



MEDIOBANCA

**ORGANIZATION, MANAGEMENT AND  
CONTROL MODEL  
(PURSUANT TO ARTICLE 6 OF ITALIAN  
LEGISLATIVE DECREE 231/01)**

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9

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## 1 Definitions

In this document the following expressions shall have the following definitions:

**Bank:** Mediobanca – Banca di Credito Finanziario S.p.A., also referred to as “Mediobanca”.

**Decree:** Italian Legislative Decree 231/01 as amended.

**Recipients:** Management figures, those under them, collaborators and suppliers of external services.

The Model also applies to Mediobanca's non-Italian branch offices. Cases in which the Model would apply include (but are not limited to): cross-border transactions, executed partly in Italy and partly elsewhere; transactions executed entirely outside Italy, provided that, in the event of crimes being committed, the state where such a crime was committed (Cf. Article 4 of Italian Legislative Decree 231/01).<sup>1</sup>

**Public entity:** Entities set up by deed of state to meet organizational requirements or the state's own needs. The public nature of such an entity is not always expressly declared by the legislator. Moreover, the presence of state ownership is not a sufficient condition to consider the entity as public; the categorization of an entity as public depends on a series of indicators which are not exclusive and which do not necessarily have to coincide simultaneously; these are:<sup>2</sup>

- a. Explicit acknowledgment of the entity as having been incorporated under public law in a regulatory deed;
- b. The entity having been established (and provision made for its possibly being wound up) by the state;
- c. The state having powers to appoint or dismiss the entity's directors);
- d. The state having powers to carry out checks on the legitimacy or merit of certain of its actions;
- e. The state having powers to direct its governing bodies.

The following may therefore be identified as examples in Italy of public entities (such instances not to be construed restrictively): municipal and provincial authorities, land reclamation and/or irrigation consortia, chambers of commerce, the national council for research, ISTAT, Cassa depositi e prestiti, CONI, professional orders and colleges,

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<sup>1</sup> It should be noted that the Mediobanca branch offices are bound to observe the entire Model. With reference to the Protocols (Special Part II of the Model), both the Protocol specifically dedicated to the branch office (cf. Protocol on “Paris, Madrid, Frankfurt and London branch offices”) and the Protocols for the business units which perform activities for the branches themselves (e.g. Protocols on “CIB division: Equity Capital Markets/Debt Capital Markets/Lending and Structured Finance/Corporate Finance/Equity Markets” and “CIB division: Capital Market Solutions”) must be taken into consideration.

<sup>2</sup> Cf. Cassation, Sect. One, ruling of 1 October 1974, no. 2825.



institutes of high culture, ACI, INPS, INAIL, INPDAP, IPSEMA, IVASS, Bank of Italy, CONSOB.

**FATF** Financial Action Task Force to combat money-laundering.

**Inside information:** specific information, not public, directly or indirectly concerning one or more issuers of financial instrument which, if made public, could impact significantly on the prices of such financial instruments (Article 181 of the Italian Finance Act).

**Confidential information:** Information not in the public domain which is confidential in nature involving the activities of Mediobanca and/or the other Group companies and/or its customers. The recipient who comes into possession of such information, including as part of a business relationship in which Mediobanca and/or another Group company is involved is obliged not to disclose such information to anyone<sup>3</sup>.

**Model:** Organization, management and control model instituted pursuant to Article 6, paragraph 1 of Italian Legislative Decree 231/01.

**Supervisory unit or body (SU):** The body described under Article 6 of the Decree, with the duty of monitoring the functioning and observance of the Organization, management and control model and updating it.

**Persons charged with public service:**

According to Article 358 of the Italian Penal Code, those who, on whatever ground, provide some form of private service. "Public service" for the purposes hereof is defined as an activity governed by the same formalities as those of a public officer, but without the powers attributed to the latter, and not including exercise of simple duties of public order or provision of purely material services.

A private individual or employee of a private company may also qualify as a person charged with a public service when they perform activities intended to pursue a public purpose and/or to protect the public interest.

The following may therefore be identified as persons charged with a public service (such instances not to be construed restrictively): directors of private companies operating as concessionaries, port operators, trade fair operators, INAIL, INPS, energy firms, banks providing special and/or subsidized credit, post offices, customs offices operated by the Ferrovie dello Stato and motorway concessionaries.

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<sup>3</sup> Including family members, spouses, relatives, etc.



