ORGANISATION, MANAGEMENT AND CONTROL MODEL PURSUANT TO LEGISLATIVE DECREE 231/2001

VERSION	APPROVED BY	APPROVAL DATE
0	Vice President by delegation of the Branch President	1 August 2019
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2	Branch President	3 October 2023

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FOREWORD

Mitsubishi Electric Europe B.V. - Italian Branch (hereinafter also referred to as the "Branch" or "MEU-IT") has deemed it compliant with its corporate policies to proceed with the adoption of the Organisation and Management Model (hereinafter also referred to as the "Model"), which is provided for, albeit optionally, by Legislative Decree No. 231 of 8 June 2001, in order to guarantee conditions of fairness and transparency in the conduct of business and corporate activities.

The Organisation and Management Model is approved in its initial version and subsequent updates by the MEU-IT Branch President.

The adoption of the Model represents a valid vehicle for raising the awareness of all those who act in the name and on behalf of or in any case in the interest of the Branch so that, by constantly conforming their work to the prescriptions therein, they inspire and orient their conduct towards respect for the law and the principles of integrity.

In preparing this Model, the Branch was inspired by the Guidelines issued by Confindustria in the version approved on 21 July 2014, subsequently updated in June 2021, and declared suitable for achieving the purpose set forth in Article 6, paragraph 3, of Legislative Decree 231/2001 by the Ministry of Justice[1] . In these Guidelines, Confindustria provided, inter alia, methodological indications for the identification of risk areas (sectors/activities in which offences may be committed), the design of a control system (the so-called protocols for planning the formation and implementation of the entity's decisions) and the contents of the Model.

The drafting of the Model was conducted on the basis of the main regulations indicating guiding principles and control *standards* for the best internal organisation system and in accordance with case law precedents on the administrative liability of entities.

[1] The latter rule provides that: "Organisational and management models may be adopted, guaranteeing the requirements set out in paragraph 2, on the basis of codes of conduct drawn up by the associations representing the entities and communicated to the Ministry of Justice, which, in agreement with the competent Ministries, may, within thirty days, formulate observations on the suitability of the models to prevent offences".

1. REGULATORY FRAMEWORK

1.1. INTRODUCTION

The Legislative Decree No. 231 of 8 June 2001 ((hereinafter also referred to as the "Decree") introduced into the Italian legal system a regime of administrative liability dependent on crime for Entities (to be understood as Companies, associations, consortia, branches, etc., hereinafter referred to as 'Entities') for certain types of offences committed in the interest or to the advantage of such Entities, (i) by persons in positions of representation, administration or management of such Entities or of one of their Organisational Units with financial and functional autonomy, or by natural persons exercising, including de facto, the management and control of such Entities, as well as (ii) by persons subject to the management or supervision of one of the above-mentioned persons. This liability is in addition to the (criminal) liability of the natural person who actually committed the offence. The extension of liability aims to involve in the punishment of certain criminal offences the Entities that have benefited, directly or indirectly, from the commission of the offence. The sanctions provided for by the Decree are divided into pecuniary and prohibitory ones, such as the suspension or revocation of licences or concessions, disqualification from exercising the activity, prohibition from contracting with the Public Administration, exclusion from or revocation of loans and contributions, and prohibition from advertising goods and services. The liability provided for by the Decree also arises in relation to offences committed abroad by the Entity with its head office in Italy, provided that the State of the place where the offence was committed does not prosecute for them.

As for the types of offence intended to entail the aforementioned administrative liability of Entities, the Decree contains a list of them, which can be summarised, for the sake of ease of exposition, in the following categories:

- offences in relations with the Public Administration (such as bribery, extortion, embezzlement of public funds, fraud to the detriment of the State, computer fraud

to the detriment of the State and inducement to give or promise benefits, referred to in **Articles 24 and 25 of Legislative Decree 231/2001**)[2] ;

- computer crimes and unlawful processing of data (such as, for example, unlawful access to a computer or telematic system, unlawful possession, dissemination and installation of equipment and other means of intercepting, preventing or interrupting computer or telematic communications, and damage to computer or telematic systems referred to in **Article 24 *bis* of Legislative Decree No. 231/2001**)[3];

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[2] Si tratta dei reati seguenti: malversazione di erogazioni pubbliche (art. *316-bis* c.p.), indebita percezione di erogazioni pubbliche (art. *316-ter* c.p.), truffa in danno dello Stato o di altro ente pubblico o delle Comunità europee (art. 640, paragraph 2, no. 1, of the Criminal Code), aggravated fraud for the obtainment of public funds (Article *640-bis of the Criminal Code*), computer fraud to the detriment of the State or other public body (Article *640-ter of the Criminal Code*), corruption for the exercise of the function (Articles 318, 319 and *319-bis* of the Criminal Code), bribery in judicial proceedings (Article *319-ter of* the Criminal Code), undue induction to give or promise benefits (Article *319-quater of the Criminal* Code), bribery of a person in charge of a public service (Article 320 of the Criminal Code), , incitement to bribery (Article 322 of the criminal code), ; bribery, incitement to bribery and extortion of members of the European Communities, officials of the European Communities, foreign states and international public organisations (Article *322-bis* of the criminal code). Law No. 190 of November 2012 introduced into the Criminal Code and referred to in the Decree the provision set out in Article *319-quater*, entitled "Undue inducement to give or promise benefits". By Law No. 69 of 27 May 2015, the sanctions regulations on offences against the Public Administration were amended with the provision of stiffer penalties for offences under the Criminal Code. Article 317 of the Criminal Code 'Concussion' was also amended, which now also provides for - as the active subject of the offence - the Person in Charge of a Public Service in addition to the Public Official. By Law No. 3 of 9 January 2019, the crime referred to in Article 346 *bis of the* Criminal Code, entitled "Trafficking in unlawful influence", was introduced into the catalogue of predicate offences. The same law also provided for a tightening of the disqualification penalties that can be imposed on the entity and introduced certain benefits for the entity in terms of a reduction in the duration of the disqualification penalties in the event that the entity, prior to the first degree judgement, has taken steps to prevent the criminal activity from being taken to further consequences, to secure evidence of the offences and to identify the perpetrators, or to seize the sums or other benefits transferred, and has eliminated the organisational deficiencies that led to the offence by adopting and implementing organisational models capable of preventing offences of the kind committed. Lastly, Legislative Decree No. 75 of 14 July 2020 also introduced into the catalogue of offences for the administrative liability of entities the offences of fraud in public procurement (Article 356 of the Criminal Code.), fraud to the detriment of the European Agricultural Fund (Article 2, Law no. 898 of 23 December 1986), embezzlement (limited to the first paragraph) (Article 314 of the Criminal Code), embezzlement by profiting from the error of others (Article 316 of the Criminal Code), abuse of office (Article 323 of the Criminal Code).

[3] Article *24-bis* was introduced into Legislative Decree 231/01 by Article 7 of Law 48/2008. It concerns the offences of falsity in a public computer document or one having evidential effectiveness (Article *491-bis of the* Criminal Code), amended by Legislative Decree No. 7 of 15 January 2016 and by Legislative Decree No. 8 of 15 January 2016, unauthorised access to a computer or telematic system (Article *615-ter of the* Criminal Code), possession, dissemination and unauthorised installation of equipment, codes and other means of access to computer or telematic systems (Article *615-quater* c.p.), detenzione, diffusione e installazione abusiva di apparecchiature, dispositivi o programmi informatici diretti a danneggiare o interrompere un sistema informatico o telematico (art. *615-quinquies* c.p.), intercettazione, impedimento o interruzione illecita di comunicazioni informatiche o telematiche (art. *617-quater* c.Criminal Code), unlawful possession, dissemination and installation of equipment and other means of intercepting, impeding or interrupting computer or telematic communications (Article *617-quinquies of the* Criminal Code), articles amended by Law no. 238 of 23 December 2021, damage to computer information, data and programmes (Article *635-bis of the* Criminal Code), damage to computer information, data and programmes (Article 635-quinquies of the Criminal Code), damage to computer information, data and programmes (Article 635-quinquies of the Criminal Code), and damage to computer information, data and programmes (Article 635-quinquies of the Criminal Code).), damaging computer information, data and programmes used by the state or other public body or in any case of public utility (Article *635-ter of the Criminal Code), damaging computer* or telematic systems (Article *635-quater of the Criminal Code*), damaging computer or telematic systems of public utility (Article

- organised crime offences (e.g. mafia-type associations, including foreign ones, mafia-type political electoral exchange, kidnapping for the purpose of extortion referred to in **Article 24 *ter* of Legislative Decree 231/2001**)[4] ;
- offences against public faith (such as counterfeiting money, public credit cards, revenue stamps and identification instruments or signs, counterfeiting, referred to in **Article 25 *bis* of Legislative Decree 231/2001**)[5] ;
- offences against industry and trade (such as, for example, disturbing the freedom of industry and trade, fraud in the exercise of trade, sale of industrial products with misleading signs, referred to in **Article 25 *bis*.1 of Legislative Decree 231/2001**)[6] ;
- corporate offences (such as, for example, false corporate communications, obstruction of control, unlawful influence on the shareholders' meeting, bribery among private individuals referred to in **Article 25 *ter* of Legislative Decree 231/2001** as amended by Law no. 262/2005 and more recently by Legislative Decree

635-quinquies of the Criminal Code) and computer fraud of the electronic signature certifier (Article *640-quinquies of the Criminal Code*).

[4] Article *24-ter was* introduced into Legislative Decree No. 231/2001 by Article 2 paragraph 29 of Law No. 94 of 15 July 2009 and last amended by Law No. 62 of 17 April 2014. With Legislative Decree No. 21 of 1 March 2018, which came into force on 6 April 2018, Article *22-bis* of Law No. 91/1999, which represents one of the unlawful conducts covered by Article 416 of the Criminal Code, was repealed and the relevant offence was included within the new Article *601-bis of the* Criminal Code.

[5] Article *25-bis* was introduced into Legislative Decree No. 231/2001 by Article 6 of Decree-Law No. 350/2001, converted into law, with amendments, by Article 1 of Law No. 409/2001. These are the offences of counterfeiting money, spending and introduction into the State, with prior agreement, of counterfeit money (Article 453 of the Criminal Code), amended by Legislative Decree No. 125 of 21 June 2016, altering money (Article 454 of the Criminal Code), spending and introduction into the State, without prior agreement, of counterfeit money (Article 455 of the Criminal Code), spending of counterfeit money received in good faith (Article 457 of the Criminal Code), counterfeiting of currency received in good faith (Article 457 of the Criminal Code), and counterfeiting of stamps (Article 457 of the Criminal Code).), counterfeiting of revenue stamps, introduction into the State, purchase, possession or putting into circulation of counterfeit revenue stamps (Article 459 of the Criminal Code), counterfeiting of watermarked paper in use for the manufacture of public credit cards or revenue stamps (Article 460 of the criminal code), manufacture or possession of watermarks or instruments intended for the counterfeiting of money, revenue stamps or watermarked paper (Article 461 of the criminal code), use of counterfeit or altered revenue stamps (Article 464 of the criminal code). The regulatory provision was then extended to counterfeiting, alteration or use of trademarks or distinctive signs or of patents, models and designs (Article 473 of the Criminal Code), and to the introduction into the State and trade of products with false signs (Article 474 of the Criminal Code) with the amendment introduced by Article 17, paragraph 7, letter a) no. 1) of the Law of 23 July 2009.

[6] L'art. *25-bis*.1. è stato inserito dall'art. 17, comma 7, lettera b), della legge 23 luglio 2009, n. 99; si tratta in particolare dei delitti di turbata libertà dell'industria o del commercio (art. 513 c.p.), illecita concorrenza con minaccia o violenza (art. *513-bis*), frodi contro le industrie nazionali (art. 514 c.p.), frode nell'esercizio del commercio (art. 515 c.p.), vendita di sostanze alimentari non genuine come genuine (art.516 Criminal Code), sale of industrial products with misleading signs (Article 517 of the Criminal Code), manufacture and trade of goods made by usurping industrial property rights (Article *517-ter*), counterfeiting of geographical indications or designations of origin of agri-food products (Article *517-quater*).

