco Desio in order to permit correct and complete records to be made at the Group level, of related parties,** particularly with regard to the identification of connected persons. Related Parties will likewise have the duty to communicate subsequent circumstances coming to their knowledge which may give rise to changes in the perimeter demarcating related parties.

4. Without prejudice to the receipt of the Internal Procedure by BPS as laid down by point 1 above, Banco Desio's **subsidiary companies** will be subject to the Internal Procedure through specific **communications sent out in the context of the direction and co-ordination operations** laid down by Article 15 of the Internal Regulation. The instructions imparted via such communications which the CEO of the Group Holding Company will address, including by fax or e-mail to the CEO or General Manager of each subsidiary company, may be declared, as necessary, to be with **provisional force and effect including over the period while awaiting the passing of the receiving resolutions** by the Board of Directors of each subsidiary company, the relevant resolution to be submitted to such boards in any case at their next valid meeting.

II.1.2 – Rules for the Related Parties Transactions Committee of Banco Desio

1. The RPTC will be governed by the following detailed rules in compliance with the provisions of Article 2 of the Internal Regulation of the Business Bodies (hereinafter also to be called the "Internal

Regulation").

Composition, Duties and Chairmanship

2. The RPTC will be made up of between 2 and 5 members appointed by the Board of Directors exclusively from amongst its own independent members.

3. The RPTC will have the dutv to produce prior **binding** opinions in relation to:
   - the **Internal Procedure**;
   - **transactions of greater significance**.

4. The Committee will also have the duty to produce prior, NON-binding, opinions on transactions of lesser significance and to receive the information flows provided for in the Internal Procedure (see in particular, sub-paragraphs 10 and 11 of this paragraph).

5. For the conduct of its duties the RPTC may obtain the assistance, paid for by the Company and, with reference to **Transactions of lesser significance**, within the limits of the **annual budget** assigned to it to such end by the Board of Directors, of one or more independent experts chosen by it or possibly chosen by the company so long as such choice is agreed by the RPTC itself.

6. The RPTC will appoint a Chairman from amongst its members and may appoint a secretary who may be external to the Committee.

Meetings

7. The RPTC will hold its meetings, even in a venue other than the company's Registered Office, when called by the Chairman or upon joint request by at least two members acting together.

8. In order to improve the information flow involving the RPTC, the Chairman may authorise the Group Holding Company's General and Company Secretary to send out notices on behalf of the Chairman calling the RPTC on the basis of a pre-fixed schedule or in any case fixed in advance with the consent of the Chairman. The above activities, as also those subsequently referred to the said Secretary, will be carried out by the Chairman with the assistance of the Legal and Corporate Affairs Management which will inform the CEO so far as coming within the latter's field of competence.

9. The meeting notification will be in writing sent by post, by hand, e-mail, fax or telegram at least **5 (five) days** prior to the date fixed for the meeting, **except in cases of urgency** when the notice will be sent at least **1 (one) day** before by fax, e-mail or telegram. If the fifth day prior to the meeting is not a working day, it may be called within the first available working day.

10. The meeting notification will be accompanied by the information reasonably necessary, depending on the proposal coming under the RPTC's consideration, to allow it to express its suitably informed opinion in relation to the same. Such information flow will include at least the normal documentation that the proposing structures provide to assist the work of the competent body to reach its decision (the Board of Directors or the Executive Committee as the case may be) with particular reference to the degree of risk and profitability of the transaction. Merely by way of example, such documentation will include the so-called "credit lines" produced by the specific application so far as resolutions relating to

credit facilities are concerned, minutes of the purchases commission with regard to expenditure resolutions, draft contracts with regard to distribution agreements, commercial partnerships etc., and/or company or financial transactions of an extraordinary nature, all the above accompanied by annexes to assist the investigation where necessary for assessments coming within the competence of the RPTC.

11. The General and Company Secretary of the Group Holding Company will co-ordinate the collection of the above documentation, as also any request for information by members of the RPTC, from the proposing business structure and other business structures involved (of the Group Holding Company or the subsidiary companies as the case may be) depending on the subject matter, which will be required to promptly provide everything required. The proposing business structure will in any case, make itself available to ensure direct and possibly necessary support during the meetings of the RPTC.

12. Meetings of the RPTC will be valid even if not formally convened, if all members are present.

13. The Board of Statutory Auditors will be entitled to attend meetings of the RPTC for the purposes of supervision as described in C263. The notice of calling will be sent to it in any case containing the list of business to be dealt with. The CEO, General Manager and managers of the internal control and other business functions, together with other employees, collaborators and consultants of group companies may be invited to participate in the Committee's meetings if their presence is considered of use for the business to be discussed.

Decisions

14. The presence of the majority of members holding office will be necessary for the decisions and other determinations of the RPTC to be valid if such decisions and determinations have been passed with votes cast in favour by the absolute majority of members present. In the event of a parity of votes, the vote of the person chairing the meeting will prevail (that is, the Chairman or, in the event of the latter's absence or inability to act, the oldest member).

15. Favourable opinions of the RPTC may be issued subject to given conditions, to be checked at the moment of the resolution or at the latest at the time of related execution. The satisfaction of such conditions will be reported at the first subsequent meeting of the RPTC and in any case, in the information provided at least on a quarterly basis to the Board of Directors and Board of Statutory Auditors on the execution of transactions.

Minutes and Reports

16. The decisions and other determinations of the RPTC will be confirmed in special minutes transcribed into the related book, to be signed under the responsibility of the meeting Chairman and the other members present, or a Secretary, if appointed. Such decisions and determinations will be communicated, in the manner decided by the RPTC itself, to the body that is competent to pass the related resolutions (that is, to the Board of Directors or Executive Committee as the case may be, or possibly the Chairman if the latter has been called upon to make the decision coming within the competence of the collegiate body, where permitted under the Articles of Association, as a matter of

urgency). The above will be without prejudice to the fact that the Internal Procedure in any event, pursuant to Article 8(a) of the RRPT, reserves resolutions concerning transactions of greater significance, the approval of the Internal Procedure itself and any amendments and/or integrations of the same for the Board of Directors.

17. For **reasons of urgency**, decisions and other determinations of the RPTC may exceptionally be taken by means of **consent in writing** (which may be provided by fax, e-mail or telegram) to a written proposal transmitted by the same means so long as no member requests the oral discussion of the same. The request for an oral discussion must be submitted in writing within 24 hours after receipt of the proposal. Decisions and other determinations taken using the above procedure will also be transcribed into the minute book. The above emergency procedure will **NOT** be permitted in the case of a **transaction of greater significance.**

II.1.3 – Resolution Procedure

Without prejudice to the provisions set out below applying to BPS pursuant to Section III of C263, the resolution procedure described under letters A and B below will also apply to the transactions performed by subsidiary companies where such transactions are subject to examination or approval (whether in advance or subsequently in the case of a subsidiary company resolution passed subject to the consent of the Group Holding Company) by the Group holding company, having regard to the resolutions normally passed by the Board of Directors of the same Group holding company within the context of the activities of direction and co-ordination.

Transactions within the competence of the Board of Directors

A. Transactions of lesser significance

1. Pursuant to Article 7 of the RRPT and to what has been laid down at pages 16 and 17 of C263 , the resolution procedure described by this paragraph A will apply to Related Party transactions which:
   - **DO NOT come within transactions subject to exclusion (please see paragraph II.1.4),** save with respect to cases when single transactions subject to exclusion are exceptionally subjected voluntarily to the resolution procedure described in this paragraph A;
   - **DO NOT exceed any of the indices of importance (please see letter B below),** save in cases where individual transactions of that kind are exceptionally subjected voluntarily to the resolution procedure described in paragraph B.

2. In any case, the fact that individual transactions are subjected voluntarily to a more rigorous resolution procedure to the obligatory procedure applicable in such cases (pursuant to Article 4 paragraph 2 of the RRPT) will have NO significance in itself for the purposes of public disclosure obligations. Such application of the more rigorous procedure adopted voluntarily may be effected on the basis of specific requirements including of a prudential nature for the greater protection of the company's interests, taking account of the special nature of the transaction and/or of the counterparty.

3. **The power to pass resolutions for transactions of lesser significance (so long as not covered by an**

exclusion [1]) will be reserved to the competence of the Board of Directors or, in the case of Banco Desio, the Executive Committee, based on the limits with regard to amount laid down by the internal regulation in force at any given time (save in cases of urgency when the decision may be made by the Chairman pursuant to Article 25 of the Articles of Banco Desio or Article 14 of the Articles of BPS, on the reasoned proposal of the CEO or, in the case of BPS, of the General Manager).

4. Prior to the approval of the transaction, the RPTC (limited to independent and NON-related directors), will produce a **NON- binding and reasoned opinion regarding the company's interests in the conduct of the transaction as also on the economic convenience and the substantive propriety of the related conditions.**

5. The RPTC will have the power to obtain assistance, at the company's expense, from one or more independent experts chosen by it within the limits of the **annual budget** assigned by resolution of the Board of Directors following the favourable opinion of the Board of Statutory Auditors and within a **maximum expenditure for each individual transaction**, laid down by the same resolution passed by the Board of Directors. The above specific resolution will normally be passed on the occasion of the approval of the general budgets of Banco Desio and BPS.

6. The RPTC, as also the body with competence to resolve on the transaction (the Board of Directors or Executive Committee as the case may be), will be provided with full and adequate information sufficiently in advance. If the conditions of the transaction are defined as being equivalent to market or standard conditions, the documentation prepared must contain objective corroborating evidence. The RPTC will report any gaps or inadequacies identified during the stage prior to the resolution to the body with competence to resolve on the matter.

7. The minutes of the RPTC, just as the minutes of the body with competence to resolve on the matter, must set out sufficient reasons regarding both the company's interests in carrying out the transaction and the economic convenience and substantive propriety of the related conditions.

8. Full information must be provided to the RPTC, the Board of Directors and the Board of Statutory Auditors on the performance of the transactions on at least a quarterly basis.

9. Without prejudice to the provisions of Article 114, paragraph 1 of the Consolidated Finance Law relating to public disclosure (by means of press releases) of privileged information, a **document** will be made available to the public by Banco Desio, within 15 days from the closure of each quarter of the accounting period, from the company's Registered Office and in accordance with the procedures indicated in Chapter I of Title II of the Issuers Regulation (Consob resolution no. 11971/1999 as subsequently amended and supplemented), **containing details of the counterparty, the subject matter of, and payment applying to the transactions approved in the reference quarter in the presence of a <u>negative</u> opinion** expressed by the RPTC, together with the reasons why the body with competence to resolve on the transaction decided not to agree with such opinion. The related opinion must be disclosed to the public, annexed to the document providing such information or on the

[1] **any case, delegated bodies lower in the hierarchy than the position of General Manager are precluded from taking decisions concerning related party transactions (even if of negligible amount or in the nature of ordinary transactions)**

company's internet site within the same time limit.

B. Transactions of Greater significance

1. Pursuant to Article 8 of the RRPT and the provisions laid down in pages 16 and 17 of C263, the resolution procedure set out under this letter B will apply to Related Party transactions in which at least one of the indices of importance set out in **Annex 3 of the RRPT (at page 19) and in Annex B of C263 (at pages 28 and 29)**, applicable depending on the specific transaction, exceeds the threshold of **5%.** In the case of homogeneous transactions or transactions performed in the execution of a unitary design effected over the same accounting period with the same related party, their related values will be aggregated for the purposes of the calculation of the significance threshold.

2. With reference to the significance index referring to the **transaction counter-value**, the amount of €**37,500,000** will be adopted as the threshold even when not greater than **5% of the consolidated regulatory assets** identified by the last published periodical valuation. This will remain **fixed in the event of an increase** in the above regulatory assets but will be proportionately **reduced in the event of the reduction** of such regulatory assets to be specifically reported under the responsibility of the Manager with responsibility for accounting documents, such report to be brought to the attention of the governance and control functions and bodies described in Chapter II.5 with immediate effect.

3. Save in relation to transactions coming under the competence of the General Meeting (see letter D of this paragraph), so far as transactions of greater significance are concerned, the following should be added to the resolution procedure described under letter A above:

   a) The competence to resolve on the transaction will be reserved for Banco Desio's Board of Directors (except, for Banco Desio, in the event of urgency when the resolution may be passed by the Executive Committee pursuant to Article 23 of the Articles of Association);

   b) The RPTC (limited to the independent non-related directors) or one or more members of the RPTC (identified internally by the Committee's Chairman) is or are involved (on the initiative of the CEO or possibly the General Manager in the case of BPS) during the negotiation and investigative stages by means of a complete and prompt information flow and with the power to request information from, and make observations to the delegated bodies and persons charged with the conduct of the negotiations or investigations;

   c) The Board of Directors will approve the transaction following a favourable reasoned opinion by the RPTC on the company's interests in completing the transaction and the economic convenience and substantive propriety of the related conditions. The RPTC's opinion regarding transactions of greater significance will therefore be deemed to be **binding save for the possibility of initiating the special procedure described in point 4 below.**

4. The Board of Directors will be able to approve a transaction of greater significance notwithstanding the unfavourable (that is, negative or conditional) opinion of the **RPTC**, so long as the execution of such transaction is **submitted to the Board of Statutory Auditors for their opinion** and also submitted, pursuant to Article 2364, paragraph 1(5) of the Italian Civil Code, to the **General Meeting for its**

authorisation, which will resolve on the matter in the same way as for all transactions coming under the General Meeting's competence. In such circumstances, without prejudice to the provisions of Articles 2368, 2369 and 2373 of the Italian Civil Code and without prejudice to the provisions of the Articles of Association that may be required by law, it will not be possible to go ahead with the transaction if the majority of non-related shareholders cast votes against the same so long as non-related shareholders represent at least 10% of the company's share capital with voting rights. Those transactions which have been carried out for which the RPTC (and possibly the Board of Statutory Auditors) gave a negative opinion or on which they indicated reservations, will be reported to the General Meeting of the Shareholders at least once a year.

C. Transactions equivalent to those of Greater significance

In derogation of the above provisions, and **solely in relation to the resolution procedure**, **extraordinary company or financial transactions** (meaning transactions to set up companies, increases in share capital with the exclusion of option rights, mergers, demergers, transactions involving business divisions and the like together with transactions on controlling or connected shareholdings according to the definitions contained in Annex 1 of the RRPT - at page 15), will be treated as equivalent to transactions of greater importance. The significance thresholds are, with respect to that particular case, reduced to **2.5%** of the above-mentioned indices and thus referring, with regard to the value of the transaction, to the amount of €**18,750,000,** possibly reduced in analogy to the rule laid down in sub-paragraph 2 of letter B.

D. Transactions coming under the Competence of the General Meeting

1. Under Article 11 of the RRPT and the provisions set out at page 17 of C263, when a transaction of **lesser significance** with related parties comes under the competence of the General Meeting or must be authorised by the latter, the rules as set out in letter A above will apply, to the extent applicable, during the investigation and approval stage of the proposed resolution to be submitted to the General Meeting.

2. When a transaction of greater significance comes within the competence of the General Meeting or must be authorised by the latter, the rules set out in paragraph B above will apply so far as compatible during the stages of negotiations, the investigation and the approval of the proposed resolution to be submitted to the General Meeting.

3. The proposed resolution to be submitted to the General Meeting may also be approved in the presence of a negative opinion by the RPTC (as also a possible negative opinion by the Board of Statutory Auditors). In such circumstances, without prejudice to the provisions of Articles 2368, 2369 and 2373 of the Italian Civil Code and any provisions of the Articles of Association that may be required by law, the completion of the transaction will be prevented if the majority of non-related shareholders cast votes against the transaction, so long as the non-related shareholders present at the General Meeting represent at least 10% of the company share capital with voting rights. The transactions which have been completed in relation to which the RPTC and possibly also the Board of Statutory Auditors has or have produced a negative opinion or noted reservations will be reported to the General Meeting of the Shareholders at least once a year.

4. Whenever there are important updates to make to the disclosing document pursuant to Article 5 of the RRPT (see paragraph II. 1.5), a new version of the document including the information already

published (which may be by reference only) must be made available to the public at the company's Registered Office and in accordance with the procedures set out in Chapter 1, Title II of the Issuers Regulation, prior to the 21st (twenty-first) day preceding the General Meeting.

E. Framework Resolutions

1. Pursuant to Article 12 of the RRPT and to the provisions set out at page 18 of C263, the Board of Directors may pass framework resolutions relating to series of homogeneous transactions with given categories of related parties, applying the rules set out under letters A or B above, depending on the predicted maximum amount of the transactions forming the subject matter of the resolution **considered cumulatively**. A framework resolution may be passed by the Group Holding Company at least in relation to the **conditions to apply to the raising or investment of funds** from or with specific categories of related parties and connected entities (merely by way of example, reference would be made to office-holders of group companies as also to the natural and legal individuals identified as related parties of the same office-holders). The above framework resolution will be received by subsidiary companies as part of the activities of direction and co-ordination carried out by the Group Holding Company pursuant to law.

2. The above framework resolutions will not have force and effect for more than one year and will refer to sufficiently defined transactions, reporting at least the predictable maximum amount of transactions to be carried out over the reference period and the reasons for the conditions laid down.

3. Complete information relating to the implementation of the framework resolutions will be provided to the RPTC, the Board of Directors and Board of Statutory Auditors at least once a quarter.

4. When passing a framework resolution, Banco Desio will publish a disclosure document pursuant to Article 5 of the RRPT (see paragraph II. 1.5) if the predictable maximum of the transactions forming the subject matter of the above resolution exceeds the significance threshold referred to above.

5. The resolution procedure described in letters A or B above will not apply to the individual transactions concluded in implementation of the framework resolution.

6. The transactions concluded in implementation of a framework resolution forming the subject matter of the publication of an information document will not be counted towards the cumulated figure referred to in Article 5 of the RRPT (see paragraph. II.1.5).

F. Decisions to transfer receivable positions to non-performing or default

Decisions concerned with the classification of positions regarding related parties under the categories non-performing or default pursuant to the Bank of Italy Circular no. 272 of 30 July 2008 will be subject to specific reporting requirements to the Board of Directors and the Board of Statutory Auditors within the context of the normal reporting procedures.

II.1.4 – Cases of exclusion

Obligatory exclusions

1. The provisions of the Internal Procedure will **NOT** in any case apply to the **General Meeting resolutions** referred to in the first paragraph of Article 2389 of the Italian Civil Code, **relating to the remuneration entitlement of the members of the Board of Directors and of the Executive Committee or to the resolutions concerned with the remuneration of directors holding particular positions coming within the overall amount set in advance by the General Meeting,** pursuant to the third paragraph of Article 2389, clause 3 of the Italian Civil Code. The provisions of the Internal Procedure will likewise **NOT** apply to **General Meeting resolutions** referred to in Article 2402 of the Italian Civil Code, **relating to the fees to which the Board of Statutory Auditors will be entitled.**

2. Save in the case of compliance with information disclosure obligations (see paragraph II.1.5), the provisions of the Internal Procedure will **NOT** apply to transactions to be carried out based on instructions concerned with stability issued by the supervisory authorities, or on the basis of provisions issued by the Group Holding Company for the implementation of instructions issued by supervisory authorities in the interests of group stability. Equally, they do **NOT** apply to the inter-company fund or collateral transfer transactions effected in the context of the liquidity risk management system at a consolidated level.

Discretionary Exclusions

1. Pursuant to Article 13 of the RRPT and as stated at page 19 of C263, **the provisions of the Internal Procedure will NOT apply to TRANSACTIONS OF NEGLIGIBLE AMOUNT**, this being understood as transactions whose size is such as not to give rise to appreciable risks of conflicts of interest even though concluded with related parties. The negligible amount has been set at €**75,000,** with a possible reduction in analogy to the rule laid down in sub-paragraph 2 of letter B of paragraph II.1.3.

2. Without prejudice to the provisions of Article 5, paragraph 8 of the RRPT concerned with the periodical disclosure of information in the Management Reports (where applicable), **the provisions of the Internal Procedure will also not apply in the cases listed below:**

   a) REMUNERATION PLANS BASED ON FINANCIAL INSTRUMENTS approved by the General Meeting pursuant to Article 114-bis of the Consolidated Finance Law and in any case, pursuant to the supervisory provisions concerned with bank incentive and remuneration schemes as also in the related implementing transactions;

   b) Resolutions other than those coming within the obligatory exclusion (see above), concerned with the **REMUNERATION OF DIRECTORS HOLDING SPECIFIC POSITIONS as well as other managers with strategic responsibilities/office-holders,** on condition that:
   - i) A Remuneration Policy has been adopted by resolution of the General Meeting;
   - ii) A Committee made up exclusively of non-executive directors the majority of whom being independent (the Appointments and Remuneration Committee) has been involved in the drafting of the Remuneration Plan;
   - iii) A report explaining the Remuneration Policy has been submitted to the General Meeting for

approval;

iv) The remuneration assigned is consistent with such policy and in any case complies with supervisory rules relating to bank incentive and remuneration schemes;

c) ORDINARY TRANSACTIONS OF LESSER SIGNIFICANCE (other than those with or between subsidiary companies referred to in letter d) which have been concluded under conditions equivalent to market or standard conditions, this being understood, taking account of what is stated at paragraph 3 of the DEM1, as those transactions coming within the ordinary exercise of operational activities or the financial activities connected with the same, with particular reference to:

- **Banking transactions in the form of the raising and investment of funds;**
- **Treasury and current financial investment transactions;**

The exemption set out under c (ordinary transactions) will only be valid if **the following conditions are satisfied:**

- That the transactions **DO NOT** include aspects of **an atypical or unusual nature** in relation to their subject matter, recurrence, contractual terms and conditions (including the payment characteristics) and the nature of the counterparty;
- That the transactions **ARE NOT** for **amounts greater than that laid down by the Internal Procedure as coming within the exclusive competence of the Board of Directors (for example relating to credit facilities)**[2] or of the Executive Committee as the case may be;

- That the **resolution** passed by the competent body contains elements confirming the "ordinary" nature of the transaction;

- That there are **information flows**, at least in aggregated form, sufficient to allow adequate monitoring of such transactions on at least a yearly basis, including by the RPTC, for the purposes of possible corrective actions.

In the absence of the conditions listed above, the procedure laid down for transactions of lesser significance or greater significance will be applied, depending on the size[2] of the transaction.

Still with reference to c (ordinary transactions), in the case of the exclusion of the public disclosure obligations (see paragraph II.1.5) required for transactions of greater significance, without prejudice to the provisions of Article 114, paragraph 1 of the Consolidated Finance Law:

i) The counterparty, subject matter and the Payments of the transactions benefiting from the exclusion must be communicated to Consob, within the time limit indicated in Article 5, paragraph 3 of the RRPT;

ii) The intermediate and Annual Management Reports must indicate, within the context of the information required under Article 5, paragraph 8 of the RRPT, what transactions subject to information disclosure obligations indicated in the latter provision have been concluded taking

[2] For completeness it should be noted that, as at the date when this procedure came into force, the Board of Directors had exclusive competence for loans of more than €10,000,000

advantage of the exclusion defined in this paragraph;

d) TRANSACTIONS WITH OR BETWEEN SUBSIDIARY COMPANIES pursuant to Article 14 of the RRPT. This exclusion is only valid if the following conditions are satisfied:

- that it is **NOT** possible to identify any **significant interests and, in particular, significant shareholdings[3] held in the above-mentioned companies by other related parties** (including significant interests of directors or managers with strategic responsibilities who are beneficiaries of incentive plans based on financial instruments issued by such companies or in any case, of variable pay depending directly on the results of such companies);
- that the transactions **DO NOT** come within so-called "**Framework Agreements for Service Provision" or in any case contracts of a particularly significant nature** in terms of both quality and quantity with respect to the organisational/administrative structure and/or management (including financial) trends of such companies (purely by way of example: distribution agreements)**.**

If there are significant interests of other related parties and/or agreements of a particularly significant nature, the procedure governing transactions of lesser or greater significance (depending on the size of the transaction) will apply.

Special procedure for transactions resolved on by the Board of Directors pursuant to Article 136 of the Consolidated Banking Law

1. **With regard to Banco Desio**, without prejudice to the fulfilment of the public information disclosure obligations (see paragraph II. 1.5), **whenever the provisions of Article 136 of the Consolidated Banking Law apply to Related Party transactions,** the resulting resolution procedure, where imposed (in particular **the exclusive competence of the Board of Directors to pass resolutions with votes cast in favour by all members of the Board of Statutory Auditors), the provisions of Articles 7 and 8 of the RRPT**, incorporated within the Internal Procedure under letters A and B, will only apply in part as summarised in the following table**.**
2. Equally, so far as **BPS is concerned**, whenever Related Party transactions are also subject to Article 136 of the Consolidated Banking Law, the above-cited provisions will apply in a partial manner, summarised, as before, in the table set out below.

2.bis **If, for prudential reasons**, Related Party transactions are subjected voluntarily to the resolution procedure described in Article 136 of the Consolidated Banking Law, the provisions set out in Articles 7 and 8 of the RRPT (see paragraphs II.1.3.A and B) will be applied in their entirety.

[3] By significant shareholding is normally meant a shareholding in a body with issued listed shares equal to, or more than, 10% of the share capital in a company with listed shares or 20% of the share capital of an unlisted or limited liability company including a foreign company

RRPT provisions		Application to direct or indirect transactions with bank office-holders (Article 136 of the Consolidated Banking Law [4]), by virtue of Article 13.5 of the RRPT	
Article / paragraph / Letter	**Contents**	**Yes**	**NO**
7	**PROCEDURE FOR TRANSACTIONS OF LESSER SIGNIFICANCE**		
7.1.a)	The RPTC is required to produce a reasoned non-binding opinion on the company's interests in the completion of the transaction and on the economic convenience and substantive propriety of the related conditions prior to the approval of the transaction		**X**
7.1.b)*	The RPTC has the power to obtain assistance with related costs paid by the Company, from one or more independent experts chosen by itself.		**X**
7.1.c)*	**Full and adequate information must be provided to the RPTC and the Board of Directors suitably in advance. Whenever the conditions of the transaction have been defined as being equivalent to market or standard conditions, the documents prepared in advance must contain objective corroborating elements to such effect.**	**X**	
7.1.e)*	**The minutes of the RPTC and of the Board of Directors must contain sufficient reasons with regard to the company's interests in the completion of the transaction as also the economic convenience and substantive propriety of the related conditions**	**X**	
7.1.f)*	**Full information must be provided to the RPTC, the Board of Directors and the Board of Statutory Auditors on the performance of the transactions at least on a quarterly basis.**	**X**	
7 . 1 g)	Without prejudice to the provisions of Article 114, paragraph 1 of the Consolidated Finance Law, a document containing an indication of the counterparty, the subject matter and payments made under the transactions approved in the reference		X

[4] Article 136 of the Consolidated Banking Law states that transactions from which direct or indirect obligations are imposed on bank office-holders must be approved by the Board of Directors unanimously and with votes cast in favour by all members of the Board of Statutory Auditors.

	quarter in the case of a negative opinion produced under letter a) together with the reasons why such opinion is not agreed with, must be made available to the public within 15 days from the closure of each quarter of the accounting period at the company's Registered Office and following the procedure described in Chapter 1 of Title II of the Issuers Regulation. Such opinion must be made available to the public within the same time limit or be annexed to the information disclosure document published on the company's internet site.		
8	**ADDITIONAL PROCEDURES FOR TRANSACTIONS OF <u>GREATER</u> SIGNIFICANCE without prejudice to the provisions of Article 7(b)*, (c)*, (e)*, (f)*: see above**		
8.1.a)	A reservation of the competence of the Board of Directors to pass resolutions		(Already granted under the general law)
8.1.b)	**The RPTC or delegated members of the same must be involved in the negotiation stage and investigation stage through receipt of complete and prompt information flow and with the power to request information and make observations to the delegated bodies and individuals charged with the conduct of negotiations or the investigation.**	**X**	
8.1.c)	The Board of Directors may approve the transaction following a favourable opinion with reasons by the RPTC on the company's interests in completing the transaction and on the economic convenience and substantive propriety of the related conditions		X
8.2	Without prejudice to the provisions of the Articles of Association required by law, the Board of Directors may approve transactions of greater significance notwithstanding the issuing of a NEGATIVE opinion by the RPTC so long as the carrying out of such transaction is authorised, pursuant to Article 2364, paragraph 1(5) of the Italian Civil Code, by the General Meeting.		X

3. In the case of **Related Party transactions** carried out by **subsidiary banks or financial companies** to which Article 136 of the Consolidated Banking Law applies, the provisions described above, in particular the requirement to provide the RPTC with information in advance on such transactions, will apply with reference to the provision by which the Group Holding Company's competent body (the Credit Committee in the matter of loans and the CEO for other matters) gives consent as required by the said Article 136, without prejudice, in the case of transactions carried out by BPS, to the requirement for advance information to be given to the RPTC of the transaction concerned.

4. Conversely, in the case of transactions **other than those with related parties** to which the resolution procedure laid down by Article 136 of the Consolidated Banking Law is applicable (for example, transactions with a third party company in which a group company office-holder just happens to hold a position, without such office-holder holding a significant shareholding or other significant interests), **NONE of the provisions described in letters A and B above will apply,** save in the case of voluntary application and without prejudice to the resolution procedure laid down by Article 136 itself and in the Bank Supervisory Instructions (see Annex B2) and, in particular, the exclusive competence of the Board of Directors to pass resolutions with votes cast in favour by all members of the Board of Statutory Auditors. Furthermore, the above does not affect the fact that, **if individual transactions of the above kind are made subject to the above-cited provisions on a voluntary basis, this does not of itself have any effect on the public information disclosure obligations applying to the same.**

II.1.5 – Obligations for the disclosure of information to the public:

Documentary information

1. Under Article 5 of the RRPT, in the event of **transactions of greater significance, including when carried out by Italian or foreign subsidiary companies**, **Banco Desio** will prepare an informative document pursuant to Article 14, paragraph 5 of the Consolidated Finance Law, drawn up in compliance with the RRPT's Annex 4 (at page 21).

2. It will also be necessary to prepare the informative document when **a number of transactions are concluded over the accounting period with the same related party or with parties which are related both to such related party and to the same companies, which are uniform or carried out in the implementation of a unitary design** and which, while not qualifying singly as transactions of greater significance, exceed the aforesaid significance threshold when **considered cumulatively.** For the purposes of these rules, transactions pursuant to Articles 13 and 14 of the RRPT (that is, ordinary, negligible and inter-company transactions as described in paragraph II. 1.4) carried out by Italian or foreign subsidiary companies will **NOT** be taken into account, **NOR** will any transactions voluntarily subjected to a stricter resolution procedure than what is obligatory.

3. Without prejudice to the provisions of Article 114, paragraph 1 of the Consolidated Finance Law, the informative document must be made available to the public at the company's Registered Office in accordance with the procedure indicated in Chapter 1, Title II of the Issuers Regulation within 7 (seven) days from the approval of the transaction by the competent body or, if the competent body resolves to present a contractual proposal, from the moment at which the contract, even if only a preliminary contract, is concluded according to the applicable law. In the cases where the General Meeting is the competent or authorising body, the same informative document must be made available within 7 (seven)

days from the approval of the proposal to submit to the General Meeting.

4. In a case in which the significance threshold is exceeded as a result of the accumulation of transactions described above, the informative document will be made available to the public within 15 (fifteen) days from the approval of the transaction or the conclusion of the contract resulting in the crossing of the significance threshold and must contain information, including from an aggregation of the information applying to the homogeneous contracts, on all the transactions considered for the purposes of the accumulation.

5. If the transactions resulting in the crossing of the significance threshold are carried out by **subsidiary companies**, the informative document must be made available to the public within fifteen days from the moment when the company required to prepare such document has notice of the approval of the transaction or the conclusion of the contract resulting in the relevant degree of significance. Under Article 114, paragraph 2 of the Consolidated Finance Law, the company required to draw up the document must issue instructions requesting the subsidiary companies to provide the information necessary for the preparation of the document. The subsidiary companies are required to forward such information immediately.

6. For more detailed provisions reference should be made to Article 5 of the RRPT.

Management Reports

1. Information is provided in Banco Desio's Intermediary Management Report and its Annual Management Report pursuant to Article 154-ter of the Consolidated Law:

   a) On **individual transactions of greater significance** concluded over the reference period;

   b) On **any other individual transactions** with related parties as defined by the second paragraph of Article 2427 of the Italian Civil Code, concluded over the reference period and **which have exerted an important influence over the asset situation or the companies' results**;

   c) On any amendment or development of transactions with related parties described in the previous annual report having a significant effect on the asset situation or the companies' results over the reference period.

2. Information on individual transactions of greater significance may be included by reference to published informative documents, setting out any significant updates to the same.

3. Further details of an accounting nature will be set out in a specific section of the **Notes to the Financial Statements** in compliance with the civil law and supervisory provisions concerned with Financial Statements.

Press releases

1. Under Article 6 of the RTRP, if a transaction with related parties is also subject to communication obligations laid down by Article 114, paragraph 1 of the Consolidated law, the following information

should be set out in **Banco Desio's** press releases communicated to the public, in addition to the other information to be published under the same provision:

a) The fact that the transaction counterparty is a related party and the description of the nature of the relationship;

b) The transaction Counterparty's name or trading name;

c) Whether or not the transaction exceeds the significance threshold and an indication of any subsequent publishing of an informative document;

d) The procedure which has been or will be followed for the approval of the transaction and, in particular, whether the company has opted for one of the cases of exclusion;

e) If the transaction has been approved notwithstanding the unfavourable opinion of the RPTC.

Chapter II.2. – LIMITS ON THE BANKING GROUP'S RISK ASSETS IN DEALINGS WITH THE GROUP'S CONNECTED PARTIES

Limits on **risk assets** taken on by the banking group and the duty to **inform** the supervisory authorities refer to Group connected parties.

Risk assets mean net exposures as defined by regulations concerned with risk concentration (see paragraph 3, section I, Chapter 1, Title V of the new prudent supervisory provisions for banks set out in Circular no. 263 of 27 December 2006 and "Instructions for the drawing up of reports on regulatory assets and prudential coefficients" – Section 5 of Circular no. 155 of 18 December 1991).

11.2.1 Prudential limits

Each organisational unit of the banking group is required to observe both the individual and consolidated limits on risk assets involved in dealings with all Connected Parties as laid down by C263.

Risk assets are calculated in accordance with the procedures set out in C263 (see paragraph 2 of Section II, Chapter 5, Title V).

Risk assets connected to transactions carried out between all companies belonging to the banking Group are excluded from the application of prudential limits. This exemption does not however extend to companies not coming within the banking Group (e.g. insurance companies and non-financial or non-instrumental companies).

In the management of its assets, each organisational unit of the banking Group is required to establish immediately, as a preliminary step, whether the transactions which it is responsible for investigating involve the taking on of risk assets as against Group related parties and if so, whether such assets come within the prudential limits indicated in C263 and are in any case permitted on the basis of risk appetite levels established in compliance with these provisions.

To such end the banking Group will adopt appropriate operational procedures and IT systems which make it possible to check during the investigation whether the risk assets proposed fall within the pre-set limits and may therefore be acquired.

As further protection to ensure the restriction of transactions within the fixed prudential limits, the **Risk Management and Compliance Division** makes proposals to the **Board of Directors** on an annual basis, following the involvement of the other interested Group Holding Company structures, relating to total exposures of the banking Group as a whole against Group related parties exceeding a **warning threshold of 2%** of the consolidated regulatory assets, for specific maximum figures for Group exposure levels.