In the rest of this document, the individuals and entities covered by the categories of public entity, public administration, public officer and person charged with public service will, for reasons of simplicity, be referred to as "PA".

**Protocols:**

The protocols identify the individual instances of risk/crime that may be committed by each company division or unit, identifying the organizational procedures and control tools for managing such unlawful behaviour. In this sense the protocol does not replace the Bank's body of procedures, consisting of Policies, Regulations, Directives and Procedures, but complements it.<sup>4</sup>

**Public Administration:**

The set of all public functions of the state itself or other public entities. The concept of Public Administration, in criminal law, is understood broadly, comprising the entire activities of the state itself and the other public entities; hence, crimes against the Public Administration entail acts which impede or otherwise disturb the regular performance not only of administrative activity (in a technical sense), but also that of legislative and judicial activity. The definition of Public Administration as the set of all public functions of the state of other public entities is thus retained.<sup>5</sup>

**Public Officer:**

Under article 357 of the Italian Penal Code, those who exercise public legislative, judicial or administrative functions. Administrative functions are defined as public when they are governed by the provisions of public law and by deeds of authorization, and when they involve the formulation or expression of the will of the public administration or the

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<sup>4</sup> It should be noted that the Mediobanca branch offices are bound to observe the entire Model. With reference to the Protocols (Special Part II of the Model), both the Protocol specifically dedicated to the branch office (cf. Protocol on "Paris, Madrid, Frankfurt and London branch offices") and the Protocols for the business units which perform activities for the branches themselves (e.g. Protocols on "CIB division: Equity Capital Markets/Debt Capital Markets/Lending and Structured Finance/Corporate Finance/Equity Markets" and "CIB division: Capital Market Solutions") must be taken into consideration.

<sup>5</sup> Some of the possible criteria for use in identifying the Public Administration and/or Public Entities include (but are not limited to):

- Interference by a public entity in the appointment and dismissal of management bodies, and in the management of the entity itself, or power to appoint and/or dismiss directors;
- Existence of powers of management or control on the part of a public entity;
- Having been set up under public initiative (state, regional authorities, town councils, provinces), or by law and/or under deed with legal force;
- Provision made for stable financing to be received from the state;
- Participation by the state or another public entity in the operating costs;
- Ownership by the government of a strategic shareholding which enables it to intervene in the most important decisions affecting the entity (a typical case would involve a privatized company), granting its owner special powers regardless of the number of shares actually owned (known as a "golden share" mechanism);
- Objectives pursued, including achievement of the common good through activities and objectives in the public interest (known as "bodies governed by public law");
- Specific (administrative) powers attributed to the legal person to manage public interests;
- Relationship of service by the entity to the state (existence of solid organizational relationship between the entity and the state);
- Municipalized company;
- Public service concessionary company;
- Request by the entity to provide services through the publication of notices of tender and contract.



exercise thereof by means of duly delegated or certified persons.<sup>6</sup>

A public officer, then, is a person who is able to formulate or express the will of the Public Administration, or who exercises powers of authority or certification regardless of whether they are actually in the employ of the State or of some other public entity. In order to qualify as a public officer, indeed, what matters is the concrete nature of the activity performed by the agent objectively considered, without the party concerned necessarily having to be employed by a member of the public administration.

The following may therefore be identified as public officers (such instances not to be construed restrictively): members of parliament and ministers, members of state and territorial administrations, members of supranational administrations (e.g. the European Union), **members of the supervisory authorities** (e.g. Bank of Italy), members of the forces of order and the **Italian finance police**, members of chambers of commerce, members of building commissions, judges, judicial officers, auxiliary bodies for the administration of justice (e.g. **receivers in bankruptcies**), management and staff of public entities, but also private individuals with powers which enable them to formulate or express the public administration's will, or powers of authority or certification (e.g. professionals appointed to prepare municipal building plans, or directors of a limited company acting as concessionary in the exercise of activities linked to the performance of procedures in the public evidence) By virtue of the same criterion of objective relevance in the activity performed, staff of public economic entities may also be considered as public officers or persons charged with public service, as may staff of entities which are profit-making and whose purpose is indirectly public in nature – usually in the form of a limited company – and is to perform a business activity aimed at the production or trading of goods and services, thereby placing itself on the same level as private entrepreneurs, and like the latter, using the instruments of private law.