39/2010, by Law no. 190/2012, by Law no. 69/2015, by Legislative Decree 38/2017, of 15 March 2017 and most recently by Law no. 3 of 9 January 2019)[7] ;

- offences relating to terrorism and subversion of the democratic order, as last amended by Law 43/2015 that converted Decree No. 7 of 18 February 2015 into law (referred to in **Article 25 *quater* of Legislative Decree 231/2001**)[8] ;

[7] Article *25-ter* was introduced into Legislative Decree No. 231/2001 by Article 3 of Legislative Decree No. 61/2002 and last amended by Article 12 of Law No. 69/2015. These are the offences of false corporate communications (Article 2621 of the Civil Code and, if the act is minor, Article 2621 bis of the Civil Code), false corporate communications by listed companies (Article 2622 of the Civil Code), obstruction of control (Article 2625, paragraph 2, of the Civil Code), fictitious capital formation (Article 2625, paragraph 2, of the Civil Code), and false capital formation (Article 2625, paragraph 2, of the Civil Code).), fictitious capital formation (Article 2632 of the Italian Civil Code), undue return of contributions (Article 2626 of the Italian Civil Code), illegal distribution of profits and reserves (Article 2627 of the Italian Civil Code), unlawful transactions on the shares or quotas of the company or of the parent company (Article 2628 of the Italian Civil Code), transactions to the detriment of creditors (Article 2629 of the Italian Civil Code), failure to disclose a conflict of interest (Article 2629 *bis of the Italian Civil Code*), unlawful distribution of company assets by liquidators (Article 2633 of the Italian Civil Code), corruption between private individuals (Article 2635 of the Italian Civil Code), incitement to bribery among private individuals (Article 2635 bis of the Italian Civil Code), unlawful influence on the shareholders' meeting (Article 2636 of the Italian Civil Code), market rigging (Article 2637 of the Italian Civil Code), obstructing the exercise of the functions of public supervisory authorities (Article 2638 of the Italian Civil Code). Legislative Decree No. 39/2010 repealed the provision of Article 2624 of the Civil Code, entitled "False statements in the reports or communications of auditing firms", which was thus also repealed by Legislative Decree No. 231/2001. Article 2635 of the Italian Civil Code, entitled "Bribery among private individuals", was introduced into the Decree by Law No. 190 of 6 November 2012 and lastly amended by Law No. 3 of 9 January 2019, which repealed the paragraph of the rule that provided that the offence was prosecutable on complaint.
In particular, Law No. 69 of 2015, containing 'Provisions on crimes against the Public Administration, mafia-type associations and false accounting', amended the offences set forth in Articles 2612 and 2622 of the Civil Code.In particular, the previous threshold of punishability for false accounting has been eliminated and a specific liability has been established for directors, general managers, managers in charge of preparing accounting documents, auditors, liquidators of listed companies or companies that control companies issuing listed financial instruments or that appeal to the public savings. Also introduced was Article 2621-bis of the Civil Code, 'Minor Offences', for the commission of the conduct referred to in Article 2621 of the Civil Code that is characterised as minor, taking into account the nature, size of the Company and the modalities and effects of the conduct, and Article 2621-ter of the Civil Code, which provides for a cause of non-punishability for particularly minor offences. With regard to the elimination in the new wording of the rule of the clause "even though subject to assessment", the United Sections of the Court of Cassation called upon to decide "Whether, for the purposes of the configurability of the crime of false corporate communications, the false "assessment" still has relevance even after the reform under Law No. 69 of 2015", adopted the following solution The offence of false corporate communications is committed with regard to the statement or omission of facts subject to "valuation" if, in the presence of valuation criteria laid down by law or generally accepted technical criteria, the agent knowingly deviates from such criteria without providing adequate justifying information, in a manner concretely liable to mislead the recipients of the communications" (Cf. Criminal Court of Cassation, Joint Sections, hearing, 31 March 2016). Legislative Decree No. 38 of 15 March 2017 made changes to Article 2635 of the Civil Code (bribery among private individuals) by eliminating the need, for the offence to be committed, for the requirement of harm to exist and by including additional corporate figures among the active parties; Article 2635 *bis of the Civil Code* was also introduced, entitled 'instigation of bribery among private individuals'. Moreover, the accessory penalty of temporary disqualification from the executive offices of legal persons was introduced for anyone convicted of committing, among others, the offences referred to in Articles 2635 and 2635 *bis of the Civil* Code. These offences were last amended by Law No. 3 of 9 January 2019, which repealed the subsection of the respective rules that provided that the offences were prosecutable on complaint.

[8] Article 25-quater of Legislative Decree No. 231/01 was introduced by Law No. 7 of 14 January 2003, concerning the 'Ratification and implementation of the International Convention for the Suppression of the Financing of Terrorism, done in New York on 9 December 1999, and rules for the adaptation of the internal legal system'.
These offences are provided for by means of a general 'open' reference to all the current and future hypotheses of terrorist offences, without indicating the individual provisions, which may give rise to the liability of the entity. Since it is not

- offences against the individual (such as, for example, trafficking in persons, reduction to slavery and keeping in slavery, referred to in **Article 25 *quater*.1** and **Article 25 *quinquies* of Legislative Decree 231/2001**)[9] ;
- *market abuse* offences (abuse or illegal communication of inside information and market manipulation, referred to in **Article 25 *sexies* of Legislative Decree 231/2001**)[10] ;

possible to provide a 'closed' and limited list of the offences that could involve the entity pursuant to the combined provisions of Articles 25-quater, 5, 6 and 7 of Legislative Decree 231/2001, the following is a list of the main offences provided for by the Italian legal system in the fight against terrorism: associations for the purposes of terrorism, including international terrorism or subversion of the democratic order (Article 270-bis of the criminal code). 270-bis of the criminal code); assistance to associates (Article 270-ter of the criminal code); enlistment for the purposes of terrorism, including international terrorism (Article 270-quater of the criminal code); 'Organisation of transfers for the purposes of terrorism' (Article 270-quater.1 criminal code); training in activities for the purposes of terrorism, including international terrorism (Article 270-quinquies of the criminal code); bombing for the purposes of terrorism or subversion (Article 280 of the criminal code); incitement to commit any of the offences against the personality of the State (Article 302 of the criminal code); armed gangs and training and); armed gangs and conspiracy or armed gang formation and participation and assistance (Articles 306 and 307 of the Criminal Code); unauthorised possession of explosive precursors (Article 678 bis of the Criminal Code); omission of explosive precursors (Article 679 bis of the Criminal Code); offences, other than those indicated in the Criminal Code and special laws, committed in violation of Article 2 of the New York Convention of 8 December 1999, pursuant to which anyone who, by any means, directly or indirectly, unlawfully and intentionally, provides or collects funds with the intention of using them or knowing that they are intended to be used, in whole or in part, for the purpose of committing an act constituting an offence within the meaning of and as defined in one of the treaties listed in the Annex; or any other act intended to cause the death or serious bodily injury to a civilian, or to any other person not taking an active part in situations of armed conflict, when the purpose of that act, by its nature or context, is to intimidate a population, or to compel a government or international organisation to do or to refrain from doing something.
Law No. 153 of 28 July 2016 introduced into the Criminal Code the new offences of Financing Conduct for the Purposes of Terrorism (Art. 270 *quinquies*.1.), Subtraction of Seized Property or Money (Art. 270 *quinquies*.2.) and Acts of Nuclear Terrorism (Art. 280 *ter*). These offences are referred to in Article 25 *quater* of Legislative Decree 231/2001.

[9] Article 25-quinquies was introduced into Legislative Decree No. 231/2001 by Article 5 of Law No. 228 of 11 August 2003. It covers the offences of reduction to or maintenance in slavery or servitude (Article 600 of the criminal code), trafficking in persons (Article 601 of the criminal code), the purchase and sale of slaves (Article 602 of the criminal code), offences connected with child prostitution and the exploitation thereof (Article 600-bis of the criminal code), child pornography and the exploitation thereof (Article 600-bis of the criminal code), and the exploitation of child pornography (Article 600-bis of the criminal code).), child pornography and its exploitation (Article 600-ter of the Criminal Code), possession of pornographic material produced through the sexual exploitation of minors (Article 600-quater of the Criminal Code), tourist initiatives aimed at the exploitation of child prostitution (Article 600-quinquies of the Criminal Code). Article 3, paragraph 1 of Legislative Decree no. 39 of 4 March 2014 introduced, in Article 25 - *quinquies,* paragraph 1, letter c) of the Decree, a reference to the offence of solicitation of minors (Article 609 - *undecies of the* Criminal Code). Law no. 199 of 29 October 2016 amended the article in question, introducing a reference to the offence of "Illegal brokering and exploitation of labour" referred to in Article 603 *bis of the* Criminal Code.
Article 25-quater.1 was introduced by Law No. 7 of 9 January 2006 and refers to the crime of female genital mutilation (Article 583 bis of the Criminal Code).

[10] Article *25-sexies* was introduced into Legislative Decree 231/2001 by Article 9(3) of Law 62/2005. These are the offences of abuse or unlawful communication of inside information (Article 184 of Legislative Decree No. 58/1998) and market manipulation (Article 185 of Legislative Decree No. 58/1998), amended by Legislative Decree No. 107 of 10 August 2018 and subsequently by Law No. 238 of 23 December 2021.

- transnational offences (such as, for example, criminal conspiracy and obstruction of justice, provided that the offences themselves meet the 'transnationality' requirement)[11] ;
- offences relating to health and safety in the workplace (manslaughter and grievous bodily harm referred to in **Article 25 *septies* of Legislative Decree 231/2001**)[12] ;
- offences of receiving stolen goods, money laundering, use of money, goods or benefits of unlawful origin, and selflaundering introduced by Law No. 186/2014 (referred to in **Article 25 *octies* of Legislative Decree No. 231/2001**)[13] ;
- offences relating to non-cash payment instruments (such as, for example, the undue use and counterfeiting of non-cash payment instruments and computer fraud aggravated by the transfer of money, monetary value or virtual currency, referred to in **Article 25 *octies*.1 of Legislative Decree 231/2001**)[14] ;

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[11] Transnational offences have not been directly included in Legislative Decree No. 231/2001, but this legislation is applicable to them under Article 10 of Law No. 146/2006. For the purposes of the aforementioned law, a transnational offence is considered to be an offence punishable by a maximum term of imprisonment of no less than four years, where an organised criminal group is involved, as well as: a) it is committed in more than one State; b) it is committed in one State, but a substantial part of its preparation, planning, direction or control takes place in another State; c) or it is committed in one State, but an organised criminal group engaged in criminal activities in more than one State is involved; d) or it is committed in one State but has substantial effects in another State. These are offences of criminal conspiracy (Article 416 of the Criminal Code), mafia-type conspiracy (Article *416-bis of the* Criminal Code), conspiracy to smuggle foreign tobacco products (Article *291-quater of Presidential* Decree 43/1973), conspiracy to engage in the illegal trafficking of narcotic or psychotropic substances (Article 74 of Presidential Decree 30.12.2003), and conspiracy to engage in the illegal trafficking of narcotic or psychotropic substances (Article 74 of Presidential Decree 30.12.2003). 74 Presidential Decree 309/1990), provisions against illegal immigration (Article 12(3), (*3-bis), (3-ter) and (*5) of Legislative Decree 286/1998), inducement not to make statements or to make false statements to the judicial authorities (Article *377-bis* of the Criminal Code) and personal aiding and abetting (Article 378 of the Criminal Code).