The subsidiary Italian bank (BPS) adopts measures intended to ensure compliance with prudential limits as a ratio of the individual regulatory assets, co-ordinating with the competent Group functions in relation to the type of risk to be borne.

II.2.2 Cases where limits are exceeded

Without prejudice to the need to comply with the prudential limits for risk assets involving Connected Parties on a continuing basis, if one or more limits are exceeded for reasons independent of the wishes or fault of the subsidiary company or of the Group Holding Company (for example, in circumstances where the connected party takes on such status after the initiation of the relationship), the risk assets must be brought back within the limits in the shortest possible time.

In such a case, the **Risk Management and Compliance Division**, following checks with the **Administrative Management**, will provide information immediately to the **Control and Risks Committee** and the **Board of Directors.**

Where limits are exceeded, the **CEO** will instruct the competent structure to draw up a remedial plan to be submitted to the **Board of Directors** for resolution within 45 days from the date when limits were exceeded. The remedial plan will be sent by the **Legal and corporate Affairs Management** to the Bank of Italy within 20 days from its approval, accompanied by the minutes containing the resolutions of the bodies concerned. If the exceeding of limits relates to a Connected Party deriving from a shareholding in Banco Desio or in another company of the bank Group, the administrative rights connected with the shareholding will be suspended.

Equivalent procedures will be adopted in the case where individual limits have been exceeded by an Italian subsidiary bank with the involvement of the company bodies of the affected bank and the Group Holding Company's competent functions. This may involve an assessment of possible measures to be taken including the issue of a guarantee by the Group Holding Company for the benefit of the affected Italian bank.

In the context of the Internal Capital Adequacy Assessment Process (ICAAP) pursuant to the prudential supervisory regulations, the **Board of Directors** (following consideration by the Control and Risks Committee) will assess the risks associated with Connected Party transactions (of a legal and reputational nature and involving conflict of interests) and whether significant for business transactions.

In cases where prudential limits have been exceeded for the reasons indicated above, in addition to the

initiatives contained in the remedial plan, the excess is taken into account in the overall internal capital calculation process.

Chapter II.3 –ORGANISATIONAL CONTROLS AND MEASURES

In this regard, the measures for the implementation of Group internal control policies contained in specific operational procedures have been drawn up consistently with the guidelines set out below and are designed to ensure compliance with prudential limits and resolution procedures laid down by this Procedure.

II.3.1. Measures for the management of conflicts of interest

II.3.1.1 The management of the personal interests of office-holders, staff and collaborators of the business, including when not Connected Parties, coming within the "Most important Staff" as defined in remuneration regulations,

Without prejudice to the rules applied to Connected Parties, it is important to control risk of personal conflicts of interest which might compromise the propriety of transactions conducted by group companies, including when such interests refer to a wider group of office-holders, staff and collaborators than those coming within the definition of connected parties. It is thus necessary to require office-holders, staff and collaborators of the Group coming within the **"Most Important Staff"** category to adopt a number of **rules of conduct of particular prudence** in the management of any business asset which might give rise to situations of personal conflict of interest.

As a consequence, **those office-holders, staff and collaborators** coming within the **"Most Important Staff"** category are required, in exercising their respective functions, **to avoid** taking decisions and carrying out activities that are **contrary to, or in conflict with the interests** of the Company and/or the Group or in any case which are incompatible with their duties**.**

Group company **office-holders** must also, so far as possible, **forestall** situations characterised by a conflict (even where only potential) between their interests and those of the company and/or of the group, being in any case required to **give notice** in the forms laid down by law and any internal regulations, of **any interest** they may have, either personally or on behalf of third parties, in specific company and/or group transactions.

Employees and collaborators coming within the **"Most Important Staff"** category are required to **avoid** all situations and activities bringing them into situations of **conflict of interest,** even if only potential and whether for themselves or on behalf of third parties, being obliged not to take part in the transaction to which the conflict refers, giving notice of the same to his or her hierarchical manager (or, in the case of collaborators, to the related business contact). The manager or business contact will then assess the significance and risk of potential conflict and, as the case may be, assign the conduct of the transaction to other staff or deal with it directly him or herself.

II.3.2 The determination of risk appetite as against Group Connected Parties

The Group's risk appetite, including asset components referring to Group Connected Parties, both as a whole and in relation to specific groups of connected counterparties, has been defined in a specific "Policy", consistently with the principles of the so-called "Risk Appetite Framework", proposed by the **Risk Management and Compliance Division** and submitted for approval by the **Board of Directors**

following its examination by the **Control and Risks Committee.**

At the Group level these principles are defined in terms of limits both to ensure oversight of the risk profile as a whole (with particular reference to capital adequacy and the liquidity position) and of specific significant risks including those associated with Connected Party concentration.

These latter, in addition to the management of profiles substantially legal and reputational in nature, are managed both through monitoring and containment measures seeking to anticipate the evolution of group assets and through valuations effected as part of ICAAP.

In particular, there is a "Limit on Group Connected Parties" setting the maximum amount of overall risk assets (referring to risk-weighted assets in accordance with the Large scale Risks communication required for the limit on individual companies laid down by the law) in dealings with all such parties. This limit is defined at least once a year in the context of the Risk Appetite Framework, with the assessment of the trends of the effect such risk assets have had on regulatory assets over the last three-year period and the related composition of risk in terms of type.

The Risk Management and Compliance Division, working in concert with the other interested functions, proposes management measures and possible remedial plans if limits have been exceeded, for approval by the competent company bodies.

The "Group Connected Parties Limit" and the situation regarding individual limits defined at paragraph II.2 – also subject to ex-ante checking during the investigation stage as mentioned in the same paragraph – are subject to periodical monitoring.

II.3.3 Procedures for the identification of Group Connected Parties

In the management of their own ordinary and extraordinary activities, each Group organisational unit is required to check immediately and at a preliminary stage whether the transactions for which it is responsible for investigating comes within the definition of a transaction with a Group Connected Party.

The Group is required to adopt operational procedures and computer systems designed to make it easier during the investigation to establish whether the counterparties to a transaction can be identified as Group Connected Parties.

To such end, the **Legal and Corporate Affairs Management** requires all Group connected parties to provide all information necessary to keep the internal control Operational Procedures updated and, in particular, any details of family ties and shareholding relationships to which confidentiality measures are applicable. Even though these are not Group Connected Parties, the Group Holding Company and the Italian subsidiary bank record relations up to the second degree of kinship of connected parties as close family members, keeping such information available in the event of any requests from the Bank of Italy.

The above Management division identifies the perimeters of Connected Parties for the entire banking group.

The recipients of the above-described requests are required to cooperate with the Legal and Corporate Affairs Division to ensure that it is able to maintain continuous, correct and complete records of Connected Parties in particular with regard to the identification of Connected Persons (which each organisational unit of the banking group is required to carry out within the limits of due diligence, including on an "ex post" basis, as soon as new relations are established with such persons and in the context of the related investigations).

- **Credit Management** (the Loans Office and Personal Records) is responsible for overseeing the management of the Group's economic links with reference to Connected Parties on the basis of the information collected by **Legal and Corporate Affairs Management.**

- **Legal and Corporate Affairs Management and Credit Management** provide assistance to **Organisation and Systems Management** in order to ensure that Operational Procedures and IT tools are in place capable of identifying the relations of significance for the qualification of counterparties as Group Connected Parties on a continuous basis.

II.3.4 The Adoption of Organisational Procedures and IT Systems

- **Legal and Corporate Affairs Management**, in co-ordination with the **Risk Management and Compliance Division** (in the context of the provisions of the consolidated compliance law**)**, assesses the impact of the applicable law on the business organisation, directing the management of non-compliance risks and associated legislative safeguards, supporting **Organisation and Systems Management** in order to ensure that operational procedures and IT systems are in place to regulate the transactions resolution procedure and information disclosure to the competent bodies and the market.

- **The Risk Management and Compliance Division,** in addition to the above-described activities of indirect legislative oversight carried out in co-ordination with **Legal and Corporate Affairs,** provides support to **Organisation and Systems Management** by ensuring the drafting of appropriate Organisational Procedures and IT systems making it possible to check whether the risk assets are within the legislative limits and the maximum group exposure figure decided by the competent bodies, also ensuring the continuing observance of the same.

- **Credit Management** provides support to **Organization and Systems Management** in order to ensure the availability of the appropriate Operational Procedures so that the loan investigation is able to establish whether the proposed risk assets come within the legislative limits and maximum Group exposure determined by the competent bodies. It also makes sure that the Italian subsidiary bank applies these provisions in its relations with connected parties.

- **Administrative Management** supports **Organization and Systems Management** in the preparation of Operational Procedures and IT systems ensuring the correctness of the supervisory communications made to the Bank of Italy in relation to Group Connected Parties at both a consolidated and individual level within the time-limits laid down by C263. **Administrative Management** also makes sure that the subsidiary Italian bank complies with its communication obligations at an individual level.

- The **Manager Responsible for Accounting Documents** ensures the recording of the necessary information on transactions with Connected Parties in the context of the periodical financial reporting.

- **Organization and Systems Management**, on request by the management divisions mentioned above and with their support, guarantees the implementation of the Operational Procedures, as well as the design, completion and management of the technological infrastructure and the integrated IT systems with business processes and makes sure that they are rolled out to Group structures in compliance with the Guidelines and Group service agreements so that the latter are able to comply with the duties laid down by the relevant applicable legislation.

II.3.5 Roles and Responsibilities in the context of internal control processes

Without prejudice to the competence of the Board of Directors in relation to the adequacy and efficiency of the internal control systems, the **Control and Risks Committee** will, within the ambit of its powers defined by the Internal Regulation, assess the effectiveness and functionality of the Operational Procedure and the IT systems in supporting the correct application of these provisions. To such end it will receive periodical reports from the second and third level control functions and maintain an appropriate information exchange with the **Related Parties Transactions Committee.**

Legal and Corporate Affairs Management will ensure an adequate oversight of the law in the related processes, working in co-ordination with the **Risk Management and Compliance Division** (in the context of the Consolidated Compliance Law). It will make sure that periodical reports are made to company bodies in this regard on the activities carried out and the interventions identified.

The Risk Management and Compliance Division is responsible for the measurement of risk (including market risk) underlying relations with Group connected Parties, ensuring that the prudential limit management process is effective and complies with the reference regulations. It checks compliance with the limits assigned to the different structures and operational units and checks that the transactions of each are consistent with the risk appetite levels defined in internal policies. This is without prejudice to the responsibility of each structure or operational unit which carries out risk activities in dealings with Group Connected Parties to check continuing compliance with the prudential limits laid down by the law and the maximum Group exposures decided by Group bodies.

Administrative Management ensures compliance with duties of supervisory reporting at both the Group and individual company level. It also carries out appropriate checks in the context of the purchasing policy.

The Manager with responsibility for accounting documents ensures that there are sufficient accounting safeguards relating to information on transactions with Connected Parties in the context of the provisions of the Consolidated financial Reporting law.

Internal Audit Management confirms compliance with these provisions and the related implementing procedures, informing the **Board of Directors** immediately of any anomalies identified by its auditing activities. As part of its periodical reports to Group bodies, it makes reference to risks deriving

from transactions with Group Connected Parties and other conflicts of interest, if necessary recommending a review of internal policies and organisational and control structures considered appropriate in order to strengthen control over such risks.

Chapter II.4 GROUP IMPLEMENTATION PROVISIONS AND PERIODICAL REVIEWS OF THE INTERNAL PROCEDURE

1. The implementing provisions applicable to this Internal Procedure, including in relation to subsidiary companies, are issued by the Group Holding Company CEO, without prejudice to the provisions of paragraph II. 1.1 with reference to the Procedure's application to subsidiaries[5], whose bodies responsible for management, strategic supervision and control are required to adopt the provisions coming within their competence. The implementing provisions concerned are communicated to the RPTC at its first meeting following their introduction.

2. In compliance with the recommendations set out in paragraph 6 of the DEM1, this Internal Procedure will be subject to general review under the responsibility of Legal and Corporate Affairs Management at least once every three years and, in any case, following any changes to the reference legislation except where, following the opinion of the RPTC, the Board of Directors resolves NOT to carry out such a review following assessments which must in any case be effected on the occasion of the annual report on company governance pursuant to Article 123-bis of the Consolidated Finance Law on the functioning of the Procedure.

Final Provisions

The Internal Procedure, updated in compliance with C263, is made public on the Internet site of Banco Desio and BPS.

Any positions as against Connected Parties which may be in excess of the limits laid down by C263 as at 31 December 2012 must be brought back within prudential limits by 31 December 2017

[5] Each subsidiary company not being an Italian bank – in addition to being required to formally receive this group procedure by means of a resolution of the Board of Directors – must in any case adopt the specific procedures required by its sector or national legislation, ensuring that it is consistent with this Internal Procedure. To such end, the specific procedures adopted by subsidiary companies must be made known to the RPTC at its first possible meeting after issue.

LEGISLATIVE APPENDIX

CIVIL CODE

Article 2391-bis
Related party Transactions

The Administrative Bodies of companies that resort to the risk capital market will be required to adopt, in accordance with general principles indicated by Consob, regulations which ensure the transparency and substantive and procedural correctness of transactions with related parties, disclosing the same as part of the management report; for these purposes, they may be assisted by independent experts, in accordance with the nature, the value or the characteristics of the transaction.

The principles in the first paragraph will apply to transactions carried out directly or through subsidiary companies and will govern the transactions themselves in terms of decision-making competence, motivation and documentation. The control body will monitor the observance of the rules adopted in accordance with the first paragraph and will make reference to the same in its report to the General Meeting.

Article 2343-bis
Company purchases from promoters, founders, shareholders and directors

Any purchase by the company of property or receivables from promoters, founders, shareholders or directors for a consideration equal to or higher than one tenth of the company's share capital, within two years from the registration of the company in the Business Register, must be authorized by the Ordinary General Meeting of the shareholders.

The seller must submit a sworn report of an expert appointed by the court of the district in which the company has its registered office, containing a description of the property or the receivables, the value ascribed to each item of property or receivable, the criteria of evaluation applied, together with an attestation that such value is not lower than the price which must in any event be specified.

The report must be deposited at the registered office of the company during the fifteen days preceding the General Meeting. The shareholders will be entitled to examine the report. Within thirty days from the authorization, the minutes of the meeting, together with the report of the expert appointed by the court, must be filed by the directors with the Business Register Office.

The provisions of this Article will not apply to purchases which are effected under normal conditions in the context of the day-to-day business transactions of the company or those that occur in regulated markets or under the control of judicial or administrative authorities.

In the event of any breaches of the provisions of this Article, the directors and the transferor shall be jointly and severally liable for any damage caused to the company, the shareholders or third parties.

Article 2358
Other transactions on company's own shares

The company will not be able to grant loans or give guarantees for the purchase of, or the subscription to, its own shares, whether directly or indirectly except on the conditions laid down in this Article.

Such transactions must receive prior approval from the Extraordinary General Meeting of the Shareholders.

The directors of the company will be required to prepare a report explaining the transaction from a legal and economic perspective, describing its terms and conditions and highlighting the economic reasons and objectives justifying it, the company's specific interests in its completion, any risks associated with the transaction with respect to company liquidity and solvency, and indicating the price at which the third party will purchase the shares. In the report, the directors will also confirm that the transaction will be performed under market conditions, in particular with regard to the guarantees provided and the interest rate applied for the repayment of the loan, confirming that the creditworthiness of the counterparty has been duly assessed. The report will be deposited at the registered office of the company during the thirty days preceding the General Meeting. The minutes of the General Meeting, together with the directors' report, must be filed with the Business Register for registration within 30 days.

In derogation of Article 2357-ter, when the monies or guarantees provided pursuant to this Article are used for the purchase of the shares held by the company pursuant to Articles 2357 and 2357-bis, the extraordinary General Meeting will be required to authorize the directors to dispose of such shares by the resolution described in paragraph 2 of this Article. The purchase price of the shares will be determined in accordance with the criteria set out in the second paragraph of Article 2437-ter. In case of shares traded in a regulated market the purchase price must be at least the weighted average price at which the shares have been traded during the six months preceding the date of publishing of the notice calling the General Meeting.

If the company has granted loans or guarantees for the purchase of, or subscription to, its own shares to individual directors of the company or of the controlling company or to the controlling company itself or to third parties acting in their own name but on behalf of the above-mentioned parties, the report referred to in the third paragraph must also confirm that the transaction is in the best interests of the company.

The total amount of the funds used and of the guarantees granted pursuant to this Article may not exceed the limit represented by distributable profits and available reserves as shown in the last duly approved financial statements, also taking into account any purchase by the company of its own shares in accordance with Article 2357. A reserve not available for distribution equal to the total amount of the funds used and of the guarantees granted must be entered under Liabilities in the financial statements.

The company may not, even through a trustee company or a nominee, accept its own shares as security.

Save as provided for in the sixth paragraph, the provisions of the present Article will not apply to those transactions designed to promote the purchase of the company shares by employees of the company or by those of controlling or subsidiary companies.

The above shall be without prejudice to the provisions of Articles 2391-bis and 2501-bis.

Article 2373
Conflict of interest

Any resolutions passed due to the determining votes of those with a direct conflict of interest with the company or acting on behalf of third parties with such an interest, may be challenged pursuant to Article 2377 if potentially damaging to the latter.

Directors may not vote on resolutions affecting their own liability. The members of the management board may not vote on resolutions relating to the appointment, revocation or liability of the members of the supervisory board.

Article 2391
Interests of the directors

A director must inform the other directors and the board of statutory auditors of any interest he may have in a specific company transaction either himself or on behalf of third parties, specifying the nature, terms, origin and extent thereof; if the director is a managing director he must refrain from the transaction, transferring the related responsibility to the board, if a sole director, he must give notice of the same to the General Meeting;

In the cases described in the previous paragraph, the resolution of the board of directors must adequately justify the reasons and the suitability of the transaction for the company.

In the event of non-compliance with the provisions of the two previous paragraphs of this Article or if the resolutions of the board of directors or the executive committee adopted with the deciding vote of the director concerned, the resolutions themselves, if harmful to the company, may be challenged by the directors or the board of statutory auditors within ninety days from the date of their adoption. If the disclosure requirements provided for in paragraph 1 have been met, such a challenge cannot be proposed by a person who voted in favour of the resolution. In any case, the rights acquired by third parties in good faith on the basis of acts carried out in performance of the resolution will be unaffected.

The director will be liable for the damage caused to the company due to his actions or omissions.

The director will also be liable for damage which may be caused to the company from the use for his own benefit or for that of third parties of data, information or business opportunities obtained in connection with his office.

Article 2497
Liability

Companies or entities which act in the business interests of themselves or others in violation of the principles of correct corporate and business management of companies for which they carry out direction and coordination activities, will be directly liable both to the shareholders of the latter companies for the prejudice caused to the profitability and the value of the shareholding and to the company creditors for the damage caused to the integrity of the corporate assets and liabilities. There will be no such liability when no damage is caused in light of the overall results of the direction and coordination activities or when any damage is eliminated as a consequence of specific transactions carried out to this purpose.

All contributing to the damaging event and all knowingly obtaining advantage from the same will in any case be jointly and severally liable within the limits of the actual advantage so obtained.

Shareholders and company creditors may take action against the company or the entity which exercises direction and coordination activities, but only if their claims have not been met by the company subject to such activities.

In case of bankruptcy, compulsory administrative liquidation and special administration of companies subject to the direction and coordination of others, the action which creditors are entitled to take against such companies will be exercised by the bankruptcy receiver or the receiver or the special receiver.

Article 2497-bis
Publicity

The company shall indicate the company or entity to whose direction and coordination activities it is subject in its papers and correspondence, as well as by registration, under the directors' responsibility, in the relevant section of the Business Register referred to in the following paragraph.

A specific section of the Business Register is hereby established for the registration both of companies or entities carrying out direction and coordination activities and those which are subject to such activities.

Directors who omit the indication provided for in the first paragraph or the registration provided for in the second paragraph, or maintain the same after subjection to such activities has ceased, will be liable for the damage caused to the shareholders or third parties by the absence of such knowledge.

The company must set out in a specific section of its Notes to the Financial Statements, a summary of the essential data of the last Financial Statements of the company or entity to whose activities of direction and coordination it is subject.

At the same time the directors must provide details of relations maintained both with the party carrying out direction and coordination activities and with the other companies also subject to the same, as well as the effects that such activities have had on the company's Financial Statements and relevant results in their management report.

Article 2497-ter
Reason for decisions

When decisions of companies subject to direction and coordination activities are influenced by the same, they must be supported by analytical reasoning and contain precise indications of the reasons and interests whose assessment has had a bearing on the decision. The report under Article 2428 must provide an adequate account of the same.

Article 2497-quarter
Right of withdrawal

A shareholder of a company subject to activities of direction and coordination may withdraw: a) when the company or entity exercising such direction and coordination activities resolves on a transformation that implies a modification of the company objects or resolves on an amendment of the company objects permitting the carrying out of activities which significantly and directly alter the economic and financial conditions of the company subject to the direction and coordination activities; b) when pursuant to Article 2497 the shareholder has obtained an enforceable judgement against the body exercising direction and coordination activities; in this case the right of withdrawal may only be exercised in relation to the shareholder's entire shareholding; c) when the activities of direction and coordination begin and end providing the company's shares are not listed on regulated markets, such change results in an alteration of the risk conditions of the investment and no public offer for the acquisition of the company is made.

As the case may be and so far as applicable, the provisions governing shareholders' right of withdrawal from stockholding and limited liability companies will apply.

Article 2497-quinquies
Loans in the context of direction and coordination activities

Article 2467 shall apply to loans made to the company by the body exercising direction and coordination activities over it or by other parties subject to the same.

Article 2497-sexies
Presumptions

For the purposes of this section, it will be presumed, save in the event of evidence to the contrary, that the direction and coordination activities are exercised by the company or entity required to consolidate their Financial Statements or in any case has control over the same pursuant to Article 2359.

Article 2497-septies
Coordination between companies

The provisions of this head shall also apply to any company or entity which, excepting the cases provided for under Article 2497-sexies, exercises direction and coordination activities either under a contract entered into with such companies or pursuant to provisions of their Articles of Association.

CONSOLIDATED FINANCIAL LAW

Article 113-ter
(General provisions on regulated disclosures)

1. Regulated disclosures shall mean disclosures published by listed issuers, listed issuers with Italy as their member state of origin or parties controlling the same, pursuant to the provisions of Chapter I and Sections I, I-bis and V-bis of Chapter II of this Title and the related implementing regulations or provisions enacted by non-EU countries considered to be equivalent by Consob.

2. Regulated disclosures must be filed with Consob and the Stock Exchange management company to which the issuer applied for, or which approved, the trading of its securities or closed fund units in order to permit such company to exercise its functions pursuant to Article 64, paragraph 1.

3. Consob, in the exercise of its powers pursuant to this Title, will lay down procedures and time limits for the regulated disclosure, without prejudice to the requirement of its publication in daily newspapers, account having been taken of the nature of such information, in order to ensure rapid, non-discriminatory access to the same, being reasonably appropriate to ensure its effective disclosure throughout the European Community.

4. Consob:

a) Will authorise third parties to the issuer to perform the services required for the regulated disclosure;

b) Will authorise the establishment of a service for the central storage of the information deriving from the regulated disclosures;

c) Will itself organise and manage the central information storage service in the absence of authorised parties pursuant to paragraph b).

5. Consob will issue regulations dealing with the following aspects of regulated disclosures:

a) The procedures and time limits for the filing of the same pursuant to paragraph 2;

b) Requirements and conditions for the issue of the authorisation applying to the performance of the disclosure services, as well as rules for the conduct of such activities having regard to the objectives defined in paragraph 3;

c) Requirements and conditions for the issue of authorisation for the performance of the information storage service, as well as provisions governing the performance of such activities ensuring security, certainty as to the information source, the recording of the date and time the information in the regulated disclosure is received, easy access for end users and procedures aligned with those applying to the filing of such information with Consob;

d) The language in which the disclosures must be communicated;

e) Any exemptions from the obligations of filing, disclosure and storage in compliance with Community rules.

6. If a party requests the admission of securities or closed fund units for trading on a regulated market without the consent of the issuer, the regulated disclosure obligations must be complied with by the said party, except where the regulated disclosure to the public is effected by the issuer in accordance with the law of its country of origin as required by Community law.

7. Parties required to make regulated disclosures to the public may not impose charges for such disclosure.

8. Consob may make public the fact that parties required to effect regulated disclosures have not complied with their obligations.

9. Without prejudice to the provisions of Article 64, paragraph 1-bis, Consob may:

a) Suspend, or request that the interested regulated market suspend trading in the securities or closed fund units for a maximum of ten days if it has reasonable grounds to suspect that a party required to make regulated disclosures pursuant to this Article has not complied with the provisions relating to such regulated disclosures;

b) Prohibit trading in another regulated market if it establishes that the provisions indicated under letter a) have not been complied with.

Article 114
(Information for public Disclosure)

1. Without prejudice to publication obligations laid down by specific legal provisions, listed issuers and the parties controlling them will be required to disclose insider information as defined under Article 181 directly concerning such issuers and their subsidiaries to the public without delay. Consob will issue regulations governing the procedures and time limits for the disclosure of the information, without prejudice to the requirement to publish the same on daily national newspapers and lay down rules for the co-ordination of the functions of market management companies with its own and may impose duties on the latter for the proper performance of the functions defined under Article 64, paragraph 1, letter b).

2. Listed issuers will be required to give appropriate instructions to their subsidiaries so they provide all the information necessary to comply with the information disclosure requirements established by law. The subsidiaries must send the information required without delay.

3. The parties described in paragraph 1 may, under their own liability, delay public disclosure of the insider information in accordance with the cases and under the conditions laid down by Consob regulations, always provided that this does not mislead the public with regard to essential facts and circumstances and that such parties are able to guarantee the confidentiality of the same. Consob may issue regulations requiring the issuer to inform it forthwith of the decision to delay such public disclosure of insider information and to identify the measures necessary to ensure the public is correctly informed.

4. If a party referred to in paragraph 1 or a person acting in their name or on their account discloses the information described in paragraph 1 in the normal performance of their work, profession, function or office, to a third party not bound by an obligation of confidentiality under law, regulation, Articles of Association or contract, the same parties referred to in paragraph 1, will effect full public disclosure of such information simultaneously in the case of intentional disclosure and without delay in the case of non-intentional disclosure.

5. Consob may, including in terms of a general nature, require parties indicated in paragraph 1, listed issuers for which Italy is their Member State of origin, members of administration and control bodies and managers, as well as parties with a significant shareholding pursuant to Article 120 or parties to an agreement of the kind defined under Article 122, to make public disclosure, according to the procedures defined by it, of the information and documents necessary to inform the public. In default Consob will publish such materials directly itself at their expense.

6. If the parties indicated in paragraph 1 or listed issuers with Italy as their Member State of origin oppose the public disclosure required under paragraph 5 with an application supported by reasons, on the grounds that it could cause them serious loss and damage, the disclosure obligations will be suspended. Consob may exclude the disclosure of the information within 7 days, including partially or temporarily, providing always that this will not mislead the public in relation to essential facts and circumstances. On the expiry of the above time limit, the opposition will be deemed to have been accepted.

7. Parties who carry out functions of administration, control or direction in a listed issuer and managers who have regular access to insider information as described in paragraph 1 and have decision-making powers in management capable of influencing the development and future prospects of the listed issuer, anyone owning shares of at least 10 percent of the share capital, as well as any other party with control over the listed issuer, will be required to disclose all operations regarding shares issued by the Issuer or other financial instruments connected with the same and effected by them, even through intermediaries, to both Consob and the public. Such disclosure is also required in the case of operations effected by a spouse not subject to legal separation, dependent children, including of the spouse, as well as parents, relatives by blood or

marriage of the parties indicated above, as well as in the other cases defined by Consob in regulations in implementation of EC Directive 2004/72 of the Commission of 29 April 2004. Consob will use the same regulation to identify the transactions, procedures and time limits for the communications, the procedures and time limits for the public disclosure of information and the cases in which such obligations will apply, including for companies having control relations with the issuer, as well as any other entity in which the parties indicated above perform the functions described in the first sentence of this paragraph.

8. Parties which produce or disseminate research or assessments, excluding rating companies, regarding the financial instruments indicated in Article 180, paragraph 1, letter a), or the issuers of such instruments,, as well as parties producing or disseminating other information recommending or proposing investment strategies intended for distribution channels or for the public must present the information fairly and disclose any interest or conflict of interest they may have with respect to the financial instruments to which the information refers.

9. Consob will issue regulations containing the following:
a) Implementation provisions for the matters referred to in paragraph 8;
b) The manner of publication of the research and information described in paragraph 8 produced or disseminated by listed issuers or authorised parties, as well as parties having control relations with the latter.

10. Without prejudice to the provisions of paragraph 8, the regulations issued under paragraph 9, letter a) will not apply to journalists subject to equivalent self-regulatory rules provided that the application of the latter achieves similar effects. Consob will assess whether such conditions exist on a preliminary basis and generally.

11. Institutions that disseminate data or statistics liable to have a significant effect on the price of financial instruments referred to in Article 180(1) (a) shall disseminate such information in a fair and transparent way.

12. The provisions of this article shall also apply to Italian and foreign parties which issue financial instruments for which an application has been made for admission to trading on Italian regulated markets.

Article 115
(Information to be provided to Consob)

1. For the purposes of monitoring the accuracy of information provided to the public, Consob, on a general basis or otherwise, may:
a) require listed issuers, listed issuers with Italy as their Member State of origin, the parties controlling them and companies controlled by them to provide information and documents, establishing the related procedures
b) obtain information, including orally, from members of the company bodies, General Managers, managers responsible for the drawing up of accounting and company documents and other managers, from the legal auditors and legal auditing companies the parties and companies indicated in letter a);
c) conduct inspections at the premises of parties indicated in letters a) and b), in order to check business documents and obtain copies of the same;
c-bis) exercise the additional powers laid down by Article 187-octies.

2. The powers laid down by paragraphs a), b) and c) may be exercised as against parties owning a significant shareholding pursuant to Article 120 or which are parties to an agreement as defined by Article 122.

3. Consob may likewise request the companies or entities owning shareholdings in companies with listed shares, whether directly or indirectly, on the basis of the available information, for details of the names of their shareholders and, in the case of trust companies, their beneficiaries.

Article 154-ter
(Financial Relations)

1. Without prejudice to the provisions of the second paragraph of Article 2364 and the second paragraph of 2364-bis of the Italian Civil Code, listed issuers whose Member State of origin is Italy will be required to make their annual Financial Report including the draft Financial Statements for the accounting period together with their Consolidated Financial Statements when drawn up, the report on management and the attestation pursuant to Article 154-bis, paragraph 5, available to the public at their Registered Office, on their Internet site and in accordance with the other procedures prescribed by Consob through regulations within 120 days from the closure of the accounting period. The Audit Reports drawn up by the legal auditor or the legal auditing company, as well as the reports described in Article 153 must be made available to the public in their entirety together with the annual financial report.

1-bis. There must be a period of at least twenty-one days between the publication required under paragraph 1 and the date of the General Meeting.

1-ter. In derogation of the first paragraph of Article 2429 of the Cc, the draft period Financial Statements must be communicated by the Board of Directors to the Board of Statutory Auditors and the auditing company together with the Management Report, at least 15 days prior to the publication required under paragraph 1.

2. Listed issuers with Italy as their Member State of origin will be required to publish a six-month financial report including a six-monthly abridged version of the Financial Statements, an interim report on management and the attestation pursuant to Article 154-bis, paragraph 5, within sixty days from the end of the first six months of the accounting period. When drawn up, the abbreviated report on the six-monthly Financial Statements by the legal auditor or the legal auditing company must be published in full within the same time limit.

3. The abridged six-monthly Financial Statements referred to in paragraph 2 must be drawn up in compliance with the applicable international accounting standards as recognised in the European Community pursuant to EC Regulation 1606/2002. Such Financial Statements will be drawn up in consolidated form if the listed issuer with Italy as its Member State of origin is required to draw up Consolidated Financial Statements.

4. The interim management report must contain at least references to the most important events that have occurred in the first six months of the accounting period and their influence on the abbreviated six-monthly Financial Statements, as well as a description of the main risks and uncertainties for the remaining six months of the accounting period. For issuers of listed shares with Italy as their Member State of origin, it will be necessary for the interim report on management to also contain, information on significant related party transactions.

5. Issuers of listed shares with Italy as their Member State of origin will be required to publish an interim management statement within 45 days from the end of the first and third quarter of the accounting period which includes:

a) A general description of the capital situation and the economic trends of the issuer and its subsidiary businesses over the reference period;
b) An illustration of the significant events and transactions taking place over the reference period and their influence on the capital situation of the issuer and its subsidiary businesses.

6. Consob, in compliance with Community rules, will issue regulations governing the following:
a) The procedures for the publication of the documents referred to in paragraphs 1,2 and 5;
b) The cases of exemption from the obligation to publish the six-monthly financial report;
c) The contents of the information on significant related party transactions referred to in paragraph 4;
d) The procedures for the application of this Article for issuers of closed fund units.

7. Without prejudice to the powers set out under Article 157, paragraph 2, Consob, in cases when it has established that the documents making up the financial reports described in this Article do not comply with the laws governing the drafting of the same, may require the issuer to make this fact public and to publish additional information necessary to restore the provision of correct information to the market.

CONSOLIDATED BANKING LAW

Article 53
(Supervisory Regulations)

1. The Bank of Italy, in compliance with the resolutions of the Inter-Ministerial Credit and Investment Committee, will issue regulations of general application whose subject matter will be the following:
a) capital adequacy;
b) the reduction of risk in its different manifestations;
c) permissible shareholdings;
d) administrative and accounting organisation and internal controls;
d-bis) public disclosure of information on the subjects referred to in paragraphs a) to d). (*)

2. The provisions issued under paragraph 1 may provide that specific transactions will require authorisation from the Bank of Italy.

2-bis. The provisions issued under paragraph 1(a) will provide that banks may use:
a) credit risk assessments provided by external companies or entities. The regulations will identify the requirements that such parties must satisfy and the related verification procedures;
b) internal risk measurement systems for the determination of capital requirements following authorisation from the Bank of Italy. For banks subject to supervision on a consolidated basis by authorities of another community Member State, the decision will come under the competence of that authority if a joint decision with the Bank of Italy has not been made within a period of six months from the making of the request for authorisation.

2-ter. External companies or entities, including those which manage credit information systems, which provide banks with credit risk assessments or develop statistical models for the purposes described in paragraph 1(a), will store legitimately held personal data for that exclusive purpose, including in derogation of the related provisions of the law in force, for a historical

period of observation appropriate to the requirements of the regulations issued pursuant to paragraph 2-bis. The manner of implementation and the criteria ensuring such data cannot be identified will be drawn up in accordance with the opinion in that regard produced by the Personal Data Protection Regulatory Authority.

3. The Bank of Italy may:
a) convene the attendance of directors, Statutory auditors and managers of banks to examine their situation;
b) order the calling of banks' collegiate bodies, setting the Agenda and proposing the making of specific decisions;
c) call meetings of banks' collegiate bodies directly itself when the competent bodies have not complied with the order described in sub-paragraph b);
d) when the situation so requires, adopt specific measures relating to the matters described in paragraph 1 against individual banks, including restrictions on their activities or territorial networks and the prohibition of the conduct of given operations or the distribution of profits or other capital components.