The Court of Cassation has also found that *“persons forming part of the organizational and employment structure of a limited company may be considered as public officers or persons charged with public service if the said company's activity is governed by public law regulations and if the*

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<sup>6</sup> Powers of authority allow the public administration to pursue its own ends via genuine orders, which the private individual is required to obey. This is activity in which the so-called power of rule is expressed, which includes both coercive power (arrest, searches, etc.) to oppose any breaches of the law (e.g. ascertaining contraventions, etc.), and powers of supreme hierarchy within public offices; powers of certification allow a fact to be stated with the effect of proof.



*company itself pursues public objectives, even if it uses privately-owned instruments to do so”.*<sup>7</sup>

**Senior Management:**

persons holding representative, administrative or managerial positions in the organization or any one of its organizational units which is autonomous in respect of finances and function, and persons who exercise actual and de facto management and control thereof (e.g. governing bodies, strategic management).

**Subordinate Staff:**

persons subject to direction or supervision of one of the senior managers (e.g. employees, including employees of foreign branches).

**Financial Instruments:**

means the financial instruments under Article 1, paragraph 2 of the Italian Finance Act.

**FIU:**

Financial Information Unit. National body established by the Bank of Italy appointed to request, receive and analyse information regarding possible money-laundering or terrorist financing and report it to the relevant authorities.

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<sup>7</sup> Cf. Cassation, Section VI, Ruling of 13 June 2017 (filed on 25/07/2017), no. 36874.



MEDIOBANCA

## 2 Introduction

This document describes the Organization, Management and Control Model adopted by Mediobanca – Banca di Credito Finanziario S.p.A. pursuant to Article 6 of Italian Legislative Decree 8<sup>th</sup> June 2001, no. 231.

The Model is understood as the set of operating regulations and rules of conduct adopted by the Bank in view of the specific activities carried out by it to prevent the commission of the crimes covered by the Decree.

The Model is based on the ethical principles contained in the Code of Ethics adopted and the Guidelines issued by the various category associations.



### 3 Italian legislative Decree 231/01 and significant regulations

#### 3.1. Principles

The Decree governs “the administrative liability of bodies corporate, companies and associations inter alia unincorporated”, and includes measures, also EU measures, aimed at encouraging a growing responsibility for such bodies, in respect of countering economic crime more effectively.

#### 3.2. The nature of liability

The Decree provides for a new form of liability, which the legislator describes as “administrative” but which in fact bears a striking resemblance to criminal liability.

What makes this type of liability so similar to the criminal variety is not just the fact that it is assessed during a criminal trial, as that it is independent of the liability of the individual who has actually committed the crime: according to the provisions of Article 8, the organization may be held liable even if the individual who has committed the crime cannot be charged or identified.

The grounds on which an organization may thus be held responsible and incur in pecuniary or disqualifying sanctions, are that:

- ◆ An individual holding a senior position within the organization or one of their subordinates has committed one of the crimes contemplated;<sup>8</sup>
- ◆ The crime was committed in the interest or to the advantage of the entity;<sup>9</sup>

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<sup>8</sup> “Crimes contemplated” are those referred to in the Decree and transnational crimes (as defined in Italian law 146/06, “crime punishable by imprisonment for a term of no less than four years when involved a group involved in organized crime and: (i) committed in one or more state, (ii) or alternatively, committed in one state but with a substantial part of the preparation, planning, direction or control taking place in another state, (iii) or alternatively, committed in one state but in which a organized criminal group engaging in criminal activities in more than one state is implicated, (iv) or alternatively, committed in one state but with substantial effects in another state”).

<sup>9</sup> Regarding the distinction between “interest” and “gain”, the minister’s report accompanying the Legislative Decree states that the former is subjective, i.e. it refers to the will of the person who actually commits the crime, whereas the second is objective, i.e. refers to the effective results of such person’s conduct. Accordingly, the legislator’s intention is to make organizations liable to punishment in the event that the action of the person committing the crime leads to some form of gain for them, even if such person did not have the organization’s interests directly in mind in mind in so doing.