[12] Article *25-septies* of Legislative Decree 231/01 was introduced by Law 123/07. It deals with offences of manslaughter and serious or very serious culpable injuries committed in violation of accident prevention regulations and the protection of hygiene and health at work (Articles 589 and 590, para. 3, of the Criminal Code).

[13] Article *25-octies* was introduced into Legislative Decree No. 231/2001 by Article 63(3) of Legislative Decree No. 231/07. It concerns the offences of receiving stolen goods (Article 648 of the Criminal Code), money laundering (Article *648-bis of the* Criminal Code), use of money, goods or benefits of unlawful origin (Article *648-ter of the* Criminal Code), as well as self-laundering (*648-ter*.1 of the Criminal Code) introduced by Law No. 186/2014. Legislative Decree 195/2021, in implementation of Directive (EU) 2018/1673 on combating money laundering through criminal law, amended the Criminal Code and, in particular, the aforementioned cases, providing for the expansion of the catalogue of predicate offences, which now also includes non-culpable offences and contraventions punishable by imprisonment of more than one year in maximum or six months in minimum, as well as a different sanctioning response depending on whether the predicate offence consists of a crime or a contravention. Legislative Decree No. 231/2001 was not formally amended, but in fact incorporated the new cases in Article 25-octies.

[14] Article *25-octies*.1 was introduced into Legislative Decree No. 231/2001 by Legislative Decree No. 184 of 8 November 2021, implementing Directive (EU) 2019/713 on combating fraud and counterfeiting of non-cash means of payment. The new Article *25-octies* envisages: for the commission of the offence referred to in Article *493-ter of the* Criminal Code, a fine ranging from 300 to 800 quotas; for the commission of the offences referred to in Articles *493-quater* and *640-ter*, paragraph 2, of the Criminal Code, a fine of up to 500 quotas. Legislative Decree No. 184/2021 also made amendments to the Criminal Code. In particular, the offence of undue use and falsification of credit and payment cards (Article *493-ter of the* Criminal

- copyright infringement offences (**Article *25h* of Legislative Decree 231/2001**)[15] ;
- inducement not to make statements or to make false statements to the Judicial Authorities (**Article *25i* of Legislative Decree No. 231/2001**)[16] ;
- environmental offences (**Article 25 *undecies* of Legislative Decree 231/2001**)[17] ;

Code) was amended to extend its scope to all payment instruments other than cash; the offence of possession and dissemination of computer equipment, devices or programmes aimed at committing offences concerning payment instruments other than cash was introduced (Article 493-quater of the Criminal Code). *493-quater of the* Criminal Code); the offence of computer fraud (Article *640-ter of the* Criminal Code) was amended to introduce an aggravating circumstance in the case of altering the computer system to obtain a transfer of money, monetary value or currency.

[15] Article *25-nonies* was introduced by Law No. 99 of 23 July 2009 'Provisions for the development and internationalisation of enterprises, as well as on energy matters' and provides for the introduction of the decree of Articles 171 first paragraph lett. a), third paragraph, 171 *bis*, 171 *ter*, 171 *septies* and 171 *octies* of Law No. 633 of 22 April 1941 on the subject of 'Protection of copyright and other rights related to its exercise'.

[16] Article *25i* was inserted by Article 4(1) of Law No. 116 of 3 August 2009, which introduced into the provisions of Legislative Decree No. 231/2001 Article *377-bis* of the Criminal Code, entitled 'Inducement not to make statements or to make false statements to the judicial authorities'.

[17] Article 25 *undecies* was inserted by Article 2 of Legislative Decree No. 121 of 7 July 2011, which introduced into the provisions of Legislative Decree No. 231/2001 certain offences in both criminal forms (punishable by wilful misconduct) and in contravention (punishable also by negligence), including 1) Article 137 of Legislative Decree 152/2006 (Consolidated Environment Act): this concerns violations of administrative authorisations, controls and communications to the competent Authorities for the management of industrial waste water discharges; 2) Article 256 Legislative Decree No. 152/2006: this concerns unauthorised waste collection, transport, recovery, disposal or, in general, waste management activities in the absence of authorisation or in violation of the requirements contained in the authorisations; 3) Article 257 of Legislative Decree No. 152/2006: this concerns violations relating to the reclamation of sites that cause pollution of the soil, subsoil and surface water with concentrations exceeding the risk threshold; 4) Article 258 of Legislative Decree No. 152/2006: this concerns violations relating to the reclamation of sites that cause pollution of the soil, subsoil and surface water with concentrations exceeding the risk threshold; 4) Article 258 of Legislative Decree No. 152/2006: this concerns violations relating to the reclamation of sites that cause pollution of the soil, subsoil and surface water with concentrations exceeding the risk threshold; 5) Article 258 of Legislative Decree No. 152/2006: this concerns violations relating to the management of waste. 258 of Legislative Decree 152/2006: this is a criminal offence, punishable as a result of wilful misconduct, which penalises the conduct of anyone who, in preparing a waste analysis certificate, provides false information on the nature, composition and chemical and physical characteristics of the waste and anyone who uses a false certificate during transport; 5) Articles 259 and 260 of Legislative Decree no. 152/2006: these are activities aimed at the illegal trafficking of waste in both simple and organised form; 6) art.260 *bis of* Legislative Decree no. 152/2006: these are several criminal offences, punishable with intent, concerning the waste traceability computer control system (SISTRI), which punish the conduct of falsifying the waste analysis certificate, transporting waste with an altered certificate in electronic format or with an altered paper form; 7) art.279 Legislative Decree No. 152/2006: this covers cases where, during the operation of an establishment, the permitted limit values for emissions of pollutants are exceeded and this also leads to the limit values for air quality being exceeded.

With Law No. 68 of 22 May 2015 on 'Eco-crimes', which came into force on 29 May 2015, Title VI-bis *'Of crimes against the environment' was* added to Book Two of the Criminal Code. Pursuant to art. 1 of the DDL, the following environmental offences are included - in the list of offences for the administrative liability of entities -: 1) art. *452-bis of the* Criminal Code "Environmental pollution"; 2) art. *452-ter* "Environmental disaster"; 3) art. *452-quater* "Culpable offences against the environment"; 4) art. *452-quater* "Trafficking in and abandonment of highly radioactive material"; 5) art. *452-septies* "Aggravating circumstances" for the crime of criminal conspiracy *pursuant to* art. 416 of the Criminal Code

With Legislative Decree No. 21 of 1 March 2018, which came into force on 6 April 2018, Article 260 of Legislative Decree No. 152 of 3 April 2006 was repealed and the same offence was included within the new Article 452 *quater-decies of the* Criminal Code as a result of the so-called code reservation.

- employment of third-country nationals whose stay is irregular (**Article 25 *duodecies* of Legislative Decree 231/2001**)[18] ;
- racism and xenophobia (**Article 25 *terdecies* of Legislative Decree 231/2001**)[19] ;
- fraud in sporting competitions, unlawful gaming or betting and gambling by means of prohibited devices (**Article 25 *quaterdecies* of Legislative Decree 231/2001**)[20] ;
- tax offences (**Article 25 *quinquiesdecies* of Legislative Decree 231/2001**)[21] ;
- smuggling (**Article 25 sexiesdecies of Legislative Decree 231/2001**)[22] ;

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[18] Article 25 *duodecies was* inserted by Article 2 of Legislative Decree No. 109 of 16 July 2012, which introduced into the provisions of the Decree the crime provided for in Article 22, paragraph 12-bis, of Legislative Decree No. 286 of 25 July 1998. By Law No. 161 of 17 October 2017, which came into force on 19 November 2017, paragraphs *1-bis*, *1-ter* and *1-quater* were added to Article 25 *duodecies,* which extend the entity's liability to the following offences set out in the Consolidation Act on Immigration: Article 12, paragraphs 3, 3-bis, *3-ter*, "procuring the unlawful entry of illegal immigrants", and Article 12, paragraph 5, "aiding and abetting illegal immigration".

19 Article 25 *terdecies was* inserted by Article 5 of Law No. 167 of 20 November 2017, which came into force on 12 December 2017 and introduced Article 3, paragraph *3-bis* of Law No. 654 of 13 October 1975 into the provisions of Legislative Decree 231/2001. This is the crime of incitement, propaganda and incitement to discrimination or violence on racial, ethnic, national or religious grounds. With Legislative Decree No. 21 of 1 March 2018, which came into force on 6 April 2018, Article 3 of Law No. 654/1975 was repealed and the same offence "racism and xenophobia" was included within the new Article *604-bis of the* Criminal Code as a result of the so-called code reservation.

[20] Article *25m* was inserted by Article 5(1) of Law No. 39 of 3 May 2019, with effect from 17 May 2019, pursuant to the provisions of Article 7(1) of the same Law No. 39/2019.

[21] Article 25 *quinquiesdecies* was inserted by Article 39 co. 2 of Decree-Law No. 124 of 26 October 2019, converted, with amendments, by Law No. 157 of 19 December 2019, which came into force on 25 December 2019. Law No. 157/ 2019 introduced among the predicate offences of Legislative Decree 231/2001 the offences provided for in Articles 2, 3, 8, 10 and 11 of Legislative Decree No. 74 of 10 March 2000. These are the offences of fraudulent declaration through the use of invoices or other documents for non-existent transactions; fraudulent declaration by means of other artifices; issuing invoices or other documents for non-existent transactions; concealment or destruction of accounting documents; fraudulent evasion of tax payments.

Lastly, Legislative Decree No. 75 of 14 July 2020, in force as of 30 July 2020, having as its object the implementation of Directive (EU) 2017/1371 (so-called PIF Directive) on "*combating fraud affecting the financial interests of the Union by means of criminal law*", has expanded the catalogue of tax offences presupposed by the administrative liability of legal persons, also including the offences of unfaithful declaration (art. 4 L.D. 74/2000); omitted declaration (Article 5 L.D. 74/2000); undue compensation (Article 10 *quater* L.D. 74/2000), if committed as part of cross-border fraudulent schemes and for the purpose of evading value added tax for a total amount of no less than ten million euro. The same Legislative Decree No. 75 of 14 July 2020 also introduced an exception to the non-punishability of the attempt, if the offences of fraudulent declaration using invoices or other documents for non-existent transactions (Article 2 Legislative Decree 74/2000), fraudulent declaration by means of other devices (Article 3 L.D. 74/2000) and false declaration (Article 4 L.D. 74/2000) are also committed in the territory of another EU Member State, in order to evade VAT for a total value of no less than EUR 10 million (Article 6 co. 1-bis L.D. 74/2000).

Paragraph 2 of Article *25-quinquiesdecies* provides for a specific aggravating circumstance, establishing that 'if, following the commission of the offences set out in paragraph 1, the entity has obtained a significant profit, the financial penalty is increased by a third'.

In general, the pecuniary sanctions applicable for the aforementioned tax offences are a maximum of 400 or 500 quotas, and the disqualification sanctions of prohibition from contracting with the public administration, except for obtaining the performance of a public service, exclusion from facilitations, financing, contributions and subsidies and the possible revocation of those already granted, and the prohibition from advertising goods and services are applicable.

[22] The article was inserted by Article 5 co. 1 lett. d) of Legislative Decree No. 75 of 14 July 2020, in force since 30 July 2020, concerning the implementation of Directive (EU) 2017/1371(so-called PIF Directive), relating to "the *fight against fraud*

- offences against cultural heritage (such as, for example, theft, embezzlement and receiving stolen cultural goods, referred to in **Article 25 *septiesdecies* of Legislative Decree 231/2001**)[23] ;
- laundering of cultural goods and devastation and looting of cultural and landscape assets (**Article 25 *duodevicies* of Legislative Decree 231/2001**)[24] ;
- non-compliance with prohibitory sanctions (**Article 23 of Legislative Decree 231/2001**).