4. The Bank of Italy, in compliance with resolutions of the Inter-Ministerial Credit and Investment Committee, will lay down conditions and limits on the acquisition of risk-bearing assets by banks applying to all parties able to exert an influence, whether directly or indirectly, on the management of the bank or banking group and the parties connected with the same.
When it establishes that a situation of conflict of interest exists in practice, the Bank of Italy may lay down specific conditions and limits on the acquisition of risk-bearing assets.

4-bis.... omissis ...

4-ter. The Bank of Italy will identify those cases in which the failure to comply with the conditions referred to in paragraph 4 will lead to the suspension of administrative rights connected with a shareholding.

4-quater. The Bank of Italy, in compliance with the resolutions of the Inter-Ministerial Credit and Investment Committee, will issue rules governing conflicts of interest between banks and the parties indicated in paragraph 4 with regard to other kinds of economic relations.

Article 136
(Obligations of bank office-holders)

1. Any person carrying out functions of administration, direction and control in a bank may not contract obligations of any kind or carry out deeds of sale-purchase, whether directly or indirectly, with the bank that he or she administers, manages or controls, except after a resolution of the Administrative Body passed unanimously and with votes cast in favour by all members of the control body, without prejudice to the obligations laid down by the Italian Civil Code in the matter of the interests of directors and related party transactions.

2. The same provisions will also apply to persons carrying out administrative, direction and control functions in a bank or company belonging to a banking group in relation to the obligations and actions described in paragraph 1 carried out with such companies or in relation to financing operations carried out with another company or another bank in the group. In such cases the obligation or action must be resolved on following the procedures laid down in paragraph 1, by the bodies of the contracting bank or company and with the consent of the Group Holding Company.

2-bis. The application of paragraphs 1 and 2 will include obligations established between companies controlled by the persons referred to in the same paragraphs or in which the same persons carry out administrative, direction and control functions, as well as the companies controlled by, or controlling the latter. This paragraph will not apply obligations contracted between companies belonging to the same banking group or between banks for transactions on the inter-bank market.

3. Non-compliance with the provisions of paragraphs 1,2 and 2-bis will be punishable on conviction with between 1 to 3 years imprisonment and a fine of between €206 and €2,066.

Annex A) Consob Regulation no. 17221 of 12.3.2010 ("RTRP") accompanied by the Consob Communication no. DEM10078683 of 24.9.2010 ("DEMI") providing clarification of provisions of the RTRP

CONSOB

(National Company and Stock Exchange Commission)

REGULATION GOVERNING TRANSACTIONS WITH RELATED PARTIES

no. 17221 of 12.3.2010

Edited by
External Relations Division. Public Relations Office
JUNE 2010

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Regulation containing provisions in the matter of transactions with Related Parties *(adopted by Consob by resolution no. 17221 of 12 March 2010 subsequently amended by Resolution no. 17389 of 23 June 2010)*[1].

All amendments to the following articles introduced by Resolution no. 17389 of 23 June 2010 have been highlighted in bold.

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[1] Resolution no. 17221 of 12.3.2010 and the annexed Regulation were published in the Official Gazette no. 70 of 25.3.2010 and in CONSOB, Fortnightly Bulletin no. 3.1, March 2010. Resolution no. 17389 of 23 June 2010 was published in the Official Gazette no. 152 of 2 July 2010 and in CONSOB, Fortnightly Bulletin no. 6.2, June 2010 – for the entry into force of the related provisions of. Resolution no. 17221 of 12 March 2010 as amended by Resolution no. 17389 of 23 June 2010.

Article 1
(Sources of law)

1. This Regulation has been adopted pursuant to Article 2391-bis of the Italian Civil Code together with Articles 113-ter, 114, 115 and 154-ter of Legislative Decree no. 58 of 24 February 1998.

Article 2
(Scope of Application)

1. This Regulation lays down the principles that Italian companies with shares listed on regulated markets in Italy or other European Union countries and with extensive widespread public ownership of their shares (hereinafter referred to jointly as "the Companies") will be required to adhere to in order to ensure substantive and procedural transparency and propriety in transactions with related parties carried out directly or through subsidiary companies.

2. This Regulation will be without prejudice to the provisions of Articles 2343-bis, 2358, 2373, 2391 and Articles 2497 to 2497-septies of the Italian Civil Code and Articles 53 and 136 of Legislative Decree no. 385 of 1 September 1993 and the related implementing provisions.

Article 3
(Definitions)

1. In this Regulation the following terms will have the meanings assigned to them below:

a) "Related Parties" and "Related party transactions": will mean the parties and transactions defined as such by Annex 1;

b) "Transactions of Greater Significance" will mean the transactions with related parties identified as such pursuant to Article 4, paragraph 1(*a);*

c) "Transactions of Lesser Significance" will mean transactions with related parties not being transactions of greater significance or Transactions of negligible amounts as defined under Article 13;

d) "Ordinary Transactions" will mean transactions coming within the ordinary conduct of operational activities and connected financial activities;

e) "Conditions equivalent to market or standard conditions" will mean conditions analogous to those normally applied in dealings with non-related parties in transactions of a similar nature, size or risk, in other words based on regulated charges, imposed prices or those applied to parties with which the issuer is obliged by law to contract at a set price;

f) "Smaller companies": companies, the value of whose Balance sheet assets or income as shown in the last set of approved Consolidated Financial Statements does not exceed €500 million. Smaller companies will no longer fall within the above definition if they fail to satisfy the above requirements for two consecutive accounting periods;

g) "Recently listed companies" will mean companies whose shares have been listed during the period between the beginning of trading and the date of approval of the Financial Statements for the second accounting period following that in which it was listed. A company cannot be defined as recently listed if resulting from the merger or demerger of one or more companies with listed shares which are not themselves recently listed;

h) "Independent Directors", "independent Management Board members", "independent supervisory directors" will mean directors and Management Board members satisfying the independence conditions laid down by Article 148, paragraph 3, of the Consolidated law as well as any additional conditions imposed by the procedures described in Article 4 or by any applicable sector legislation by reason of the activities carried out by the company;

- if the company declares, pursuant to Article 123-bis, paragraph 2 of the Consolidated law, that it is bound by a code of conduct promoted by companies managing regulated markets or category

associations, including independence conditions at least equivalent to those of Article 148, paragraph 3 of the Consolidated law, and that directors and Board members recognised as independent by the Company are so recognised in application of the said code;

i) "Non-related directors" and "non-related Board members" will mean those directors, board members or supervisory members not being either the counterparty of a given transaction or related parties of the such counterparty;

l) "Non-related shareholders" will mean parties with voting rights not being either the counterparty to a given transaction or related parties to the counterparty of a given transaction or the company;

m) "Consolidated Law " will mean Legislative Decree no. 58 of 24 February 1998;

n) "Issuers Regulation" will mean the regulation adopted under Resolution no. 11971 of 14 May 1999 as subsequently amended and supplemented.

Article 4
(Adoption of Procedures)

1. The Companies' Boards of Directors or of Management shall, in accordance with the principles indicated in this Regulation, adopt procedures to ensure the substantive and procedural transparency and propriety of transactions with related parties. In particular, such procedures must:

a) define the transactions of greater significance in such a way as to include at least those which exceed the thresholds defined in Annex 3;

b) define the exemptions described in Articles 13 and 14 which the companies intend to apply;

c) define the independence conditions for directors or management or supervisory board members pursuant to the provisions of Article 3(*h);*

d) lay down the procedures by which related party transactions are investigated and approved, drawing up rules for cases when companies examine or approve transactions with Italian or foreign subsidiary companies;

e) lay down the procedures and time limits for the supply of information on the transactions together with the related documentation to the independent directors or members drawing up opinions on related party transactions as also to the administration and control bodies, prior to the resolutions and both during and after the execution of the same;

f) Indicate the decisions made by the companies in relation to any options not covered in the preceding paragraphs and left to the companies by the provisions of this Regulation.

2. The companies will assess whether to use the procedure to define parties other than related parties to which all or part of this Regulation shall apply, taking into account, in particular, ownership structures, any contractual restrictions or the Articles of Association relevant for the purposes of paragraph one, point 3) of Article 2359 or Article 2497-septies of the Italian Civil Code, as well as any sector legislation that may apply to them in the field of related parties.

3. Resolutions on the procedures and related amendments will be approved following the favourable opinion of a Committee, including any set up specifically for this purpose, made up exclusively of independent directors or, for companies adopting the dual administration and control system, by independent management or supervisory board members. When there are not at least three independent directors holding office, the related resolutions will be passed following the favourable opinion of all independent directors appointed or, in their absence, following the non-binding opinion of an independent expert.

4. The procedures laid down by paragraph 1 must guarantee co-ordination with the administrative and accounting procedures required under Article154-bis of the Consolidated Law.

5. When drawing up the procedures, the Boards of Directors and management will identify which rules require amendments to the Articles of Association and will resolve in compliance with paragraph 3 on the consequential proposals to submit to the General Meeting.

6. The control body will ensure that the procedures adopted comply with the principles indicated in this Regulation as also their observance, reporting to the General Meeting pursuant to the second paragraph of Article 2429 of the Italian Civil Code or Article 153 of the Consolidated Law.

7. The procedures and related amendments shall be posted without delay on the companies' internet sites, without prejudice to the obligation to publish the same in the annual management report, including by making reference to the site itself, pursuant to Article 2391-bis of the Italian Civil Code.

8. Controlling parties and the other parties indicated in Article 114, paragraph 5 of the Consolidated Law that are related parties of the companies, shall provide the latter with the information necessary to permit the identification of related parties and transactions with the same[2].

Article 5
(Disclosure of information to the public about related party transactions)

1. In the event of transactions of greater significance to be carried out by Italian or foreign subsidiary companies, the companies will, pursuant to Article 114, paragraph 5 of the Consolidated Law, draw up an informative document drafted in compliance with Annex 4.

2. The companies will also draft the informative document described in paragraph 1 hereof when they conclude a series of transactions which are homogeneous with each other or performed in the implementation of a unitary design with the same related party or with parties related both to the latter and to the companies themselves during the accounting period and such transactions, even if individually not definable as transactions of greater importance, when considered cumulatively exceed the significance threshold identified pursuant to Article 4, paragraph 1(a). Transactions effected by Italian or foreign companies will be covered by this provision while operations which may be excluded pursuant to Articles 13 and 14 will not be covered.

3. Without prejudice to the provisions of Article 114, paragraph 1 of the Consolidated Law, the informative document described in paragraph 1 will be made available to the public at the Registered Office following the procedures indicated in Chapter 1, Title II of the Issuers Regulation within seven days from the approval of the transaction by the competent body or if the competent body resolves to present a contractual proposal, from the moment at which the contract, even if preliminary, is concluded pursuant to the applicable law. In cases falling under the competence of the General Meeting or requiring its authorisation, the same informative document shall be made available within seven days from the approval of the proposal to be submitted to the General Meeting.

4. In the case where the crossing of the significance threshold is a result of the accumulation of operations described under paragraph 2, the informative document shall be made available to the public within 15 days from the approval of the transaction or the conclusion of the contract leading to the crossing of the significance threshold, and must contain information, including by means of the aggregation of each homogeneous operation, on all transactions taken into consideration for the purposes of the accumulation. If the transactions giving rise to the crossing of the significance thresholds are carried out by subsidiary companies, the informative document must be made available to the public within 15 days from the time when the company required to draw it up receives notice of the approval of the transaction or the conclusion of the contract resulting in the crossing of the

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[2] The rules laid down by point IV.1 of Resolution no. 17221 of 12.3.2010 for the adoption of this Regulation as amended by Resolution no. 17389 of 23.6.2010, states: "Companies must adopt the procedures laid down in Article 4 by 1 December 2010.".

significance threshold. Under Article 114, paragraph 2, of the Consolidated Law, the company required to draw up the document shall provide the instructions necessary for the subsidiary companies to provide the information required for the drawing up of the document. The subsidiary companies shall send such information without delay.

5. The companies will make available to the public any opinions of independent directors and independent experts annexed to the informative document pursuant to paragraph 1, or on the internet site, within the time limits laid down by paragraphs 3 and 4. So far as the opinions of independent experts are concerned, the companies may publish only those elements indicated in Annex 4, giving reasons for such decision[3].

6. Whenever, in relation to a transaction of greater significance, the company is also required to draw up an informative document pursuant to Articles 70, paragraphs 4 and 5 and 71 of the Issuers Regulation, it may publish a single document containing all the information required by paragraph 1 and the aforesaid Articles 70 and 71. In such circumstances the document will be made available to the public at its Registered Office and in accordance with the procedures indicated in Chapter 1 of Title II of the Issuers Regulation within the shortest time limit of those laid down by the various applicable provisions. Those companies publishing the information described by this paragraph in separate documents may include information already published by means of reference.

7. The companies will be required to send Consob the documents and opinions indicated in paragraphs 1, 2, 5 and 6 by means of the connection to the authorised storage mechanism pursuant to Article *65-septies*, paragraph 3, of the Issuers Regulation, contemporaneously with its disclosure to the public.

8. Companies issuing listed shares with Italy as their Member State of origin pursuant to Article 154-ter of the Consolidated Law, will be required to provide the following information in the intermediate Report on Management and in the annual Management Report:

a) on individual transactions of greater significance concluded during the reference period;

b) on any other single related party transactions as defined by the second paragraph of Article 2427 of the Italian Civil Code concluded during the reference period and that have had a significant effect on the companies' economic situation or results;

c) on any amendment or development of related party transactions described in the last annual report that has had a significant effect on the companies' economic situation or results during the reference period.

9. For the purposes of paragraph 8, information on the individual transactions of greater significance may be included by means of reference to the informative documents published pursuant to paragraphs 1, 2 and 6 and setting out any significant updates[4].

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[3] So amended by Resolution no. 17389 of 23.6.2010, removing the words ", of the Board of Statutory Auditors".

[4] The rules contained in point IV.1 of Resolution no. 17221 of 12.3.2010 for the adoption of this Regulation as amended by Resolution no. 17389 of 23.6.2010, state that "the provisions of Article 5 will have force and effect from 1 December 2010 with the exception of those in paragraph 2 which will come into force with effect from 1 January 2011.".

Article 6
(Related Party transactions and communications to the public pursuant to Article 114, paragraph 1 of the Consolidated Law)

1. Whenever a related party transaction is also subject to the communication obligations described by Article 114, paragraph 1 of the Consolidated Law, the following information must be contained in the public disclosure in addition to the other information to be published under the aforesaid provision:

a) an indication that the transaction counterparty is a related party, as well as a description of the nature of the relationship;

b) the company or personal name of the transaction counterparty;

c) whether or not the transaction exceeds the significance thresholds defined pursuant to Article 4, paragraph 1(*a)*, and an indication in relation to the possible subsequent publication of an informative document pursuant to Article 5;

d) the procedure which has been or will be followed for the approval of the transaction and, in particular, whether the company has made use of any exclusion pursuant to Articles 13 and 14;

e) any approval of the transaction notwithstanding the opinion to the contrary of independent directors or board members.

Article 7
(Procedures for transactions of lesser significance for companies that adopt traditional or single-tier administration and control systems)

1. So far as transactions of lesser significance are concerned and without prejudice to the possibility of applying the provisions of Article 8, the procedures must at least provide that:

a) prior to the approval of the transaction, a committee, which may be set up specifically for such purpose and made up exclusively of non-executive and non-related directors, the majority of whom being independent, produce a reasoned, non-binding opinion on the company's interests in the completion of the transaction, together with the economic convenience and substantive propriety of the related conditions;

b) the Committee may request assistance from one or more independent experts of its own choosing, at the company's expense;

c) complete and adequate information be provided to the body with authority to pass the related resolutions and to the Committee described in sub-paragraph a), sufficiently in advance. If the transaction conditions are defined or described as being market or standard conditions, the documentation prepared must contain objective corroborating evidence of this;

d) whenever there are not at least two independent and non-related directors, specific safeguards of the type described in paragraph a) shall be set up, requiring the protection of the substantive propriety of the transaction;

e) where applicable, the minutes of the approval resolutions must contain adequate reasons with regard to the company's interests in the completion of the transaction, as well as the economic convenience and substantive propriety of the related conditions;

f) a full report must be provided at least on a quarterly basis to the Board of Directors and the Board of Statutory Auditors on the performance of the transactions;

g) without prejudice to the provisions of Article 114, paragraph 1 of the Consolidated Law, a document containing an indication of the counterparty, the subject matter and the payments made for the transactions approved over the reference quarter where a negative opinion has been expressed pursuant to sub-paragraph a), as well as the reasons explaining why the opinion was not accepted, must be made available to the public within fifteen days from the closure of each quarter in the accounting period at the company's Registered Office in accordance with the procedures described in Chapter 1, title II of the Issuers Regulation. The opinion must be made available to the public within the same time limits, annexed to the informative document or posted on the Company's Internet site.

2. With reference to the appointment of independent experts referred to in paragraph 1 b), the procedures may define a maximum expenditure on the services provided by independent experts [5] .

Article 8

(Procedures for transactions of greater significance for companies that adopt traditional or single-tier administration and control systems)

1. Without prejudice to the provisions of Article 11 regarding operations of greater significance and in addition to the provisions of Article 7, paragraph 1 *b), c), e)* and *f),* the procedures must include at least the following provisions:

a) that the power to pass the related resolutions shall be vested in the Board of Directors;

b) that a committee, including one set up specifically for the purpose and made up exclusively of non-related independent directors or one of the committee members delegated to such end by the same, must be involved in the negotiation and investigation stages through the receipt of complete and timeous information flows and with the power to request information and make observations to the delegated bodies and the parties charged with the conduct of negotiations or investigation;

c) that the Board of Directors must approve the transaction following a reasoned favourable opinion by the committee indicated in sub-paragraph *b)* above on the company's interests in completing the operation, as well as the economic convenience and substantive propriety of the related conditions or, alternatively, other procedures for the approval of the transaction ensuring a determining role for the majority of the independent non-related directors;

d) that, in circumstances where there are not at least three independent non-related directors, specific safeguards equivalent to those set out in letters *b)* and *c)* must be implemented as protection for the substantive propriety of the transaction.

2. Without prejudice to provisions of the Articles of Association required by law, the procedures may make provision that the Board of Directors can approve transactions of greater significance notwithstanding the opinion of the independent directors to the contrary, so long as the completion of such transaction is authorised in terms of Article 2364, paragraph 1(5) of the Italian Civil Code, by the General Meeting resolving in compliance with the provisions of Article 11, paragraph 3[6].

Article 9

(Procedures for transactions in companies that adopt the dual administration and control system)

1. Companies adopting the dual administration and control system will be required to apply the principles set out in Annex 2[7] in place of Articles 7 and 8.

Article 10

(Rules applying to specific types of companies)

1. Without prejudice to the provisions of Article 5 and rules governing transactions of lesser

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[5] The rules contained in point IV.1 of Resolution no. 17221 of 12.3.2010 for the adoption of this Regulation state that "Companies must apply the provisions of Articles 7, 8, 9, 11 and 12 by 1 January 2011.".

[6] The rules contained in point IV.1 Of Resolution no. 17221 of 12.3.2010 for the adoption of this Regulation state that "Companies must apply the provisions of Articles 7, 8, 9, 11 and 12 by 1 January 2011.".

[7] The rules contained in point IV.1 of Resolution no. 17221 of 12.3.2010 for the adoption of this Regulation state that "Companies must apply the provisions of Articles 7, 8, 9, 11 and 12 by 1 January 2011.".

significance set out in Article 7, smaller listed companies, recently listed companies and companies with extensive and widespread public ownership of their shares may apply a procedure defined pursuant to Article 7 for transactions of greater significance, in derogation of Article 8, as well as a procedure defined pursuant to paragraph 1 of Annex 2, in derogation of paragraphs 2 and 3 of the same Annex. Any listed companies controlled directly or indirectly by an Italian or foreign company with shares listed in regulated markets will not be able to apply the provisions of this paragraph.

2. The procedures must be adapted to comply with the derogated provisions pursuant to paragraph 1 within 90 days from the first renewal of the Board of Directors or the management board after the closure of the accounting period in which the company can no longer be defined as a smaller company.

Article 11
(Transactions coming under the competence of the General Meeting)

1. When a related party transaction of lesser significance comes under the competence of the General Meeting or must be authorised by the latter, the related procedures must contain rules in compliance with Article 7 and paragraph 1 of Annex 2 covering the stages of the investigation and approval of the proposed resolution to submit to the General Meeting.

2. When a transaction of greater significance comes under the competence of the General Meeting or must be authorised by it, the related procedures must contain rules in compliance with Article 8 and paragraphs 2 and 3 of Annex 2 covering the stages of the negotiation, investigation and approval of the proposed resolution to submit to the General Meeting. Neither Article 8, paragraph 2 nor paragraphs 2 and 3 of Annex 2 will apply in the area of General Meeting procedures. The procedures may provide that the approval of the proposed resolution to submit to the General Meeting may be valid even in the presence of an opinion to the contrary produced by independent directors or board members, so long as, in such circumstances, the same procedures comply with the provisions of paragraph 3.

3. If, in relation to a transaction of greater significance, the proposed resolution to be submitted to the General Meeting has been approved notwithstanding the opinion to the contrary of the independent directors or board members, without prejudice to Articles 2368, 2369 and 2373 of the Italian Civil Code and without prejudice to the provisions of the Articles of Association as may be required by law the procedure will include rules designed to prevent the completion of the transaction if the majority of the non-related shareholders vote against the operation. The procedures may state that the execution of the transaction will only be prevented when non-related shareholders present at the General Meeting represent at least a set quota of the share capital with voting rights and in any case, no greater than 10%.

4. If there are any important updates to be made to the informative document published pursuant to Article 5, companies will be required to make available a new version of the document to the public at their Registered Offices and in accordance with the procedure described in Chapter 1 of Title II of the Issuers Regulation at least twenty-one days prior to the date of the General Meeting. Companies may include information already published simply by reference to the same

5. When expressly permitted by the Articles of Association, the procedures may state that in situations of emergency connected with businesses in economic crisis and without prejudice to the provisions of Article 5, where applicable, related party transactions may be concluded in derogation of the provisions of paragraphs 1, 2 and 3, on condition that the provisions of Article 13, paragraph 6(*c)*and *(d)* shall apply to the General Meeting called upon to pass the resolution. If the control body's assessments pursuant to Article 13, paragraph 6(***c)*** are negative, the General Meeting will pass

resolutions in accordance with the procedures described in paragraph 3. In a contrary case the provisions of Article 13, paragraph 6(e) shall apply.[8]

Article 12
(Framework Resolutions)

1. If procedures allow framework resolutions for given categories of transactions relating to series of homogeneous operations with specific groups of related parties, such procedures must contain at least the following:

a) rules which comply with the provisions of Articles 7 and 8 and paragraphs 1 and 2 of Annex 2, depending on the expected maximum amount of the transactions forming the subject matter of the resolution considered as a cumulative whole;

b) provisions stating that framework resolutions will not remain in force for more than one year and refer to sufficiently specific transactions, setting out at least the foreseeable maximum amount of those to be completed in the reference period and the reasons for the conditions envisaged;

c) complete information to be provided to the Board of Directors at least every quarter on the implementation of the framework resolutions.

2. When approving a framework resolution, companies will publish an informative document pursuant to Article 5 if the foreseeable maximum amount of the operations forming the subject matter of such framework resolution exceeds the significance threshold identified under Article 4, paragraph 1(*a)*.

3. The provisions of Articles 7 and 8 and paragraphs 1 and 2 of Annex 2 will not apply to the individual transactions concluded in implementation of the framework resolution. The transactions concluded in implementation of a framework resolution being the subject matter of an informative document published pursuant to paragraph 2 will not be counted for the purposes of a cumulative figure pursuant to Article 5, paragraph 2[9].

Article 13
(Cases and powers of exclusion)

1. The provisions of this regulation will not apply to General Meeting resolutions described under the first paragraph of Article 2389 of the Italian Civil Code, relating to the remuneration to which members of the Board of Directors and the Executive Committee are entitled, or to resolutions concerned with remuneration of directors holding particular positions coming within the overall amount set by the General Meeting pursuant to the third paragraph of Article 2389 of the Italian Civil Code. **The provisions of this regulation will likewise not apply to the General Meeting resolutions referred to under Article 2402 of the Civil Code relating to the fees to which the members of the Board of Statutory Auditors and the supervisory board are entitled, nor to General Meeting resolutions relating to the remuneration entitlement of members of the management board should they be appointed pursuant to Article 2409-terdecies, paragraph 1(*a)* of the Civil Code[10].**

2. The procedures may define criteria for the identification of transactions of negligible amounts to which this Regulation will not apply.

3. The procedures will be able to exclude the following, in whole or in part, from the application

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[8] The rules contained in point IV.1 of Resolution no. 17221 of 12.3.2010 for the adoption of this Regulation state that "Companies must apply the provisions of Articles 7, 8, 9, 11 and 12 by 1 January 2011.".

[9] The rules contained in point IV.1 of Resolution no. 17221 of 12.3.2010 for the adoption of this Regulation state that "Companies must apply the provisions of Articles 7, 8, 9, 11 and 12 by 1 January 2011.".

[10] Clause so amended by Resolution no. 17389 of 23.6.2010, adding the last sentence to the end.

of this Regulation without prejudice to the provisions of Article 5, paragraph 8 where applicable:

a) remuneration plans based on financial instruments approved by the General Meeting pursuant to Article 114-bis of the Consolidated Law and the related executive transactions;

b) **resolutions, other than those indicated in paragraph 1, concerned with the remuneration of directors and board members holding particular offices and other managers with strategic responsibilities, as well as the resolutions by which the supervisory Board decides the remuneration of the management board members, on condition that[11]:**

i) the company has adopted a remuneration policy;

ii) a committee made up exclusively of non-executive directors or Management Board members, the majority of whom being independent, was involved in the drawing up of the remuneration policy;

iii) a report explaining the remuneration policy has been submitted to the General Meeting for approval or its consultative vote;

iv) the remuneration actually set is consistent with the above policy;

c) ordinary transactions concluded under conditions equivalent to market or standard conditions. In the event of the derogation of the publication obligations applying to transactions of greater significance by Article 5, paragraphs 1 to 7, Without prejudice to the provisions of Article 114, paragraph 1 of the Consolidated Law:

i) companies shall inform Consob, within the time limit indicated in Article 5 paragraph 3, of the counterparty, the subject matter and the payment involved in the transaction benefiting from the exclusion;

ii) companies with shares listed on regulated markets will indicate, in the intermediary management report and the annual management report, within the scope of the information required in terms of article 5, paragraph 8, which of the transactions subject to disclosure obligations indicated in the latter provision have been concluded making use of the exclusion defined in this lettered sub-paragraph;

iii) companies with widespread ownership of their shares must indicate in the report the counterparty, the subject matter and the payment for the transactions of greater significance concluded over the accounting period taking advantage of the exclusion specified in this lettered paragraph.

4. The provisions of this Regulation, without prejudice to the provisions of Article 5, will not apply to transactions effected on the basis of instructions aimed at stability issued by supervisory authorities or on the basis of instructions issued by the Group holding company for the execution of instructions given by supervisory authorities in the interests of group stability.

5. Without prejudice to the provisions of Article 5, if Article 136 of Legislative Decree no. 385 of 1 September 1993 applies to a related party transaction, when drawing up the procedures companies will not apply the provisions relating to opinions and independent experts provided for in Article 7, paragraph 1(*a), (b), (d)* and (*g)* and in paragraphs 1.1, letters *a), b)* and *g),* 1.2 and 1.3 of Annex 2 and, for transactions of greater significance, the provisions set out in Article 8, paragraphs 1 letters *a), (c)* and *d)* and 2, and in paragraphs 2.1, letters *a), c)* and *d),* 2.2, letters *b)* and *d),* and 3.1, letters *a), c) d)* and e), of Annex 2.

6. In the case of transactions not coming under the competence of the General Meeting and which do not require authorisation from the latter, procedures may make provision, where expressly permitted under the Articles of Association, that in cases of urgency, without prejudice to the provisions of Article 5 where applicable, the related party transactions may be excluded in derogation of the provisions of Articles 7 and 8 and Annex 2, on condition that:

a) whenever the transaction to be carried out comes within the competence of a Managing

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[11] The clause was so amended by Resolution no. 17389 of 23.6.2010, replacing the words "resolutions concerned with the remuneration of directors and board members appointed to specific positions other than those indicated in paragraph 1 and of directors with strategic responsibilities, on condition that" with the words "resolutions other than those indicated in paragraph 1 concerned with the remuneration of directors and board members appointed to specific positions and of directors with strategic responsibilities, together with resolutions by which the Supervisory Board sets the remuneration of the Management Board members, on condition that".

director or the Executive Committee, the Chairman of the Board of Directors or the Management Board must be informed of the reasons for the urgency prior to the performance of the transaction;

b) such operations must, without prejudice to their force and effect, be the subject of a non-binding resolution at the first valid General Meeting thereafter;

c) the body calling the General Meeting must draw up a report containing adequate reasons justifying the urgency. The control body will report to the General Meeting with its assessment as to whether or not the reasons for the urgency existed;

d) the report and assessment described in paragraph *c)* must be made available to the public at least 21 days prior to the date set for the General Meeting, at the company's Registered Office following the procedures indicated in Chapter 1, Title II of the Issuers Regulation. Such documents may be contained in the informative document referred to in Article 5, paragraph 1;

e) companies shall make available the information relating to the outcome of the voting to the public within one day after the date of the General Meeting in accordance with the procedures set out in Chapter 1 of Title II of the Issuers Regulation. The information must contain details in particular of the number of votes cast by non-related shareholders.

Article 14
(Direction and co-ordination, subsidiary and connected companies)

1. If the company is subject to direction and co-ordination, in related party transactions influenced by such activities, the opinions required in terms of Articles 7 and 8 as also in Annex 2, must contain precise indications of the reasons and economic convenience of the transaction, where necessary also in the light of the overall results of the activities of direction and co-ordination or of operations aimed at entirely eliminating the damage caused by the individual related party transaction.

2. The procedures may exclude the application of this Regulation, save with regard to the provisions of Article 5, paragraph 8, in whole or in part in relation to transactions with other subsidiary companies including joint controlled ones, and to connected companies whenever there are no interests of the company's other related parties which can be described as significant pursuant to the criteria defined by the procedures described by Article 4, within the subsidiary or connected company counterparty in the transaction. Interests will not be deemed to be significant when deriving from the mere sharing of one or more directors or **other** managers with strategic responsibilities between the company and the subsidiary **or connected** companies[12].

[12] Clause so amended by resolution no. 17389 of 23.6.2010, which added the word "of others" after the words" or more directors or" and, finally, added the words "or connected after the word "subsidiary".

ANNEX 1

DEFINITIONS OF RELATED PARTIES AND TRANSACTIONS WITH RELATED PARTIES AND DEFINITIONS FUNCTIONAL TO THE SAME

1. Definitions of Related Parties and Transactions with Related Parties

The following definitions will apply for the purposes of Article 3, paragraph 1 (a) of this Regulation:

Related Parties

A party will be a *Related Party* of a company if it:

(a) directly or indirectly, even via subsidiary or trust companies or intermediaries:
  (i) controls the company, is controlled by it or is subject to joint control with it;
  (ii) holds a shareholding in the company of such a nature as to be able to exercise significant influence over the latter;
  (iii) exercises control over the company jointly with other parties;
(b) is a connected company of the company;
(c) is a joint venture in which the company is a shareholder;
(d) is one of the managers with strategic responsibility in the company or in its controlling company;
(e) is a close family member of one of the persons described in letters **(a) or (d)**;
(f) is a body in which one of the persons described in letters (d) or (e) exercises control, joint control or a significant influence or holds, whether directly or indirectly, a significant share, in any case not less than 20% of voting rights**;**
(g) is an Italian or foreign supplementary, collective or individual pension fund set up for the benefit of company employees or any other body related to the latter.

Related Party Transactions

A related Party Transaction will mean any transfer of resources, services or obligations between related parties irrespective of whether a payment has been agreed.

The following will be deemed to be included in any case:

- transactions of merger, demerger arising from merger or non-proportional demerger in the strict sense when involving related parties;
- every decision relating to the attribution of remuneration and economic benefits of any kind to the members of the Administrative and Control Bodies and to managers with strategic responsibilities.

2. Definitions functional to those of "Related Parties" and "Related Party Transactions"

For the purposes of the definitions set out above, the concepts of "control, "joint control", "significant influence", "close family members", "managers with strategic responsibilities", "subsidiary company", "connected company" and "joint venture" will be the following.

Control and joint control

Control will be the power to determine a body's financial and management policies in order to obtain benefits from its activities.

It will be assumed that control exists when a party owns, whether directly or indirectly through its own subsidiary companies, more than one half of a body's voting rights unless, in exceptional cases, it can be clearly demonstrated that such ownership does not constitute control. Control will also exist when a party owns one half, or a smaller part, of General Meeting voting rights if the latter has:

(a) control over more than one half of voting rights through an agreement with other investors;

(b) the power to determine the body's financial and management policies by reason of the Articles of Association or an agreement;
(c) the power to appoint or remove the majority of the members of the Board of Directors or equivalent corporate governance body and the company is controlled by such Board of Directors or body;
(d) the power to exercise the majority of voting rights at meetings of the Board of Directors or equivalent corporate governance body and the company is controlled by such Board of Directors or body.

Joint control will mean the contractually established sharing of control over an economic activity.

Significant influence

Significant influence will mean the power to participate in the determination of the financial and management policies of an entity without having control. Significant influence may be obtained through the possession of shares or by virtue of clauses in the Articles of Association or agreements.

If a party owns, whether directly or indirectly, (for example through subsidiary companies), 20% or more of General Meeting votes of the invested company, it will be presumed that it has a significant influence unless the contrary is clearly demonstrable. On the other hand, if a party owns, whether directly or indirectly (for example through subsidiary companies) less than 20% of General Meeting votes of the invested company, it will be presumed that the shareholder does not have a significant influence unless such influence is clearly demonstrable. The presence of a party owning the absolute or relative majority of voting rights does not of itself preclude the possibility of another party having significant influence.

The existence of significant influence is normally signalled by the occurrence of one or more of the following circumstances:
(a) representation on the Board of Directors or equivalent body of the invested company;
(b) participation in the decision-making process including participation in decisions relating to dividends or other forms of profit distribution;
(c) the presence of significant transactions between the investor and invested company;
(d) the exchange of managerial staff;
(e) the making available of essential technical information.

Managers with strategic responsibilities

Managers with strategic responsibilities will be those persons with power and responsibility, held directly or indirectly, for planning, management and control of the company's activities, including directors (executive or otherwise) of the company.

Close family members

A party's Close family members will be deemed to be those family members expected to be able to exert influence over, or be influenced by the interested party in their relations with the company.

These may include:
(a) a spouse not legally separated from, and living with, the party;
(b) children of, and persons supported by the party, the latter's spouse not legally separated from him or her or a cohabiting partner.

Subsidiary company

A subsidiary company will mean an entity, even if lacking legal status, such as a personal company, controlled by another entity.

Connected Company

A connected company will mean an entity, including when lacking legal status, as in the case of a personal company, over which a shareholder exercises a significant influence but not control or joint control.

Joint venture

A joint venture is a contractual agreement under which one or more parties run economic activities subject to joint control.

3. Interpretative principles used with the definitions

3.1 In the examination of each related party relationship attention must be concentrated on the substance of the relationship and not simply its juridical form.

3.2 The interpretation of the definitions set out above should be effected by referring to the complex of international accounting standards adopted according to the procedure referred to in Article 6 of EU Regulation 1606/2002.