The concept of “interest” and “advantage” assumes a different form, however, in crimes committed without criminal intent, for as the volitional aspect is missing, it would be somewhat illogical to identify an interest or advantage in connection with the unlawful event which then occurs subsequently. In this connection, the Court of Cassation has established that “on the issue of administrative liability of entities following crimes of result committed without criminal intent, the objective criteria for charging, represented by the reference contained in Article 5 of Italian Legislative Decree 231/01 to interest or advantage, must refer to the conduct rather than the result; in other words, the requirement for interest is met when the person committing the crime knowingly breached the precautionary regulation in order to achieve a result of use to the entity; whereas the requirement for advantage is met when the individual has systematically breached the preventative regulations to allow a reduction in costs and keep down expenses, resulting in the maximization of their profits” (Cf. Cassation, Section IV, Ruling of 17 December 2015 (filed on 21 January 2016), no. 2544).

It has also been noted that a Group’s interest may also be relevant “if the crime has been committed as part of the activity performed by a company forming part of the group” provided that “the interest or advantage of a company is accompanied also by the concurrent interest or advantage of another company and the individual who committed the alleged crime possesses the necessary subjective qualification, pursuant to Article 5 of Italian Legislative Decree 231/01, for the breach of administrative law entailed by the crime to be charged jointly” (Cf. Cassation, Section II, Ruling of 27 September 2016 (filed on 9 December 2016), no. 52316).



- ◆ if the crime committed by individuals (whether in senior or junior positions) derives from what is termed “corporate criminal liability”<sup>10</sup>.

Whence it follows that the organization **is not liable** if the individual who committed the crime acted **solely in his/her own interest or in the interests of third parties**, or in the event that the organization may not be charged with “corporate criminal liability”.

An entity is administratively liable even if the underlying crime has not been entirely committed but stopped at the “attempt” stage (which occurs when the action is not performed or the event does not occur).

### 3.3. Senior and subordinate staff

Article 5 of the Decree, establishes that the organization is responsible for crimes committed in its interest or to its gain by:

- ◆ Persons holding representative, administrative or managerial roles within the organization itself or one of its financially and functionally autonomous organizational divisions, and persons exercising actual or de facto management or control thereof (so-called “Senior Staff”);
- ◆ Persons subordinated to the direction or supervision of one of the individuals listed in the previous paragraph.

### 3.4. Underlying crimes

The unlawful activities which could entail administrative liability for entities may be attributed to the following categories of crime provided for by the Decree:<sup>11</sup>

- ◆ Crimes against the Public Administration, sub-divided into:
  - ◆ Crimes of undue receipt of public money, fraud against the state or a public entity or in order to obtain public money and computer fraud against the state of a public entity (Article 24 of the Decree)
  - ◆ Crimes of extortion, undue inducement to give or to promise value items, and bribery and corruption (Article 25 of the Decree)
- ◆ Computer crimes and unlawful data processing (Article 24-bis of the Decree)
- ◆ Instances of organized crime (Article 24-ter of the Decree)
- ◆ Counterfeiting coins, public bank notes, revenue stamps and signs of recognition (Article 25-bis of the Decree)
- ◆ Crimes against industry and commerce (Article 25-bis.1 of the Decree)
- ◆ White-collar crimes (Article 25-ter of the Decree)

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<sup>10</sup> By “corporate criminal liability” the legislator means the subjective status with which the organization may be charged, that is, failure to put in place an efficient and effective system for preventing crime.

<sup>11</sup> Special Part VI of the Model contains a list of the underlying crimes applicable to the Bank, along with a description of each instance.



- ◆ Crimes for terrorist purposes or to disrupt the democratic order (Article 25-quater of the Decree)
- ◆ Practices involving mutilation of female genital organs (Article 25-quater.1 of the Decree)
- ◆ Crimes against the individual person (Article 25-quinquies of the Decree)
- ◆ Crimes of market abuse (Article 25-sexies of the Decree)
- ◆ Manslaughter or serious/very serious injury committed in breach of the regulations protecting health and safety in the workplace (Article 25-septies of the Decree)
- ◆ Crimes of receipt, laundering and use of cash, assets or other utilities of unlawful provenance (Article 25-octies of the Decree)
- ◆ Crimes in breach of copyright (Article 25-novies of the Decree)
- ◆ Inducement not to make statements or to make false statements to the judicial (Article 25-decies of the Decree)
- ◆ Environmental crimes (Article 25-undecies of the Decree)
- ◆ Employment of citizens of other countries whose residence is not lawful (Article 25-duodecies of the Decree)
- ◆ Crimes of racism and xenophobia (Article 25-terdecies of the Decree)
- ◆ Transnational crimes (Articles 3 and 10, Italian Law 146/06)

It should be noted, however, that for the following crimes no potential risk for the Bank has been noted, not even theoretical risk:

- ◆ Crimes against industry and commerce (Article 25-bis.1 of the Decree)
- ◆ Practices involving mutilation of female genital organs (Article 25-quater.1 of the Decree)
- ◆ Crimes against the individual person (Article 25-quinquies of the Decree)
- ◆ Crimes of racism and xenophobia (Article 25-terdecies of the Decree)
- ◆ Traffic of organs taken from living persons (Article 601-bis of the Italian Penal Code – crime contemplated under Article 24-ter of the Decree).