In a nutshell, the Decree provides that if one of the aforementioned persons (apical or subject to the direction or control of the latter) commits one of the listed offences, acting in the interest or to the advantage of the Entity, the latter, without prejudice to the personal criminal liability of the person who materially committed the offence, will be liable to an 'administrative' penalty.

1.2. SANCTIONS APPARATUS

affecting the financial interests of the Union by means of criminal law". The article provides for the application to the Entity of the pecuniary sanction of up to 200 quotas, as well as the disqualification sanctions of the prohibition to contract with the public administration, except for obtaining the performance of a public service, the exclusion from facilitations, financing, contributions or subsidies and the possible revocation of those already granted, and the prohibition to advertise goods or services, in relation to the commission of the offences provided for by Presidential Decree No. 43 of 23 January 1973 (Consolidated Law on Customs). Among the offences that come to the fore are the smuggling of foreign manufactured tobacco and criminal association for the purpose of smuggling; smuggling in the movement of goods across land borders and customs areas; smuggling in the movement of goods in border lakes; smuggling in the maritime movement of goods; smuggling in the movement of goods by air; smuggling in out-of-customs areas; smuggling for the undue use of goods imported with customs facilities; smuggling in customs warehouses; smuggling in cabotage and movement and smuggling in temporary import or export.
Where the border duties owed exceed EUR 100,000, a fine of up to 400 quotas is applicable.

[23] Article *25-septiesdecies* was introduced into Legislative Decree No. 231/2001 by Law No. 22 of 9 March 2022, laying down 'Provisions on crimes against cultural heritage'. The new article provides for pecuniary and prohibitory sanctions for the crimes of theft of cultural goods (Article *518-bis of the* Criminal Code), misappropriation of cultural goods (Article *518-ter* of the Criminal Code), receiving of cultural goods (Article *518-quater of the* Criminal Code), forgery in private writing relating to cultural goods (Article *518-octies* of the Criminal Code), violations of the sale of cultural goods (Article 518-novies of the Criminal Code), and violations of the sale of cultural goods (Article 518-novies of the Criminal Code). *518-novies of the Criminal Code), unlawful* importation of cultural goods (Article *518-decies of the Criminal Code)*, unlawful removal or exportation of cultural goods (Article *518-undecies of the Criminal Code)*, destruction, dispersal, deterioration, defacement, embellishment and unlawful use of cultural or landscape goods (Article *518-duodecies of the Criminal Code*) and counterfeiting of works of art (Article *518-quaterdecies of the* Criminal Code).

[24] Article *25-duodevicies* was introduced into Legislative Decree No. 231/2001 by Law No. 22 of 9 March 2022, laying down 'Provisions on offences against cultural heritage'. The amendment extends the liability of the legal person to the offences of laundering cultural goods (Article *518-sexies of the* criminal code) and devastation and looting of cultural and landscape heritage (Article *518-terdecies of the* criminal code). For these offences, the sanction of definitive disqualification from exercising the activity is provided for, to be applied when the entity is permanently used for the sole or prevalent purpose of committing such offences.

Articles 9 et seq. of Legislative Decree No. 231/2001 provide for the following types of sanctions against the entity:

- pecuniary (and precautionary attachment);
- prohibitory *sanctions* (also applicable as a precautionary measure) of a duration of no less than three months and no more than two years[25] (with the clarification that, pursuant to Article 14(1) of Legislative Decree No. 231/2001, *"The prohibitory sanctions have as their object the specific activity to which the offence of the entity refers"*) which, in turn, may consist of
  - disqualification;
  - suspension or revocation of authorisations, licences or concessions functional to the commission of the offence;
  - prohibition of contracting with the Public Administration, except to obtain the performance of a public service;
  - exclusion from benefits, financing, contributions or subsidies and the possible revocation of those granted;
  - ban on advertising goods or services;
  - confiscation (and precautionary seizure);
  - publication of the judgment (in case of application of a disqualification sanction).

The pecuniary sanction is determined through a system based on "quotas" in a number not less than one hundred and not more than one thousand and in an amount varying between a minimum of EUR 258.22 and a maximum of EUR 1,549.37. In the commensuration of the pecuniary sanction the Judge determines:

- the number of shares, in consideration of the seriousness of the offence, the degree of the entity's liability and the activity carried out to eliminate or mitigate the consequences of the offence and to prevent the commission of further offences;

[25] As a result of the entry into force of Law No. 9 of 3 January 2019, the duration of the disqualification sanctions has been significantly increased in relation to the commission of the predicate offences provided for in Articles 319, 319-ter, paragraph 1, 321, 322, paragraphs 2 and 4, 317, 319, aggravated pursuant to Article 319-bis, when the entity has obtained a significant profit from the act, 319-ter, paragraph 2, 319-quater and 321 of the Criminal Code.

- the amount of the individual tranche, according to the economic and asset conditions of the entity.

Disqualification sanctions apply only in relation to administrative offences for which they are expressly provided for and provided that at least one of the following conditions is met:

a) the entity has derived a significant profit from the commission of the offence and the offence was committed by persons in a senior position or by persons subject to the direction of others when, in the latter case, the commission of the offence was determined or facilitated by serious organisational deficiencies;
b) in the event of repeated offences.

The Judge determines the type and duration of the disqualification sanctions, taking into account the suitability of the individual sanctions to prevent offences of the type committed and, if necessary, may apply them jointly (Article 14(1) and (3) of Legislative Decree No. 231/2001).

The sanctions of disqualification from carrying on business, prohibition from contracting with the Public Administration and prohibition from advertising goods or services may be applied - in the most serious cases - on a definitive basis[26] . There is also the possibility of the continuation of the entity's activity (in lieu of the imposition of the sanction) by a commissioner appointed by the Judge pursuant to and under the conditions laid down in Article 15 of Legislative Decree No. 231/2001[27] .

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[26] See, in this regard, Article 16 of Legislative Decree No. 231/2001, according to which: "*1. A definitive disqualification from exercising the activity may be ordered if the entity has derived a significant profit from the offence and has already been sentenced, at least three times in the last seven years, to temporary disqualification from exercising the activity. 2. The judge may impose the sanction of a definitive ban on contracting with the public administration or a ban on advertising goods or services on the entity if it has already been sentenced to the same sanction at least three times in the last seven years. 3. If the entity or one of its organisational units is permanently used for the sole or prevalent purpose of enabling or facilitating the commission of offences for which it is held liable, a definitive ban on carrying out the activity is always ordered and the provisions of Article 17 do not apply*'.

[27] "Judicial Commissioner - If the prerequisites exist for the application of a disqualification penalty that results in the interruption of the entity's activity, the judge, instead of applying the penalty, orders the continuation of the entity's activity by a commissioner for a period equal to the duration of the disqualification penalty that would have been applied, when at least one of the following conditions is met (a) the entity performs a public service or a service of public necessity, the interruption of which may cause serious harm to the community; (b) the interruption of the entity's activity may cause, taking into account its size and the economic conditions of the territory in which it is located, significant repercussions on employment. In the judgement ordering the continuation of the activity, the judge indicates the duties and powers of the commissioner, taking into account the specific activity in which the offence was committed by the entity. Within the scope of the tasks and powers indicated by the judge, the commissioner takes care of the adoption and effective implementation of organisation and control models suitable to prevent offences of the kind that have occurred. He may not perform acts

1.3. ATTEMPT

In cases where the offences referred to and considered by Legislative Decree No. 231/2001 are committed in an attempted form, the pecuniary sanctions (in terms of amount) and the prohibitory sanctions (in terms of duration) are reduced by one third to one half (Articles 12 and 26 of Legislative Decree No. 231/2001).

No liability arises for the body if it voluntarily prevents the performance of the action or the realisation of the event (Article 26 of Legislative Decree 231/2001). In this case, the exclusion of sanctions is justified by the interruption of any relationship of identification between the entity and the persons who assume to act in its name and on its behalf.

1.4. OFFENCES COMMITTED ABROAD

According to Article 4 of Legislative Decree 231/2001, the entity may be held liable in Italy in relation to offences - covered by the same Legislative Decree 231/2001 - committed abroad[28] , under the conditions referred to in Article 4.

1.5. ORGANISATION, MANAGEMENT AND CONTROL MODELS

A characteristic aspect of Legislative Decree 231/2001 is the attribution of an exempting value to the Organisation, Management and Control Model adopted by the entity.

In fact, according to the provisions of Article 6(1) of Legislative Decree No. 231/2001, in the event of an offence committed by a person in an apical position, the body is not liable if it proves that

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of extraordinary administration without authorisation from the judge. The profit resulting from the continuation of the activity is confiscated. The continuation of the activity by the commissioner cannot be ordered when the interruption of the activity follows the definitive application of a disqualification sanction'.

[28] Article 4 of Legislative Decree No. 231/2001 provides as follows: "*In the cases and under the conditions laid down in Articles 7, 8, 9 and 10 of the Criminal Code, organisations having their head office in the territory of the State shall also be liable for offences committed abroad, provided that the State of the place where the offence was committed does not take action against them. In cases where the law provides that the offender shall be punished at the request of the Minister of Justice, proceedings shall be brought against the entity only if the request is also made against the latter.*"

- the management body has adopted and effectively implemented, prior to the commission of the offence, organisational and management models capable of preventing offences of the kind committed;
- the task of supervising the functioning of and compliance with the models and ensuring that they are kept up to date has been entrusted to a body of the entity endowed with autonomous powers of initiative and control;
- the persons committed the offence by fraudulently circumventing the organisation and management models;
- there was no or insufficient monitoring by the Supervisory Board.

The mere adoption of the Model by the management body - which is to be identified in the body holding the management power, i.e., in MEU-IT, the Branch President (or his delegate) - is therefore not sufficient to determine the entity's exemption from liability, since it is also necessary that the Model is also made effective and efficient.

In this sense, in Article 6(2), the legislator states that the Model must meet the following requirements:

a) identify the activities within the scope of which offences may be committed (so-called 'mapping' of activities at risk);
b) provide for specific protocols aimed at planning the formation and implementation of the entity's decisions in relation to the offences to be prevented;
c) identify ways of managing financial resources that are suitable for preventing the commission of offences;
d) provide for information obligations vis-à-vis the body in charge of supervising the functioning of and compliance with the Model;
e) introduce an appropriate disciplinary system to sanction non-compliance with the measures indicated in the Model.

The Branch must, therefore, prove its extraneousness to the facts possibly contested against the apical subject by proving the existence of the above-mentioned competing requirements and, consequently, the circumstance that the commission of the offence did not derive from its own 'organisational fault'.

In the case, on the other hand, of an offence committed by subordinates, the Branch is liable if the commission of the offence was made possible by the violation of management or supervisory obligations to which the Branch is bound (Art. 7, para. 1).

In any case, the violation of management or supervisory obligations is excluded if the Branch, before the offence was committed, adopted and effectively implemented an Organisation and Management Model suitable for preventing offences of the kind committed (Art. 7(1)).

Article 7(4) also defines the requirements for the effective implementation of organisational models:

1. periodic verification and possible modification of the same when significant violations of the prescriptions are discovered or when changes occur in the organisation or activity (updating of the Model);
2. a disciplinary system suitable for penalising non-compliance with the measures indicated in the Model.

With reference to occupational health and safety offences, Article 30 of Legislative Decree 81/08 (the so-called Consolidated Safety Act) provides that the Organisation and Management Model is presumed to be effective if it implements an internal system for the fulfilment of all relevant legal obligations:

- compliance with legal technical and structural *standards* relating to equipment, facilities, workplaces, chemical, physical and biological agents;
- risk assessment activities and the preparation of the resulting prevention and protection measures;
- activities of an organisational nature, such as emergencies, first aid, contract management, regular safety meetings, consultation of workers' safety representatives;
- health surveillance activities;
- information and training activities for workers;
- supervisory activities with regard to workers' compliance with existing protocols and safe work instructions;

- the acquisition of documents and certifications required by law;
- periodic checks on the application and effectiveness of the procedures adopted.