Annex 2

PROCEDURES FOR RELATED PARTY TRANSACTIONS IN COMPANIES THAT ADOPT THE DUAL ADMINISTRATION AND CONTROL SYSTEM

1. Procedures for operations of lesser significance

1.1. In companies that adopt the dual administration and control system, in the case of transactions of lesser significance, the procedures must make provision at least for the following:

a) that prior to the approval of the transaction a committee, which may be set up specifically for the purpose and composed exclusively of non-related supervisory directors, the majority of whom being independent, must produce an opinion regarding the company's interests in completing the transaction as also on the economic convenience and substantive propriety of the related conditions;
b) that the committee will have the power to obtain assistance, paid for by the company, by one or more independent experts chosen by it;
c) that the committee described in paragraph a) and the body with competence to resolve on the transaction must be provided with complete and adequate information sufficiently in advance. If the transaction conditions are described as being equivalent to market or standard conditions, the documentation prepared must contain objective corroborating evidence to such effect;
d) that if the supervisory directors have an interest in the transaction, whether for themselves or on behalf of third parties, they will give notice of the same to the other directors, detailing the nature, the terms, the origin and extent of the same;
e) that, where applicable, the minutes of the approval resolutions must be supported by adequate reasons with regard to the Company's interest in the completion of the transaction and the economic convenience and substantive propriety of the related conditions;
f) the Management Board and the Supervisory Board must be provided with full information on the performance of the transactions on at least a quarterly basis;
g) Article 7, paragraph 1(g) will apply.

1.2. With reference to the recourse to independent experts indicated in paragraph 1.1, letter b), the procedures may define a maximum expenditure with reference to each single transaction, identified as an absolute value or in proportion to the value of the transaction itself, for the services provided by the independent experts.

1.3. The procedures adopted by companies with at least one non-related independent board member may provide that the prior non-binding opinion required by paragraph 1.1, letter a), should be adopted by the member concerned or by a specially constituted committee made up exclusively of non-executive and non-related board members, the majority of whom being independent. In such circumstances, the management board members called on to provide an opinion and information on the transaction described in paragraph 1.1 c) provided to the management board, will have the power to obtain assistance from one or more independent experts, without prejudice to the indications in paragraph 1.2.

2. Procedures for transactions of greater significance

2.1. In companies that adopt a dual administration and control system, in addition to the requirements set out in paragraph 1.1 letters b) to f), their procedures must also make provision for at least the following:

a) the competence to resolve on the matter must be reserved to the management board;
b) that a committee, including one set up especially for the purpose and made up exclusively of independent non-related supervisory directors or one or more of its members delegated by the same, should be involved in the negotiations and investigation through the receipt of an information flow which is both complete and timeous and with the power to request information

from, and make observations to the delegated bodies and persons charged with the conduct of the negotiations or the investigation;

c) that the operation should be approved following the production of a reasoned, non-binding opinion by the committee indicated under letter b) on the company's interests in the completion of the transaction as well as on the economic convenience and substantive propriety of the related conditions;

d) in a case when the management board approves an operation notwithstanding the negative opinion of the committee indicated in letter b), that such transaction, without prejudice to its force and effect, should be the subject matter of a non-binding resolution of the Ordinary General Meeting to be convened without delay. Companies will be required to make available information on the voting results, particularly with regard to the number of votes cast by non-related shareholders, to the public in accordance with the procedures described in Chapter 1, Title II of the Issuers Regulations within one day from the date of the General Meeting.

2.2. The procedures adopted by companies which have at least one independent non-related director, may allow for the opinion indicated in paragraph 2.1 letter c) to be issued by such director or by a committee, including one set up for the purpose and made up exclusively of independent non-related members of the management board. In such circumstances, without prejudice to the competence to resolve on the matter being reserved to the management board, procedures will make provision at least for the following:

a) that the committee of independent management board members or **one or more of its members delegated by the same or** the independent management board member, **must be involved** in the negotiations or investigation through the receipt of a flow of information which is complete and timeous, with the power to request information from, or make observations to, the delegated bodies and persons charged with the conduct of the negotiations or the investigation[13];

b) the right of the management board member or committee indicated in letter a) to be assisted by one or more independent experts;

c) that the information on the transaction referred to under paragraph 1.1, letter c), should be provided to the management board;

d) in a case when the management board approves a transaction notwithstanding an opinion to the contrary of the independent member or committee, either:

   i) the requirement to obtain, without prejudice to the force and effect of the transaction, a subsequent, non-binding resolution of the Ordinary General Meeting to be called without delay. In this case the provisions contained in paragraph 2.1, letter d) will apply,

   ii) the requirement that a committee, including one set up specifically for the purpose and made up exclusively of independent non-related supervisory directors should express a reasoned, non-binding opinion on the transaction in relation to the company's interests in the completion of the transaction as also on the economic convenience and substantive propriety of the related conditions. In such case the committee concerned will also have the right to be assisted by one or more experts.

3. **Procedures for strategic transactions**

3.1. When the Supervisory board is called upon to resolve on related party transactions pursuant to Article *2409-terdecies(f-bis),* of the Italian Civil Code, procedures will make provision for at least the following:

a) that the competence to resolve on the proposal to be submitted to the Supervisory board will be reserved to the management board;

b) that a committee, including one set up specifically for the purpose and made up exclusively of

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[13] The paragraph was amended by Resolution no. 17389 of 23.6.2010 which, after the words "the committee of independent Management Board members," inserted the words" one or more members delegated by the same or", also replacing the words "is involved" with the words "are involved".

non-related independent Supervisory board members or one or more of its members delegated by such committee, must be involved in the negotiations and investigation through the receipt of a flow of information which is both complete and timeous and with the power to request information from, and make observations to, the delegated bodies or persons charged with conducting the negotiations or investigation;

c) that the committee described in letter b) will have the right to be assisted by one or more independent experts chosen by it and at the company's expense;
d) that the Supervisory board should resolve on the operation following the reasoned favourable opinion of the committee indicated in letter b) on the company's interests in the completion of the transaction and on the economic convenience and substantive propriety of the related conditions. The procedures may allow the Supervisory board to resolve in favour of the operation notwithstanding the negative opinion of the committee so long as such transaction, without prejudice to the force and effect of the same, is subsequently the subject of a non-binding resolution of the Ordinary General Meeting to be convened without delay;
e) that information must be disclosed to the public in accordance with the procedure described in Chapter 1, Title II of the Issuers Regulation on the voting results and in particular, the number of votes cast by non-related shareholders, within one day from the date of the General Meeting;
f) that the management board and the Supervisory board must be provided with complete and adequate information sufficiently in advance. Whenever the transaction conditions are described as being equivalent to market or standard conditions, the documentation prepared must contain objective corroborating evidence;
g) that if the supervisory board members have an interest in the transaction, whether personal or on behalf of third parties, they will be required to give notice to such effect to the other members;
h) that the minutes of the resolutions of approval must contain adequate reasons confirming the company's interests in the completion of the transaction and on the economic convenience and substantive propriety of the related conditions;
i) that complete information on the execution of the related transactions must be provided at least on a quarterly basis to the management and supervisory boards.

Annex 3

IDENTIFICATION OF RELATED PARTY TRANSACTIONS OF GREATER SIGNIFICANCE

1. Internal procedures will be required to provide quantitative criteria for identifying "Transactions of greater significance" in such a way as to contain at least the categories of operations indicated below.

1.1. The transactions in which at least one of the following significance indices, applicable in accordance with the specific transaction concerned, exceeds the threshold of 5%:

a) Value significance index*:* this is the ratio of transaction value to share equity taken from the most recent (consolidated, if applicable) Balance sheet published by the company or, in the case of listed companies and if greater, the company's capitalisation value on the last day when the market was open included in the reference period of the most recent published periodical accounting document (annual or six-monthly Financial Statements or intermediate management document). For banks it is the ratio of the transaction value to the bank's regulatory capital taken from the most recent (consolidated, if applicable) published Balance sheet.

If the transaction's economic conditions are defined, the transaction value will be as follows:

i) for the cash components, the amount paid by/to the contractual counterparty;
ii) for components in the form of financial instruments, the *fair value* as determined in compliance with the International Accounting Standards adopted by EEC Regulation 1606/2002, as at the transaction date;
iii) for loans or the grant of security, the maximum amount payable.

If the transaction's economic conditions depend in whole or in part on amounts not yet known, the transaction value will be the maximum value that could be received or paid under the agreement.

b) Asset significance index*:* this is the ratio of total assets of the entity forming the subject matter of the transaction to the company's total assets. The data to be used must be taken from the most recent (consolidated, if applicable) Balance sheet published by the company. Where possible, analogous data should be used to establish total assets of the entity involved in the transaction.

For transactions involving the acquisition and assignment of company shareholdings with effects on the consolidation area, the value of the numerator will be the total assets of the invested company irrespective of the percentage of share capital forming the subject matter of the disposal.

In the case of acquisitions and assignments of company shareholdings which do not have an effect on the consolidation area, the numerator value will be:

i) for acquisitions, the transaction value increased by the amount of any liabilities of the purchased company potentially taken over by the purchaser;
ii) for assignments, the price of the asset assigned.

In the case of acquisitions and assignments of other assets (other than the acquisition of a shareholding), the value of the numerator will be:

i) for acquisitions, either the price or the book value attributed to the asset, whichever is the greater;
ii) for assignments, the book value of the asset.

c) Liability significance index*:* this is the ratio of the total liabilities of the entity acquired to total assets of the company. The data to be used must be taken from the most recent (consolidated, if applicable) Balance sheet published by the company. Where possible, analogous data must be used to establish the figure for total liabilities of the company or business division acquired.

1.2. Transactions with a listed controlling company or related parties to the latter which are also related parties of the company when at least one of the significance indices described in paragraph 1.1 is higher than the threshold of 2.5%.

1.3. Companies will assess whether or not to identify significance thresholds lower than those indicated in paragraphs 1.1 and 1.2 for transactions which may have a bearing on the managerial autonomy of the issuer (for example, assignment of intangible assets such as brands or patents).

1.4. Where there is an accumulation of a number of transactions of the type described in Article 5 paragraph 2, companies must establish in the first place, the significance of each transaction on the basis of the applicable index or indices described in paragraph 1.1. To check whether the thresholds described in paragraphs 1.1, 1.2 and 1.3 have been exceeded, the results of each index are then added together.

2. Whenever a transaction or a number of accumulated transactions pursuant to Article 5 paragraph 2 are identified as of "greater significance" in accordance with the indices described in paragraph 1 and this result appears clearly unjustified in view of specific circumstances, Consob may, at the company's request, indicate alternative procedures to be followed in the calculation of the indices. To such end the company will be required to inform Consob of the essential characteristics of the transaction and the specific circumstances on which the request is based prior to the conclusion of the negotiations.

Annex 4

INFORMATIVE DOCUMENT RELATING TO RELATED PARTY TRANSACTIONS OF GREATER SIGNIFICANCE

In cases where companies with shares listed in regulated markets and with widespread and extensive public ownership of the same (hereinafter jointly referred to as "the Companies") carry out related party transactions of greater significance, the informative document required by Article 5 must contain at least the following information:

Contents

1. Warnings

It must provide a summary of the risks connected with potential conflicts of interest deriving from the related party transaction described in the informative document.

2. Information relating to the transaction

2.1. Description of the characteristics, procedures, terms and conditions of the transaction.

2.2. Indication of the related parties with whom the transaction is to be conducted, the nature of the relationship and, where information to such effect has been given to the Administrative Body, the nature and extent of such parties' interests in the transaction.

2.3. Indication of the economic reasons and the economic convenience for the company in effecting the transaction. If the transaction has been approved in the presence of the contrary view of the independent directors or board members, there should be analytical and adequate reasons given to explain why such opinion is not shared.

2.4. Manner of the determination of the price of the transaction and the assessment of whether or not it is appropriate with respect to the market value of similar transactions. If the economic conditions of the transaction are described as being equivalent to market or standard conditions, sufficient reasons should be provided to support such a declaration with the provision of objective corroborating evidence. If there are opinions of independent experts providing confirmation that the price is appropriate these should be indicated, together with the related conclusions including the following details:

- the bodies or persons involved in commissioning the opinions and designating the experts;
- the assessments made in the selection of the independent experts. In particular, any economic, equity and financial relations should be indicated between the independent experts and (i) the issuing company, (ii) any parties controlling the issuer, the companies controlled by the issuer or parties under joint control with the latter and (iii) directors of the companies described in points (i) and (ii), taken into consideration for the purposes of the classification of the expert as independent and the reasons why such relations were considered irrelevant with respect to the assessment of such independence. Information on any relations may be provided by annexing declarations by the independent experts themselves;
- the terms and subject matter of the mandates granted to the experts;
- the names of the experts charged with assessing whether the price is appropriate.

It should be stated that the opinions of the independent experts or the essential elements of the same pursuant to Article 5 of the Issuers Regulation, are annexed to the informative document published on the company's internet site. The essential elements of the opinions which must be published in any case, will be the following:

- evidence, as the case may be, of specific limits encountered in the performance of the appointment (for example, with regard to access to significant information), of the assumptions used and the conditions to which the opinion is subject;
- evidence of any critical problems identified by the experts in relation to the specific transactions;

- indication of the valuation methods used by the experts to reach an opinion on the appropriateness of the price;
- an indication of the relative importance given to each valuation method used for the purposes described above;
- an indication of the values produced by each valuation method adopted;
- if a value interval has been identified deriving from the valuation methods used, an indication should be given of the criteria on which the final value of the payment has been established;
- an indication of the sources used for the determination of the relevant data forming the subject matter of the calculation;
- an indication of the main parameters (or variables) taken as references for the application of each method.

It will be necessary to confirm that the elements of the experts' opinions that have been made public have been reproduced consistently with the content of the opinions to which reference is made and that, to the best of the issuer's knowledge there are no omissions that could render the information reproduced incorrect or misleading.

2.5. An illustration of the economic, equity and financial effects of the transaction, providing at least the applicable significance indices. If the transaction exceeds the significance parameters determined by Consob pursuant to Articles 70 and 71 of the Issuers Regulation, it will be necessary to indicate that pro-forma financial information will be published in the document required, as the case may be, by paragraph 4 of the above-cited Article 70 or Article 71 and in the terms laid down by the same provisions. The above will be without prejudice to the power to publish a single document pursuant to Article 5, comma 6.

2.6. If the amount of the fees payable to the members of the Administrative Body of the company and/or companies controlled by the latter is due to change as a consequence of the transaction, detailed indications of the change must be provided. If no changes are envisaged, a declaration to such effect must in any case be included.

2.7 In the case of operations in which the related parties involved are members of the Administrative and Control Bodies, General Managers and managers of the issuer, information relating to the issuer's financial instruments held by such parties and the interests of the latter in extraordinary operations, as provided for in paragraphs 14.2 and 17.2 of Annex I to EC Regulation no. 809/2004.

2.8. An indication of the bodies or directors that conducted or participated in the negotiations and/or investigation and/or approval of the transaction, specifying their respective roles, with particular regard to independent directors when present. With reference to the resolutions approving the transaction, it will be necessary to give the names of those voting for and against the transaction or whether they abstained, specifying the reasons for any votes against or abstentions. It will be necessary to indicate that, under Article 5 of the Issuers Regulation, any opinions of independent directors have been annexed to the informative document or published on the company's internet site.

2.9. If the significance of the transaction derives from the accumulation, pursuant to Article 5, paragraph 2, of a number of transactions carried out over the accounting period with the same related parties or with related parties of both the latter and of the company, the information indicated over the preceding points must be provided in relation to all such operations.

CONSOB
COMMISSIONE NAZIONALE PER LE SOCIETA' E LA BORSA

Communication no. DEM/10078683 of 24-09-2010

SUBJECT: Instructions and guidelines for the application of the Regulation on Related Party Transactions adopted by Resolution no. 17221 of 12 March 2010 as subsequently amended

This communication provides indications of the approach Consob is intending to take in the activity of supervising the implementation of the Regulation concerned with related party transactions adopted by resolution no. 17221 of 12 March 2010 as subsequently amended by Resolution no. 17389 of 23 June 2010 ("the Regulation"). The document deals with the main aspects of the new rules, providing details with respect to the Commission's point of view in relation to the manner of implementation of the Regulation considered most appropriate for the achievement of the goals of substantive and procedural transparency and propriety identified by the legislature, without prejudice to the need to assess the conduct of the companies in practice on a case-by-case basis, both with regard to the drafting of the procedures and their actual application.

1. Definition of Related Party Transaction [Article 3(a), and Annex 1]

1.1. The concepts of "related party" and "Related Party Transaction" are taken from those used in IAS (International Accounting Standard) 24 *("Related Party Disclosures")* ("IAS 24"), in the text adopted according to the procedure described in Article 6 (EC) of Regulation no. 1606/2002 and in force at the Regulation's date of commencement. The formulation of Annex 1 does not operate by means of a direct reference to the original text of the international accounting standard itself. As a consequence, the perimeter of related parties and significant transactions will not be amended automatically in the event of changes to the international accounting standards. The latter, while justified from the accounting point of view are not necessarily so with regard to transparency and propriety, the subject matter of the regulation. When referring to the definitions set out in IAS 24, Annex 1 makes some marginal changes to the national legal framework and introduces a number of further details.

While avoiding direct citation of IAS 24, in the identification of the subjective perimeter of relationship and the notion of related party transactions, the definitions contained in Annex 1 will be taken into consideration in supervisory activities having regard - in addition to the entire corpus of the International Accounting Standards as indicated in the Regulation (see § 3.2. of Annex 1) – also to the interpretation dictated by the competent bodies, so long as applicable to IAS 24 adopted according to the procedure described in Article 6 of (EC) Regulation 1606/2002 and in force on the date of commencement of the Regulation.

1.2. With reference to the concept of "related Party", Annex 1 refers to general criteria, as is the case for the preparation of periodic accounting documentation pursuant to the International Accounting Standards, the practical application of these criteria is left to companies themselves, which are required to assess, in relation to the specific circumstances of the case, whether a party may be considered as a "related party".

The company's assessment is particularly important to establish whether a party is able to exercise control, including joint control, or has a significant influence over the company. For this reason Annex 1, for example, does not explain in general and abstract terms in what cases one or more parties to a shareholders' agreement must be considered related parties. Accepting as a preliminary, as in the International Accounting Standards system, the fact that mere participation in a shareholders' agreement does not of itself mean that the party is a related party to the issuer, it is considered that it will be possible to describe an individual party to the agreement as a related party whenever, as a result the specific characteristics of the agreement, it is possible to identify individual or joint control, or significant influence, over the issuer pursuant to the functional definitions set out in Annex 1. Of the various criteria used in establishing the question of relation, regard should be had, *inter alia,* to the size of the individual and overall shareholdings and the clauses governing relationships between shareholders. So far as this latter aspect is concerned, one of the means of assessment of the content of the contract, over and above the *nomen iuris* attributed to it by the parties, will include taking account of its effect in practice with regard to the determination of the Company's financial and management policies.

Without prejudice to the above, it is not considered that simple participation in an agreement giving one or more parties the power to exert control or significant influence over the company means that all parties to the agreement will be considered related parties of the company on that ground alone. The assessment of the power to exercise control (including jointly with one or more of the other parties to the agreement) or significant influence must be made in relation to each individual party, in the light of the latter's power to determine (or contribute to the determination of) the company's financial and management policies or, respectively, to take part in their determination.

The definitions in Annex 1 do not contemplate, for the purposes of the identification of related parties, a case in which significant influence is exercised jointly by more than one party. Since however, significant influence involves "participation" in the determination of the company's financial and management policies, it is clear that the attribution of such a power to one party does not exclude the possibility that others can also participate in the same determination whether or not including forms of co-ordination (for example, within a shareholders' agreement).

1.3. Annex 1 provides, among other things, that a party is a "related party" to a company if it owns a shareholding of sufficient size to allow the exercise of significant influence including through subsidiaries or trust companies or an intermediary. This means that a party controlling a company exercising significant influence over an issuer with shares which are listed or in widespread

ownership will be a related party. On the other hand, parties exercising significant influence over the controlling company of an issuer with shares listed or in widespread ownership will not be a related party. Annex 1 also stipulates that companies over which the company with shares which are listed or in widespread ownership exerts a significant influence will be related parties. Analogously to what is stated in relation to companies upstream in the ownership chain from those with listed or widespread share ownership, it is considered that companies over which the latter company's subsidiaries exercise significant influence will be related parties. Vice versa, subsidiaries of companies subject to the significant influence of the issuer with shares which are listed or in widespread ownership will not be related parties.

1.4. It should also be noted that, consistently with the document dated 27 July 2006 resulting from the consultation on "International Accounting Standards*: Layout of Financial Statements of businesses and company information*", that permanent members of control bodies (Boards of Statutory Auditors and Supervisory Boards) are considered as coming within the category of "Managers with Strategic Responsibilities".

1.5. Furthermore, it is considered that the reference to pension funds contained in the definition of related parties in Annex 1 does not mean all pension funds benefiting all or some staff generally, but only those set up or promoted by companies and those over which the latter are able to exert influence.

1.6. As already indicated, also the definition of "related party transactions" relevant for the rules under consideration, takes up, with a few additional observations, that used in IAS 24 adopted by means of the procedure described in Article 6 of EC Regulation 1606/2002 in force at the moment of the issue of the Regulation.

In particular, it is stated that "*related party transaction is deemed to include any transfer of resources, services or obligations between related parties, regardless of whether a fee is charged*."

It is further noted that *"the following will be included in any case:*

- mergers, demergers by incorporation and non-proportional demergers in the strict meaning of the term, when effected with related parties;
- any decision relating to the assignment of remuneration and economic benefits in any form, to members of Administrative and Control Bodies or key management personnel".

With specific regard to mergers and demergers, the regulation makes it clear that all mergers involving the listed company and a related party will be subject to its provisions, while only demergers with subsequent merger with a related party will count (that is, transactions where the listed party spins off a part of its assets for the benefit of a controlling company or vice versa) or strictly non-proportional demergers (where for example, the listed company's assets are split up to form a number of different companies with a non-proportional assignment of the shares to shareholders[1]). Proportional demergers in the true sense are not included since this would be a transaction involving all shareholders on equal terms. Analogous considerations apply to increases

in share capital. Only increases in share capital where options have been excluded for the benefit of a related party will be caught by the Regulation while those where options are maintained, so long as with the application of equal terms to both related parties owning financial instruments and all other owners of such instruments will not.

1.7. Syndicated loans made by a pool of banks in which a related party participates together with other non-related parties will come within related party transactions save where the related party's minority role within the consortium, as a mere participant, is clear. In this situation consideration will be given to the related party's influence in the making of the decisions regarding the economic and juridical conditions of the loan, as also the share of the total loan paid by such party. Thus loan transactions will always be caught by the Regulation where the related party has the role, either alone or with other banks, of arranger or lead bank.

2. Definition of "Transaction of Greater Significance" [Article 3, letter *b)* and Annex 3,paragraph 1.3] and cumulative transactions [Article 5, paragraph 2 and Annex 4, paragraph 2.9]

2.1. The Regulation states that companies, when implementing the procedures described in Article 4, paragraph 1(*a),* will be required to identify "transactions of greater significance" to which the rules on transparency have to be applied with an informative document and the more rigorous procedure, including at least those transactions exceeding the threshold dimensions indicated in the Regulation's Annex 3.

In particular:

i) transactions will be classified as of greater importance where at least one of the indices identified in Annex 3 exceed 5% (the indices being the following ratios: the ratio that the value of the transaction bears to share equity[1] [2] or, if greater, to capitalisation[3]; the ratio of total assets forming the subject matter of the transaction to the Company's total assets; the ratio of total liabilities of the entity acquired to the company's total liabilities;

ii) the significance threshold is reduced to 2.5% for transactions carried out with the listed controlling company or with parties related to the latter which are also related to the company in

[1] So long of course, as there are shareholders which can be described as "related parties" of the company and, in particular, shareholders able to exercise control or significant influence.

[2] If the company required to observe the Regulation draws up Consolidated Financial Statements, the assessment as to whether the significance indices have been exceeded will be effected with reference to the consolidated share equity or, if greater, its capitalisation. In addition, consistently with the need to ensure that parameters should be applied in the valuation of the size of the transaction which are homogeneous with each other if not alternatives to each other, it is considered that third party interests should not be included as part of the share equity value for the purposes of Annex 1. This is also consistent with the separate identification of the part of share capital and reserves pertinent to third parties in consolidated subsidiaries with respect to that part of share equity of pertinence to the Group as required under the International Accounting Standards.

[3] For banks, exclusive reference is made to the ratio between the transaction value and the regulatory capital taken from the most recently published (consolidated, if drawn up) Balance sheet.

consideration of the separation between ownership and control, structurally greater in listed companies controlled by other listed companies and, as a consequence, resulting in a greater risk of the extraction of private benefits of control to the advantage of the latter;

iii) The above is without prejudice to companies' power to apply significance thresholds which are lower than those set by the Regulation even if only for specific categories of transactions. In the same way it is always open to the company to identify both quantitative and qualitative criteria over and above those indicated in Annex 3 leading to an increase in the number of transactions defined as of greater significance. The above is also without prejudice to the possibility of identifying transactions from time to time, to which to apply the rules governing transactions of greater significance even if below the significance threshold;

iv) Companies must decide whether to apply significance thresholds lower than those indicated above for transactions which may have a bearing on their managerial autonomy *(e.g. the assignment of intangible assets such as brands and patents)".*

So far as point i) is concerned, Annex 3 states that, in the application of the significance index relating to assets, for operations of acquisition and assignment of company shareholdings which have no effect on the consolidation area, the numerator value must be defined, in the case of acquisition, by the "*value of the transaction increased by the liabilities of the purchased company as possibly taken over by the purchaser*". On this point, it should be noted that the value of the numerator will also include the liabilities of the purchased company only when the contract provides that the purchaser will take on specific obligations as against such liabilities, such as when the assignee takes over responsibility for the purchased company's payables pursuant to Article 1273 of the Italian Civil Code[4]. If there is thus no obligation of this kind, the index numerator will simply be the value of the transaction.

Still in relation to the asset-based significance index, in the case of transactions involving the purchase of assets not being a shareholding, the Annex states that the numerator will be made up of either "*the payment or the book value of the asset, whichever is the greater*". To this end it is considered that the issuer will be required to determine in advance the reasonable book value attributed to such assets in its Financial Statements. Thus, when an issuer who has purchased real estate wishes to record it in the Financial Statements at its *fair value* (assuming the conditions required by the International Accounting Standards are satisfied), the numerator of the ratio will be that fair value if greater than the value of the operation. Similar criteria apply in the case of a transaction identified as a *business combination* according to IFRS 3. This means that the assets acquired and liabilities taken on must be valued at their *fair value* as determined at the date of

[4] So far as the method of calculation of the liabilities to be added to the value of the transaction is concerned, it will be necessary to take account of the obligations specifically derived from the sale contract. If, for example, the sale-purchase agreements state that the purchaser will take over all the purchased company's liabilities identified on a specific date, the value of the transaction must be increased by the full value of the *target* company's liabilities. Similar logic will apply where the contents of the agreements between the vendor and purchaser differ from those described in the above example**.** Thus if the agreements require the listed issuer to take over particular refund obligations in relation to some of the liabilities of the company to be purchased (as may happen when a loan contract considers change of control of the debtor company as a *"default event"* and the purchaser is unable to have such a clause withdrawn under the sale-purchase), the related liabilities must be added to the value of the purchase.

acquisition if this figure is greater than the transaction value with the former being indicated as the ratio numerator.

With regard to the liabilities significance index, it should be noted that the liability components of share equity of the acquired entity's Balance sheet liabilities will be excluded from the calculation of "total liabilities" (that is, the heading (r) of paragraph 54 of IAS 1 is to be excluded or, for Financial Statements drawn up in accordance with Italian accounting standards, heading A of Liabilities pursuant to Article 2424 of the Italian Civil Code). With regard to the asset-based significance index, given that IAS/IFRS do not prescribe a mandatory layout for Financial Statements, it is considered that a useful rule of thumb for the calculation of "Total Assets" and the category Balance sheet headings to be included is to consider all headings which are included by Article 2424 in Balance sheet Assets. Where the company uses a different Balance sheet layout due to the activities carried out, the figure to be taken into consideration will be the total of the different asset headings set out in its Balance sheet.

So far as point *iii*) is concerned, specific thresholds could for example be identified which are lower than that laid down by the Regulation, as could qualitative criteria, for transactions which lead to the assignment of control of subsidiary companies which, although not of sufficient size to exceed the 5% (or 2.5%, as the case may be) threshold, are nonetheless of particular significance by reason of the strategic importance of the activities they carry out.

Turning to point *iv*), companies are asked to assess whether to identify reduced significance thresholds for operations involving assets or property of strategic significance for their specific business activities, particularly in cases involving intangible assets for which the mere value of the price might be an underestimate of their actual significance. Transactions coming within this category might include those which involve the assignment of ownership to a related party (for example, the controlling company) of a brand which is essential for the company's business activities and the purchase of the right to use the same by means of the conclusion of a use-licence contract. In the same way, the assignment of the sole industrial production premises used in the business managed by the listed company to a related party with a view to the subsequent purchase of the products by the same related party for their sale could come within the category of transactions involving strategic goods or assets[5]. Transactions of this kind could indeed give rise to the company's strong dependence on the related party and, incidentally, constitute defensive techniques against transfers of control opposed by the related party, particularly if accompanied by contractual clauses putting the company's ability to continue producing goods and services at risk (for example, withdrawal from the contract by the brand owner in the event of a change in control

[5] Even if the purchase of the finished products by the controlling shareholder apparently falls within the category of ordinary activities, it is in effect the direct consequence of the decision to assign the listed issuer's sole production premises. There is no doubt that the latter transaction may be considered to be outside the activities typically effected by the issuer. Furthermore, the re-purchase of the finished products by the controlling shareholder will result in a significant change in the activities carried out by the listed issuer to the extent that, by reason of the disposal of the production plant, it loses its production activities, becoming a mere seller of the products. It is also a non-recurrent transaction (since it has never happened before in its history), of relevance in relation to size (by definition, since it is the sole production premises), and there is a risk of a conflict of interest linked to the nature of the counterparty.

of the licensee company).

It is obviously not possible to provide an exhaustive list of cases which might come within this category but a useful indicator is whether a specific transaction is to be considered on its own or whether account should actually be taken for the purposes of managerial autonomy, of a complex of operations appearing functionally connected (for example, the re-purchasing of finished products by the reference shareholder for subsequent sale).

2.2. Where not specified otherwise, (in particular, Article 5, paragraph 2 of the Regulation: see paragraph 2.3), related party transactions should be assessed on an individual basis for the purposes of the calculation of their greater or lesser significance. In the case of the attribution of any form of remuneration and economic benefits to members of the administration and control bodies and managers with strategic responsibilities, it is considered that the attribution of the remuneration to each member and each manager constitutes an autonomous related party transaction to be taken into account individually for the purposes of the selection of the applicable procedure. With regard to transparency however, the cumulative rules relating to homogeneous transactions or those governed by a unitary design will naturally apply to each individual manager with strategic responsibilities.

2.3. The Regulation states that whenever transactions not being transactions of greater significance which are homogeneous with each other or carried out in the implementation of a unitary design concluded with the same related party or with parties related both to the latter and to the listed company[6] exceed the significance threshold in the same accounting period when taken together, they will be subject to public disclosure rules by means of a specific document. This will not apply to transactions exempted by the Regulation or by the company pursuant to Articles 13 and 14 of the Regulation (cf. Article 5, paragraph 2 of the Regulation. See also paragraph 2.5). It is thus considered that, in checking whether transactions exceed the size thresholds in application of Annex 1, companies should only consider transactions effected from the beginning of the accounting period and that are not excluded because, for example, they are of negligible amount, are ordinary transactions or implemented with subsidiary or connected companies. The publication of the informative document following the exceeding of size thresholds by effect of cumulated transactions will have an analogous effect at the closing of the accounting period. The transactions disclosed in the document will no longer have to be considered, even if the accounting period has not yet come to an end, when checking whether the limits have been exceeded again on a cumulative basis.

2.4. Article 13, paragraph 3(*c)* makes it possible to exclude ordinary transactions (see paragraph 3) from the application of the Regulation (without prejudice to periodical accounting information obligations). Should companies avail themselves of the exclusion, the same provision lays down the obligation, in addition to those of information disclosure in the context of the intermediate report

[6] Thus, for example, if the transactions are carried out between a company bound by the regulation and companies subject to joint control with the latter and they are homogeneous or connected with each other through a unitary design, they will be accumulated with each other so long as the transactions concerned are not exempt because, for example, they are ordinary (Article 13, paragraph 3(*c)* of the Regulation) or of a negligible amount (Article 13, paragraph 2).

and annual report on management, for the related party to send notice to Consob stating the subject matter and price of the transactions of greater significance which have been excluded (point *i)* of paragraph 3(c) of Article 13). Ordinary transactions of lesser importance are thus not among those to be communicated to Consob under this provision which, if caught by the exemption, will not count towards a cumulative amount pursuant to Article 5, paragraph 2 of the Regulation.

2.5. When the significance thresholds are crossed because of the accumulation of a number of different transactions, Annex 4 requires the company to provide the information set out in the outline informative document "with reference to all the above transactions". As made clear by Article 5, paragraph 4 of the regulation, this information may be included in "*aggregate form for homogeneous transactions*".

3. Definition of "ordinary transaction" [Article 3(*d)]*

3.1. The Regulation allows companies to apply a regime exempting them from disclosure and procedural obligations for related party transactions which can be described as "ordinary", so long as concluded at market or standard conditions.

The rationale behind this provision is the desire to calibrate costs of compliance to those incurred within normal company operations with reference to transactions which have fewer risks in terms of damaging shareholder interests. The exemption thus relates to transactions coming within the "*ordinary running of the operational business"* or the "*financial activities*" connected to the same.

The elements which are of significance in the definition of *ordinary transactions* are, in some cases, already familiar to companies in that partly inspired by the international accounting standards and thus tending[7] to be taken into consideration in the drafting of accounting documentation, particularly with regard to the origin of financial flows required for the drawing up of the Financial Schedule (IAS 7)[8].

Under the regulation, for a transaction to be *ordinary*, two conditions must be satisfied contemporaneously. In the first place, the transaction must come within operational activities or, in the alternative, the financial activities connected with such operations (see §§ 3.2 and 3.3). In the second place, as before, in order to benefit from the exemption, the same transaction must also come within the "ordinary" running of operational activities or the connected financial activities (see § 3.4).

3.2. The main element of the definition of "*ordinary transaction*" thus consists of the concept of operational activities. By this is meant the combination of: (*i*) the main activities generating the company's income and (*ii*) all other management activities which cannot be classified as "investment" or as "financial" in nature.

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[7] For the purposes of this Communication, indeed transactions not identified in the financial schedule may be considered in that there is no requirement for the investment of cash resources or the equivalent (so-called non-monetary transactions).

[8] The elements which define ordinary transactions in this Communication will be interpreted by Consob in conformity with International Accounting Standards. On the other hand, the concept of *ordinary transactions* as set out in the Regulation and the guidance relating to its application obviously have no bearing on the interpretation of the definitions contained in the International Accounting Standards.

The concept of operational activities thus includes, as the positive aspect of the definition, the transactions coming within the main activities contributing to the generation of turnover or, in the case of non-industrial entities, current operations. The negative element of the definition is the fact that it must relate to all other operations which, while possibly outside the main activities coming under the company purpose, do not come under the other two management activities of investment and financing.