Although the last crimes listed above do not constitute a source of specific risk for the Bank, the Code of Ethics contains rules and prescriptions which may be considered as a control measure included in the Model to prevent such crimes from being committed.

### **3.5. Exemptions from liability**

Article 6 of the Decree provides that the organization shall not answer for crimes committed by the Senior Management if it can prove all of the following conditions:

- ◆ To have adopted and effectively implemented – before the commission of the fact – an adequate organizational model to prevent crimes such as which has been committed;



- ◆ To have tasked one of the entity's corporate bodies, duly vested with independent powers of initiative and control, with the duty of monitoring the functioning and observance of the models and ensuring they are updated;
- ◆ That the crime has been committed fraudulently avoiding the organizational and management models;
- ◆ That there were no omissions or lack of negligence on the part of the unit appointed to exercise control.

For crimes committed by Individuals who are subordinate to the direction of others, the organization shall be liable only if commission of the crime was made possible by a failure to perform managerial or supervisory obligations. Such obligations shall be deemed to have been performed if the organization, prior to the crime being committed, adopted and effectively implemented an adequate system of organization, control and supervision for the prevention of crimes such as that which occurred.

In particular the Model has to meet the following requirements:

- ◆ To identify the activities in connection with which the crimes might be committed;
- ◆ To make provision for specific protocols intended to plan training and implement decisions by the entity in relation to the Crimes to be prevented;
- ◆ To identify suitable methods for managing financial resources to prevent such Crimes from being committed;
- ◆ To establish reporting requirements versus the unit responsible for monitoring the functioning of the Model and compliance with it;
- ◆ To introduce a disciplinary system to penalize failure to comply with the measures indicated in the Model.



## 4 Values and principles on which the model is based

The Model consists of the set of internal rules which the Bank has adopted as a result of the specific activities it carries out and the risks associated with it.

The Model identifies those activities in the course of which the crimes envisaged may be committed, and sets down the behavioural principles required to ensure they are not.

The fundamental values on which the system is based are:

- ◆ Transparency in behaviour relating to sensitive areas, listed below, both internally within Mediobanca and in relations with external counterparties;
- ◆ Honesty by all individuals reporting to Mediobanca, guaranteed compliance with all legal requirements, regulations and internal organizational procedures;
- ◆ Accountability, in the sense that transactions involving the sensitive areas identified should be traceable, in order to ensure the rationale for them and appropriateness which they were carried out can be assessed *inter alia* by means of suitable supporting documentation.

The operating principles on which the system is based are:

- ◆ The requirements identified by the Decree, in particular:
  - ◆ The charging of a Supervisory body with promoting effective and appropriate implementation of the Model;
  - ◆ Making adequate resources available to the Supervisory body to support it in carrying out the duties required of it;
  - ◆ Review of how the Model is functioning and regularly updating it;
  - ◆ Making sure that behavioural principles and instituted procedures are communicated to and understood by employees at all levels;
- ◆ Regulations currently in force with which Financial Intermediaries are bound to comply (e.g. Italian Consolidated Finance Act, Italian Consolidated Banking Act, and the overall set of regulations issued by the supervisory authorities and market operators);
- ◆ Legal precedents with respect to corporate administrative liability and in general to the type of crime to which the Model refers;
- ◆ Guidelines published by associations (e.g. ABI, Assosim, Confindustria).

All the internal regulations, including the organizational procedures, together constitute a safeguard to ensure the effective functioning of the Model to protect the Bank, and as they are referred to in the Model itself are required to be complied with. The Model has been drawn up in Italian which is the Bank's official language; however, the Bank reserves the right to translate all or part of the Model into other languages in order to make it easier to use.

The Model and related procedures may be consulted at any time on the Bank's intranet, and are updated regularly.