1.6. CODES OF CONDUCT PREPARED ON THE BASIS OF THE GUIDELINES

Article 6(3) of Legislative Decree No. 231/2001 provides that the Model may be drafted in accordance with codes of conduct drawn up by representative trade associations and communicated to the Ministry of Justice, which, in agreement with the competent Ministries, may, within thirty days, formulate observations on the suitability of the models to prevent offences.

In this direction, this Model has been drafted and updated taking the Confindustria Guidelines, in their updated version, as a reference.

In particular, the Guidelines suggest the use of *risk assessment and risk management* processes in the construction of Organisation, Management and Control Models, and provide for the following phases:

- identification of the so-called sensitive activities, i.e. those within the scope of which offences may be committed, and of the related risks;
- analysis of the existing control system prior to the adoption of the Organisational Model;
- evaluation of residual risks, not covered by the preventive control measures;
- provision of specific protocols aimed at preventing offences, in order to adapt the preventive control system.

It should be noted, however, that any non-compliance with specific points of the reference Guidelines does not in itself invalidate the validity of the Model adopted by the entity. In fact, since the Model must be drafted with reference to the concrete reality of the entity to which it refers, it may deviate from the Guidelines (which, by their very nature, are of a general nature), in order to better meet the prevention requirements of the Decree.

2. DESCRIPTION OF THE ACTIVITY OF MEU-IT

Mitsubishi Electric was established in 1921, is present in 34 countries worldwide and is recognised as a world *leader* in the production, marketing and sales of electrical and electronic equipment.

Mitsubishi Electric products and components find application in many fields: information technology and telecommunications, space research and satellite communications, consumer electronics, technology for industrial applications, energy, transport and construction.

Mitsubishi Electric has been present in the EMEA area since 1969, with operations in 20 countries (Belgium, Czech Republic, France, Germany, Holland, Ireland, Norway, Poland, Portugal, Romania, Russia, Slovakia, Spain, South Africa, Sweden, United Kingdom, Turkey, Hungary and UAE - United Arab Emirates -) and in particular in Italy since 1985.Mitsubishi Electric operates in Italy through a Branch, with organisational and financial autonomy, which markets products manufactured in the group's foreign production sites.

MEU-IT, more specifically, operates with five business divisions:

- *Living Environmental Systems*: sales and service of air conditioning systems for residential, commercial and industrial environments. Assistance for photovoltaic systems.
- *Automotive*: sales and technical service of *automotive* components.
- *Factory Automation*: sales and technical service of equipment and systems for industrial automation.
- *Semiconductors*: sales and service of electronic components.
- *Visual Information Systems*: technical support for products such as projectors, printers, *public displays*, security components.

The head office - currently located in Vimercate (MB) - comprises:

- the executive offices;
- the branch office at the warehouse operated by the supplier GIDD, in Agrate Brianza (MB).

The Branch has additional offices throughout the country. In particular:

- No 1 local unit in Padua (PD);
- No. 1 local unit in Valle Salimbene (PV);
- No. 1 local unit in Rome (RM);
- n 1 local unit in Turin (TO);
- No. 1 local unit in Rosà (VI).

2.1. THE ORGANISATIONAL SYSTEM OF MEU-IT

The term 'organisational system' refers to the precise identification of roles and responsibilities for each person in the corporate organisation - or in the functions of the Branches that perform activities on the basis of the *service* and supply contracts concluded - .

As suggested by the Guidelines themselves, the organisational system must be sufficiently formalised and clear, especially with regard to the allocation of responsibilities, hierarchical reporting lines and the description of tasks with specific provision for control principles, such as, for example, the separation of functions.

MEU-IT has adopted, formalised and maintains an organisational system that describes the roles and responsibilities of the various functions.

The corporate body that plays a major role in organising MEU-IT's activities is the Branch President, supported by the heads of the individual divisions.

2.2. GENERAL PRINCIPLES OF INTERNAL CONTROL

The system of powers

The Branch has adopted a well-defined system for the allocation of powers: the corporate roles and related tasks have been defined and the persons with spending power have been identified. The limits of this spending power are identified in a manner consistent with the position that these individuals hold within the organisational structure. All this in order to comply with the principle of segregation of duties and avoid objective overlapping of non-cumulative powers.

General principles of the internal management system

MEU-IT, in order to ensure the achievement of the objectives of operational efficiency and effectiveness as well as the reliability of financial and management information and compliance with laws and regulations, has identified a management system in which

- responsibilities are defined and duly distributed, avoiding functional overlaps or operational allocations that concentrate critical activities on a single person;
- no significant operations are undertaken without authorisation;
- all processes are inspired by the 'double approval' rule, according to which at least one double approval is always required, with different approval levels depending on the value/relevance of the transaction. This principle is included in the *Internal Procedure of Authorised Signatures and General Principles of Internal Control*.
- the internal control system is based on the principles of J-Sox, with a detailed description of the management of financial flows in the relevant J-SOX *Narrative.*
- powers of representation are conferred in accordance with areas of exercise and limits of amount strictly related to the tasks assigned and the organisational structure;
- operational systems are consistent with the Model, internal protocols, laws and regulations in force.

The Branch has also established an Integrated Management System and adopted the Integrated Management System Manual to improve the effectiveness and efficiency of *compliance* activities.

Such a management system ensures the best effectiveness of the internal control system for which top management is responsible.

Control activities

Operations carried out in risk areas are conducted in accordance with the following general rules:

- the operational processes are defined with adequate documentary support to ensure that they are always verifiable in terms of appropriateness, consistency and accountability;
- the operational choices are traceable in terms of characteristics and motivations and those who authorised, carried out and verified the individual activities are identifiable;
- the exchange of information between contiguous phases/processes takes place in such a way as to ensure the integrity and completeness of the data managed.

The control system is subject to ongoing supervision and periodic evaluation aimed at its constant adaptation.

3. ORGANISATION, MANAGEMENT AND CONTROL MODEL AND METHODOLOGY FOLLOWED FOR ITS ADOPTION AND UPDATING

The adoption of an Organisational, Management and Control Model pursuant to Legislative Decree 231/2001, which, together with the Conduct Guidelines and the anti-corruption procedure, represents a tool to corroborate the internal control system aimed at preventing the commission of the offences contemplated by the Decree is also an act of responsibility towards all stakeholders (shareholders, customers, suppliers, *etc.*) and the community.

In particular, the adoption and dissemination of a Model aims, on the one hand, to determine an awareness in the potential perpetrator of an offence whose commission is firmly rejected and condemned by the Branch to such an extent that it is always considered contrary to the interests of the Branch, and, on the other hand, thanks to constant monitoring of the activity, to enable the Branch to prevent the commission of offences or illegal conduct.

3.1. THE ORGANISATION, MANAGEMENT AND CONTROL MODEL OF MEU-IT

As mentioned above, Legislative Decree No. 231/2001 attributes, together with the occurrence of the other circumstances provided for in Articles 6 and 7 of the Decree itself, an exempting value to the adoption and effective implementation of organisational, management and control models to the extent that the latter are suitable for preventing, with reasonable certainty, the commission or attempted commission of the offences referred to.

In the light of the above considerations, the Branch has prepared a Model that takes into account its peculiar organisational and operational reality, consistent with its system of *governance* and capable of enhancing the existing controls.

This Model, therefore, represents a coherent set of principles, procedures and provisions that: *i)* affect the internal functioning of the Branch and the ways in which it relates to the outside world and *ii)* regulate the diligent management of a control system on sensitive activities, aimed at preventing the commission, or attempted commission, of the offences referred to in Legislative Decree 231/2001.

The Model, as approved by the Branch President or his delegate (hereinafter also referred to as the 'Governing Body'), comprises the following constituent elements:

- identification of the sensitive activities within the scope of which the offences referred to in Legislative Decree 231/2001 may be committed;
- control protocols in relation to the sensitive activities identified;
- identification of how financial resources are to be managed;
- information flows to and from the Supervisory Board and specific information obligations towards the Supervisory Board itself;
- disciplinary system and sanction mechanisms;
- information on the adoption of the Model addressed to employees and other persons interacting with the Branch, as well as training on the principles of Legislative Decree 231/2001 for employees;
- definition of criteria for updating and adapting the Model.

The Governing Body by its own decision established the Supervisory Board, which is assigned tasks and powers appropriate to the functions provided for by the Organisation, Management and Control Model.

This Model consists of:

- a general part, which contains, in addition to an exposition of the reference legislation, a description of the corporate situation, the operating principles of the Supervisory Board, information flows, training and information activities and the disciplinary system, also making reference to the Code of Ethics;
- a special part, which contains, a description of sensitive processes/activities and related control *standards*.

3.2. ADDRESSEES AND SCOPE OF APPLICATION OF THE MODEL

The Recipients of this Model are identified as the members of the corporate bodies, those who carry out management, administration and control functions for the Branch, as well as all those who operate in the name and/or on behalf of the Branch and/or have powers of

external representation of the Branch and all those who operate under the direction and/or supervision of the aforementioned persons (the so-called "Recipients").

The principles and control *standards* contained in the Model are also applied, within the limits of the contractual relationship in place, to those who, although not belonging to the Branch, operate by mandate, on behalf of or in favour of the Branch or are in any case linked to the Branch by significant legal relationships: these subjects, by virtue of specific contractual clauses, undertake to behave correctly and in compliance with the regulations in force and in any case suitable for preventing the commission, even attempted commission, of the offences in relation to which the sanctions set out in the Decree apply.

3.3. APPROVAL, AMENDMENT AND INTEGRATION OF THE MODEL

Organisational and management models, pursuant to and for the purposes of Article 6, paragraph 1, letter a) of the Decree, must be acts of issuance by top management. Therefore, the Model, consisting of the General Section and the Special Section, is approved by the Branch President (or his delegate) insofar as he can be identified as the Branch's Management Body.

The formulation of any amendments and additions to the Model is the sole responsibility of the Branch President (or his delegate), who also acts on the recommendation of the Supervisory Board.

In any case, the Governing Body, also at the proposal of the Supervisory Board, shall make any subsequent amendments and additions to the Model, in order to allow its continued compliance with the provisions of the Decree and any changes in the structure of the Branch and the regulations in force.

Supervision of the adequacy and effective implementation of the Model is ensured by the Supervisory Board, which takes care of updating it and periodically reports the results of its work to the Management Body.

3.4. IMPLEMENTATION OF THE MODEL

The adoption of this Model constitutes the starting point of the dynamic process of the Model itself.

For the implementation phase of the Model, the Branch President (or his delegate), supported by the Supervisory Board, will be responsible for implementing the various elements of the Model, including the operational procedures.

In any case, the Branch intends to reiterate that the correct implementation and control of compliance with the company provisions and, therefore, with the rules contained in this Model, constitute an obligation and a duty of all those who have professional relations with the Branch.

4. CONSTITUENT ELEMENTS OF THE MODEL

4.1. IDENTIFICATION OF RISK AREAS AND THE CONTROLS IN PLACE

Article 6(2)(a) of the Decree stipulates that the Model must provide for a mechanism to 'identify the activities within the scope of which offences may be committed'.

The identification of the areas in which there may be a risk of offences being committed implies a detailed assessment of all corporate processes, aimed at verifying the abstract configurability of the offences provided for by the Decree and the suitability of the existing control elements to prevent them from being committed.

In this sense, the first stages of the activity aimed at adopting this Model were aimed at identifying sensitive processes and activities, through a preliminary analysis of the Branch's organisational structure.

The analysis of the organisation, the operating model and the powers of attorney/delegations conferred by the Entity allowed an initial identification of sensitive processes/activities and a preliminary identification of the functions responsible for these processes/activities.