For the purposes of these provisions, the activities of investment involve the following:

(i) transactions which result in the purchase and assignment of fixed assets such as real estate, plant and machinery and intangible assets, excepting non-current assets[9] held for sale;

(ii) financial investments not coming within the definition of so-called "cash and its equivalents"[10].

Transactions resulting in the acquisition or assignment of non-current fixed assets held for sale, and cash together with cash equivalents, can therefore be exempted because coming within the ordinary exercise of operational activities as more particularly described in paragraph 3.4. below.

Financial assets relate to assets which give rise to changes:

(i) in the size and composition of paid up own capital;

(ii) in loans obtained by the company.

It is considered that the classification of a transaction within one of the three main areas of activities (operational, investment, financial) must be effected in the most appropriate way according to the activities carried out by the company. This means it is necessary to consider the nature of the activities carried out by banks or financial companies indicated in Articles 106, 107 and 113 of Legislative Decree no. 385 of 1 September 1993 ("Consolidated Banking Law") for which the granting of loans of any kind is normally classified as operational activities rather than investment because coming within the main activities generating the company's income.

3.3. The second element in the definition of "ordinary activity" is that of *financial activities* (also called "financing activities") connected with the operational activity. This element makes it possible to extend the benefit of the exemption to transactions which, in abstract terms, are financial but to the extent that they are accessory to the conduct of operational activities. As a consequence, loans obtained for the conduct of transactions not coming within operational activities (to the extent that they are connected with investment activities) cannot be described as *ordinary transactions*.

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[9] The expression "non-current" indicates the tangible, intangible and financial assets of a long-term nature. An asset will be "current" when (*i*) it is expected to be realised or held for sale or consumption as part of the normal conduct of the entity's operational cycle, (*ii*) it is held for the main purpose of being traded, (***iii***) it is expected to be realised within 12 months from the Financial Statements' reference date or finally, (*iv*) it is made up of cash resources or equivalent means, so long as it is not excluded from being exchanged or used to cancel out liabilities for at least 12 months from the Financial Statements' reference date. When an entity's normal operational cycle is not clearly identifiable it will be assumed that its duration is 12 months.

[10] Cash equivalent resources will be deemed to include, in addition to cash and at sight deposits (so-called "cash resources"), those short-term and highly liquid investments which are readily convertible into a known cash value and which are subject to a significant risk of change in value.

In some cases, the accessory restriction can be identified easily because reflected in the subject matter of the contract (one might think in this context of a specific mortgage or non-monetary operations[11]) or in any case which can be unambiguously reconstructed in the light of the operational characteristics (such as, by way of example, short term liabilities functional to the purchase of raw materials). Among the various subject areas considered in supervisory activities, particular attention will be given to the duration of the loan including in relation to the useful life of the connected goods so purchased. In general terms and save in specific exceptional circumstances, it is considered that the accessory character in relation to operational activities will be seen with reference to so-called bank "bridging loans" obtained in order to ensure financial continuity on a temporary basis or the cover of financial requirements.

Whenever the financing transaction is not characterised by objective elements of such a nature as to permit an unambiguous reconstruction of its accessory nature in relation to operational activities, it is thought that the presence of circumstances justifying a reasonable belief that the loan obtained will be dedicated to such a purpose will be enough. To this end, the reasonableness such an assessment in accordance with the circumstances existing at the conclusion of the transaction, independently of any subsequent different uses, will be sufficient when justified in the light of the development of the facts of the case.

So far as increases in share capital with the exclusion of option rights are concerned - the only kind considered here because increases with the retention of option rights will not be considered as related party transactions pursuant to the indications set out in paragraph 1 - it is considered that these do not generally come within the ordinary exercise of financial activities connected with operational activities (see paragraph 3.4);

3.4. Finally, the definition of *ordinary transactions* requires that, in order to benefit from the exemption, it must come within the *ordinary exercise* of operational activities or financial activities connected with the latter. It is thus necessary to apply a further selective criterion in addition to the classification described above.

In particular, to establish whether a transaction comes within the ordinary exercise of operational activities or the connected financial activities, the following elements have to be taken into consideration:

i) the purpose of the transaction. If the purpose of the transaction falls outside the activities typically carried out by the company this represents a degree of anomaly which may indicate that it is not ordinary;

ii) the recurrence of the transaction type within the ambit of the company's activities. The company's regular repetition of a transaction itself is a significant indication that it falls within ordinary activities in the absence of other indications to the contrary[12];

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11 These are financing transactions not producing flows of cash resources or equivalent means (see, for instance, the purchase of assets by the reduction of a payable).

12 Consideration is given to the role assigned to the element of repetition in the identification of the company's ordinary activity from the *Systematic*

iii) size of the transaction. A transaction which comes within a company's ordinary activities might not fall into that category by reason of its especially large size. It has to be remembered however, that the exemption under consideration is also applicable to transactions of greater significance (that is, those exceeding the significance thresholds calculated in accordance with Annex 1). What is important is that the transaction should not be significantly larger than those which normally characterise analogous operations effected by the company;

iv) contractual terms and conditions, including with regard to the price characteristics. In particular, transactions where the price is not monetary in nature will normally be considered as falling outside of the ordinary exercise of operational activities even if supported by third party expert reports. In the same way, contractual clauses departing from normal contractual customs and practice may represent a significant indication that they are not ordinary;

v) nature of the counterparty. Within the scope of transactions already identified as related party transactions there is a sub-set of operations that do not come within the ordinary exercise of operational activities (or the connected financial activities) to the extent that they are effected with a counterparty with anomalous characteristics with respect to the type of operation carried out. Purely by way of example, one can think of a case where an instrumental asset, classified as a non-current asset held for sale, is sold to a company controlled by a director which does not operate in the sector in which the asset is used and which clearly lacks an organisation appropriate for the use of the asset concerned.

The significance of the elements indicated above will be assessed also paying particular attention to the moment when the transaction is approved and completed. In particular, in assessing the indications which might bring it within the ordinary exercise of operational activities and the connected financial activities, it is important to remember that an anomalous element might have greater weight in such assessment if the transaction is resolved on in proximity to the accounting period closure date of either the listed company or the related party.

3.5. When assessing whether a transaction can be defined as an "ordinary transaction", consideration will be given to the activities carried out by the company carrying out the transaction. This remains true if the company carrying out the transaction draws up Consolidated Financial Statements or is included within the consolidation area of the Financial Statements drawn up by the company required to apply the procedures. As a consequence, in a case when the transaction is carried out by one of the listed company's subsidiaries, the activities carried out (or one of the activities ordinarily carried out) by the subsidiary company will weigh on the assessment. Nonetheless, if the company carrying out the related party transaction is a special purpose company

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Framework in the preparation and presentation of the Financial Statements (§ 72), according to which it is "common practice to differentiate between those elements of income and costs originating in the conduct of the entity's ordinary activities and those which, on the contrary, fall outside such activities. The above distinction is based on whether the source of an element is significant in the valuation of the entity's ability to generate financial flows or equivalent means in the future. For example, it is not probable that exceptional transactions, such as the assignment of a long-term shareholding, will be repeated on a regular basis. When a distinction is made between elements in the above manner, the nature of the entity and its activities must also be taken into consideration. Elements forming part of one entity's ordinary activities may be unusual for another".

set up to carry out that transaction, it is considered that the assessment of whether or not it is ordinary must be effected with regard to at least one of the activities carried out by the group to which it belongs, made up of the companies coming within the Consolidated Financial Statements drawn up by the controlling listed company or by the upstream controlling company in the control chain. In the case of operations carried out by special purpose companies, indeed, the contemporary satisfaction of the two conditions (that it must be ordinary for the company carrying out the operation and in the light of one of the group's business activities) responds better to the rationale referred to above underlying the exemption relating to ordinary activities. This ensures that it is not possible to take advantage of the exemption through special purpose companies set up for the sole purpose of carrying out an operation lying outside the characteristic activities carried out up to that point by the companies included within the consolidation area.

3.6. For the purpose of the application of the exemption for ordinary transactions concluded at market or standard conditions, the procedures adopted by companies under Article 4 of the Regulation may provide a more precise identification, also in the light of the activities carried out by the companies, of the general characteristics of transactions which may come within the exemption.

4. Smaller companies, recently listed companies and companies with extensive and widespread public ownership of their shares [Article 3, paragraph 1(*f) and (g),* and Article 10]

4.1. The definition of "smaller Companies", intended to identify parties which will be able to benefit from procedural simplifications (Article 10), applies asymmetrical rules for the acquisition and loss of this status. So far as provisions favourable to companies are concerned, the rule states that it is only necessary to satisfy the size parameters for one accounting period in order to fall within the definition of "smaller company", while the same conditions have to be exceeded for two consecutive accounting periods for the status to be lost.

If companies which lose the status of "recently listed companies" satisfy the relevant conditions they may then be classified as "smaller companies" without interruption between the two. In the case of the demerger of a listed company with contemporaneous admission of the new beneficiary company's shares for trading, it is possible that the new beneficiary company, even though not able to benefit from the exemption relating to recently listed companies, still immediately satisfies the conditions applicable to a "smaller company". It is considered that if the newly constituted beneficiary company can satisfy the size conditions applicable to a "smaller company" under the Regulation it can be treated as such even before the completion of the first accounting period after the demerger. The relevant figures so far as Balance sheet assets are concerned, will be the asset elements transferred to the beneficiary company under the Demerger Plan while, with respect to income, the relevant source will be the proforma data contained in the admission to listing prospectus. So far as the demerged company is concerned, the assessment of whether the size limits have been satisfied will refer to the first Balance sheet drawn up after the demerger.

4.2. Article 10 of the Regulation describes a simplified regime for transactions of greater significance in the case of smaller companies, recently listed companies and companies with extensive and widespread public share ownership. Indeed, they may apply the same procedures for such transactions as those adopted for transactions of lesser significance. This is however without prejudice[13] to the fact that, in the case of a transaction of greater significance coming under the competence of the General Meeting where the Committee of Independent Directors has expressed a contrary opinion, the rules relating to the calculation of the majorities laid down by Article 11, paragraph 3 of the Regulation will apply (so-called *whitewash).* This will continue to apply even in a case where the opinion is not binding because the company has decided to exercise the power to adopt the procedures described in Article 7 of the Regulation.

5. Definition of Independent directors [Article 3, paragraph 1(*h)]*

The Regulation requires in general terms that a director, to be defined as "independent" in accordance with the regulations, must satisfy at least the conditions laid down by Article 148 of Legislative Decree no. 58 of 24 February 1998 ("Consolidated Law"). Nonetheless, for companies which declare in their "Report on Company Governance and Ownership structures" that they comply with a Code of Conduct in the field of company governance promoted by regulated market management companies or category associations (Article *123-bis* of the Consolidated Law), the regulation states that directors will be considered "independent directors" when judged to be such by the Company pursuant to the related code on condition that the independence assessment criteria indicated by the code are at least equivalent to those laid down by Article 148 of the Consolidated Law.

It is considered that the criteria currently laid down by the Self-Disciplinary Code adopted by the Corporate Governance Committee are "*at least equivalent to those set out in Article 148, paragraph 3 of the Consolidated Law".* Directors recognised as independent directors by companies in application of the principles and criteria laid down in the Self-Disciplinary Code will thus be considered to be such.

The above assessment is based on a comparison of the level of independence required as a whole by the Consolidated Law, on the one hand, with that offered by the application of the criteria of the Self-Disciplinary Code on the other.

The more restrictive nature of the conditions defined in Article 148 of the Consolidated Law with respect to some individual aspects (for example, a more detailed indication of the relevant degree of kinship) is actually more than set off by the wider description of significant cases where independence does not exist and the existence of a general principle that substance should prevail over form which has to guide the application of the Code's criteria and imposes a high degree of

[13] Of the provisions subject to exemption, Article 11 of the Regulation is not listed relating to resolutions coming within the competence of the General Meeting. Article 11, paragraph 3 is generally concerned with a case where the proposed General Meeting resolution relating to a transaction of greater significance is passed even where the independent directors or board members are of the contrary view, without referring to opinions expressed under Article 11, paragraph 2.

responsibility on companies themselves.

Consob will consider possible amendments to the Self-Disciplinary Code in order to decide whether to confirm, including with reference to the new text, its judgement of equivalence of the current version of the Code expressed in this document.

6. Adoption of Procedures [Article 4]

6.1. Article 4 of the Regulation requires Boards of Directors or management Boards to adopt procedures containing rules which ensure transparency and the substantive and procedural propriety of related party transactions.

The Regulation also makes provision for a number of safeguards of propriety and, in particular, the expression of a favourable opinion by a committee made up of only independent directors, applicable with reference both to the adoption of the procedures and to any amendment of the same. In this regard it is considered that companies will be free either to identify an existing committee so long as the membership conditions are complied with, or to specifically set up a new committee for the purpose. It is recommended that companies consider whether the procedures need to be revised at least once every three years, taking into account, among other things, any intervening changes in ownership structures and the effectiveness of the procedures demonstrated in their practical application. It is also considered appropriate, although not required by the Regulation, to obtain the opinion of independent directors in relation to any decisions not to effect any amendment following the assessment of existing procedures.

6.2. The Regulation also states that, whenever there are not at least three independent directors holding office, the Company must employ alternative safeguards to that represented by a committee of independent directors when resolving on the procedures. In particular, in such circumstances, the resolutions may only be passed "*following the favourable opinion of any independent directors which may be present or, in their absence, following the non-binding opinion of an independent expert*". As a consequence, if only one or two independent directors hold office in a company required to adopt the procedures, it is possible to rely on the favourable opinion of such directors without having to change the membership of the Board of Directors or the management or supervisory boards. Of the possible measures available, no reference is made to the expression of an opinion by the Board of Statutory Auditors. This body has already been assigned the duty not only to check compliance with the adopted procedures but also to confirm that such procedures comply with the principles set out in the Regulation (see Article *2391-bis* of the Italian Civil Code, Article 149 of the Consolidated Law and Article 4, paragraph 6 of the Regulation). On this point it is considered that the assessment by the Board of Statutory Auditors must be concerned to ensure both that the adopted procedures comply with the Regulation and compliance with the procedures themselves on the occasion of the approval of individual transactions. The assessment in both cases will obviously be carried out *ex post*, but it is thought that there is nothing to prevent asking the Board of Statutory Auditors for an opinion on the legitimacy of the procedures before they are

approved[14]. In such circumstances, the opinion would supplement (and not substitute) that of the independent directors or independent experts at the moment when the procedures are adopted.

7. Transactions carried out by subsidiary companies [Article 4, paragraph 1(*d*), and Article 5, paragraph 1]

Transactions effected by subsidiary companies may pose risks analogous to those created by transactions concluded directly by controlling companies that are themselves subject to the rules of transparency and propriety laid down by the Regulation as issuers of shares traded on regulated markets or with extensive and widespread public ownership of their shares.

This is why transactions effected by subsidiary companies satisfying the relevant conditions (including their individual or combined size in particular)[15] are always included as transactions subject to information disclosure obligations laid down by Article 5 of the Regulation pursuant to Article 114, paragraph 5 of the Consolidated Law.

In contrast to the above, under Article 4, paragraph 1(d) of the Regulation concerned with substantive and procedural propriety, it is stated that companies must draw up specific rules exclusively concerned with a case in which the controlling company "*examines or approves*" transactions carried out by Italian or foreign subsidiary companies. The provision, laying down general principles in the field of transactions carried out "*through subsidiary companies*" (article *2391-bis* of the Italian Civil Code[16]), thus makes it a condition of the controlling company's obligation to comply with the propriety rules that it has actually carried out the defined activity (in the form of the examination or approval of the transaction).

The Regulation thus does not require controlling companies to exercise an influence (whether or not involving activities of direction and co-ordination) over and above that already exercised in its relations with its subsidiary companies. Indeed, the related provisions are limited to governing decision-making processes relating to the transactions carried out by the subsidiaries, adopted by companies independently of the implementation of the Regulation, either by autonomous choice or by legal imposition (an example of the latter being those transactions for which the Group holding company is required to express its consent in application of Article 136, paragraph 2 of the Consolidated Banking Law).

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[14] This is also without prejudice to the fact that companies may involve other parties in the drafting of the procedures, including the provision of a specific opinion. An example might be the manager with responsibility for the drafting of company accounting documents (in order to ensure co-ordination with the administrative and accounting procedures laid down by Article 154-bis of the Consolidated Law - see Article 4, paragraph 4 of the Regulation).

[15] To such end reference is made to the concept of control set out in Article 2359 of the Italian Civil Code rather than the definition used for the identification of related parties.

[16] For the identification of subsidiaries indicated in Article 2391-bis of the Italian Civil Code, reference should be made to the concept of controls defined in Article 2359 of the Civil Code and not the definition used to identify related parties as set out in Annex 1 of the Regulation and amended by the International Accounting Standards in force on the date when the Regulation came into effect. This note may be of relevance given that it is considered that the Civil Code definition only refers to individual control. In contrast to the above, the definition contained in the above-cited Annex 1 contains express reference to joint control.

To such end it is considered that:

- the examination or approval of the transactions will not necessarily have to be carried out pursuant to internal regulations nor must they necessarily be set out in express resolutions, it being enough for an office-holder of the controlling company to examine the transaction in advance or to approve it pursuant to the delegated powers granted to him or her;

- "examination" should be understood as meaning not the mere receipt of information on the transaction completed by the subsidiary (for example, for control purposes or for the drafting of company accounting documentation), but rather an assessment of the transaction which may lead to some kind of intervention (for example, the production of an opinion, even if not binding) capable of having a bearing on the procedure for the approval of the transaction by the subsidiary.

Whenever companies are required to draw up rules relating to transactions carried out through subsidiary companies on the basis of the above, the Regulation places full responsibility on the companies for the identification of rules capable of ensuring the substantive and procedural propriety of the transactions. Controlling companies will thus not be bound to apply the procedural provisions laid down by the Regulation in their entirety for transactions by subsidiaries they have examined or approved. The regulatory provisions concerned indeed, may be interpreted by each controlling company according to the degree of influence it exercises in compliance with its autonomous decisions with respect to relations with its subsidiaries or in accordance with the lesser or greater significance of the transaction.

In a case where the transaction is effected by a listed company through another listed company in accordance with the details explained above, both companies will be required to apply the procedures according to their respective roles. The controlling company will, as part of the examination or approval of the transaction, apply the rules drawn up autonomously pursuant to Article 4, paragraph 1(*d)* of the Regulation, while the subsidiary company will apply the procedures required by the Regulation for transactions of greater or lesser significance, providing always of course, that the related party is also such a party for the subsidiary company.

In the context of the supervisory activities carried out by the control bodies of companies required to apply the procedures, it will be necessary to pay particular attention to transactions carried out by subsidiaries with related parties of the controlling company which may indicate, by reason of their number, type, size or frequency, evasion of the propriety safeguards set up by the Regulation.

8. Identification of significant parties for the application of the regulations [Article 4, paragraph 2]

The Regulation's Annex 1 contains definitions of related parties in the context of related party transactions.

Under Article 4, paragraph 2 of the Regulation, when adopting the procedures companies must decide whether to identify, and hence also describe in such procedures, additional categories of parties in addition to related parties as defined in Annex 1, to whom the procedural transparency

rules under consideration will be applied in whole or in part[17].

When making such an assessment companies must take account of the following:

- particular ownership structures. For example, a company with a particularly fragmented ownership structure might decide to apply the rules, in whole or in part, to owners of shareholdings smaller than the level presumed to impart the exercise of significant influence (20% as stated in Annex 1 of the Regulation and changed by the current IAS 28 in force, or 10% for companies with listed shares according to Article 2359 of the Italian Civil Code), independently of whether (joint or individual) significant or dominant influence can be exercised over the invested company;

- possible significant contractual restrictions for the purposes of point 3 of the first paragraph of Article 2359 of the Italian Civil Code together with possible restrictions under the Articles of Association or contract by which direction and co-ordination pursuant to Article *2497-septies* of the Italian Civil Code may be achieved. In particular, this relates to contracts which, under Article 2359 of the Italian Civil Code, may create a dominant influence over the company. This also refers to a case where a company is subject to the activities of direction and co-ordination pursuant to a contract or provisions in the Articles;

- sector rules which may be applicable to the matter of related parties. Whenever, for the purposes of sector rules analogous or contiguous to the Regulation (for example applying to the banking sector), a company is required to identify a "relationship perimeter" which is wider than that defined by Annex 1, it might be considered useful, in order to simplify the procedures, to identify a single perimeter for both sets of rules.

When deciding whether to increase the categories of parties to which the transparency rules laid down by the Regulation will apply in whole or in part, companies may also consider the rules applicable in relation to accounting. In particular, it would be possible to extend the ambit of parties included under Annex 1 by referring to one or more of the additional cases considered to be "related parties" under IAS 24 adopted by EU Regulation 632/2010 of 19 July 2010. Since this is a mere extension of the Regulation's scope of application, it remains the case that the definition of related parties common to the new IAS 24 and Annex 1 will remain governed by the latter.

9. Publication of the informative document for transactions of greater significance, the opinions of the committee of independent directors and the possible opinions of independent experts [Article 5, paragraph 1].

As expressly indicated in the first paragraph of Article 5 of the Regulation, the publication of the informative document for transactions of greater significance, together with the publication of the opinions of the committee of independent directors and possibly the opinions of independent experts, is required by Consob pursuant to Article 114, paragraph 5 of the Consolidated Law. This also triggers the application of the rules governing claims for serious damages pursuant to

[17] For example, companies may decide to apply only the transparency rules to transactions with the above-mentioned additional parties, with the informative document provided for under Article 5.

paragraph 6 of the same Article 114 of the Consolidated Law[18].

The Regulation requires the publication of the informative document and the opinions described above only for transactions of greater significance. This obviously does not prevent the distribution of a document containing the information (or part of it) required for such a transaction on the occasion of the approval of a transaction of lesser significance in accordance with the procedures applicable to regulated information. Issuers will thus be free to assess whether a transaction, including independently of the existence or otherwise of an obligation to publish the informative document pursuant to the Regulation, deserves greater disclosure for the benefit of the market. This power may assist issuers in "borderline" cases where, for example, the transaction may satisfy the definition of a transaction of lesser importance under Annex 3 but is only slightly lower than the greater significance threshold.

10. Periodical financial information [Article 5, paragraph 8]

Without prejudice to the disclosure obligations laid down by IAS 24, Article 5, paragraph 8 of the Regulation contains rules governing periodical disclosure in relation to related party transactions (additional periodical disclosure obligations are laid down in other provisions: see for example, Article 7, paragraph 1(g) of the Regulation).

In particular, the following information has to be disclosed in both the intermediate and annual Reports on Management:

a) on individual transactions of greater significance concluded in the reference period (Article 5, paragraph 8(*a)*);

b) on other individual related party transactions which "had a significant influence" on the equity situation or the company's results (Article 5, paragraph 8(b));

c) on changes to, or developments of, related party transactions described in the previous annual report which have had "a significant effect" on the equity situation or the company's results over the reference period (Article 5, paragraph 8(c)).

In compliance with Article 154-ter, paragraph 6 of the Consolidated Law, the provisions of letters b) and c) implement the European directives concerned with related party transactions to be included in the intermediate report on management (Article 5, paragraph 4 of EC Directive 2004/109 and Article 4 of EC Directive 2007/14). This is why the subject matter of the disclosure, including the relevant related party perimeter, is defined by reference to the concepts defined by the international accounting standards, as required by European directives for companies which draw up their accounting documentation according to such standards (see also Preamble 5 of EC Directive 2007/14). Paragraph a), on the contrary, refers to "transactions of greater significance" as

[18] In particular, the sixth paragraph of Article 114 of the Consolidated Law states as follows: "*if the parties indicated in paragraph 1 and listed issuers with Italy as their Member State of origin raise an motivated objection claiming that the public disclosure of information required pursuant to paragraph 5 may cause them serious damage, this will result in the suspension of the disclosure obligations. Within 7 days Consob may exclude the disclosure of the information even partially or temporarily, so long as this does not mislead the public in relation to essential facts and circumstances. Once such time limit has expired the claim will deemed to have been accepted.*

defined by Article 3, paragraph 1(*b)* of the Regulation with reference both to the subjective context and the criteria governing the significance of the transaction.

So far as the documentation to be included on the individual transactions is concerned, the following constitute relevant information:

a) In the annual Report on Management:

1) where applicable, the description of the policies providing the context of which related party transactions form part, including with reference to the strategy achieved through such transaction;

2) An indication for each transaction, including in the form of a table, of the following information:

   - the name of the transaction counterparty;
   - the nature of the relationship with the related party;
   - the purpose of the operation;
   - the transaction price;
   - all other information which may be necessary for an understanding of the effects of the related party transaction on the business's Financial Statements;

b) in the intermediate Report on Management:

1) any amendment to related party transactions described in the last Annual Report having a "significant effect" on the company's equity situation or results in the reference period;

2) an indication for each transaction, including in the form of a table, of the information described in point 2) of letter *a).*

As indicated in Article 5, paragraph 9 of the Regulation, the information may be included in the periodical financial documentation including by reference to informative documents which may have been published on the occasion of the approval of a transaction of greater significance.

11. Related Party Transactions and public disclosure pursuant to Article 114, paragraph 1 of the Consolidated Law [Article 6]

Article 6 of the Regulation deals with a case where related party transactions are subject to disclosure obligations laid down by Article 114, paragraph 1 of the Consolidated Law. It requires that certain specific items of information should be included in the public disclosure "*in addition to the other information to be published*" pursuant to the above provision.

In this context it will be recalled that Article 66, paragraph 2(*a) of* Consob Regulation no. 11971 of 14 May 1999 ("Issuers Regulation") states that the communication by which privileged information is published must contain "*the elements necessary to permit a full and correct assessment of the events and circumstances represented*". All items of information must thus be communicated which are capable of having a significant influence on the prices of the related financial instruments, also

in conjunction with other information. The above is likewise without prejudice to any other information obligations which may be laid down by price sensitive communication templates defined by the management companies of the markets where the shares issued by the company are traded.

In the cases when the Issuer does not publish the informative document drawn up in compliance with Annex 4 of the Regulation, either because the transaction does not exceed the significance threshold as defined in Article 4, paragraph 1 of the Regulation, or because it falls within the cases and powers of exclusion provided for by the Regulation, the following is a non-exhaustive list of informative elements which may be of relevance with respect to compliance with the above-cited Article 66, paragraph 2(*a)* and which, without prejudice to the provisions of Article 6 of the Regulation, normally constitute the reference parameter with regard to Consob's requirements for the publication of additional information in relation to disclosures regarding such transactions. Such elements are the following:

i) the essential characteristics of the transaction (price, performance conditions, time of payment etc.);

ii) the economic reasons behind the transaction;

iii) a brief description of the economic, equity and financial effects of the transaction;

iv) the procedures used for the calculation of the price of the transaction together with assessments of its congruity with respect to the market value of similar transactions. In a case where the economic conditions of the transaction are defined as being equivalent to market or standard conditions, in addition to the declaration to such effect, an indication of the objective elements supporting it must be provided;

v) any use of experts for the valuation of the transaction and, in such circumstances, an indication of the valuation methods adopted in relation to the congruity of the price and the description of any critical difficulties identified by the experts in relation to the specific transaction.

12. Procedures for transactions of lesser significance [Article 7, paragraph 1, and Annex 2,paragraph 1.1]

12.1. The Regulation's provisions concerned with the procedures for the approval of related party transactions represents the minimum level of protection in the field of substantive and procedural propriety required under Article 2391-*bis* of the Italian Civil Code. Companies are still able to adopt more stringent measures as made clear by the term "at least" (for transactions of lesser significance see Article 7, paragraph 1 of the Regulation and paragraph 1.1. of Annex 2). Similar provisions relate to transactions of greater significance and strategic transactions, (see Article 8, paragraph 1 of the Regulation and paragraph 2.1 and 3.1 of Annex 2). So far as, in particular, transactions of lesser significance are concerned, Article 7, paragraph 1 of the Regulation expressly reserves the possibility of adapting the procedures to the provisions concerning transactions of greater significance (indicated in Article 8). What this means is that procedures may voluntarily adopt such

safeguards or only some of them[19], without prejudice to the power to identify other measures in addition to those applicable pursuant to Article 7 and not envisaged by the Regulation. Similar considerations apply, although without express reference to the provisions concerned with transactions of greater significance, to companies that adopt a dual administrative and control system (Annex 2, paragraph 1.1.).

12.2. In the case of transactions of lesser significance, the Regulation requires the obtaining of a prior, non-binding opinion produced by a committee made up of non-executive and non-related directors[20], the majority of whom must be independent (Article 7, paragraph 1(*a)).* The provision allows either the use of existing committees, for example, the Internal Control Committee required by the Self-disciplinary Code of Listed Companies[21], or the use of committees set up specifically for the approval of the individual related party transaction.

It is also to be hoped that companies will, possibly on the first re-appointment of company office-holders after the entry into force of these provisions, set up committees whose members are exclusively independent directors as envisaged by best international practice, including for transactions of lesser significance. This would also make it possible to concentrate the safeguards for related party transactions within a single committee[22].
In any case, it is hoped that companies will avoid including non-executive directors in committees required to provide an opinion on the transaction, who, although not related to the transaction counterparty, nonetheless have relations with the latter of such a nature as to lessen their independence from the same: for example, if the transaction is to be concluded with the controlling shareholder and a non-executive director has professional or family ties with the latter, it would be preferable not to assign such director any role in the expression of the required opinion.

Particular propriety guarantees may be assured by the decision to assign a significant role to the independent directors within the Board of Directors as regards the choice of the members of such committee.

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[19] Including for only some transactions of lesser significance.

[20] Pursuant to Article 3(i) of the Regulation, Directors who are not the counterparty of a given transaction or related parties of the latter will be "*non-related"*.

[21] It will be recalled that the Self-Disciplinary Code requires an internal control committee made up exclusively of independent directors only for listed companies controlled by another listed company. It should also be recalled that the new Article 37 of the Markets Regulation makes provision, under normal business conditions (see. Paragraph 23 below for indications on the transitional rules) for the application of the following conditions for the admission to listing of subsidiary companies subject to activities of direction and co-ordination:

a) the presence of an internal control committee made up entirely of independent directors;

b) that, where set up, the other committees recommended under codes of conduct in the field of company governance promoted by management companies of regulated markets or category associations should be made up exclusively of independent directors.

[22] It will be indeed recalled that:

- A prior binding opinion is required for the adoption of the procedures of a committee which may be set up for the purpose, made up exclusively of independent directors pursuant to Article 4 of the Regulation;
- For transactions of greater significance, the involvement of a committee, which may be set up for the purpose and made up exclusively of independent directors will be required in the negotiation, investigation and approval stages with the production of a prior, binding opinion, pursuant to Article 8 of the Regulation.

13. Opinions preliminary to the approval of transactions [Article 7, paragraph 1(*a)* and (*d);Article* 8, paragraph 1,(*c)* and (*d);* Annex 2,paragraph 1.1.a, 1.3, 2.1.c, 2.2, 3.1.d]

The Regulation gives some effects in law to an unfavourable opinion produced by parties required to provide an opinion. These effects may be, for example - depending on the significance of the transaction, the administrative and control system adopted or the decisions made when drawing up the procedures - that of being impossible to resolve on the performance of the transaction, the obligation to resort to a resolution by a different company body or, more simply, the imposition of disclosure obligations.

It might be useful to provide a number of observations with regard to some particular cases applying to the formulation of the opinion. For it to be possible for the opinion to be considered "favourable", it must indicate full agreement with the transaction. Even the expression of a negative judgment on only one aspect of the transaction concerned will be sufficient, in the absence of an indication to the contrary in the same opinion, to produce the effects referred to above. It is thus advisable, if the opinion is defined as being favourable, so permitting the conclusion of the transaction notwithstanding the presence of a number of critical elements, reasons are provided to explain why such elements do not negate the overall opinion that the completion of the transaction is in the interests of the company and of the substantive propriety of the related conditions.

A positive opinion which is subject to the condition that the transaction should be concluded or performed with the observance of one or more indications will be considered "favourable" under the Regulation, so long as the conditions laid down are actually observed. In such circumstances, evidence of compliance with the indications must be provided in the information on the performance of the transaction to be provided to the administration or control bodies [Article 7(*f)* and Annex 2, paragraphs 1.1.f and 3.1.i].

14 Independent Experts [Article 7, paragraph 1(*b);* Annex 2, paragraphs 1.1.b, 1.3, b, 3.1.c]

14.1 The Regulation states in a number of provisions that non-related independent directors or the committees made up by the same will have the power to obtain assistance from one or more independent experts chosen by themselves, at the Company's expense. The principle does not require that the experts selected by the independent directors must be different from those possibly appointed by the company. The general view is thus that the provision will be observed if the independent director is given the power to indicate the experts the company will use to carry out the transaction, so long as the appointment expressly states that the expert will specifically assist the independent directors in the conduct of their duties pursuant to the procedures on related party transactions. This remains true irrespective of the type of transaction to be examined by the independent directors. When the transaction is of lesser significance, it will be possible for the company to impose an expenditure limit on each individual transaction for the services rendered by the independent experts. The power to assess the independence of the expert called on to assist the independent directors obviously lies in the hands of the latter.

14.2. So far as the requirements of independence applicable to the expert are concerned, Annex 4 ("*the informative document relating to related party transactions of greater significance*") describes the relations to be taken into consideration when defining the expert as independent and which must be mentioned in the document. Even so, the same Annex explains that such relations may be considered significant for the purposes of the assessment of independence, without prejudice to the need to provide express reasons supporting the same in the document.

15. Alternative safeguards in the absence of independent directors [Article 7, paragraph 1(*d);Article* 8, paragraph 1(*d)]*

15.1. The Regulation states that companies must have recourse to specific safeguards in circumstances where it is not possible to set up a committee in accordance with the rules indicated in Article 7. The additional safeguards adopted as a result must in any case be equivalent to those indicated in letter *a)* of Article 7.

Without prejudice to Companies' powers to identify other solutions, the passing of the related resolution following the reasoned, non-binding opinion on the company's interests in the completion of the transaction, as well as the economic convenience and substantive propriety of the same as drawn up by the Board of Statutory Auditors or an independent expert will be considered to represent such an "equivalent safeguard". If the opinion is provided by the Board of Statutory Auditors, such equivalence may only exist if any Statutory auditors with an interest either of their own or on behalf of third parties in the transaction inform the other Statutory auditors of this, explaining the nature, the terms, the origin and extent of the same. Reference to a non-related independent director, if present on the Board, for the expression of an opinion will also be considered an equivalent safeguard.

Whatever the choice made by companies under Article 7, paragraph 1(*d),* the assessment of equivalence is also concerned with substantive observance of the provisions governing transparency in the case of transactions which have been approved despite the presence of contrary indications emerging in the application of the safeguards adopted [Article 7, paragraph 1(g)]. It follows from the above that whenever the safeguard consists in the expression of an opinion – whether produced by parties internal to the company or by independent experts – disclosure must be made of the informative document and the negative opinion pursuant to Article 7, paragraph 1(*g).*

15.2. Similar remedies are envisaged for the approval of transactions of greater significance. In that case, equivalent safeguards to those embodied in the functions carried out by independent directors as described in letters *b)* and *c)* of Article 8 (concerned with negotiations, investigation and approval of the transaction) will be considered satisfied, without prejudice to the company's power to identify other solutions:

i) with reference to the negotiation and investigation stages, by the imposition on one or more of the non-related independent directors, if present on the Board, or on the Board of Statutory Auditors or on an independent expert, of the duties indicated in letter *b*) referred to above;

ii) at the approval stage, by the obtaining of either a prior reasoned opinion in favour of the

transaction by the independent directors indicated in point *i)* above on the company's interest in the completion of the transaction and on the economic convenience and substantive propriety of the latter's conditions or a prior reasoned opinion relating to the same subject matter, of the Board of Statutory Auditors or the independent expert indicated in point i).