The recipients of the Model are required to be familiar with its combined provisions (i.e. General Part and Special Parts) and with the internal regulations which constitute the safeguard to ensure the effective functioning of the Model in order to protect the Bank.

## **4.1. Powers/operating authorizations**

Powers to adopt resolutions and operating authorizations are granted by the Bank's Board of Directors, e.g. in respect of taking on credit risk, participation in underwriting and selling syndicates, sale and purchase of securities, entering into market risks, etc.

The arrangement whereby powers are approved by the Board of Directors in compliance with the Bank's Articles of Association is subject to regular review, and is based on a collegiate system inspired by the principle of double signatures on documents by members of staff who are identified by name and subdivided into two separate groups, and it is this which establishes which persons may execute a particular transaction. This system therefore constitutes a fundamental element of control of the Bank's operations.

## **4.2. Adoption of the Model and subsequent amendments**

This version of the Model was approved by the Bank Board of Directors at a meeting held on 31 July 2018, and is the ninth update of the document.

The Bank, *inter alia* at the Supervisory Unit's proposal, updates the Model based on all drivers of the analysis, including (but not limited to) changes in legislation (e.g. introduction of new crimes or changes to those already contemplated and relevant to the Bank), or organizational and business changes, or when it is felt necessary to amend behavioural rules or regulations of conduct.

Once a year, based on the internal regulations issued by Group Organization during the twelve months and relevant to issues covered by Italian Legislative Decree 231/01, the Supervisory Unit assesses whether to make changes to the Protocols, reporting to the Board of Directors on this matter.



## **5 Activities performed by the Bank aimed at implementing the provisions of the Decree as amended**

The Bank has adopted all the internal and external control instruments provided by legislation in force and the regulations issued by competent Authorities.

In particular, after the introduction of the Decree, the Bank conducted a series of analyses which allowed:

- ◆ A preliminary identification to be made of the organizational units which, in view of the duties and responsibilities assigned to them, could potentially be involved in activities "at risk of crime";
- ◆ The main instances of risk/crime to be identified;
- ◆ The possible methods of carrying out unlawful behaviour to be described;
- ◆ The instruments and measures existing to control the risk of the possible crimes being committed to be identified;
- ◆ The areas of the company within which such unlawful conduct might be carried out to be identified;
- ◆ The existing procedures and principles of conduct to be complemented with new regulations focused on the prevention activity described above.

Following this analysis activity, the Bank prepared the first version of the Organizational Model (approved by the Board of Directors on 11 March 2004).

The Model has since then been updated following changes to regulations or to the Bank's organization.



## 6 Code of ethics

As the document summarizing the principles on which the Mediobanca Group bases its conduct, the Code of ethics constitutes an integral part of the Model.

It should be underlined that the Code of ethics has a general importance, as it contains ethical and behavioural principles with which every recipient is bound to comply.

At a Board meeting held on 31 July 2018, the Directors of Mediobanca approved the updated version adoption of the "Mediobanca Group Code of ethics". The version currently in force is published on the company intranet and on the Bank's website.

The Bank is committed to disclosing its behavioural principles publicly as well to ensure that its activity is always carried out in conformity with the ethical principles laid down in the Code.



## **7 Staff training and information and embedding of the Model**

The Bank publishes the most recent version of the Model on the company intranet. All recipients are asked to issue a statement declaring that they have read and are familiar with the methods adopted by the Bank for publishing the model.

Failure to comply with the regulations contained herein will result in disciplinary measures being taken as specified in Section 8 hereunder.

### **7.1. Staff training and information**

The staff training and information system is implemented by the Group HR & Organization unit in conjunction with the heads of the units involved in applying the Model from time to time.

#### **7.1.1. Training**

The Bank offers the recipients a training course in e-learning format accessible via the internet. In order to pass the course, a final test must be taken. The test is compiled on the basis of the Decree and the Model adopted by the Bank in pursuance of it.

The Bank also arranges specific classroom sessions and other training mechanisms which differ in content and means of fruition according to the recipients' position, the risk level of the area in which they operate, and the functions performed by them in representing the Bank.

The Supervisory Unit monitors: (i) performance of the e-learning course by all collaborators; and (ii) participation by the recipients in the training courses arranged by the Bank, informing Group HR & Organization if an employee fails to participate, for the possibility of disciplinary action and fines to be assessed.

Specific training activities are also scheduled following significant changes/additions to the Model adopted.