This essential information was gathered through the analysis of company documentation and through interviews with key functions, who were able to provide detailed information on the individual processes and activities of the individual functions.

It should also be noted that the risk assessment activities were carried out taking into account the '*case history*', i.e. those events and occurrences that affected the Branch over time.

As a preliminary step, therefore, a mapping exercise was carried out to highlight sensitive activities and the persons concerned.

The assessment of the level of exposure to the risk of offences being committed prior to the adoption of the Model was carried out according to the table below, considering jointly

- the abstract risk of crime, determined by considering the frequency and/or economic relevance of the activity;
- the level of *compliance*, determined by considering existing control *standards*.

Valutazione del rischio totale dell'attività			
Incidenza attività			
Bassa	Medio	Basso	Basso
Media	Medio	Medio	Basso
Alta	Alto	Alto	Medio
	Alto	Medio	Basso
		Rischio astratto reato	

The assessment of the level of residual risk of commission of offences was carried out according to the table below, considering the total risk of the activity calculated as above and the level of existing control standards.

Valutazione del rischio residuo dell'attività			
Rischio			
Basso	Basso	Basso	Medio
Medio	Basso	Medio	Alto
Alto	Medio	Alto	Alto
	Alto	Medio	Basso
		Livello di compliance	

The Branch adopts an internal control system that provides, with reference to the sensitive activities and instrumental processes identified:

- principles of conduct, applicable to all sensitive processes, as they lay down rules and prohibitions that must be observed in the performance of any activity;
- control principles, applied to the individual sensitive processes and containing a targeted description of the rules and conduct required in the performance of the respective activities:
  - **Segregation of functions**: within the individual processes relating to the sensitive areas, the principle of separation of functions between those who authorise, those who execute and those who control the same activity is applied.
  - **Existence of procedures/rules/circulars**: there are company provisions and formalised procedures suitable for providing principles of conduct and operating methods for carrying out sensitive activities and filing relevant documentation.

- **Authorisation** and signatory powers: Authorisation and signatory powers are: *i)* consistent with the organisational and management responsibilities assigned and include, where required, the indication of expenditure approval thresholds; *ii)* clearly defined and known within the Branch.
- **Traceability/Archiving**: each operation relating to the sensitive activity is adequately recorded and archived. The process of decision, authorisation and performance of the sensitive activity is verifiable *ex post*, also by means of appropriate documentary supports.

4.2. MANAGEMENT OF FINANCIAL FLOWS AND PROCEDURES ADOPTED BY MEU-IT

In order to guarantee an effective system of management and control of financial flows, the Branch has adopted a system that provides for specific methods of managing financial resources that ensure the separation and independence between: i) those who contribute to forming decisions on the use of financial resources, ii) those who implement these decisions, and iii) those entrusted with controlling the use of financial resources.

In this sense, all transactions involving the use or commitment of economic or financial resources must have an adequate causal basis and be documented and recorded, by manual or computerised means, in accordance with principles of professional and accounting correctness, and the related decision-making process must be verifiable.

Transactions relating to the activities indicated in the following special section of this document, and in any case all transactions relating to atypical or unusual activities or services, must be specifically and clearly justified and communicated to the Supervisory Board.

No fees, commissions or commissions may be paid to consultants, collaborators, agents or other persons, public or private, to an extent inconsistent with the services rendered.

Funding to associations, committees, organisations and institutions must take place in compliance with the law and in full transparency, while funding to parties and individual candidates is prohibited by internal policy.

These principles have been specifically regulated in specific procedures adopted by the Branch, which form an integral part of this Model, and violation of the rules laid down therein may lead to the application of the Model's Disciplinary System.

All procedures adopted by the Branch are subject to periodic checks by the Branch's control bodies/functions.

4.3. BEHAVIOURAL GUIDELINES

Mitsubishi Electric conforms its conduct to the highest ethical and behavioural standards and, with this in mind, issues behavioural guidelines as well as procedures to combat corruption and ensure high levels of regulatory *compliance.*

MEU-IT acknowledges and adopts all these Guidelines and Procedures, which automatically form an integral part of this Model.

5. THE SUPERVISORY BODY

5.1. FOREWORD AND COMPOSITION

As mentioned above - in accordance with Article 6(1)(a) and (b) of Legislative Decree No. 231/2001 - the entity may be exonerated from liability resulting from the commission of offences by persons qualified *under* Article 5 of Legislative Decree No. 231/2001, if the management body has, inter alia:

- previously adopted and effectively implemented an Organisation, Management and Control Model suitable for preventing the offences in question;
- entrusted the task of supervising the operation of and compliance with the Model and of updating it to a body of the entity endowed with autonomous powers of initiative and control.

The entrusting of the aforesaid tasks to a Body endowed with autonomous powers of initiative and control, together with the correct and effective performance thereof, represent, therefore, indispensable prerequisites for the full functioning of the Model and, therefore, for the exemption from liability provided for by Legislative Decree No. 231/2001.

The main requirements of the Supervisory Board (hereinafter also referred to as the '**SB**') identified by law and in part better specified by the Confindustria Guidelines, can be identified as follows:

- **Autonomy and Independence: the** position of the Supervisory Board must be that of a third party reporting directly to the Management Body, free from subservience to top management, capable of adopting unquestionable measures and initiatives, and its members must have no decision-making and operational powers within the Entity;
- **Professionalism:** the members of the SB must possess specific expertise in the fields of law, economics, risk analysis and risk assessment techniques;
- **Continuity of action**: understood in terms of the effectiveness of the supervisory and control activities and in terms of the temporal constancy of the performance of the functions of the Supervisory Board, continuity of action is aimed at ensuring the

control of the effective, actual and constant implementation of the Model adopted by the entity pursuant to Legislative Decree 231/2001.

Legislative Decree 231/2001 does not provide specific indications concerning the composition of the Supervisory Board. Instead, the Guidelines provide that the Supervisory Board may have a single or multi-subject composition. What matters is that, as a whole, the body itself is able to meet the requirements set out above.

In compliance with the provisions of the Decree and following the indications of Confindustria, MEU-IT identifies its Supervisory Board as a collegial body composed of three members, two of whom are external to the Branch. The Chairman of the Body is chosen from one of the two external members.

The composition of the Body is defined:

- so as to ensure, as a whole, the required autonomy, independence and professionalism;
- by virtue of their specialist skills and personal characteristics, such as professional ethics, independence of judgement and moral integrity.

The Supervisory Board independently adopts regulations governing the main aspects of its operation.

5.1.1. SUBJECTIVE COMPONENT REQUIREMENTS

The appointment of the Supervisory Board is conditional on the subjective requirements of honour, integrity and respectability.

Persons who fall into one of the following situations cannot be appointed as members of the Supervisory Board:

- relationships of kinship, marriage or affinity up to the fourth degree, with the Branch President and the heads of the individual divisions, as well as with members of the Board of Directors of Mitsubishi Electric Europe B.V., auditors appointed by the Auditing Company;

- Conflicts of interest, even potential ones, with Mitsubishi Electric Europe B.V. and/or the Branch, such as to impair the independence required by the role and duties of the Supervisory Board;
- ownership, direct or indirect, of shareholdings of such a size as to enable it to exercise significant influence over Mitsubishi Electric Europe B.V.;
- administrative functions - in the three financial years preceding the appointment as member of the Supervisory Board or the establishment of the consultancy/collaboration relationship with the same Board - of companies subject to bankruptcy, compulsory administrative liquidation or other insolvency procedures;
- public employment relationship with central or local administrations in the three years preceding the appointment as member of the Supervisory Board or the establishment of the consultancy/collaboration relationship with the same Board;
- a conviction, even if not final, or a judgement applying the penalty on request (so-called plea bargaining), in Italy or abroad, for the offences referred to in Legislative Decree no. 231/2001 or other offences affecting professional morality;
- Conviction, with sentence, even if not final, to a punishment entailing disqualification, even temporary, from public office, or temporary disqualification from the executive offices of legal persons and companies;
- pendency of proceedings for the application of a preventive measure under Law No. 1423 of 27 December 1956 and Law No. 575 of 31 May 1965 or pronouncement of the seizure decree *under* Article 2 *bis* of Law No. 575 of 31 May 1965 or decree of application of a preventive measure, whether personal or real;
- presence of grounds for ineligibility or disqualification provided for in Article 2382 of the Civil Code.

5.1.2. THE SUBJECTIVE QUALIFICATION OF THE SUPERVISORY BODY FOR PRIVACY

PURPOSES

On 12 May 2020, the Garante per la protezione dei dati personali (Italian Data Protection Authority) issued its opinion on the subjective qualification for *Privacy* purposes of the Supervisory Board (see web doc. 9347842).

In particular, it was clarified that the Supervisory Board, considered as a whole and regardless of whether its members are internal or external, being 'part of the entity' must be identified as a subject authorised to process data. Not, therefore, an autonomous data controller or data processor.

In Article 29 of the European Data Protection Regulation 2016/679 (GDPR), it is provided that any person acting under the authority of the Data Controller "who has access to personal data, may not process them unless instructed to do so by the Data Controller, unless Union or Member State law so requires". Article *2-quaterdecies* of Legislative Decree 196/2003, as amended by Legislative Decree 101/2018, further specifies that: "The data controller or processor may provide, under its own responsibility and as part of its organisational set-up, that specific tasks and functions related to the processing of personal data be entrusted to natural persons, expressly designated, acting under its authority. The controller or processor shall identify the most appropriate means of authorising persons acting under his or her direct authority to process personal data'.

For this reason, the Supervisory Board must receive from the Company, for the performance of its duties, the operating instructions pursuant to Article 29 GDPR and *2-quaterdecies of* Legislative Decree No. 196/2003 ss.mm.ii, so that the data are processed in accordance with the principles established by the *Privacy* Law and the policies defined within the entity. It will be the responsibility of the Company, the Data Controller, to provide the aforementioned instructions.

What is specified by the Supervisory Authority refers only to the data processing that the Supervisory Board carries out in the performance of its duties and functions, with particular regard to the management of information flows.

On the other hand, the new and different role that the Body acquires in relation to the management of reports of offences or violations of the Organisational Model and protected

by Law 179/2017, entitled "Provisions for the protection of the authors of reports of offences or irregularities of which they have become aware in the context of a public or private employment relationship" (so-called *Whistleblowing*), remains excluded.

All the above notwithstanding, the requirements of autonomy and independence of the Supervisory Board in the performance of its verification activities remain unaffected.

5.2. APPOINTMENT

The Supervisory Board is appointed by the Governing Body, on the basis of the *curricula of* possible professionals, and the appointed member must formally accept the appointment by means of a written declaration certifying the absence of the causes of incompatibility and ineligibility described above.

On the proposal of the Supervisory Board, the Governing Body allocates an annual *budget* so that the Supervisory Board can perform the activities prescribed by Legislative Decree No. 231/2001, such as, but not limited to: analyses and checks, specific training, risk assessment activities, and requests for any specialised consultancy. Should the assigned *budget* not be sufficient for the activities to be performed, it is the right of the Supervisory Board to request other resources that - if necessary - will be made available by the Entity.

The *budget* allows the Supervisory Board to operate autonomously and independently, as well as with the appropriate tools for the effective performance of the task assigned to it by this Model, in accordance with the provisions of Legislative Decree No. 231/2001.

5.3. TERM AND TERMINATION OF OFFICE

The Entity's Supervisory Board remains in office for a period of three years from its appointment and may be re-elected. It ceases on expiry of the period established at the time of its appointment, although it continues to perform its functions *ad interim* until a new appointment of the Body.

The remuneration for serving as a member of the Supervisory Board is established, at the time of appointment and for the entire duration of the term of office, by the Governing Body.