In the same way as for transactions of lesser significance, the safeguards indicated by the Regulation represented by the opinion produced by the Board of Statutory Auditors will only be recognised as equivalent if any Statutory auditors with an interest, either personal or for third parties in the transaction, give notice to such effect to the other Statutory auditors, describing the nature, the terms, the origin and the extent of the same. Opinions adopted as equivalent safeguards must also be disclosed pursuant to Article 5, paragraph 5.

In the same way, if the resolution is passed in compliance with the Articles of Association, following authorisation for the completion of the transaction by the General Meeting pursuant to Article 2364, paragraph 1(5) of the Italian Civil Code, this will be considered an equivalent safeguard.

16. Procedures for transactions of greater significance [Article 8 paragraph 1)(*c)* and paragraph 2; Annex 2,paragraph 2.2]

16.1. With reference to transactions of greater significance pursuant to Article 8 of the Regulation, the procedures must state, *inter alia*, that the transaction will be approved by the Board of Directors following a favourable opinion by a committee made up of only independent directors, even a committee specifically appointed to deal with the individual transaction concerned *"or, in the alternative, the adoption of other means of approval of the transaction ensuring a determining role for the majority of non-related independent directors*". The procedures may thus state that the transactions will be approved, rather than by the committee of independent directors, whose involvement is required in any case during the negotiations and investigation stages, directly by the Board of Directors with a double majority or reinforced quorum giving a determining role to independent directors. For example, the procedures may provide that the transaction must be approved by the Administrative Body but requiring, in addition to the majorities laid down by the law or the Articles of Association, votes cast in favour by the majority of non-related independent directors on the board.

It is however, considered that the opinion of an committee of independent directors may guarantee the substantive and procedural propriety of the transaction more effectively given that such a solution not only gives greater weight to the opinions of the independent directors with the publication of their opinion, but also greater freedom of expression by such independent directors when meeting together and alone as members of such committee.

As already indicated for transactions of lesser significance, specific guarantees of propriety may be ensured by deciding to assign independent directors on the Board a significant role in the choice of the members of such committee.

16.2. The second paragraph of Article 8 allows the possibility for a Board of Directors to approve

a transaction of greater significance by recourse to authorisation from the General Meeting even in a case where the independent directors have expressed a "contrary view" to the performance of the transaction concerned. The latter expression, which is intentionally broad in nature, refers to the different ways in which the procedures may define the role of the independent directors in the transaction approval stage in accordance with the provisions of Article 8, paragraph 1(*c*). The expression thus includes the production of the opinion by the committee as described in letter *b)*, a contrary vote by the majority of independent directors and finally, any other manner which the independent directors are given by the company to express their views in granting the majority of such directors (or to those called upon to express an opinion under the alternative safeguards if and when applicable) a determining role in the approval of the transaction.

16.3. It will be recalled that in the outline of the informative document to be published for transactions of greater significance pursuant to Article 5 of the Regulation, the provision imposes the following express requirement: "*If the transaction has been approved despite the contrary view of the independent directors or board members,* [the informative document must contain] *analytical and adequate reasons to explain why such view is not shared."* (see paragraph 2.3 of Annex 4 of the Regulation).

With reference to the contents of the aforesaid informative document, paragraph 2.4 of Annex 4 states that the "terms and subject matter of any mandate" granted to independent experts for the assessment of the appropriateness of the transaction must be included. In this context the "terms of any mandate" refers to the accessory clauses to those defining the subject matter of the appointment including those defining the related "*assumptions".* Companies are not however required to indicate the fee paid to the advisor or any other financial conditions of the appointment.

17. The so-called General Meeting *whitewash procedure* [Article 11, paragraph 3]

So far as transactions of greater significance are concerned, if, in compliance with the procedures, a proposal for a resolution submitted to the General Meeting is approved even when the independent directors or board members are of the contrary view, the Regulation requires that the procedures must contain rules designed to prevent the transaction from going ahead if the majority of the "non-related voting shareholders" vote against it.

The definition of non-related shareholders contained in Article 3(l) includes all parties, even non-shareholders, who have voting rights. The definition also considers "non-related" parties included in the calculation of the special quorum any holders of voting rights who (i) are not counterparties in the transaction and (ii) are not contemporaneously related to such counterparty and to the company. In this way, for the purposes of the exclusion from the calculation of the majority required by Article 11, paragraph 3, only those parties which are directly related to the company and to the transaction counterparty will be so excluded. When assessing the question of whether the company's related parties are related to each other, the Company will make use of the information received pursuant to Article 4, paragraph 8 of the Regulation.

The provisions of Article 11, paragraph 3 of the Regulation is without prejudice to the provisions of

the Italian Civil Code concerned with General Meeting majorities (in particular, Articles 2368 and 2369) in circumstances where shareholders have a conflict of interest (in particular, Articles 2368, paragraph 3, and 2373). The Regulation adds a condition to the above articles, without replacing them, that there should not be a contrary vote by the majority of "non-related shareholders" calculated only on those casting their votes, so as to avoid abstaining shareholders from being counted for or against the resolution.

The above result could undoubtedly be achieved by the inclusion of a specific provision in the Articles of Association pursuant to Articles 2368 and 2369 of the Italian Civil Code. It is believed though, that the same effect could be obtained without any amendments to the Articles of Association by means of a rule, to be included in the procedures, requiring the insertion of a clause in the proposed General Meeting resolution making its force and effect conditional on the special majority defined in Article 11, paragraph 3 of the Regulation.

18. Procedures for transactions coming under the competence of the General Meeting in cases of urgency connected with business economic crises [Article 11, paragraph 5]

When this is expressly permitted under the Articles of Association, it will be possible to exclude procedural provisions for transactions coming under the competence of the General Meeting in cases of urgency, without prejudice to the rules governing transparency, so long as a number of the conditions indicated in Article 11, paragraph 5 are complied with.

Given that transactions coming under the competence of the General Meeting are those most likely to have an effect on a company's structure (examples coming to mind are those of a merger or increase in share capital with the exclusion of option rights), it was decided to limit the use of the above exclusion to related party transactions coming under the competence of the General Meeting solely to "*cases of urgency connected with situations of business economic crisis*".

It should be noted that, solely for the purposes of the regulations under consideration, the phrase "business economic crisis" should be deemed to refer not only to situations of manifest crisis but also situations of financial tension. In particular, it is intended to refer not only to cases of significant losses pursuant to Articles 2446 and 2447 of the Italian Civil Code, situations when the business is subject to insolvency proceedings or, again, situations where doubt has been expressed as to business continuity by the company or its auditors, but also to situations of financial difficulties where it is easy to foresee the possibility of a significant reduction in share capital over a short time-frame as described in the above-cited Articles 2446 and 2447, or a deterioration in regulatory capital coefficients in conditions of particular tension in the financial markets.

19. Transactions of negligible amounts [Article 13, paragraph 2]

The procedures may make provision that the Regulation will not apply to transactions involving negligible amounts. To such end, under Article 4, paragraph 1(b), they must identify the size of the transactions to be exempted.

When identifying this threshold below which an amount will be deemed to be negligible, companies

will be required to take account of the fact that the logic behind the exemption is to exclude transactions which, *prima facie,* do not pose any appreciable risk to the protection of investors even though they may be concluded with a related party. While such an assessment should not depend on the size of the business, it is also appropriate that companies should, where possible, refer to absolute values in defining the threshold negligible amount rather than measurements by percentages and the like. Attention also needs to be given to the fact that the choice of a particularly high threshold as compared with the size of the company would, even though in the form of an absolute value, represent a breach of the regulation[23]. It should also be noted that it is open to the procedures to define different threshold negligible amounts depending on the type of transaction or the category of related party involved.

Particular care should be given during the supervisory activities carried out by the control bodies of companies required to apply the procedures, to possible evasion of the regulations by breaking up of transactions bringing each below the threshold negligible amount even though the overall value may be greater.

20. Derogation of the procedures for urgent situations [Article 13, paragraph 6]

20.1. The Regulation permits companies to derogate provisions of the procedures applying to the approval of related party transactions in cases of urgency providing their Articles of Association contain provisions to such effect. In such cases the Regulation lays down a number of obligations that the companies concerned will be required to observe. If the operations to be carried out come within the competence of a Managing director or executive committee, the required safeguards will include the requirement to provide prior information to the Chairman of the Board of Directors or Management Board describing the reasons for the urgency. In this way, the Regulation ensures that the persons with the power to convene the administrative collegiate bodies are informed of the non-application of the propriety safeguards for the transaction and the reasons for this happening. Since Companies are always able to derogate, in the strict sense of the term, the principles of propriety contained in the Regulation and its annexes (made evident by the use of the term "at least" in Articles 7 and 8 and in Annex 2), it will always be open to companies to introduce provisions in the procedures to apply when the Chairman of the Board of Directors or of the Management Board does not satisfy the requirements of non-related independent director, for such information also to be provided to an independent director designated in advance, who will have the power to call meetings of independent directors alone. Obviously this may be the same person as the *lead independent director* laid down by the self-regulatory Code for Listed Companies as promoted by the Corporate Governance Committee.

20.2. The power to take advantage of the exemption for urgent transactions is also applicable for transactions conducted through subsidiary companies. To such end, in compliance with Article 13, paragraph 6 of the Regulation, listed companies or those with widespread public ownership of their shares will be required to include a specific provision to this effect in their Articles of Association.

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[23] More precisely, while it is preferable that the threshold should be expressed in absolute terms, the valuation to be carried out for the identification of such threshold cannot be other than relative to the size of the interested company.

21. Power of exclusion for transactions with or between other subsidiary and connected companies [Article 14 paragraph 2]

The Regulation grants the power to exempt transactions effected with or between subsidiary and connected companies[24] from the application of the rules on procedure and transparency (except for the provisions relating to periodical accounting information laid down by Article 5, paragraph 8 of the Regulation), so long as there are no significant other interests of related parties of the Company required to implement the Regulation (companies with shares which are listed or in widespread ownership), which exercise control or a significant influence. The definition of the significance of the interests of the other related parties is left to the company, also on the basis of the criteria identified in the procedures. Nonetheless, the Regulation makes it clear that the mere sharing of one or more directors or other managers with strategic responsibilities between the company and the subsidiary companies (and, even more so in the case of connected companies) will not lead in itself to the emergence of significant interests of such a nature as to be able to exclude the power of exemption.

The significance of the interests held by other related parties in the subsidiary or connected company is left to the discretionary evaluation of the companies required to apply the Regulation according to the general criteria indicated in the procedures. In this context companies may base their indications on any economic relations existing between the subsidiary and connected companies on the one hand, and other related parties of the company on the other. The example might be given of the existence of a substantial receivable due from a subsidiary company to the Managing director of the controlling company. It is obvious that this juridical relationship might encourage the conclusion of operations tending to strengthen the economic position of the subsidiary company that might not be advantageous for the controlling company.

Significant interests may exist when, in addition to the mere sharing of one or more directors or other managers with strategic responsibilities, the latter also benefit from incentive plans based on financial instruments (or in any case with variable remuneration) that depend on results achieved by the subsidiary or connected companies with which the transaction is carried out. The assessment of significance must be carried out in consideration of the importance assumed by the remuneration dependent on the subsidiary's performance (including any incentive plans as referred to above) with respect to the overall remuneration of the director or manager with strategic responsibilities.

The assessment of significance is likewise left to companies in a case when the subsidiary or connected company is also invested in by the party controlling the company, including in the case of indirect investment through parties other than the company whose shares are listed or in widespread ownership required to comply with the Regulation. In such circumstances the shareholding held in the related party by the party exercising control or significant influence over the company will give rise to a significant interest if the actual weight of such shareholding is greater than the actual weight of the interest held by the same party in the issuer. When assessing

[24] For the purposes of the exemption, the relevant definitions of subsidiary and connected companies are those contained in Annex 1. This allows for the possibility of exempting, for example, transactions effected with joint ventures invested in by companies required to apply the Regulation.

such actual weight, direct shareholdings will be fully weighted while indirect holdings will be weighted according to the percentage of the share capital held in the subsidiary companies through which the shareholding is held in the related party[25]. Whenever the shareholding in the related party is supplemented by other economic interests, such interests will be considered together with those deriving from the shareholding calculated according to its actual weight.

The simple ownership of a shareholding in the subsidiary or connected company by other subsidiary or connected companies of the listed company[26] will not of itself represent a significant interest.

22. The Regulation's transitional provisions on related party transactions [Consob Resolution no. 17221 of 12 March 2010,paragraph IV.1, amended by Resolution no. 17389 of 23 June 2010]

22.1. Resolution no. 17221 of 12 March 2010, as amended by resolution no. 17389 of 23 June 2010, refers to the transitional regime applicable to related party transactions, stating as follows:

a) companies must adopt the procedures described by Article 4 of the Regulation by 1 December 2010;

b) the provisions concerned with transparency for transactions of greater significance, as laid down by Article 5 of the Regulation (publication of an informative document and information in accounting documentation pursuant to Article *154-ter* of the Consolidated Law), will apply with effect from 1 December 2010[27]. An exception to the above is represented by the informative document relating to the accumulation of transactions with the same related party or with parties which are contemporaneously related parties of both the latter and the company. The above accumulation of transactions as provided for in the second paragraph of Article 5, will apply to transactions concluded from 1 January 2011. Companies whose accounting period does not begin on 1 January will be required to take account of transactions concluded from that date through to the final day of the accounting period for the purposes of the accumulation. The calculation of the

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[25] Purely by way of example, it is possible to consider the following for the valuation of the significance criterion:
(i) Company A controls company B (a listed company) through ownership of 50% of its share capital represented by shares with voting rights. Company B in turn controls unlisted company C with the same percentage. Furthermore, Company A also has direct ownership of the remaining 50% of shares in Company C. In a transaction between companies B and C, company A has a significant interest in C since the actual weight of this shareholding in the latter company amounts to 50%+(50*50%)=75%, and the weight of the shareholding in B amounts to 50%. There is thus an incentive for the transfer of net resources from B to C.
(ii)Company A controls listed company B with ownership of 30% of its shares with voting rights which, in turn, controls unlisted company C holding 50% of its shares with voting rights. Company A also has a direct holding of 10% in C. In a transaction between the companies B and C, company A does not have a significant interest in C since the actual weight of the shareholding in the latter company amounts to 10%+(30*50%)=25%, while the weight of its shareholding in B amounts to 30%. In the absence of other significant interests, there is thus no incentive for the net transfer of resources from B to C.

[26] It is worth considering, for instance, the following circumstance: listed Company A controls unlisted Company B, holding 51% of the share capital represented by shares with voting rights. Unlisted company C, over which A exercises control or significant influence, holds the remaining 49% of Company B's share capital. In a transaction between A and B, the shareholding owned by C in B will not constitute a significant interest for the purposes of Article 14, paragraph 2 of the Regulation.

[27] Articles **71-*bis*** (the publication of the informative document for operations with related parties), 91-*bis* (the sending of the informative document on related party transactions to Consob) and 81, paragraph 1 (information on related party transactions in the six-monthly management report) of the Issuers Regulation will remain in force up to that date.

transactions for the purposes of the accumulation will start again with the beginning of the next accounting period;

c) under the fifth paragraph of Article 5 of the Regulation, Companies will be required to send Consob, contemporaneously with the disclosure to the public, the documents and opinions published under the same Article 5 by means of the connection with the authorised storage mechanism pursuant to Article *65-septies*, paragraph 3 of the Issuers Regulation. Until such time as the storage mechanisms become active, to be established by Consob's authorisation order as defined by Article 113-ter, paragraph 4(*b)* of the Consolidated Law, the transitional provisions contained in Point IV of Resolution no. 16850 of 1 April 2009 will apply;

d) The companies will apply the procedural provisions of the Regulation by 1 January 2011.

The provisions of Article 6 of the Regulation ("*Related Party Transactions and disclosure to the public pursuant to Article 114, paragraph 1 of the Consolidated Law")* do not appear among those whose entry into force or applicability is delayed pursuant to the transitional rules set out in the above-cited Resolution no. 17221. It follows from the above that, in addition to the information to be published under the said provision and from the date when the Regulation comes into effect[28], communications published under Article 114 paragraph 1 of the Consolidated Law must contain the indications set out in Article 6[29], if, and to the extent these are applicable under the transitional rules.

In particular:

1) the provisions of Article 6, paragraph 1(*a)* and (*b)* will apply with effect from the entry into force of the Regulation with reference to related party transactions identified by companies for the purposes of the application of Article 71 -bis (informative document) and Article 81, paragraph 1 (six-monthly financial report) of the Issuers Regulation which, as already stated, will be repealed (together with Article 91 –bis of the same Regulation) with effect from 1 December 2010;

2) Article 6, paragraph 1(*c)* applies from 1 December 2010. This is also the date from which companies will be required to apply letters *a)* and *b)* referring to related parties as defined by the Regulation;

3) *Letters d)* and *e)* of Article 6 will apply with effect from 1 January 2011.

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[28] On 9 April 2010.

[29] Article 6 ("*Related Party Transactions and Communications to the public pursuant to Article 114, paragraph 1 of the Consolidated Law")* states as follows: *Whenever a related party transaction is also subject to the communication obligations described by Article 114, paragraph 1 of the Consolidated Law, the following information must be contained in the public disclosure in addition to the other information to be published under the above-cited provision:*

a) an indication that the transaction counterparty is a related party and a description of the nature of the relationship;

b) the company or personal name of the transaction counterparty;

c) whether or not the transaction exceeds the significance thresholds defined pursuant to Article 4, paragraph 1(a), and an indication in relation to the possible subsequent publication of an informative document pursuant to Article 5;

d) the procedure which has been or will be followed for the approval of the transaction and, in particular, whether the company has made use of any exclusion pursuant to Articles 13 and 14;

e) any approval of the transaction notwithstanding the opinion to the contrary of independent directors or board members.

22.2. So far as transactions of greater significance approved prior to the entry into force of Article 5, paragraph 1 of the Regulation dealing with transparency are concerned (1 December 2010), which have not been the subject of information disclosure pursuant to Article *71-bis* and to the extent they are not already concluded, it is recommended that the informative document should in any case be published as required by the above-cited Article 5, paragraph 1, within the time limits laid down by the same with effect from the performance of the transaction. This is without prejudice to the fact that Consob may request such publication pursuant to Article 114, paragraph 5 of the Consolidated Law in relation to the specific transaction involved.

23. Transitional rules governing Article 37 of the Markets Regulation [Consob Resolution no. 17221 of 12 March 2010, paragraphs II and IV.2]

Consob Resolution no. 17221 of 12 March 2010 amends Article 37 of the Markets Regulation describing, in implementation of Article 62, paragraph 3-bis of the Consolidated Law, conditions preventing subsidiary companies subject to activities of direction and co-ordination from becoming listed companies.

Provisions governing the entry into force of the new rules state as follows:

a) companies whose shares are already listed and already subject to activities of direction and co-ordination on the date when the resolution comes into force, or become subject to such activities by 1 October 2010, will be required to comply with the new provisions of Article 37 within 30 days from the first General Meeting convened after 1 October 2010 for the renewal of the Board of Directors or the Supervisory Committee;

b) companies subject to the activities of direction and co-ordination filing an application for the admission to the listing of their shares by 1 October 2010 will be subject to the provisions contained in Article 37 prior to the amendment[30]. Such companies will be required to comply with the new rules set out in the amended Article 37 with effect from the first General Meeting held to renew the Board of Directors or the Supervisory Committee convened after 1 October 2010. The time limit for compliance of 30 days from the General Meeting set out in letter a), inserted by Resolution no. 17389 of 23 June 2010 will also apply in this case (time limit granted for the setting up of the committees under the new Article 37);

c) Companies filing an application for admission of shares for listing after 1 October 2010 will be subject to the new conditions contained in the amended Article 37.

Acting Chairman
Vittorio *Conti*

[30] In particular, Article 37, paragraph 1(d), before the amendment, requires "*the presence of a sufficient number of independent directors to ensure that their judgement has significant weight in the making of the Board decisions. For the assessment of what constitutes independence and the number of independent directors to be considered adequate, reference should be made to the general criteria laid down by companies responsible for managing the regulated markets, having taken account of the best practices governed by the codes of conduct drawn up by such companies or category associations*". Borsa Italiana, in turn, refers to the provisions of IA.2.13.6, paragraph 1 of the Instructions of the Stock Exchange Regulation for the STAR Segment in relation to the number of independent directors (at least two independent directors per Board of Directors with up to eight members, at least 3 independent members for boards of between 9 and 14 members and at least 4 for boards with more than 14 members) and to Article 3 of the Self-Disciplinary Code with regard to the conditions to be satisfied for a director to be considered independent.

Annex B.1) New Prudential Supervisory Regulations for banks - Title V Chapter V – **Risk-bearing assets and conflicts of interests in dealings with connected persons** (Circular no. 263 of 27.12.2006)

Title V – Chapter 5

RISK-BEARING ASSETS AND CONFLICTS OF INTERESTS IN DEALINGS WITH CONNECTED PERSONS

SECTION I

GENERAL PROVISIONS

1. Introduction

The rules governing related party transactions seek to provide safeguards against the risk that the proximity of some parties to the Bank's decision-making centres may compromise the objectivity and impartiality of decisions concerning the granting of loans and other transactions involving such parties resulting in the possible distortion in the process of resource allocation, the exposure of the bank to risks which have not been adequately measured or protected against and potential damage to deposit-holders and shareholders.

In this context "Related parties" are identified above all as office-holders, main shareholders and other parties able to manipulate the management of the bank to the extent that they are able to exercise control, including jointly with others, or exercise significant influence. Situations of conflict of interest may emerge in dealings with businesses, particularly when industrial in nature and subject to control or significant influence, to which the bank is substantially exposed in the form of loans or investment interests. A related party and the persons connected to the same constitute the perimeter of "connected parties" to which the quantitative and procedural conditions of these rules apply.

The first safeguard is made up of the prudential limits applying to risk-bearing assets held by a bank or banking group in dealings with connected parties. Different limits apply to different types of related parties depending on the closeness of the relations and the relevance of the risks to the proper and prudential management of the bank. In consideration of the greater risks deriving from conflicts of interest in the bank's relations with industrial companies, there are more stringent limits placed on risk-bearing assets involving related parties which can be defined as non-financial businesses.

Specific decision-making procedures are used to supplement the prudential limits in order to ensure the correct allocation of resources and provide adequate protection to third parties from activities of expropriation. These also apply to inter-company operations and transactions of an economic nature differing from those generating risk-bearing assets and hence unaffected by quantitative limits.

Specific instructions in the area of organisational structures and internal controls make it possible to identify the responsibilities of the different bodies and the duties of the business functions with respect to the objectives of the prevention and management of conflicts of interest as also the obligations to record connected persons and to check and control exposure trends.

2. Legislative Sources

This area is governed:

— By the following articles of the Consolidated Banking Law:

- article 53, paragraphs 1(b) and (d), under which the Bank of Italy, on the basis of the resolutions of the CICR (Comitato Interministeriale per il Credito ed il Risparmio – the Inter-ministerial Credit and Savings Committee), has the power to issue regulations of a general nature concerned with the reduction of risk in its different

configurations and with administrative and accounting organisation and internal controls;

- article 53, paragraph 4, under which the Bank of Italy: i) lays down, consistently with the resolutions of the CICR, conditions and limits on the acquisition of risk-bearing assets by banks in dealings with parties able to exercise an influence on the management of the bank or bank group, whether directly or indirectly, and those connected with the same. Where it has been established that there is actually a situation of conflict of interest, it may lay down specific conditions and limits on the acquisition of risk-bearing assets;
- article 53, paragraph ***4-ter,*** under which the Bank of Italy identifies those cases in which failure to comply with the conditions under paragraph 4 will lead to the suspension of the administrative rights connected with the shareholding;
- article 53, paragraph ***4-quater,*** under which the Bank of Italy, consistently with the resolutions of the CICR, regulates conflicts of interest between banks and parties indicated in paragraph 4, in relation to other types of relations of an economic character;
- article 67, paragraphs 1(b) and (d), under which the Bank of Italy, consistently with the resolutions of the CICR, is able to provide the Group Holding Company with general or specific instructions for the banking group as a whole or its component companies, relating to risk reduction in its different forms together with administrative and accounting organisation and internal controls;

— By CICR resolution no. 277 of 29 July 2008 relating to the rules on risk-bearing assets and other conflicts of interests of banks and banking groups in dealings with connected parties pursuant to Article 53, paragraphs 4, 4-ter and ***4-quater*** of the Consolidated Banking Law.

The following provisions are also relevant to the above:

— EC Regulation 1126/2008 of the Commission of 3 November 2008 adopting a number of International Accounting Standards in compliance with EC Regulation 1606/2002 of the European Parliament and the Council, published in the Official Gazette of the European Union of 29 November 2008;

— article 136 of the Consolidated Banking Law governing the procedure for the passing of resolutions accepting obligations between the bank or another company in the banking group and the bank's own office-holders and group companies as also other categories of specifically indicated parties;

— articles 2391 and 2391-*bis* of the Italian Civil Code concerned with the interests of directors and related party transactions together with the related implementation provisions adopted by Consob;

— article 2634 of the Italian Civil Code relating to the offence of fraudulent capital dealings;

— article 137 of the Consolidated Banking Law concerned with the offence of false or mendacious internal bank dealings;

— article 13 of Legal Decree no. 269 of 30 September 2003 converted into law with amendments by Law no. 326 of 24 November 2003 containing "Rules governing collective security for credit facilities" with particular reference to paragraphs 29, 30 and 31, concerning banks constituted in the form of limited liability co-operative companies which, under their Articles of Association, prevalently exercise the activities of collective security for credit facilities for the benefit of their members ("banks providing collective security for credit facilities");

— the document called "*Fundamental principles for Effective bank supervision*", originally published by the Basle Banking Supervision Committee in September 1997 and updated most recently in October 2006, with particular reference to *"Standard 11 – Exposure to Related Parties"* on the basis of which supervisory

authorities are required to lay down rules in order to prevent abuses deriving from (Balance sheet or off-Balance sheet) exposures to related parties and manage situations of conflict of interest. Such rules should ensure that transactions entailing exposure of banks to companies or individuals connected with them are normally effected at arm's length conditions, that such exposures are effectively monitored, that appropriate measures are taken to control or attenuate the risks and that the elimination of such exposures is effected on the basis of standard policies and procedures.

3. Definitions

The following definitions will apply to these rules:

— *"related Party",* the parties indicated below by virtue of their relations maintained with an individual bank, with a bank or supervised broker belonging to a group or with the financial Group holding company :

1. Office-holder of the business;
2. Shareholder;
3. A party other than a shareholder with the power, exercisable on its own, to appoint one or more members of the body with management functions or the body with strategic supervisory functions including on the basis of agreements howsoever stipulated or clauses of the Articles of Association whose subject matter or effect is the exercise of such rights or powers;
4. A company or business including if not in company form over which the bank or a company of the banking group is able to exercise control or significant influence;

— *"non-financial related party"*, a related party whose prevalent activity is that of a non-financial business as defined in the rules governing shareholdings which may be held by banks and banking groups, whether such business activity is exercised directly or through subsidiary companies ([1]). A party will be a non-financial related party when its assets other than those of a banking, financial or insurance nature account for more than 50% of its total overall assets (2). The concept will also include a shareholder being one of the related parties described in numbers 3 and 4 of the related definition which is a shareholding company which comes within the definition of non-financial business pursuant to the above-cited rules governing the ownership of shareholdings;

— *"associated parties"*

1. Companies and businesses (including when not in company form) controlled by a related party;

2. Parties as described in numbers 2 and 3 of the definition of related party which control such party or parties subject to common control, whether directly or indirectly, with the related party;

3. Close family members of a related party and the companies or businesses controlled by the latter;

([1]) See Chapter 4, title 5.

(2) Reference should be made to the following:
– for banks and financial companies, to total assets and security given plus commitments;
– for insurance companies, the value of premiums received multiplied by a corrective factor of 10;
– for industrial companies, to total turnover multiplied by a corrective factor of 10.
The data to be considered are those of the latest accounting period or, if more recent, those from the six-monthly report, actualising those of the Income Statement.

— *"connected parties"*, all those constituted by related parties and those connected with the same. So far as the application of this expression at an individual level is concerned, the individual banks making up a banking group will refer to the same perimeter of connected parties as that determined by the Group Holding Company for the whole banking group;

— "*control*", pursuant to Article 23 of the Consolidated Banking Law; the cases described in the first and second paragraphs of Article 2359 of the Italian Civil Code; control from contracts or clauses of the Articles of Association whose subject matter or effect is the power to exercise the activities of direction and co-ordination and cases of control in the form of dominant influence.
Control will also be taken to include situations of joint control, understood as the sharing of control over an economic activity pursuant to contract. In such cases, the controlling party will be considered to be the following:

a) Parties which are able to exercise a determining influence over the business's financial or operational decisions of a strategic nature ([1]);

b) Other parties capable of imposing conditions on the management of the business consequential to the shareholding owned, any kind of stipulated agreement or clauses of the Articles of Association whose subject matter or effect is the power to exercise control.

There will also be control when it is exercised indirectly through subsidiary companies, trust companies or other intermediaries in the form of other persons or bodies. Companies or businesses controlled by entities themselves subject to joint control will not be counted as controlled;

- *"significant influence"*, the power to participate in the financial or operational policies of an invested business without having control.

Significant influence will be presumed in the case of ownership of a shareholding, whether directly or indirectly, equal to, or greater than 20% of the share capital or of the voting rights in the Ordinary General Meeting or other equivalent body of the invested company, or of 10% in the case of a company listed in a regulated market.

In the case of levels lower than the above thresholds, specific checks must be made to establish whether there is significant influence at least in the presence of the following indices while also taking account of all other circumstances:

(i) being represented in the body with management functions or the body with strategic supervisory functions over the invested business. The mere fact of having the power to appoint a member of the body in representation of the minority according to the rules applying to issuers of listed shares on regulated markets will not in or of itself constitute an index of significant influence;

(ii) participation in business decisions of a strategic nature, particularly when holding voting rights of determining importance in General Meeting decisions in relation to the Financial Statements, use of profits and distribution of reserves without this resulting in a situation of joint control ([2]);

(iii) the existence of significant transactions (these being understood as the same as "transactions of greater significance" as defined in this section), the exchange of

([1]) Such a situation would occur, for example, in the presence of two or more parties each having the possibility of preventing the adoption of strategic financial or operational decisions of the subsidiary through the the exercise of a veto or by effect of the quorums required for decisions of the company bodies.

([2]) This situation occurs, for example, when ownership of the company's shares are divided between more than one shareholder (not connected with the others through joint control agreements) in such a way that the vote of specific shareholders (possessing shareholdings smaller than that leading to the presumption of significant influence) may be decisive for the formation of General Meeting majorities in the areas indicated above.

managerial staff and the provision of technical and essential information.

Significant influence will count as such even when exercised indirectly, through subsidiary and trust companies or persons acting as intermediaries. Companies invested in by entities themselves subject to joint control will not be considered as being indirectly subject to significant influence.

— *"business office-holders*", parties carrying out functions of administration, direction and control in a bank, a financial Group holding company or supervised broker. In traditional administration and control systems the definition will include directors and Statutory auditors. In a dual system it includes members of the management and supervisory boards. In systems run by a single body it will include directors and members of the management control committee. The definition will include the Managing director and persons holding offices involving the exercise of functions equivalent to those of the Managing director;

— "*shareholder*", a party required to request the authorisations described in Articles 19 et seq. of the Consolidated Banking Law;

— "*close family members*", relatives up to the 2nd degree of kinship ([3]) and the spouse or *more-uxorio* cohabitant of a related party and the children of the latter;

— *"Supervised brokers***"**, investment businesses, foreign and Italian asset management companies, electronic currency institutions, financial brokers registered in the register set up under Article 106 of the Consolidated Banking Law ([4]), payment institutions forming part of a banking group and themselves owning regulatory capital of more than 2% of the consolidated regulatory capital of the group to which they belong;

— "*risk capital*", net exposures as defined by the rules governing risk concentration ([5]);

— *"collective security***"**, the granting of security on a mutual aid basis by a bank providing collective security for credit facilities for the benefit of its members, aimed at assisting them in obtaining loans from banks and other financial brokers;

— *"Regulatory capital***"**, the aggregated capital defined for the purposes of the rules concerned with risk concentration ([6]);

— *"independent director",* a director or member of a management or supervisory board who is not a counterparty or a connected party or who does not have an interest in the transaction pursuant to Article 2391 of the Italian Civil Code, who at least satisfies the independence conditions laid down by the bank's Articles of Association pursuant to the provisions on company governance ([7]);

— *"connected party transaction",* a transaction with connected parties which entails the bearing of risk, the transfer of resources, services or obligations, independently of whether for a price, including merger or demerger transactions. The following will not be considered to be connected party transactions:

([3]) In the case of parties connected with a foreign bank or a foreign supervised intermediary forming part of a banking group, whenever there are proven difficulties in obtaining information, the Group holding company may exclude relatives of the second degree of kinship from "close family members", limiting consideration to relatives within the first degree of kinship. In such circumstances it will inform the Bank of Italy to such effect.
([4]) Up to the date of the entry into force of the implementing provisions of Title V of the Consolidated Banking Law (as reformed by Legislative Decree 141/2010), reference must be made to the special list set up under Article 107 of the Consolidated Banking Law itself.
([5]) See paragraph 3 of Section 1 of Chapter 1 of Title V together with the "Instructions for the completion of reports on regulatory capital and prudential coefficients" (Circular no. 155 of 18 December 1991), Section 5.
([6]) See Paragraph 3, Section 1, Chapter 1 of Title V.
([7]) In relation to the obligation, indicated in the Bank of Italy's "Notes of Clarification" of 19 February 2009 concerned with provisions on company governance, to indicate the concept of independence in the Articles of Association, banks are required to adopt a sole definition which is valid both for these rules and for those on company governance.

i) those effected between members of a banking group when they are connected by a complete control (including joint control) relationship;
ii) fees paid to business office-holders if complying with the supervisory provisions concerned with bank incentive and remuneration systems;
iii) transactions involving the inter-company transfer of funds or "collateral" effected in the context of the liquidity risk management system at a consolidated level ([8]);
iv) transactions to be carried out on the basis of instructions designed to enhance stability issued by the Bank of Italy, or on the basis of orders issued by the Group holding company for the performance of instructions issued by the Bank of Italy in the interests of group stability;

— *"transaction of greater significance",* a connected party transaction whose value as a ratio of (consolidated – in the case of groups) regulatory capital exceeds the threshold of 5% calculated in accordance with the provisions indicated under the heading "Index of value significance". For transactions of acquisition, merger and demerger, the threshold, still of 5%, must be calculated in accordance with the procedures set out under the heading "Asset Significance Index" (see Annex B).

The bank may identify other transactions to be considered as of greater significance based on quantitative or qualitative indicators.