#### **7.1.2. Information**

With regard to the effectiveness of the system, it is the Bank's objective to ensure that current and future staff members are correctly apprised of the rules of conduct contained herein, to a degree that is consistent with their level of involvement in sensitive areas as previously defined.

To this end, all Bank staff will be notified each time a new version of the Model is published on the company intranet.

### **7.2. Information to third parties**

The Bank's suppliers and collaborators, and all individuals or companies with whom or which Mediobanca enters into any form of co-operation governed contractually, where such entities or individuals are to co-operate with the Bank on activities in which there is a risk of the Crimes being committed, are informed of the contents of the Model and the Code of Ethics, which is an integral part thereof, published on Mediobanca's website, and the need for their conduct to conform to the Model and the related ethical/behavioural principles adopted. The Bank is entitled to enter specific clauses in contracts making provision for the contract to be terminated if the counterparty engages in conduct that is contrary to the



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principles and regulations contained in the Model, save for and without prejudice to the Bank's right to claim for any damages incurred.



## 8 Remuneration, incentivization and disciplinary system

### 8.1. Remuneration and incentivization system

Mediobanca's remunerations policies are described in the document submitted to the approval of shareholders in annual general meeting. The objective of the policy is to attract and retain professional staff in particular for key positions and roles, commensurate with the complexity and specialization of the Corporate and Investment Banking business, and based on a rationale of prudent management and sustainable costs and results over time

In accordance with the regulatory provisions in force, the Mediobanca staff remuneration structure is based on various components, with the objective of achieving financial benefits which are diversified over time and rewarding staff based on the Bank's and the Group's risk-adjusted performances, in accordance with the risk profile defined, in order to maintain a solid capital base and strong liquidity position, to preserve long-term profitability consistent with Mediobanca's business profile, and sustainability of results over the long term. The payment of an annual bonus to individual staff members is related to a formal performance assessment process which emphasizes the relevance of merit and professional quality, with a view *inter alia* to retaining key staff. A significant role is played in this respect by assessment of compliance with rules and regulations – such those provided for by the model –, integrity, reliability, authoritativeness and alignment with the Bank's values. In particular, in cases of significant violation of the internal procedures or external regulations, the compliance breach process is activated, which can lead to a reduction in the variable component at the stage of being assigned or awarded (malus clause) and/or variable remuneration already distributed having to be paid back (the claw-back mechanism).

### 8.2. Disciplinary system

The effectiveness of the System is linked to the adequacy of the disciplinary measures provided for in the event of breach of the rules of conduct and, more generally, of internal procedures and regulations.

Action taken must be commensurate with the seriousness of the infringement, and whether or not such infringement is serial. Indeed, account will be taken of repeat offences in particular with respect to the possibility of dismissal.

Inaccurate interpretation of the principles and rules established as part of the System may constitute grounds for exemption from punishment only where the Individual concerned was acting in good faith.

In accordance with these principles, the Bank has equipped itself with a "Company disciplinary code", which is updated regularly and published on the company's website, providing for penalties against:

- ◆ Employees, including at management level;
- ◆ Directors, statutory auditors and senior management;
- ◆ Members of the supervisory unit;
- ◆ Advisors and suppliers.



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The heads of the business units are required to monitor their own team members' activity, to prevent any breaches of the regulations from being committed. They must also be familiar with the processes and activities performed in their own areas and the structures in which unlawful acts may be carried out.



## 9 Supervisory Unit

Under Italian Law 231/01, the task of monitoring the functioning of and compliance with the Model must be delegated to a designated unit of the institution vested with the appropriate autonomous powers in respect of initiative and control (the "Supervisory unit"), and having the requisite professional and personal attributes.

At a Board meeting held on 17 July 2014, in accordance with the provisions of Article 6 para. 4 bis of Italian Legislative Decree 231/01 and Circular no. 263 issued on 27 December 2006 – 15th update released on 2 July 2013, under Title V, Chapter 7, para. 4, the Directors of Mediobanca adopted a resolution assigning, with effect from 28 October 2014 the Supervisory unit's powers to the Statutory Audit Committee, in particular the task of monitoring the functioning of and compliance with the Model and of ensuring the Model is updated.

The heads of the Bank must co-operate with the Supervisory Unit and with Group Organization & Demand Management to institute, update and embed rules and procedures which are suitable to prevent unlawful acts from being committed.