If - during the term of office - a member of the Supervisory Board resigns from his office or if, in any case, he lapses from his office, the Management Body shall promptly arrange for his replacement. Pending the replacement of the lapsed member, the Supervisory Board continues to operate with the members still in office.

Should any of the conditions relating to independence, autonomy and honourableness cease to exist - at a date subsequent to the appointment -, this shall entail the incompatibility of remaining in office and the consequent automatic disqualification. The occurrence of one of the causes of disqualification must be promptly notified to the Management Body by the person concerned.

The following constitute grounds for dismissal for just cause from the position of member of the Supervisory Board:

- culpable and/or wilful failure to perform the duties of the Supervisory Board and/or the performance with culpable delay thereof, as specified in paragraph 5.4 below;
- serious negligence in the performance of the duties connected with the assignment, such as (by way of example only) the failure to draw up the half-yearly information report referred to in paragraph 5.7 below;
- "omitted or inadequate supervision" by the Supervisory Board - in accordance with Article 6(1)(d) of Legislative Decree No. 231/2001 - resulting from a conviction, even if not final, issued against the Entity pursuant to Legislative Decree No. 231/2001, or from a ruling which in any event establishes its liability.

5.4. FUNCTIONS AND POWERS

The activities carried out by the Supervisory Board cannot be reviewed by any other body or structure of the Organisation. In any case, the Branch President (or his delegate)

is called upon to supervise the adequacy of its work, since he is ultimately responsible for the functioning and effectiveness of the Model.

The Supervisory Board has the powers of initiative and control necessary to ensure effective and efficient supervision of the operation of and compliance with the Model in accordance with Article 6 of Legislative Decree No. 231/2001.

In particular, the Supervisory Board supervises:

- the functioning of the Model and compliance with its provisions by all Addressees, as defined in paragraph 3.2;
- on the actual effectiveness and capacity of the Entity's Model to prevent the commission of crimes and offences;
- on the appropriateness of updating the Model, where the need to adapt it to changed business conditions or regulatory innovations is identified.

To this end, the Supervisory Board may have access to inspection and control acts, access to company documents, whether confidential or not, information or data, procedures, accounting data or any other data, act or information it deems useful, in compliance with the legislation in force.

Therefore, the duties of the Supervisory Board include, but are not limited to:

- activate an audit plan aimed at ascertaining the concrete implementation of the Model by all addressees; this plan must be communicated annually to the Governing Body;
- monitor the need to update risk mapping and the Model itself in the event of significant organisational changes or extension of the types of offences covered by Legislative Decree 231/2001, informing the Management Body;
- periodically carry out targeted checks on specific transactions or acts performed within the risk areas;
- monitor information/training initiatives aimed at the dissemination, knowledge and understanding of the Model within the company promoted by the Branch;
- receive, process and store relevant information (including any reports) concerning compliance with the Model;

- conduct internal investigations for the detection of alleged violations of the provisions of the Model;
- promptly report any critical issues concerning the existence of any cash flows that are atypical with respect to what is normally expected;
- supervise the consistent application of the sanctions provided for in the internal rules in cases of violation of the Model, without prejudice to the competence of the body entrusted with the application of disciplinary measures;
- detect any behavioural deviations that may emerge from the analysis of information flows and from the reports to which the heads of the various functions are subject.

5.5. RULES OF CONDUCT

The activity of the Supervisory Board is guided by the principles of integrity, objectivity, confidentiality and competence.

These rules of conduct can be expressed in the following terms:

- integrity: the members of the SB must operate with honesty, diligence and a sense of responsibility, in compliance with the letter and spirit of the Model and of Legislative Decree 231/2001;
- objectivity: the members of the Supervisory Board must not actively participate in any activity that might prejudice the impartiality of their assessment. They must report to the Governing Body any significant facts of which they become aware and whose omission may give an altered and/or incomplete picture of the activities analysed;
- Confidentiality: the members of the SB must exercise all due care in the use and protection of the information acquired. They must not use the information obtained either for personal advantage or in a manner that is contrary to the law. All sensitive data held by the organisation must be processed in full compliance with the provisions on the processing of personal data and *privacy*.

5.5.1. OPERATIONS

The Supervisory Board identifies the programme, methods and timeframe for carrying out its activities.

The activity of the Supervisory Board will also be conducted through special meetings that may be held at MEU-IT's headquarters or elsewhere, also by means of remote communication, as well as outside official meetings, through the examination of documents, correspondence, data analysis and information. Minutes of each meeting of the Supervisory Board are drawn up and signed by those present.

The Supervisory Board may avail itself of the services of external consultants as well as of all MEU-IT structures in the performance of specific activities and checks.

In compliance with the regulations in force, the Supervisory Board has free access to any function of the Branch without prior consent, in order to obtain any data relevant to the performance of its duties.

The operations of the Supervisory Board, with more detailed information, are set out in the regulation adopted by the Supervisory Board itself. This document, in particular, defines and makes verifiable the procedures for the performance of the task carried out by the Board.

5.5.2. REPORTING OFFENCES OR IRREGULARITIES IN THE CONTEXT OF THE EMPLOYMENT RELATIONSHIP (SO-CALLED WHISTLEBLOWING)

Law 179/2017 introduced the obligation for all Companies, equipped with an Organisational Model pursuant to Legislative Decree 231/01, to implement a system that allows their workers the possibility of reporting any unlawful activities of which they have become aware for work reasons (so-called *Whistleblowing*), inserting in Article 6 of Legislative Decree 231/2001 paragraph 2 *bis*, which provided that the Organisational Model must provide for:

a) one or more channels enabling the persons indicated in Article 5(1)(a) and (b) to submit, for the protection of the entity's integrity, detailed reports of unlawful conduct, relevant under this decree and based on precise and concordant factual elements, or of violations of the entity's

organisational and management model, of which they have become aware by reason of the functions performed; these channels guarantee the confidentiality of the reporter's identity in the management of the report;

(b) at least one alternative reporting channel capable of ensuring, by computerised means, the confidentiality of the reporter's identity;

(c) the prohibition of direct or indirect retaliatory or discriminatory acts against the whistleblower for reasons directly or indirectly linked to the report;

(d) in the disciplinary system adopted pursuant to paragraph 2(e), sanctions against those who breach the whistleblower protection measures, as well as against those who maliciously or grossly negligently make reports that turn out to be unfounded.

Following the publication in the Official Gazette of Legislative Decree No. 24 of 10 March 2023, implementing Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law and laying down provisions regarding the protection of persons who report breaches of national laws (so-called *Whistleblowing* Decree), MEU-IT has revised its procedure for reporting "wrongdoings" and "irregularities".

The term 'offence' refers to the commission - or possible commission - of an offence for which the liability of entities under Legislative Decree 231/01 is applicable. These offences are listed in the same Legislative Decree 231/01.

The term 'irregularity' means any violation of the rules laid down in the Organisation, Management and Control Model of MEU-IT.

Serious violations of the Guidelines, procedures and regulations adopted by the Branch are also considered "irregularities".

Reports can be sent through the dedicated portal, adequately publicised by the Company to the recipients, where instructions for sending them can also be found.

Reports must be based on precise and concordant factual elements, and the Supervisory Board shall not be required to take into consideration reports, anonymous or otherwise, which appear, upon initial examination, to be irrelevant, groundless or unsubstantiated.

Any retaliatory or discriminatory conduct committed against the whistleblower, or in any case aimed at violating the whistleblower's protection measures (obligation to keep the whistleblower's identity confidential), carried out by the management bodies or by persons acting on behalf of the Branch, as well as the conduct of those who, with malice or gross negligence, make reports that turn out to be unfounded, shall be sanctioned in accordance with the procedures set out in the paragraph on the disciplinary system.
Finally, it should be noted that a further element for the protection of the reporter has been provided for by the Italian legislator by defining the scope of the data subject's rights under Articles 15-21 GDPR. Through Article *2-undecies* of the Privacy Code, in fact, it was provided that: "*the rights referred to in Articles 15 to 22 of the Regulation cannot be exercised by a request to the data controller or by a complaint pursuant to Article 77 of the Regulation if, from the exercise of such rights, an actual and concrete prejudice to the confidentiality of the identity of the employee who reports pursuant to Law No. 179 of 30 November 2017, the unlawful act of which he has become aware by reason of his office*".

Reports are kept by the Supervisory Board in the manner specified in the Supervisory Board Regulation.

5.5.3. INFORMATION FLOWS TO THE SUPERVISORY BOARD AND COLLECTION AND STORAGE OF INFORMATION

Information concerning:

- any changes in the internal organisation or organisational structure of the organisation or changes in the company's areas of activity;
- decisions relating to the application for, disbursement and use of public funds;
- measures and/or news coming from judicial police bodies, or from any other authority, without prejudice to the obligations of secrecy imposed by law, from which it can be inferred that investigations are being carried out, even against unknown persons, for offences to which Legislative Decree No. 231/2001 is applicable, if such investigations involve the Entity or its employees or corporate bodies;

- requests for legal assistance forwarded by the Entity in the event of legal proceedings being initiated in relation to offences under Legislative Decree No. 231/2001 or to health and safety at work or environmental offences;
- information on the actual implementation of the Model, with evidence of the disciplinary proceedings carried out and any sanctions imposed, or of the orders to dismiss such proceedings with the relevant reasons;
- periodic reporting on occupational health and safety.

All the recipients of the Model shall communicate to the Supervisory Board any useful information to facilitate the performance of checks on its correct implementation. In particular:

i) if they find areas for improvement in the definition and/or application of the prevention protocols defined in this Model, they shall send a communication to the Supervisory Board with a description of the state of implementation of the prevention protocols of the activities at risk for which they are responsible and a reasoned indication of the possible need to amend the prevention protocols and the relevant implementation procedures;

ii) must communicate, with the necessary timeliness, to the Supervisory Board by means of a written note, any information concerning

- the issuing and/or updating of organisational documents;
- changes in the responsibility of the functions involved in risk activities;
- the system of delegated and proxy powers and any updates thereto;
- the main elements of operations of an extraordinary nature initiated and concluded;
- disciplinary proceedings commenced for violations of the Model, the measures for dismissing such proceedings and the reasons therefor, the application of sanctions for violation of the Code of Ethics and Ethics, the Model or the procedures established for its implementation;

Violation of the obligations to inform the Supervisory Board under this point, constituting a violation of the Model, is subject to the provisions of the disciplinary system.

All information, notifications and reports provided for in the Model are stored by the Supervisory Board in accordance with the instructions received from the Branch, the Data Controller.

Information flows may be sent:

- By hand or by ordinary mail/recorded delivery, indicating **personal confidentiality**, to the following address:

  Supervisory Board of Mitsubishi Electric

  Via Energy Park no. 14

  Vimercate (MB)
- By *e-mail* to the following address:

  odv@it.mee.com

5.6. *REPORTING* BY THE SUPERVISORY BOARD TO THE CORPORATE BODIES

The Supervisory Board reports on the effectiveness of and compliance with the Model, on the emergence of any critical aspects, and on the need for amendments. To this end, the Supervisory Board prepares:

- on an annual basis, an information report on its activities to be submitted to the Governing Body;
- immediately, upon the occurrence of ascertained violations of the Model, with alleged commission of offences, a communication to be submitted to the Governing Body.

The following aspects are addressed in the annual *reporting:*

- controls and checks carried out by the Supervisory Board and their outcome;
- progress of any projects to implement/revise sensitive processes;
- any legislative innovations or organisational changes requiring updates;

- any disciplinary sanctions imposed by the competent persons as a result of violations of the Model;
- other information deemed significant;
- summary assessment of the adequacy of the Model with respect to the provisions of Legislative Decree 231/2001.