In the case of a number of transactions which are homogeneous with each other or covered by a unitary design effected in the same accounting period with the same connected party, the bank will aggregate their value for the purposes of the calculation of the significance threshold;

— *"transaction of lesser significance"*, transactions with connected parties not being transactions of greater significance;

— *"ordinary transactions"*, transactions with connected parties of lesser significance, coming within the bank's ordinary operations and concluded at market or standard conditions. In the definition of this kind of transaction the bank will take account of at least the following elements: whether it is attributable to its ordinary activities, the objectivity of the conditions, simplicity of the related economic-contractual model, reduced significance in terms of size and type of counterparty;

— *"company governance provisions"*, the "Supervisory provisions concerned with banks' corporate organisation and governance" issued by the Bank of Italy on 4 March 2008 and the "Clarifying Note" of 19 February 2009;

— *"Consob provisions"* – the Consob provisions implementing Article 2391-bis of the Italian Civil Code concerned with related party transactions of companies having recourse to the risk capital market.

4. Parties affected by the rules

These provisions will apply:

— on an individual basis, to authorised banks in Italy with the exception of subsidiaries of non-community banks whose Registered Offices are based in one of the countries of the Group of 10 or those included in a specific list published and periodically updated by the Bank of Italy;

— on a consolidated basis:

• to banking groups;

([8]) See paragraph 7 of Section 3 of Chapter 2 in Title V.

• to reference businesses ([9]), including with regard to banking, financial and instrumental companies controlled by the Group holding company in the European Union.

Italian banks not belonging to a banking group which control, jointly with other parties on the basis of specific agreements, banking, financial and instrumental companies invested in to the extent of at least 20% of voting or capital rights will apply these provisions on a consolidated basis.

The Bank of Italy may also require the application of these provisions on a consolidated basis by banks or financial or instrumental companies not included within the banking group but controlled by the natural person or corporate entity controlling the banking group or individual bank.

Section V, paragraph 2 of these provisions, specifically the part relating to banks' disclosure obligations will apply to all those coming within the definition of related party.

5. Organisational units responsible for administrative procedures

The organisational structures responsible for the administrative procedures referred to in this Chapter are described below:

— the identification of parties in addition to connected parties or the setting of specific limits or conditions for the taking on of risk-bearing assets in dealings with connected parties pursuant to the last sentence of paragraph 4 of Article *53 of the Consolidated Banking Law:* Banking group supervision services or branches with territorial competence and Area Units of branch Co-ordination and connection in the banking and financial supervision area at the Head Office as identified in the regulations adopted pursuant to Articles 2, paragraph 2 and 4 of Law no. 241 of 7 August 1990 as subsequently amended.

([9]) See Part 2 of Chapter 1 of Title 1.

SECTION II

Limits to Risk-bearing Assets

1. Prudential limits

1.1. Consolidated limits

The taking on of risk-bearing assets in dealings with connected parties must be contained within the limits indicated below with reference to consolidated regulatory capital or, in the case of banks not belonging to a group, individual regulatory capital (see Annex A).

(1) In relation to a non-financial related party and the related associated parties	*a.* 5% in the case of a related party which is: • a business office-holder; • a controlling shareholder or one able to exercise significant influence; *b.* 7.5% in the case of a related party which is: • a shareholder other than that defined under *a*.; • a party other than the shareholder who is able to single-handedly appoint one or more members of the business bodies; *c.* 15% in other cases.
(2) In relation to another related party and its related associated parties	*d.* 5% in the case of a related party who is an office-holder of the business; *e.* 7.5% in the case of a controlling shareholder or one able to exercise significant influence; *f.* 10% in the case of a related party which is:

- a shareholder other than that described under *e.*;
- a party other than the shareholder that is able to single-handedly appoint one or more members of the business bodies;

g. 20% in other cases.

1.2. Individual limits for banks belonging to a banking group

So long as within consolidated limits, a bank belonging to a banking group may take on risk-bearing assets in dealings with the same group of connected parties, irrespective of the financial or non-financial nature of the related party, within the limit of 20% of its individual regulatory capital (see Annex A).

For the calculation of the individual limits, the single banks will take into consideration their risk-bearing assets as against the totality of connected parties identified at a group level.

2. Calculation procedure

For the purposes of these rules, risk-bearing assets will be weighted according to factors which take the extent of the risk connected to the nature of the counterparty and any forms of credit protection into account.

The weighting factors and conditions for the admissibility of the risk attenuation techniques to be applied will be those described in the rules governing risk concentration ([1]). Risk-bearing assets will not include shareholdings and other assets deducted from the regulatory capital. Temporary exposures connected with the provision of services related to fund transfer, clearance, settlement and the custody of financial instruments, in the cases and under the conditions laid down by the risk concentration rules, will not be included in the limits ([2]).

In a case where there are a number of relations maintained between a bank or the banking group and a related party requiring the application of different prudential limits, the lowest of such limits will apply.

Risk-bearing assets connected through transactions between companies belonging to the same group or, in the case of Italian banks subject to consolidated supervision, in another Member State of the European Union, between such bank and the parent company in the European Union, the banks and other supervised brokers controlled by such parent business will be excluded from the limits described in paragraph 1.

([1]) See Section 3 of Chapter 1 of Title 1 of Annex A. It will be recalled that, based on risk concentration rules, personal and financial security (within the limits and under the conditions in which they are admissible), permit the application of the substitution principle, that is, to attribute the exposure to the provider of the protection rather than the main connected debtor. Obviously, for the substitution principle to result in a reduction of exposure to a given group of connected parties the provider of protection cannot be directly or indirectly connected with the connected parties in question.
([2]) See Chapter 1 of Title V.

3. Cases of excess

Compliance with the prudential limits on risk-bearing assets in dealings with connected parties must be ensured on a continuous basis.

Whenever, for reasons independent of the intentions or fault of the bank or Group holding company (for example when a related party becomes such after the establishment of the relationship) one or more limits are exceeded, the risk-bearing assets must be brought back within the limits within the shortest possible time. To such end the Group Holding Company or the bank (if not belonging to a banking group) will be required to draw up, within 45 days from the date when the limit was exceeded, a recoupment plan proposed by the body with the management function, approved by the body with the function of strategic supervision and following consultations with the body with the control function. The Recoupment Plan will be sent to the Bank of Italy within 20 days from the date of approval, together with the minutes setting out the resolutions of the business bodies.

If the exceeding of the limits relates to a related party by reason of its shareholding in the bank or a company in the banking group, the administrative rights connected with the shareholding will be suspended.

The Group Holding Company or the individual bank not belonging to a banking group will assess the risks connected with the operations involving connected parties (whether these are of a legal or reputational nature or involving conflict of interest), if of significance for the business operations within the context of the ICAAP (Independent Capital Adequacy Assessment Procedure) pursuant to the provisions of Chapter 1 of Title III. in particular, in cases where prudential limits have been exceeded for the reasons indicated above, account must be taken of the excess in the procedure for the calculation of total internal capital in addition to the initiatives contained in the Recoupment Plan.

4. Co-operative Credit Banks and Collective Security Banks

When assessing the prudential limits described in paragraph 1 co-operative credit banks will not count risk-bearing assets in dealings with company office-holders who are members of the co-operative to the extent of the maximum credit facilities the Bank is allowed to grant a single member and up to the prudential limit applicable to the office-holder pursuant to paragraph 1 ([1]).

The Bank's Articles of Association will be required to give the General Meeting of the Members the power to determine such figure once a year within a maximum limit set by the Articles themselves, expressed as a percentage of the regulatory capital.

In the case of collective security banks, risk-bearing assets connected with the issuing of collective security will be counted in the prudential limits for the nominal amount exceeding the maximum amount of credit facilities which may be granted to the member of the security bank, calculated using the procedures explained above.

In both cases, the minutes containing the resolutions of the General Meeting must be communicated to the Bank of Italy within one month from the resolution.

([1]) For example, where the Articles of Association lay down a limit applicable to a member office-holder of more than 5% of the Regulatory Capital, the amount not counted under the Articles of Association will be reduced to 5%. As a consequence, the Bank will be able to take on positions in dealings with an office-holder and related connected parties amounting to 5% of the Regulatory Capital (the exempt amount) plus 5% (amount included within the limit) = 10% of the Regulatory Capital. Banks which do not have limits on the grant of credit facilities to member office-holders will not benefit from any exempt amount.

SECTION III

PROCEDURES APPLICABLE TO RESOLUTIONS

1. Introduction and General Criteria

This section governs the procedures designed to preserve the integrity of decision-making processes in connected party transactions. To this end an important role has been given to independent directors involved in the stage prior to the resolution and called upon to express their views in the form of an opinion supported by reasons at the moment of the resolution. Importance has also been given to the role of the body responsible for control functions.

In order to allow the carrying out of the duties assigned to independent directors under these rules, banks will be required to set up a committee within the body with the responsibility for strategic supervision. For transactions of lesser significance the related committee must be made up of non-executive directors, at least the majority of whom being independent. For transactions of greater significance, all members of the committee must be independent directors ([1]). Without prejudice to the above membership requirements, the committee may be the internal control committee required under company governance rules. Where there is not a sufficient number of directors satisfying the necessary pre-requisites, the duties will be carried out by the sole independent director or jointly when there are two. In any case, banks which are not listed, of lesser size and operational complexity which are not required to set up internal committees within the body with responsibility for the functions of strategic supervision under the provisions concerned with governance, may assign these duties to one or more independent directors.

In banks which have adopted the dual administration and control model, the duties assigned to independent directors will be carried out by independent members of the Supervisory Board. If this body has not been assigned the functions of strategic supervision (pursuant to Article 2409-*terdecies*, paragraph 1(f-*bis*) of the Italian Civil Code), the duties will be carried out by independent members of the management board.

The opinions required of the independent directors and the body with responsibility for the control function must be supported by reasons, they must be formal in character and accompanied by appropriate documentation evidencing the checks and observations made. In the case of banks using the dual management model, the opinions required of the body responsible for control will be produced by the supervisory board.

The assignment of specific duties to independent directors in the procedures relating to connected party transactions will have no effect on the powers and responsibilities that the law attributes in collegiate form to the Administrative Body. Such attribution constitutes an organisational procedure designed to make monitoring and control activities over the transactions under consideration more effective and efficient but does not exempt all other directors from the exercise of the duties and powers which may contribute to the achievement of the aims underlying these rules.

Furthermore, the above is without prejudice to the continuation of the powers and duties laid down in general terms by civil and banking law provisions applying to the body with the control function. Reference in this context is made to the obligation to inform the Bank of Italy without delay of any acts or events coming to its knowledge during the exercise of its duties and capable of constituting an irregularity in the management of the bank or an infringement of the rules governing banking activities (see Article 52 of the Consolidated Banking Law).

These provisions lay down a set of minimal regulatory standards. It is thus up to the

([1]) Additional guarantees of propriety could be ensured by the decision to remit the power to appoint such committee to the independent directors being members of the body with the function of strategic supervision.

banks to decide for themselves whether to apply stricter rules that take into account the specific characteristics of each bank (e.g. in terms of operational activities, size, ownership structure and legal status).

The banks will be required to adequately identify and formally record the pre-requisites, objectives and contents of the solutions adopted and must assess the effectiveness and efficiency of the same in order to achieve the objectives of integrity and impartiality of the decision-making process, observance of the interests of the generality of shareholders and creditors and the efficient functioning of company bodies and the operational activities of the bank concerned.

Each individual bank belonging to a banking group will be required to refer to the same set of "connected parties" as defined for the whole group to which it belongs in accordance with the provisions of paragraph 3 of Section I (Definitions).

The Group holding company of a banking group will issue specific instructions and directives to the non-banking members of the group in order to avoid possible evasion of the rules through connected party transactions effected by the latter companies. The Group holding company may require the latter to apply safeguards consistent with those required under these provisions proportionate to the actual significance of the potential conflicts of interest (the Group Holding Company itself, when not a bank, will apply such safeguards to transactions effected by it with connected parties). Analogous criteria will apply to foreign group members (whether banks or not) of the banking group, compatibly with the legislation of the country where they are located.

2. The stages in the development of procedures

2.1 Each bank will identify with precision the procedures applicable to connected party transactions.
The decisions made in this regard must be sufficiently formal in nature (for example, in internal regulations, in the internal corporate governance design or the Articles of Association). In any case, the procedures and related amendments must be published without delay on the bank's internet site (otherwise, on the site of the category association to which the bank belongs, or in printed form).

Given their importance, the procedures must follow a particular and specific set of stages marking their creation and approval confirming the validity of the solutions adopted.

2.2 The extensive and widespread involvement of the Bank's administration and control bodies and its independent directors in the creation of the procedures (and on the occasion of any substantive amendments and supplements to the same), as also the contribution to the same by of the main functions must be ensured.

In particular:

- The procedures must be resolved on by the body with responsibility for strategic supervision;

- The independent directors and the body carrying out the control function must provide an analytical opinion supported by reasons confirming that the procedures are appropriate to achieve the objectives of these rules. The opinions of the independent directors and the control body will be binding for the purposes of the resolution to be passed by the body carrying out the function of strategic supervision;

- The interested internal functions will each carry out an in-depth investigation within their respective areas of competence, on the adequacy of the procedures proposed to cover the various aspects of these rules.

The stages described above will also be followed for the proposal to be submitted to the General Meeting for any amendment of the Articles of Association necessary for its adaptation to these provisions.

2.3 The procedures must at least identify the following:

- the criteria for the identification of the transactions forming the subject matter of this Section and, in particular, those to be considered as being of "greater significance" ([1]);

- the rules governing the different stages of the investigation, the negotiation and the resolution relating to the transactions, distinguishing between those of lesser and greater significance and clarifying, in particular, the nature of the involvement of the independent directors;

- the aspects relevant to the definition of roles and duties of the different group members pursuant to paragraph 3.6;

- cases of derogation or exemption including criteria for checking the existence or otherwise of significant interests of other connected parties pursuant to the provisions of paragraph 3.7.3.

The procedures must also identify the safeguards to be applied to concluded transactions whenever giving rise to losses, transfers or defaults and judicial or out-of-court settlement agreements. Since this stage is also subject to possible "conditions", the procedures must ensure the integrity and transparency of the decisions taken through safeguards consistent with those described in the following paragraphs.

3. Procedures for the completion of connected party transactions

3.1. The stage prior to the resolution

In order to ensure that independent directors have in-depth knowledge of connected party transactions, the procedures will require at the least that the directors concerned must be provided with complete and adequate information of the different aspects of the transaction to be the subject matter of a resolution (counterparty, type of operation, conditions, advantages for the company, impact on the interests of the parties involved etc.) well before the time. The independent directors must also be given the power to obtain assistance at the company's expense, from one or more independent experts of their choice. The bank may impose limits on the amount, including the total amount, of such costs ([2]), following the favourable opinion of the body responsible for the control function.

The independent directors may make representations in relation to any gaps or inadequacies identified during the pre-resolution stage to the parties with resolution powers (the CEO, the executive Committee, the General Manager, etc.).

In the case of transactions of greater significance, in addition to the above the procedures shall provide that the independent directors will be involved in the stages of the negotiations and of investigation at least by the receipt of a complete and timely information flow combined with the power to request information and make observations to the bodies and parties charged with conducting the negotiations or the investigation.

3.2. Resolution

([1]) In the definition of any transactions of "greater significance" going beyond the minimum level of classification set out in these rules, the bank will be required to take account of the following aspects:
quantitative significance (the choice of a lower threshold or the use of additional indicators); aspects of a qualitative nature (e.g. conditions not being those of the market, the type of operation); impact on third party rights; type of counterparty; timing of the transaction (proximity to the closure of the Financial Statements or interim reports, etc.); transactions identified by the Articles of Association as not being possible to delegate. Banks which have adopted the dual management model will also take account of transactions identified as strategic for the purposes of the attribution of the competence to pass the related resolutions to the supervisory board pursuant to the provisions of the Civil Code and those concerned with governance supervision.

([2]) For transactions also coming within the scope of application of the Consob regulations, the cost limits, where imposed, must relate to each individual transaction of lesser importance while they will not operate in all cases for those of greater significance (as defined under Consob rules).

For resolutions concerned with connected party transactions the procedures will at least make the following provision:

a) the independent directors will produce a prior opinion supported by reasons regarding the Company's interests in the completion of the transaction, as well as the economic convenience and substantive propriety of the related conditions, addressed to the body with competence under the law or Articles of Association to resolve on the same. In the case of a negative or conditional opinion based on the related findings, the resolution must provide analytical reasons why it has been passed in any event combined with precise responses to the observations made by the independent directors;

b) the resolution must provide adequate reasons in relation to the following:

b1) the opportune nature and economic convenience of the operation for the bank;

b2) the reasons for any deviation from standard or market conditions in terms of the transaction's economic, contractual or characteristic aspects. Appropriate evidence supporting such reasons must be provided by the documentation accompanying the resolution;

c) the resolving body will be required to provide the bodies carrying out the functions of strategic supervision, management and control, with information at least every three months on the transactions concluded and their main characteristics. In the case of transactions where the independent directors expressed a negative or conditional opinion each must be communicated individually as soon as resolved on.

In the case of transactions of greater significance, in addition to the above the procedures will require at least the following:

d) the resolution must be passed by the Board of Directors, except where the law or the Articles of Association grant the General Meeting such power ([1]);

e) in the case of a negative or conditional opinion dependent on conditions by the independent directors, an opinion on the transaction must be requested from the body with control functions, which must be provided with information at the appropriate times and with the appropriate contents. Once the opinion of the control body has been provided, the rules laid down for the opinions of independent directors under points a) and c) will apply;

f) completed transactions in relation to which the independent directors or the body with the control function gave a negative opinion or formulated reservations will be brought to the attention of the General Meeting of the Shareholders at least once a year.

3.3. Transactions coming under the competence of the General Meeting

If the power to resolve on connected party transactions has been assigned to the General Meeting by law or under the Articles of Association, the rules laid down in the previous paragraphs will apply to the stage of the proposal submitted by the Administrative Body to the General Meeting.

The procedures may provide that, in the case of a negative opinion from the independent

([1]) If the dual management model has been adopted, the resolution will be passed by the Management Board or the Supervisory Board, according to their respective areas of competence laid down by law of the Articles of Association and providing that the law does not attribute competence to the General Meeting. In particular, the procedures must at least provide that, in a case where the power to resolve has been attributed: 1) to the Management Board and the opinion of the independent members of the supervisory board is negative, a prior opinion of the Supervisory Board will be required; 2) to the Supervisory Board and the opinion of the independent members of the Supervisory Board is negative, the related resolution must receive votes in favour by two thirds of the members.

In the unitary model, the procedures must at least provide that if the committee called upon for its opinion on the transaction is that of the management control committee and the opinion provided is negative, the resolution will have to receive votes cast in its favour by two thirds of the members of the Board of Directors.

Procedures may make provision that the rules relating to increased voting majorities will not apply if the transaction is to be submitted to the vote of the General Meeting pursuant to the Consob rules under Article 2391-bis of the Italian Civil Code.

directors on transactions of greater significance, it will not be necessary to obtain an opinion from the body carrying out the control function. The above derogation also applies to transactions on which the General Meeting is called upon to resolve following the negative opinion of independent directors under regulations issued by Consob pursuant to Article 2391-bis of the Italian Civil Code.

3.4. Transactions which also fall within the scope of the rules governing the obligations of bank office-holders pursuant to Article 136 of the Consolidated Banking Law

In the case of transactions coming within the scope of application of Article 136 of the Consolidated Banking Law, banks will apply:

i) the rules set out under paragraph 3.1 to the stage prior to the resolution;

ii) only the rules set out under point b) of paragraph 3.2 to the resolution stage.

3.5. Framework Resolutions

The procedures may state that sufficiently well-defined and homogeneous categories of transactions may be carried out on the basis of framework resolutions, which must be passed in accordance with rules that comply with the provisions set out in the preceding paragraphs. For the purposes, in particular, of the distinction between applicable procedures (transactions of greater as against lesser significance), banks will be required to take account of the foreseeable maximum size of the transactions forming the subject matter of the resolution considered as a whole. The individual transactions completed depending on such framework resolutions will not be subject to the rules set out in the preceding paragraphs.

Framework resolutions may not cover a period of time of more than one year. They must set out all foreseeable information relating to the transactions to which they refer.

The body responsible for the function of strategic supervision must be provided with full information on the implementation of the framework resolution at least once a quarter.

When a transaction, although initially covered by a framework resolution, fails to comply with the requirements of specificity, homogeneity and definition forming the basis of the resolution concerned, it may not be carried out in implementation of the latter. The rules laid down generally for each connected party transaction will then apply to such transaction.

3.6. Banking Groups

In order to permit the Group Holding Company to ensure constant compliance with consolidated limits applying to risk-bearing assets, the procedures will make provision for adequate information flows relating to connected parties as also on pre-set levels for framework resolutions and their periodical use by individual members of the banking group.

In cases where the Group Holding Company examines or approves connected party transactions completed by individual members of the banking group, it will adopt safeguards capable of ensuring the substantive and procedural propriety of the transactions.

The Group Holding Company will also provide the instructions necessary to ensure the consistency of the decisions made by the single group banks wishing to take advantage of the possibility of derogation set out in paragraph 3.7.3, with particular regard to the assessments as to the existence or otherwise of significant interests of other connected parties including by the identification of specific cases indicating the presence of such interests. The instructions must be defined and formally recorded by the Group Holding Company in advance and form part of the procedures adopted by each bank of the group.

3.7. Exemptions and Derogations

3.7.1 Transactions of negligible amount

The procedures described in paragraph 2 may identify transactions of negligible amount to which the provisions of this Section do not have to be applied. The value of such

transactions must not in any case exceed the following:

- for banks whose (consolidated in the case of groups) regulatory capital is less than €500 million, the threshold of €250,000;
- for banks whose (consolidated in the case of groups) regulatory capital is over €500 million, the lesser of €1 million or 0.05%of the regulatory capital.

3.7.2. Ordinary Transactions

In the case of ordinary transactions, the procedures may exclude all or part of the rules set out from paragraphs 3.1 to 3.4, with provisions limited to the following:

a) that the resolution should contain elements proving the "ordinary" character of the operation. It is possible to refer to examples of worked through criteria set out in appropriately formal records by the bank or Group Holding Company in advance;

b) that there are information flows, at least in aggregate form, which make it possible to maintain adequate monitoring of these transactions at least once a year including by the independent directors for the purposes of possible corrective actions.

3.7.3. Transactions with or between subsidiary companies and with companies subject to significant influence

In the case of transactions with or between subsidiary companies and with those subject to significant influence the procedures may exclude some or all of the rules set out under paragraphs 3.1 to 3.4, limiting requirements to those set out under paragraph 3.7.2(b) when significant interests of other connected parties are not involved in the transaction. The assessment of the existence or otherwise of such interests must be effected on the basis of criteria which have been defined in advance and formally recorded as part of the procedures themselves, consistently with the instructions provided by the Group Holding Company pursuant to paragraph 3.6 ([1]).

3.7.4. Urgent Transactions

If so provided in the Articles of Association, the procedures may state that in cases of urgency all or some of the rules set out in paragraphs 3.1 to 3.4 shall not apply.

The existence of the situation of urgency must be proved by the body responsible for the resolution on the basis of objective circumstances and not exclusively due to its own decisions.

In the case of operations coming within the resolving powers of the body with the function of management or strategic supervision, the other bodies (with strategic supervision, management or control functions) must be informed of the reasons for urgency prior to the completion of the transaction. Where one or more such bodies, as also the independent directors with competence in the field, does or do not consider that the urgency exists, they must inform the other bodies immediately, as well as the General Meeting at the first available opportunity. If the resolution comes under the competence of other business functions, the procedures may be limited to setting out the requirements described in paragraph 3.7.2(b).

([1]) This paragraph will not apply to transactions effected between members of a banking group when a relationship of complete control (including joint control) exists between them and which are entirely excluded from the procedural rules in accordance with the provisions of paragraph 3 of Section 1 (see the definition of *"Connected Party Transaction").*

SECTION IV

CONTROLS

1. Internal controls and responsibility of business bodies

The organisational structures and the internal control system must be able to ensure continuing compliance with the procedural limits and the resolution procedures laid down by these rules. They must also achieve the objective, consistently with good and prudent management, of preventing and managing potential conflicts of interest inherent to every relationship maintained with connected parties correctly.

The solutions that may be adopted in practice, left to the autonomy of the banks involved, must be adequate for the characteristics and strategies of the bank or banking group in compliance with the principle of proportionality and must be effective in achieving the aims of compliance with the rules and the prevention and management of conflicts of interest.

To such end the bank, or the Group Holding Company in the case of a banking group, must approve and review, at least once every three years, the internal policies in the field of controls over risk-bearing assets and conflicts of interest in dealings with connected parties. The related resolutions must be adopted in the manner set out in paragraph 2.2 of Section III. The documents containing the internal control policies must be communicated to the General Meeting of the Shareholders and made available in case of possible requests from the Bank of Italy.

In particular, the internal control policies must:

— Identify, in relation to the bank's and the group's operational characteristics and strategies, the sectors of activities and the type of economic relationships, including when differing from those entailing the taking on of risk-bearing assets, which may give rise to conflicts of interest.

  Within this context, the following should be considered by way of example: conflicts of interest inherent to the activities of the granting of loans and receipt of savings, the activities of investment in financial and non-financial assets (e.g. investment in real estate) and the activities of consultancy and assistance provided to customers and other counterparties. Reference must also be made to specific instructions in the area of conflicts of interest between the activities of granting loans and the acquisition of shareholdings as contained in the rules governing permissible shareholdings for banks, as also those in the field of conflicts of interest in the provision of investment and accessory services contained in the combined Bank of Italy-CONSOB Regulation implementing Article 6, paragraph *2-bis* of the Consolidated Finance Law.

— Lay down levels of risk appetite consistent with the bank's or banking group's strategic profile and organisational characteristics. Risk appetite must also be defined in terms of the maximum measure of risk-bearing assets in dealings with connected parties considered acceptable in relation to the regulatory capital with reference to total exposure to all connected parties.

  In this context cases must be identified in which the taking on of new risk-bearing assets must be supported by adequate risk reduction techniques provided by parties that are independent of connected parties and whose value is not positively correlated with the creditworthiness of the business. Such cases must be identified in general terms with regard to the value of the risk-bearing assets in relation to the regulatory capital, the frequency of the transactions and the nature of the ties between the related party and the bank or banking group.

— Set up and govern organisational processes capable of identifying and maintaining a complete record of connected parties and to identify and quantify the related transactions

at every stage of the relationship. In particular:

- The duty of identifying the relations between its own counterparties and between these and the bank or the Group Holding Company and the group companies from which the qualification of a counterparty as a related party or associated party may arise, assigning the same function charged with such duty, the task of following the phenomenon of economic groups in order to ensure control over large-scale risks ([1]).

  To such end, the above function will use all sources of information available internally and externally (business archives, the Risk Centre, the Financial Statements Centre etc.), integrating and inter-relating them in such a way as to acquire a complete view of the phenomena and also establishing the manner of collection, preservation and updating of information on associated parties (see Section V).

  Particular attention must be paid to cases of relationships with economic groups using complex company structures or that are not fully transparent as regards the complexities of their ownership and organisational structures (for example, when including off-shore based companies or which use special purpose companies or juridical screens which impede the reconstruction of ownership structures and chains of control).

- Information systems should be adopted that extend throughout all the bank's structures and all members of the banking group and that are capable of maintaining records of connected parties from the moment when relations are initiated, are able to provide every bank of the group with updated information on the parties connected with the group, record the changes affecting the same and monitor trends and the total amount of the connected risk-bearing assets, including accounting for the value of the risk reduction techniques supporting the transaction. The information systems must ensure that the Group Holding Company is able to confirm compliance with consolidated limits applying to risk-bearing assets involved in dealings with connected parties.

— Set up and regulate control processes capable of guaranteeing the correct measurement and management of risks taken on in dealings with connected parties and to check that internal policies have been drawn up and are applied correctly. Within this context:

- the (second level) risk control function will be responsible for the measurement of risks (including market risks) underlying the relations with connected parties, checking compliance with the limits assigned to the different structures or operational units and checking the consistency between the operations of each with the risk appetite level defined in the internal policies;

- the compliance function will be responsible for checking the existence and reliability of procedures and systems appropriate for ensuring compliance with all obligations laid down by the law and internal regulations on a continuing basis;

- the internal audit function will check compliance with internal policies, reporting any anomalies to the control function body and the bank's top management bodies immediately, also reporting to the business bodies on a periodical basis with reference to the bank's or the banking group's total exposure to risks deriving from connected party transactions and other conflicts of interest. It will also suggest, as the case may be, reviews of internal policies and of the organisational and control structures considered appropriate for the strengthening of safeguards against such risks;

- the independent directors of the bank or of the banking group's Group holding

([1]) See Chapter 1 of Title V.

company will be required to perform an assessment, supporting and proposing role in the field of the organisation and conduct of internal checks over the overall activities of the taking on and management of risks in dealings with connected parties, as well as that of checking the consistency of the activities with strategic and managerial guidelines generally.

The rules laid down in this regulation are addressed, among other related parties, to business office-holders as being parties potentially able to exert a significant influence over the bank's most important transactions. At the same time, potential risks of conflicts of interest, starting from the most typical activity of the provision of loans, apply to a wider category of business staff and collaborators at different hierarchical-functional levels, above all if the latter have interests in other assets (being shareholders in companies either directly themselves or through family members). As a consequence, banks and banking groups must put in place appropriate safeguards over transactions in which such persons may have their own, different interests, whether directly or indirectly. The smallest perimeter encompassing persons to be taken into consideration for these purposes will be the category of "more important staff" identified under provisions governing remuneration and incentive policies and practices ([1]), to the extent that these are persons whose professional activities have or may have a significant impact on the bank's risk profile. The internal criteria applied by banks or banking groups must at least make provision for the commitment by staff to declare situations where they have an interest in transactions with the assignment of the managerial competence for the relationship (e.g. grant of loan, initiation of litigation) to a higher level in the hierarchical structure. Each bank or banking group must draw up the relevant instruments (provisions of the Articles, internal regulations, codes of conduct, etc.), the intended addressees and the specific contents of the regulation.

([1]) See paragraph 3.2 of the provisions of 30 March 2011.

SECTION V

COMMUNICATIONS AND INTERVENTIONS

1. Supervision reports

Risk-bearing assets in dealings with connected parties must be reported to the Bank of Italy at the times and with the level of detail described by the related prudential reporting rules.

The report will be effected within the group by the Group Holding Company and at an individual level by the individual banks, even if members of a banking group.

2. Recording of Connected Parties

Banks and the Group Holding Company in the case of a banking group will identify and record its related parties and, within the limits of ordinary due diligence, identify associated parties, requesting the necessary information when new relations are initiated and thereafter on the occasion of the renewal of the credit facilities or the review of contracts. Even though not connected parties under these rules, banks and the Group holding company will record relatives of related parties up to the second degree of kinship as close relatives and will hold such information available in case of any request by the Bank of Italy ([1]).

Those defined as related parties under these rules will be required to co-operate with the banks and brokers with which they have relationships in order to allow the latter to set up correct and complete records of connected parties, particularly with regard to the identification of associated parties. Related parties will also be required to communicate any subsequent developments coming to their knowledge and that may lead to changes in the perimeter delineating connected parties.

Banks will be required to identify and implement solutions suitable for the acquisition of the necessary information, to inform customers of their duties and to notify the latter in relation to possible liability (for instance pursuant to Article 137 of the Consolidated Banking Law).

3. Orders issued by the Bank of Italy

Under Article 53, paragraph 4 of the Consolidated Banking Law, when the Bank of Italy identifies circumstances that represent conflicts of interest, said Bank may lay down specific limits and conditions for the acquisition of risk-bearing assets.

In particular, with regard to each set of connected parties or all transactions carried out with their involvement taken as a whole, provision may be made for banking groups, for individual banks in a group and individual banks not belonging to a group to adopt prudential consolidated and/or individual limits which are more restrictive than those provided for generally, requiring the acquisition of additional security or other conditions and making provision to the effect that the related resolutions shall be passed using specific procedural precautions.

Furthermore, in specific cases, the Bank of Italy may require that these provisions (limits and procedures) must be applied to other parties in addition to connected parties by reason of the identification of conflicts of interest in practice.

In exercising its powers, the Bank of Italy will take into account the ability of the organisational structure and the internal control system of banks and banking groups to guarantee compliance with these rules and the prevention and proper management of specific conflicts of interest inherent to relations with counterparties, including those that are not connected parties. Within this context, the ability to comply with the obligations to identify connected parties and the monitoring of developments in the relationships will be of particular importance.

If the specific limits are not complied with, the provisions of paragraph 3 of Section II will apply.

([1]) The exemptions set out in paragraph 3 of Section 1 will apply to banks and other foreign brokers belonging to a banking group.

Annex A

Prudential Limits on Risk-bearing Assets in dealings with Connected Parties

(Limits regarding Consolidated and Individual Regulatory Capital)

<table>
<tr><td></td><td>Office-holders of the Business</td><td>Controlling shareholders or shareholders able to exert significant influence</td><td>Other shareholders and parties other than shareholders</td><td>Parties subject to control or significant influence</td></tr>
<tr><td rowspan="4">Consolidated Limits</td><td rowspan="4">5%</td><td colspan="3">Non-financial related parties</td></tr>
<tr><td>5%</td><td>7.50%</td><td>15%</td></tr>
<tr><td colspan="3">Other related parties</td></tr>
<tr><td>7.50%</td><td>10%</td><td>20%</td></tr>
<tr><td>Individual limits</td><td colspan="4">20%</td></tr>
</table>

Annex B

Methods of calculation used in the identification of "Transactions of Greater Significance"

a) "Value significance index: this is the ratio between the value of the transaction and the regulatory capital taken from the most recent (consolidated, if drawn up) published Balance sheet.

If the economic conditions of the transaction have been established, the counter value of the transaction will be the following:

i) for cash components, the amount paid in cash to/by the contractual counterparty;

ii) for components made up of financial instruments, the fair value determined as at the date of the transaction in accordance with the International Accounting Standards adopted by EC Regulation 1606/2002;

iii) for loan transactions or the grant of security, the maximum amount payable.

If the transaction's economic conditions depend in whole or in part on quantities as yet unknown, the transaction value will be the maximum value that can be received or paid under the agreement ([1]).

b) The "Asset Significance index": this is the ratio between the entirety of the assets of the entity forming the subject matter of the transaction and the bank's total assets ([2]). The data to be used must be taken from the most recent (consolidated, if drawn up) Balance sheet published by the bank. Where possible, analogous data should be used to establish total assets of the entity involved in the transaction.

For transactions involving the acquisition and assignment of company shareholdings with effects on the consolidation area, the value of the numerator will be the total assets of the invested company irrespective of the percentage of share capital forming the subject matter of the disposal.

In the case of acquisitions and assignments of company shareholdings which do not have an effect on the consolidation area, the numerator value will be:

i) for acquisitions, the transaction value plus any liabilities of the purchased company which may have been taken over by the purchaser;

ii) for assignments, the price of the asset assigned.

In the case of acquisitions and assignments of other assets (not being the acquisition of a shareholding), the value of the numerator will be:

i) for acquisitions, either the price or the book value attributed to the asset, whichever is the greater;

ii) for assignments, the book value of the asset.

([1]) It should be noted that in the case of services provided over more than one year remunerated by commission/charges, their value will be their current value.
([2]) Assets must include "off-balance sheet" headings.

Annex B.2) Supervisory Instructions for banks - Title II Chapter III – **Obligations of bank office-holders** (Circular no. 229 of 21.4.1999)

TITLE II - CHAPTER 3

OBLIGATIONS OF BANK OFFICE-HOLDERS

SECTION I

GENERAL PROVISIONS

1. Introduction

Article 136 of the Consolidated Law states that parties carrying out functions of administration, direction and control at a bank may not contract obligations of any kind or effect sale-purchase deeds directly or indirectly with the bank to which they belong save following a resolution by the Administrative Body passed unanimously and with votes cast in favour by all members of the control body. The same rule applies to obligations which office-holders of the bank or group companies contract with their own company or with other companies of the group. Non-compliance with the provision is punishable under criminal law.

Article 136 defines an offence which is constituted by failure to comply with the procedure laid down by the law in order to evade the legislative prohibition against the taking on of obligations as against the office-holder's company. Unlike the provisions of Article 2624 of the Italian Civil Code, which impose an absolute prohibition on company office-holders, Article 136 permits the conduct of transactions involving potential conflict of interest, granting the company bodies the power to assess the danger posed in practice by the transaction.

These provisions contain the general guidelines which banks and other companies belonging to banking groups must follow in evaluating cases regarding obligations taken on by their office-holders.

The above is without prejudice to the fact that since the matters dealt with are subject to criminal law sanction, any assessment of individual cases cannot but be remitted to the responsible considerations of the interested parties and, in the final analysis, to the competence of the courts.

2. Sources of Law

The matter is governed by the following article of the Consolidated Law:

— Article 136, which sets out the conditions under which persons carrying out functions of administration, direction and control at a bank may contract obligations or carry out sale-purchases directly or indirectly with the bank itself. The same conditions have to be observed in the case of obligations or deeds of sale-purchase concluded by office-holders of banks or companies forming part of a banking group with such companies, or in the case of loan transactions effected with another bank or company of the group. These latter examples require the consent of the Group holding company.

3. Definitions

The following definitions will apply to these provisions:

— "Office-holders", persons carrying out duties of administration, direction and control at a bank or at a company forming part of a banking group.

4. Persons affected by these Rules

These provisions will apply to persons carrying out functions of administration, direction and control at an Italian bank or at companies forming part of a banking group ([1]).

([1]) These rules will thus not apply to office-holders of companies and entities external to the banking group even if they control the bank or Group holding company of a banking group.

SECTION II

OBLIGATIONS OF OFFICE-HOLDERS

1. Obligations of bank office-holders

Article 136, paragraph 1 of the Consolidated Law prohibits persons carrying out functions of administration, direction ([1]) and control ([2]), thus including extraordinary commissioners, liquidating receivers, members of the supervisory committee, General Managers and those exercising equivalent functions at a bank to contract obligations of any kind or conclude deeds of sale-purchase directly or indirectly with the bank which he or she administers, directs or controls.

The prohibition may be overcome in cases where the transaction is resolved on unanimously by the Administrative Body with votes cast in favour by all members of the control body.

The "unanimous resolution" required by Article 136 of the Consolidated Law will normally be passed by the bank's Board of Directors. This thus excludes the possibility of a delegated body resolving on operations granting credit facilities, sale-purchase or obligations of any kind in dealings with persons carrying out functions of administration, direction and control. However, whenever management functions are delegated to a smaller body by the Articles of Association, such as the Executive Committee, thus being granted general powers in matters such as the grant of credit, it is considered that it would be compliant with the legislation should such body pass the resolutions required by Article 136 of the Consolidated Law. It would in any case be sensible for such resolutions to be made known to the Board of Directors. The above is without prejudice to the fact that the persons subject to the prohibition will be the members of both Administrative Bodies.

It is considered that the unanimity required by Article 136 of the Consolidated Law is not conditional on the presence of all members of the Administrative Body, it being sufficient that the number of members present should be at least that necessary for the validity of the resolutions and that all present should cast their votes in favour of the transaction without abstentions, save, obviously, for the interested party ([3]). The related minutes must make clear and explicit the compliance with the above-indicated provision.

General resolutions will not be admissible. It is thus necessary to describe the characteristics of the transaction allowing it to be identified.

So far as the approval of the control body is concerned, since all Permanent Members of the Board of Statutory Auditors without exception, must express an opinion in favour, it is clear that if one of them was not, for any reason, present at the meeting of the board when the resolution was passed, his or her approval should be formally recorded in a written document to be held in the bank papers and this must be confirmed in the minutes of the board's subsequent meeting. Until such approval has been given it will be impossible to go ahead with the transaction concerned even if all other conditions have been fulfilled. Moreover, any Statutory auditor interested in contracting an obligation with the bank to which he or she belongs or with another bank or company in the group, must not vote on the resolution on the transaction concerned.

([1]) It is considered that the reference in the provision under consideration to the person carrying out functions of direction is only the head of the executive and not other managers as well, even if they have the power to grant credit facilities. The provision includes the deputy General Manager only in cases when the latter carries out the function of the head of the executive in circumstances where the position of General Manager is vacant. Those responsible for running subsidiaries of foreign banks will be excluded.

([2]) Taking a cautious approach, it is considered appropriate for the procedure to be applied to the Supplementary Members of the Board of Statutory Auditors as well.

([3]) The requirement that the interested director must abstain from voting is laid down by Article 2391 of the Italian Civil Code both for the transaction under consideration and generally for all those in which he or she has a conflict of interest with the company, either on his or her own behalf or on behalf of third parties. For full compliance with this provision, the interested office-holder will be required not to take part in the decision-making process of the resolving body by physically absenting him or herself from the meeting.

2. Obligations of Office-holders of banks or companies forming part of a banking group

Article 136, paragraph 2 of the Consolidated Law states that the prohibition will also apply to a person carrying out functions of administration, direction or control within a bank or company forming part of a banking group in relation to obligations contracted and deeds of sale-purchase concluded with such company, whether directly or indirectly, and in relation to loans effected with another company or bank in the group.

In this case too, the prohibition may be overcome in cases when the operation is authorised through a unanimous resolution of the Administrative Body, with votes cast in favour by all members of the control body of the contracting bank or company and with the consent of the Group Holding Company ([1]).

In the absence of a precise description by the law in relation to the Group Holding Company's body authorised to provide consent, it is considered that it could be resolved on by bodies or Managing directors delegated by the Group Holding Company's Board of Directors, in accordance with the criteria and precautions laid down by the Board itself. Until such consent has been given it will be impossible to go ahead with the transaction concerned, even when all the other conditions have been satisfied.

So far as the resolutions of the Administrative Body and the control body are concerned, the indications set out under paragraph 1 of this Section will apply.

3. Scope of Application of the legislation

Article 136 of the Consolidated Law applies to contractual relations, which will thus include, in addition to deeds of sale-purchase, obligations of business office-holders "of any kind", both financial and non-financial, in which the subjective quality of the counterparty is of significance and when there is a possibility, even only theoretically, of conflict with the interests of the bank that the legislation seeks to avoid.

It thus appears that services not involving the provision of credit facilities will not be covered by the legislative provision, including transactions involving the raising of investments (such as subscription to bonds, deposit certificates or interest-bearing vouchers; buy-back transactions; the opening of deposits including in the form of correspondence current accounts), provided to business office-holders on standardised conditions applied to customers and staff.

So far as banks and stock-broking companies forming part of a banking group are concerned, it is also considered that obligations connected to the sale-purchase of currency and stock traded on regulated markets, settled on standardised conditions applicable to customers and staff, so long as the price is paid in advance in the case of purchases and that securities are delivered in advance in the case of sales, will also not come within the scope of application of the legal provision.

In any case, when business office-holders are also staff members of another company in the banking group, transactions, even when involving the grant of credit to which they are entitled as a result of their capacity as a member staff will not be covered by the rules set out in Article 136 of the Consolidated Law, so long as it falls within the limits and conditions generally applicable to staff members. The rules laid down by Article 136 include professional appointments. It is considered appropriate in any case to avoid the systematic and exclusive appointment of office-holders to professional appointments in that such practices, given the possible developments that they may be subject to, could have a bearing on the compatibility of the interests of the office-holder concerned and those of the business.

([1]) So far as transactions with group companies with Registered Offices abroad are concerned, the Group holding company, in the exercise of its duties of direction and control, will be required to fix the criteria and precautions which must be followed for the approval, identifying, in accordance with the legislation of the country concerned, the bodies and procedures similar to those laid down by the Italian legal system. In granting its consent to the transaction, the Group holding company will thus be required to confirm compliance with the criteria and precautions laid down by it.

The prohibition and the procedure for its removal is also valid in all cases when the party under an obligation or contracting party is a person connected to one or more of the business's office-holders by a relationship under which such office-holders are unlimitedly and personally liable for such obligation. Such case exists when the party subject to the obligation or the Contracting party is:

— a simple or collective company of which the office-holder is a member;

— a company in the form of a limited partnership or partnership limited by shares in which the office-holder is the managing partner;

— a company with share capital of which the office-holder is the sole shareholder.

The procedure under Article 136 of the Consolidated Law applies to obligations of indefinite duration or in cases where the transaction conditions have changed (rates, currency, costs, commission etc.) including in the following cases:

— loans granted to a person before he or she becomes an office-holder of the bank or contracting company;

— obligations taken on by office-holders of banks participating in a merger where the office-holders concerned remain members of the new bank's collegiate bodies;

— obligations taken on by an office-holder of a company, irrespective of whether such company is a bank or not, as against another bank or company forming part of the banking group in a case where the company external to the group subsequently becomes a member of such group.

4. Obligations contracted indirectly

The concept of "indirect" obligation refers to a case where the obligatory relationship, although officially referring to one person — whether a natural individual (such as the spouse or another family member of the office-holder) or a corporate entity — other than the business office-holder, is in fact attributable to the latter. The person concerned will be obliged to inform the Board of Directors of his or her specific situation, supplying all necessary clarification and it will be up to the Board to assess whether the intended transaction is a case of indirect obligation of the office-holder concerned.

The assessment must be made in the absence of the office-holder presumed to be involved, in compliance with the general principle according to which any director with some form of interest in the operation must abstain from taking part in the related resolution (see. Article 2391 of the Italian Civil Code).

In the case of obligations contracted by companies, it is considered that Article 136 of the Consolidated Law will apply where the business office-holder has a position of control over the contracting company pursuant to Article 23 of the Consolidated Law.

In the case of loans to companies which are not subsidiaries but in which the bank office-holder has a position as director or Statutory auditor, it is considered that the mere overlapping of such positions or the mere holding by the office-holder of a minority shareholding in the company receiving the loan will not, in and of itself, give rise to the application of Article 136 of the Consolidated Law, without prejudice, in any event, to the possible existence in practice, of a conflicting interest pursuant to Article 2391 of the Italian Civil Code.

In a case where business office-holders in the Group Holding Company hold positions within other companies in the group, obligatory relations established between group companies will not, in and of itself, give rise to a conflict of interest subject to the rules set out in Article 136 of the Consolidated Law.

Annex C) IAS 24 – Related Party Disclosures, as reviewed by EU Regulation 632 of 19.7.2010

ABI – the Italian Banking Association

Rome
2 August 2010 TO: ASSOCIATE MEMBERS
Protocol LG/002381

EU Regulation no. 632/2010 of the Commissioned of 19 July 2010.

Adoption of IAS 24 "Related Party Transaction Disclosure" Reviewed.

We have enclosed herewith for the information and documentation of association members, the text of EU Regulation 632/2010 of 19 July 2010, published in the Official Gazette of the European Union no. 186 of 20 July 2010, confirming the official status of new IAS 24 relating to Related party transaction disclosure.

The standard replaces that adopted by EC Regulation 1126/2008. This means that amendments have also been made to IFRS 8 "Operational sectors" as well, intended to guarantee consistency between the International Accounting Standards.

Businesses will apply the new IAS 24 and the amendments to IFRS 8 with effect from 1 January 2011, without prejudice to the option to apply them prior to that date.

Please note that the main changes to the definitions in force to date have been highlighted in bold in the text.

It is possible that we will return to this question with a more in-depth consideration of the issues in the future.

Yours faithfully

Enrico Granata
Central Director with responsibility for legislative considerations

OF1090/BV9025

ATTACHMENT

II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 632/2010 of 19 July 2010 amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Accounting Standard (IAS) 24 and International Financial Reporting Standard (IFRS) 8

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards [1], and in particular Article 3(1) thereof,

Whereas:

(1) By Commission Regulation (EC) No 1126/2008 [2] certain international standards and interpretations that were in existence at 15 October 2008 were adopted.

(2) On 4 November 2009, the International Accounting Standards Board (IASB) published a revised International Accounting Standard (IAS) 24 Related Party Disclosures, hereinafter 'revised IAS 24'. The aim of the changes introduced by the revised IAS 24 is to simplify the definition of a related party while removing certain internal inconsistencies and provides some relief for government- related entities in relation to the amount of information such entities need to provide in respect to related party transactions.

(3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that the revised IAS 24 meets the technical criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002. In accordance with Commission Decision 2006/505/EC of 14 July 2006 setting up a Standards Advice Review Group to advise the Commission on the objectivity and neutrality of the European Financial Reporting Advisory Group's (EFRAG's) opinions[3], the Standards Advice Review Group considered EFRAG's opinion on endorsement and advised the Commission that it is well-balanced and objective.

(4) The adoption of the revised IAS 24 implies, by way of consequence, amendments to International Financial Reporting Standard (IFRS) 8 in order to ensure consistency between international accounting standards.

(5) Regulation (EC) No 1126/2008 should therefore be amended accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1126/2008 is amended as follows:

1. International Accounting Standard (IAS) 24 is replaced by the revised IAS 24 as set out in the Annex to this Regulation;
2. International Financial Reporting Standard (IFRS) 8 is amended as set out in the Annex to this Regulation.

Article 2

Each company shall apply IAS 24 and amendment to IFRS 8, as set out in the Annex to this Regulation, at the latest, as from the commencement date of its first financial year starting after 31 December 2010.

(1) OJ L 243, 11.9.2002, p. 1.
(2) OJ L 320, 29.11.2008, p. 1.
(3) OJ L 199, 21.7.2006, p. 33.

Article 3

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 July 2010.

For the Commission
The President
José Manuel BARROSO

ANNEX

INTERNATIONAL ACCOUNTING STANDARDS

IAS 24	IAS 24 *Related Party Disclosures*
IFRS 8	Amendment to IFRS 8 *Operating Segments*

International Accounting Standard 24

Related Party Disclosures

OBJECTIVE

1 The objective of this Standard is to ensure that an entity's financial statements contain the disclosures necessary to draw attention to the possibility that its financial position and profit or loss may have been affected by the existence of related parties and by transactions and outstanding balances, including commitments, with such parties.

SCOPE

2 This Standard shall be applied in:

(a) identifying related party relationships and transactions;
(b) identifying outstanding balances, including commitments, between an entity and its related parties;
(c) identifying the circumstances in which disclosure of the items in (a) and (b) is required; and
(d) determining the disclosures to be made about those items.

3 This Standard requires disclosure of related party relationships, transactions and outstanding balances, including commitments, in the consolidated and separate financial statements of a parent, venturer or investor presented in accordance with IAS 27 Consolidated and Separate Financial Statements. This Standard also applies to individual financial statements.

4 Related party transactions and outstanding balances with other entities in a group are disclosed in an entity's financial statements. Intragroup related party transactions and outstanding balances are eliminated in the preparation of consolidated financial statements of the group.

PURPOSE OF RELATED PARTY DISCLOSURES

5 Related party relationships are a normal feature of commerce and business. For example, entities frequently carry on parts of their activities through subsidiaries, joint ventures and associates. In those circumstances, the entity has the ability to affect the financial and operating policies of the investee through the presence of control, joint control or significant influence.

6 A related party relationship could have an effect on the profit or loss and financial position of an entity. Related parties may enter into transactions that unrelated parties would not. For example, an entity that sells goods to its parent at cost might not sell on those terms to another customer. Also, transactions between related parties may not be made at the same amounts as between unrelated parties.

7 The profit or loss and financial position of an entity may be affected by a related party relationship even if related party transactions do not occur. The mere existence of the relationship may be sufficient to affect the transactions of the entity with other parties. For example, a subsidiary may terminate relations with a trading partner on acquisition by the parent of a fellow subsidiary engaged in the same activity as the former trading partner. Alternatively, one party may refrain

from acting because of the significant influence of another—for example, a subsidiary may be instructed by its parent not to engage in research and development.

8 For these reasons, knowledge of an entity's transactions, outstanding balances, including commitments, and relationships with related parties may affect assessments of its operations by users of financial statements, including assessments of the risks and opportunities facing the entity.

DEFINITIONS

9 The following terms are used in this Standard with the meanings specified:
A related party is a person or entity that is related to the entity that is preparing its financial statements (in this Standard referred to as the 'reporting entity').

(a) A person or a close member of that person's family is related to a reporting entity if that person:
(i) has control or joint control over the reporting entity;
(ii) has significant influence over the reporting entity; or
(iii) is a member of the key management personnel of the reporting entity or of a parent of the reporting entity.

(b) An entity is related to a reporting entity if any of the following conditions applies:
(i) The entity and the reporting entity are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others).
(ii) One entity is an associate or joint venture of the other entity (or an associate or joint venture of a member of a group of which the other entity is a member).
(iii) Both entities are joint ventures of the same third party.
(iv) One entity is a joint venture of a third entity and the other entity is an associate of the third entity.
(v) The entity is a post-employment benefit plan for the benefit of employees of either the reporting entity or an entity related to the reporting entity. If the reporting entity is itself such a plan, the sponsoring employers are also related to the reporting entity.
(vi) The entity is controlled or jointly controlled by a person identified in (a).
(vii) A person identified in (a)(i) has significant influence over the entity or is a member of the key management personnel of the entity (or of a parent of the entity).

A *related party transaction* is a transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged.

***Close members of the family of a person* are those family members who may be expected to influence, or be influenced by, that person in their dealings with the entity and include:**
(a) that person's children and spouse or domestic partner;
(b) children of that person's spouse or domestic partner; and
(c) dependants of that person or that person's spouse or domestic partner.

***Compensation* includes all employee benefits (as defined in IAS 19 Employee Benefits) including employee benefits to which IFRS 2 Share-based Payment applies. Employee benefits are all forms of consideration paid, payable or provided by the entity, or on behalf of the entity, in exchange for services rendered to the entity. It also includes such consideration paid on behalf of a parent of the entity in respect of the entity. Compensation includes:**
(a) short-term employee benefits, such as wages, salaries and social security contributions, paid annual leave and paid sick leave, profit-sharing and bonuses (if payable within twelve months of the end of the period) and non-monetary benefits (such as medical care,

housing, cars and free or subsidised goods or services) for current employees;

(b) post-employment benefits such as pensions, other retirement benefits, post-employment life insurance and post-employment medical care;

(c) other long-term employee benefits, including long-service leave or sabbatical leave, jubilee or other long- service benefits, long-term disability benefits and, if they are not payable wholly within twelve months after the end of the period, profit-sharing, bonuses and deferred compensation;

(d) termination benefits; and

(e) share-based payment.

Control **is the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities.**

Joint control **is the contractually agreed sharing of control over an economic activity.**

Key management personnel **are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity.**

Significant influence **is the power to participate in the financial and operating policy decisions of an entity, but is not control over those policies. Significant influence may be gained by share ownership, statute or agreement.**

Government **refers to government, government agencies and similar bodies whether local, national or international.**

A *government-related entity* is an entity that is controlled, jointly controlled or significantly influenced by a government.

10 In considering each possible related party relationship, attention is directed to the substance of the relationship and not merely the legal form.

11 In the context of this Standard, the following are not related parties:

(a) two entities simply because they have a director or other member of key management personnel in common or because a member of key management personnel of one entity has significant influence over the other entity.

(b) two venturers simply because they share joint control over a joint venture.

(c) (i) providers of finance,
(ii) trade unions,
(iii) public utilities, and
(iv) departments and agencies of a government that does not control, jointly control or significantly influence the reporting entity, simply by virtue of their normal dealings with an entity (even though they may affect the freedom of action of an entity or participate in its decision-making process);

(d) a customer, supplier, franchisor, distributor or general agent with whom an entity transacts a significant volume of business, simply by virtue of the resulting economic dependence.

12 In the definition of a related party, an associate includes subsidiaries of the associate and a joint venture includes subsidiaries of the joint venture. Therefore, for example, an associate's subsidiary and the investor that has significant influence over the associate are related to each other.

DISCLOSURES

All entities

13 **Relationships between a parent and its subsidiaries shall be disclosed irrespective of whether there have been transactions between them. An entity shall disclose the name of its parent and, if different, the ultimate controlling party. If neither the entity's parent nor the ultimate controlling party produces consolidated financial statements available for public use, the name of the next most senior parent that does so shall also be disclosed.**

14 To enable users of financial statements to form a view about the effects of related party relationships on an entity, it is appropriate to disclose the related party relationship when control exists, irrespective of whether there have been transactions between the related parties.

15 The requirement to disclose related party relationships between a parent and its subsidiaries is in addition to the disclosure requirements in IAS 27, IAS 28 Investments in Associates and IAS 31 Interests in Joint Ventures.

16 Paragraph 13 refers to the next most senior parent. This is the first parent in the group above the immediate parent that produces consolidated financial statements available for public use.

17 **An entity shall disclose key management personnel compensation in total and for each of the following categories:**

(a) short-term employee benefits;

(b) **post-employment benefits;**

(c) **other long-term benefits;**

(d) **termination benefits; and**

(e) **share-based payment.**

18 **If an entity has had related party transactions during the periods covered by the financial statements, it shall disclose the nature of the related party relationship as well as information about those transactions and outstanding balances, including commitments, necessary for users to understand the potential effect of the relationship on the financial statements. These disclosure requirements are in addition to those in paragraph 17. At a minimum, disclosures shall include:**

(a) the amount of the transactions;

(b) the amount of outstanding balances, including commitments, and:

(i) their terms and conditions, including whether they are secured, and the nature of the consideration to be provided in settlement; and

(ii) details of any guarantees given or received;

(c) provisions for doubtful debts related to the amount of outstanding balances; and

(d) the expense recognised during the period in respect of bad or doubtful debts due from related parties.

19 **The disclosures required by paragraph 18 shall be made separately for each of the following categories:**

(a) the parent;

(b) entities with joint control or significant influence over the entity;

(c) subsidiaries;
(d) associates;
(e) joint ventures in which the entity is a venturer;
(f) key management personnel of the entity or its parent; and
(g) other related parties.

20 The classification of amounts payable to, and receivable from, related parties in the different categories as required in paragraph 19 is an extension of the disclosure requirement in IAS 1 Presentation of Financial Statements for information to be presented either in the statement of financial position or in the notes. The categories are extended to provide a more comprehensive analysis of related party balances and apply to related party transactions.

21 The following are examples of transactions that are disclosed if they are with a related party:
(a) purchases or sales of goods (finished or unfinished);
(b) purchases or sales of property and other assets;
(c) rendering or receiving of services;
(d) leases;
(e) transfers of research and development;
(f) transfers under licence agreements;
(g) transfers under finance arrangements (including loans and equity contributions in cash or in kind);
(h) provision of guarantees or collateral;
(i) commitments to do something if a particular event occurs or does not occur in the future, including executory contracts ([1]) (recognised and unrecognised); and
(j) settlement of liabilities on behalf of the entity or by the entity on behalf of that related party.

22 Participation by a parent or subsidiary in a defined benefit plan that shares risks between group entities is a transaction between related parties (see paragraph 34B of IAS 19).

23 Disclosures that related party transactions were made on terms equivalent to those that prevail in arm's length transactions are made only if such terms can be substantiated.

24 **Items of a similar nature may be disclosed in aggregate except when separate disclosure is necessary for an understanding of the effects of related party transactions on the financial statements of the entity.**

Government-related entities

25 A reporting entity is exempt from the disclosure requirements of paragraph 18 in relation to related party transactions and outstanding balances, including commitments, with:
(a) a government that has control, joint control or significant influence over the reporting entity; and
(b) another entity that is a related party because the same government has control, joint control or significant influence over both the reporting entity and the other entity.

26 **If a reporting entity applies the exemption in paragraph 25, it shall disclose the following about the transactions and related outstanding balances referred to in paragraph 25:**
(a) the name of the government and the nature of its relationship with the reporting entity (i.e. control, joint control or significant influence);
(b) the following information in sufficient detail to enable users of the entity's financial statements to understand the effect of related party transactions on its financial statements:
(i) the nature and amount of each individually significant transaction; and
(ii) for other transactions that are collectively, but not individually, significant, a qualitative or quantitative indication of their extent. Types of transactions include those listed in paragraph 21.

27 In using its judgement to determine the level of detail to be disclosed in accordance with the requirements in paragraph 26(b), the reporting entity shall consider the closeness of the related

([1]) IAS 37 Provisions, Contingent Liabilities and Contingent Assets defines executory contracts as contracts under which neither party has performed any of its obligations or both parties have partially performed their obligations to an equal extent.

party relationship and other factors relevant in establishing the level of significance of the transaction such as whether it is:

(a) significant in terms of size;

(b) carried out on non-market terms;

(c) outside normal day-to-day business operations, such as the purchase and sale of businesses;

(d) disclosed to regulatory or supervisory authorities;

(e) reported to senior management;

(f) subject to shareholder approval.

EFFECTIVE DATE AND TRANSITION

28 An entity shall apply this Standard retrospectively for annual periods beginning on or after 1 January 2011. Earlier application is permitted, either of the whole Standard or of the partial exemption in paragraphs 25-27 for government-related entities. If an entity applies either the whole Standard or that partial exemption for a period beginning before 1 January 2011, it shall disclose that fact.

WITHDRAWAL OF IAS 24 (2003)

29 This Standard supersedes IAS 24 *Related Party Disclosures* (as revised in 2003).

Appendix

Amendment to IFRS 8 *Operating Segments*

A1 Paragraph 34 is amended as follows (new text is underlined and deleted text is struck through) and paragraph 36B is added.

34 An entity shall provide information about the extent of its reliance on its major customers. If revenues from transactions with a single external customer amount to 10 per cent or more of an entity's revenues, the entity shall disclose that fact, the total amount of revenues from each such customer, and the identity of the segment or segments reporting the revenues. The entity need not disclose the identity of a major customer or the amount of revenues that each segment reports from that customer. For the purposes of this IFRS, a group of entities known to a reporting entity to be under common control shall be considered a single customer. However, judgement is required to assess whether a government (~~national, state, provincial, territorial, local or foreign~~ including government agencies and similar bodies whether local, national or international) and entities known to the reporting entity to be under the control of that government ~~shall be~~ are considered a single customer. In assessing this, the reporting entity shall consider the extent of economic integration between those entities.

36B IAS 24 *Related Party Disclosures* (as revised in 2009) amended paragraph 34 for annual periods beginning on or after 1 January 2011. If an entity applies IAS 24 (revised 2009) for an earlier period, it shall apply the amendment to paragraph 34 for that earlier period.

ANNEX D
to the Internal Procedure on Related Party Transactions

Facsimile of the substituting declaration relating to the satisfaction of requirements for the status of independent directors

SUBSTITUTING DECLARATION
(Articles 46 and 47 of Presidential Decree no. 445 of 28 DECEMBER 2000)

I, the undersigned..., independent director of BANCO DI DESIO E DELLA BRIANZA S.P.A. ("BANCO DESIO"), acting on my own responsibility and aware of the fact that in terms of Article 76 of Presidential Decree 445/2000, the making of mendacious declarations, the falsifying of deeds and the use of false deeds or deeds whose contents no longer correspond to the truth, are punishable under the Criminal Code and the relevant special laws, in view of the provisions in force governing the conditions applying to office-holders of banks and listed companies

HEREBY DECLARE

□ that I satisfy the conditions of independence laid down by Article 148, paragraph 3 of Legislative Decree no. 58 of 24 February 1998, more particularly as follows:

a) that I am not the spouse, a relative by blood or marriage up to the 4th degree of kinship, of a director of BANCO DESIO, nor am I a director or a spouse or relative by blood or marriage within the 4th degree of kinship of a director of a company which has a relationship of control with BANCO DESIO;

b) that I am not connected with BANCO DESIO, companies having a relationship of control with BANCO DESIO or any of the persons described in the previous paragraph, by a subordinate or self-employment relationship, or by other relationship of an economic or professional nature that could compromise my independence.

□ that I satisfy the conditions of independence laid down by the **Self-Disciplinary Code for Listed Companies,** more specifically:

a) I do not have relations of control, whether direct or indirect, or of "significant influence" over the Bank (such influence will be presumed by law in the case of a shareholding of at least 10%);

b) I have not held the position (currently and/or over the previous three accounting periods) of an *"important office-holder" (Chairman, Vice-Chairman, executive director or manager with strategic responsibilities*) of the Bank, its subsidiaries, its controlling company or of a company capable of exercising significant influence over the Bank (see above);

c) I do not have significant economic, financial or commercial relations, whether direct or indirect, with the Bank, its controlling company or subsidiaries or with any of their important office-holders (see above);

d) I do not receive significant further remuneration (possibly linked to business results) in addition to the minimum fees paid to independent directors;

e) I do not hold the position of executive director in any companies in which the Bank's Managing director holds the position of director;

f) I do not hold the position of shareholder or director of entities forming part of the network to which the auditing company belongs;

g) I do not have close family ties with the natural individuals *("important office-holders", as defined above, of the Bank, its controlling company, its subsidiaries etc. etc.*) mentioned in the previous paragraph.

PROCESSING OF PERSONAL DATA

... OMISSIS ...

I finally declare:

- that I have been informed, pursuant to Article 13 of Legislative Decree 196/2003, that my personal data collected will be processed, including with electronic devices, exclusively in the context of the procedures for which this declaration has been made;
- that I authorise hereby BANCO DESIO, pursuant to Article 71, paragraph 4 of Presidential Decree 445/2000, to check the truth of what I, the undersigned, have declared herein with the competent authorities.

I, the undersigned, also undertake to produce, on request by the said company, the necessary documentation to confirm the truth of the data declared herein.

Declaring Party

Annex E
to the Internal Procedure on Related Party Transactions

REPORTING SCHEDULE 1 – RELATED PARTIES / ARTICLE 136 OF THE CONSOLIDATED BANKING LAW

COMPANIES CONTROLLED BY THE OFFICE-HOLDER OR IN WHICH OWNS SIGNIFICANT SHAREHOLDING TOGETHER WITH ANY COMPANY FOR WHOSE OBLIGATIONS THE OFFICE-HOLDER HAS UNLIMITED LIABILITY

Any company or entity will be a "Related Party" and counterparty pursuant to Article 136 of the Consolidated Banking Law (at the moment it establishes business relations with the Banco Desio Group) in which the Office-holder possesses, directly or indirectly, significant voting powers or over which the office-holder is able to exercise control, whether directly or indirectly (including through a trust, intermediary or controlled entity and including joint control) or significant influence or for whose obligations the office-holder has unlimited liability as managing partner or on some other basis,**.**

The existence of significant influence will be presumed (until such presumption is rebutted) in the case of a company in which the office-holder owns a shareholding of at least 20% (or 10% if it is a listed company). The above definition is the same as that of "associated company" under Article 2359 of the Italian Civil Code and will be deemed to also be applicable to subsequent schedules.

No.	Company	Tax code	Description of the situation in which control or significant influence is exercised or the basis on which liability for obligations is borne (managing partner, trustee etc.)

IF THERE ARE ADDITIONAL COMPANIES TO BE INDICATED, PLEASE USE A FURTHER, DULY SIGNED COPY OF THIS FORM.
ARE THERE ANY ADDITIONAL COMPANIES? _____YES [ ] _____NO [ ]

I, the undersigned, undertake to inform the Banco Desio Group **(General and Company Secretary of the Group Holding Company)** of any change to the abovementioned details as reflected in this schedule

(date) (signature)

REPORTING SCHEDULE 2 –ARTICLE 136 OF THE CONSOLIDATED BANKING LAW

POSITIONS HELD BY THE OFFICE-HOLDER IN COMPANIES/ENTITIES EXTERNAL TO THE BANCO DESIO GROUP

Any company or entity in which the Office-holder carries out functions of administration, direction or control (director, Statutory auditor, auditor, arbitrator etc.) **will be deemed to be a "Related Party" and counterparty pursuant to Article 136 of the Consolidated Banking Law (at the moment it establishes business relations with the Banco Desio Group)**

No.	Company/entity	Tax code	Position

IF THERE ARE ADDITIONAL COMPANIES TO BE INDICATED, PLEASE USE A FURTHER, DULY SIGNED COPY OF THIS FORM.

ARE THERE ANY ADDITIONAL COMPANIES? _____YES [ ] _____NO [ ]

I, the undersigned, undertake to inform the Banco Desio Group **(General and Company Secretary of the Group Holding Company)** of any change to the abovementioned details as reflected in this schedule.

(date) (signature)

REPORTING SCHEDULE 2-BIS –ARTICLE 136 OF THE CONSOLIDATED BANKING LAW

COMPANIES WITH CONTROL OVER THOSE IN WHICH THE OFFICE-HOLDER OWNS SHAREHOLDINGS OR HOLDS POSITIONS as referred to in Schedules 1 and 2 above

Any company or entity will be a counterparty pursuant to paragraph 2-bis of Article 136 of the Consolidated Banking Law[1] (as soon as it establishes business relations with the Banco Desio Group) which entertains, whether directly or indirectly, (including through a trust, intermediate or a controlled body) a relationship of control with that invested in, administered etc. by the office-holder

No.	Company/entity	Tax code	Description of the (direct or indirect) relationship of control with the company in which the office-holder has investments and/or positions described by Schedules 1 and 2 (N.B. indicate the company concerned)

IF THERE ARE ADDITIONAL COMPANIES TO BE INDICATED, PLEASE USE A FURTHER, DULY SIGNED COPY OF THIS FORM.

ARE THERE ANY ADDITIONAL COMPANIES? _____YES [ ] _____NO [ ]

I, the undersigned, undertake to inform the Banco Desio Group **(General and Company Secretary of the Group Holding Company)** of any change to the abovementioned details as reflected in this schedule.

(date) (signature)

(1) Introduced by law 262/2005 on savings protection

REPORTING SCHEDULE 3 –ARTICLE 136 OF THE CONSOLIDATED BANKING LAW

CLOSE RELATIVES OF OFFICE HOLDERS AND COMPANIES CONTROLLED/INVESTED IN BY SUCH CLOSE RELATIVES

The following persons will be considered close relatives and thus related parties and counterparties pursuant to Article 136 of the Consolidated Banking Law (from the moment business relations are established with the Banco Desio Group): a) a spouse who is not legally separated; b) dependent and/or cohabiting children (including of the spouse); c) parents and relatives both by blood and marriage if have been cohabiting for at least one year; d) any other family members(including on a *de facto* basis) who, in the judgement of the office-holder, are capable of influencing, or being influenced by, the office-holder in relations with the Bank.

No.	Surname	First name	Ties with the office-holder	Tax code

COMPANIES CONTROLLED BY THE FAMILY MEMBER, IN WHICH HE OR SHE HAS A SIGNIFICANT INVESTMENT, OR FOR WHICH HE OR SHE HAS UNLIMITED LIABILITY.

No.	Company	Tax code	Description of the situation in which control or significant influence is exercised or the basis on which liability for obligations is borne (managing partner, trustee etc.)

IF THERE ARE ADDITIONAL COMPANIES TO BE INDICATED, PLEASE USE A FURTHER, DULY SIGNED COPY OF THIS FORM.

ARE THERE ANY ADDITIONAL COMPANIES? _____YES [ ] _____NO [ ]

I, the undersigned, undertake to inform the Banco Desio Group **(General and Company Secretary of the Group Holding Company)** of any change to the abovementioned details as reflected in this schedule.

(date) (signature).