6. THE DISCIPLINARY SYSTEM

6.1. FOREWORD

An essential aspect for the effective implementation of the Model is the provision of an adequate disciplinary and sanctioning system against the violation of the rules of conduct outlined by the Model itself to prevent the offences referred to in the Decree and, in general, of the internal procedures referred to in the Model (see Article 6, paragraph 2, letter e, Article 7, paragraph 4, letter b).

Violations of the Model, of company procedures and protocols (indicated in the Special Sections of the Model), of the obligations to inform the Supervisory Body and of the obligations to attend and participate in training courses are subject to the disciplinary sanctions set out below, regardless of any criminal liability, of the outcome of the relevant judgement and in full compliance with the laws in force and the company procedures in force.

The rules of conduct imposed by the Model are assumed by the Branch in full autonomy, for the purpose of the best compliance with the regulatory precept incumbent on it.

Moreover, the principles of timeliness and immediacy make it inappropriate to delay the imposition of the disciplinary sanction pending the outcome of any proceedings brought before the judicial authorities (see Confindustria Guidelines, Chapter III, point 4, p. 50).

Violation of the Model also means violation of the reporting obligations to which senior persons and personnel working in the Branch are bound if they become aware of alleged violations of the Model or of the procedures established to implement it, or of facts that could constitute offences relevant to the Decree.

All employees, managers, administration, MEU-IT's collaborators, as well as all those who have contractual relations with the Branch (agents, consultants and suppliers in general), within the scope of these relations and on the basis of the appropriate clauses included in the contractual agreements, are subject to the sanctions and disciplinary system set out in this Model.

The disciplinary system, outlined below, also applies to those who

-violate the protective measures provided for workers who have reported, such as, by way of example, the prohibition of retaliatory acts and measures to protect the identity of the whistleblower;

-make with malice or gross negligence reports that turn out to be unfounded;

-in any case, violate the rules and provisions laid down in the *Whistleblowing* Procedure.

In any case, the retaliatory or discriminatory dismissal of the person reporting the facts is null and void, as is the change of duties pursuant to Article 2103 of the Civil Code, as well as any retaliatory or discriminatory measure taken against the person reporting the facts.

Finally, the onus is on the employer, in the event of disputes relating to the imposition of disciplinary sanctions or to demotions, dismissals, transfers or subjecting the whistleblower to other organisational measures having direct or indirect negative effects on working conditions, to prove that such measures are in no way a consequence of the whistleblowing itself.

Given that the purpose of this disciplinary system, as anticipated, is to sanction the violation of the protocols and internal procedures relating to the corporate activities in the context of which the risk of commission of criminal offences under Legislative Decree No. 231/2001 may lurk, the following terms have been adopted in order to ensure that the sanction is more appropriately tailored to the violation committed.

Since each violation materialises according to peculiar and often unrepeatable aspects, it was deemed appropriate to identify, in the light of the provision set out in Article 133 of the Criminal Code and of the principles of labour law in force, certain parameters that can objectively guide the application of the disciplinary sanction in the event of a violation that takes place in the terms set out above. Thus, parameters of an objective nature have been formulated that do not allow for discretionary assessments and that, above all, take into account the specific manner in which the breach was committed and any previous disciplinary record of the person concerned. As regards the aspects connected with the intentionality of the breach or the degree of guilt, in such cases too

these are deduced from the circumstances of the specific case, which must inevitably be acknowledged in the grounds of the measure applying the sanction.

The following parameters are considered when assessing the level of seriousness of the deficiency:

- wilfulness of the conduct or the degree of negligence, recklessness or inexperience, with regard also to the foreseeability of the event;
- nature, kind, means, object, time, place and any other modalities of the action (e.g. taking action to neutralise the negative consequences of the conduct);
- seriousness of the damage or danger caused;
- existence or non-existence of a disciplinary record;
- activity carried out;
- functional position of the persons involved in the facts constituting the fault;
- other special circumstances accompanying the disciplinary offence.

The Supervisory Board verifies that adequate information is given to all the above-mentioned persons, as soon as their relationship with the Company arises, on the existence and content of this sanctions system.

6.1.1. MEASURES AGAINST EMPLOYEES

Conduct by employees in breach of the individual rules of conduct set out in this Model are defined as disciplinary offences.

Obstructing the activity of the Supervisory Board in any case constitutes a disciplinary offence.

In the event of any doubt as to the legitimacy of the request for information or documents made by the SB, the worker has the right to refer to his direct superior. If the refusal persists, the SB may refer the matter to the Management Body, which, in compliance with the regulations in force, will summon the worker to provide the information and documents requested.

With reference to the sanctions that can be imposed on white collars and middle managers, they fall within those provided for by the company disciplinary system and/or by the

sanctioning system provided for by the CCNL for employees of commerce companies, in compliance with the procedures provided for in Article 7 of the Workers' Statute and any special regulations applicable.

In any case, for disciplinary purposes, a change of duties pursuant to Article 2103 of the Civil Code cannot be used.

The disciplinary system is, therefore, made up of the rules of the Civil Code and the agreed rules set out in the aforementioned CCNL. In particular, the disciplinary system describes the behaviours sanctioned according to the importance of the individual cases considered and the sanctions concretely provided for the commission of the facts themselves on the basis of their gravity.

Knowledge and awareness of the punishable offences is ensured by the training and information activities referred to in Section 7.

In relation to the above, the Model refers to the sanctions and categories of punishable facts provided for by the existing sanctions apparatus of the aforementioned CCNL, in order to bring any violations of the Model within the cases already provided for by the aforementioned provisions.

The types of conduct constituting violations of the Model, accompanied by the relevant sanctions, are as follows:

1. a worker who violates one of the internal procedures/guidelines provided for by the Model (e.g. who fails to observe the prescribed rules, omits, without a justified reason, to notify the Supervisory Body of the information requested, omits to carry out controls, etc.) or adopts, when carrying out activities in sensitive areas, a behaviour that does not comply with the prescriptions of the Model itself, incurs the measure of "**verbal reprimand".** Such conduct constitutes a failure to comply with the provisions issued by the Branch;
2. The measure of '**written reprimand**' shall be applied to any worker who is a recidivist in violating the procedures/guidelines laid down in the Model or in adopting, in the performance of activities in sensitive areas, a conduct that does not comply with the

requirements of the Model. Such conduct constitutes a repeated failure to comply with the provisions issued by the Company;

3. a worker who, by negligently performing the work entrusted to him/her, violates the internal procedures/guidelines provided for by the Model, or adopts, in the performance of activities in sensitive areas, a conduct that does not comply with the requirements of the Model, incurs a '**fine**', not exceeding the amount of 4 hours of his/her normal remuneration;
4. the measure of "**suspension**" from service and salary for a period not exceeding 10 days shall be applied to any worker who, in violating the internal procedures/guidelines provided for by the Model, or in adopting, in the performance of activities in sensitive areas, a conduct not compliant with the prescriptions of the Model, is guilty of misconduct for which a fine is provided for, more than three times in the calendar year. Such conduct, committed for failure to comply with the provisions issued by the Company, constitutes acts contrary to the interests of the Company;
5. the measure of "**dismissal**" **shall be applied to** any worker who, in the performance of activities in sensitive areas, adopts behaviour in violation of the provisions of the Model, such as to determine the concrete application against the Company of the measures provided for by Legislative Decree 231/2001, as well as to any worker who is a repeat offender more than three times in the calendar year in the offences referred to in point 4. Such behaviour radically undermines the Branch's trust in the worker, constituting serious moral and material damage to the company.

The type and extent of each of the above sanctions will be determined taking into account:

- the intentionality of the conduct or the degree of negligence, recklessness or inexperience with regard also to the foreseeability of the event;
- of the worker's overall conduct with particular regard to the existence or non-existence of disciplinary precedents of the same, to the extent permitted by law;
- of the worker's duties;
- of the functional position of the persons involved in the facts constituting the fault;

- the other special circumstances accompanying the disciplinary offence.

This is without prejudice to the Branch's right to claim compensation for damages resulting from an employee's violation of the Model. Any damages claimed will be commensurate:

- the level of responsibility and autonomy of the employee who committed the disciplinary offence;
- the existence of any disciplinary record against him;
- the degree of intentionality of his behaviour;
- the seriousness of its effects, by which is meant the level of risk to which the Branch reasonably believes it was exposed - pursuant to and for the purposes of Legislative Decree 231/2001 - as a result of the conduct complained of.

The person responsible for the concrete implementation of the disciplinary measures described above for employees is the HR Manager, who also applies the sanctions if reported by the Supervisory Board.

In any case, the Supervisory Board shall be promptly informed of any act concerning the disciplinary proceedings against a worker for breach of this Model, from the time of the disciplinary notice. This is also in order to ensure the necessary involvement of the Supervisory Body in the procedure for imposing sanctions for breach of the Model, in the sense that a disciplinary sanction for breach of the Model cannot be imposed without prior communication to the Body of the content of the charge and the type of sanction to be imposed.

The Supervisory Board shall likewise be notified of any decision to dismiss disciplinary proceedings under this chapter.

Workers are given immediate and widespread information about the introduction of any new provisions.

6.1.2. MEASURES AGAINST MANAGERS

When the violation of the rules laid down in this Model or the adoption, in the performance of activities in areas at risk, of a conduct that does not comply with the prescriptions of the Model itself, is carried out by executives, the measures deemed most appropriate in accordance with the provisions of the Civil Code, the Workers' Statute and the Collective

Labour Agreement for executives of commerce companies shall be applied against those responsible.

As a specific sanction, the suspension of any powers of attorney granted to the manager himself may also be ordered.

The Body shall be notified of any sanctioning or archiving measure relating to the disciplinary proceedings referred to in this paragraph.

6.1.3. MEASURES AGAINST THE BRANCH PRESIDENT

In the event that conduct in breach of the provisions of the Model by the Branch President occurs, the Supervisory Board shall inform Mitsubishi Electric Europe B.V., by means of a written report.

The latter will then assess the situation and take the measures deemed appropriate in compliance with the regulations in force, in the most serious cases, even proposing removal from office.

6.1.4. MEASURES AGAINST EXTERNAL COLLABORATORS

External collaborators must comply with the rules and ethical values that inspire the Branch in the performance of its activities, and are therefore liable to sanctions in the event of violation.

To this end, the Branch inserts, within the consultancy, contract and professional services contracts stipulated with these subjects, special termination and/or cancellation clauses in the event of violation of the existing ethical principles and in all cases in which the duties of loyalty, fairness and diligence in the relationships established are not respected.

This is without prejudice to any claim for compensation if damage of any kind to Branch results from the employee's conduct.

The Supervisory Board verifies that the clauses referred to in this point are included in the contracts concluded by the Branch.

7. TRAINING AND INFORMATION

In order to ensure the effective implementation of the provisions of this Model, MEU-IT ensures proper dissemination of its contents and principles both within and outside its organisation.

In particular, in compliance with the provisions of the Confindustria Guidelines and the relevant case law, it provides for an adequate training programme, drawn up after each adoption of a new version of the Model or, in any case, at least every three years since the last adoption.

The Supervisory Board promotes and supervises training activities on Legislative Decree 231/2001 and the contents of the Organisational Model.

The training is delivered through classroom sessions, i.e. in *e-learning* mode, at the end of which participants are asked to fill in a questionnaire to verify their correct understanding of the contents of the training activity, in order to enable the various recipients to be fully aware of the corporate provisions they are required to comply with and the ethical standards that inspire their behaviour.

Participation in training courses is mandatory for those responsible for sensitive activities. This obligation constitutes a fundamental rule of this Model, the violation of which is linked to the sanctions provided for in the disciplinary system adopted.

It should be noted that documentation update notices addressed to personnel concern not only references to the Code of Ethics and the Organisational Model, but also all other instruments, such as authorisation powers, procedures, information flows, hierarchical reporting lines, as well as everything necessary to contribute to transparency in daily operations.

Finally, the possibility of accessing and consulting the documentation constituting the Model must be guaranteed.