### 9.1. Duties and powers of the Supervisory unit

The Supervisory unit is responsible for:

- ◆ Appraising the functioning of and compliance with the Model, and checking that it is updated over time.
- ◆ Monitoring the functioning of the disciplinary system, including proposing possible disciplinary proceedings to the Human Resources department as a result of proven breach of the Model;
- ◆ Reviewing the adequacy of the Model following changes to the organizational structure/business model;
- ◆ Checking and promoting the update of the Model.

The operating conditions which ensure the Supervisory unit performs its duties to maximum efficiency are:

- ◆ Unlimited access to relevant company information, without restrictions based on hierarchical subordination that could prejudice its independence of judgement in respect inter alia of the Bank's senior management;
- ◆ The obligation incumbent upon any and every staffing unit to provide it with the information it requests if events or circumstances materialize that could be significant under the terms of the unit's remit.

To pursue the objectives described above, the Supervisory Unit will call on the services of the Bank's professional units, in particular the Group Audit, Compliance and Group AML units, and in the exercise of its activities, may also avail itself of assistance from parties external to the Bank (such as advisors), as it has its own independent powers of spending.



## 9.2. Supervisory unit activity

### 9.2.1. Reporting to company management by Supervisory unit

The Supervisory unit, in execution of the powers and duties assigned to it by the Board of Directors, maintains and ensures flows of information to the Board, including as follows:

- ◆ Presenting an annual report on the activity carried out and on management of the financial resources utilized;
- ◆ Informing the Board of Directors of any changes made to the Model for the aspects for which it is responsible.

In the event of breaches of the Model, the Supervisory unit immediately informs the Control and Risks Committee and the Board of Directors.

### 9.2.2. Flow of information and reports to the supervisory unit

Reports made to the Supervisory unit can be of different kinds and may regard breaches or presumed breaches, or facts, ordinary or extraordinary, which are relevant for the implementation and effectiveness of the Model.

- ◆ **Flows of information:** the Supervisory unit must supervise the activities potentially at risk of crime and prepare an efficient internal communication system to collect and transmit relevant information in connection with the Decree. Flows of information are sent according to the institutional activity performed by the organizational units involved.

For further details on flows of information, see Special Part IV.

- ◆ **Extraordinary reports:** All staff, when informed by deed of the judicial authorities (public magistrates or another competent body) that preliminary investigations are being conducted in respect of them in relation of the exercise of corporate duties, must inform immediately the unit responsible, the Group HR unit and the Supervisory unit.

### 9.2.3. Whistle-blowing

Italian Law 179/17 (the "Whistle-blowing Law") introduced amendments to the Decree, requiring that specific channels be set up to allow the recipients to make justified reports of unlawful conduct of relevance for the purposes of the Decree or breaches of the Model. The Law also requires disciplinary measures to be provided for persons who commit reprisals or discriminatory actions and for those who make unfounded reports for purposes of fraud or wilful misconduct.<sup>12</sup> Disciplinary measures, job downgrade and dismissals applied to the whistle-blower are null and void, and in the event of a dispute between the parties, the burden of proof shall lie with the employer to show that such actions are not linked to the report made.

Therefore all recipients have the possibility to report unlawful conduct of relevance for purposes the Decree or breaches of the Model to the Supervisory Unit directly via one of the two following channels:

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<sup>12</sup> For the sanctions, reference is made to the provisions of the Company Disciplinary Code regarding breaches of the Model.



- ◆ Email address: [organismo.vigilanza@mediobanca.com](mailto:organismo.vigilanza@mediobanca.com);
- ◆ Internal/ordinary mail addressed to: Supervisory Unit, Mediobanca S.p.A., Piazzetta Enrico Cuccia 1, 20121 Milan (MI), Italy. The envelope must be sealed and clearly marked as “confidential”.

If the report regards a member of the Supervisory Unit/Statutory Audit Committee, it should be sent to the Head of Compliance and Group AML via one of the two following channels:<sup>13</sup>

- ◆ Email address: [segnalazioni@mediobanca.com](mailto:segnalazioni@mediobanca.com);
- ◆ Internal/ordinary mail addressed to: Head of Compliance and Group AML, Mediobanca S.p.A., Piazzetta Enrico Cuccia 1, 20121 Milan (MI), Italy. The envelope must be sealed and clearly marked as “confidential”.

The whistle-blower may use the “Form for reporting breaches of the Model to the Supervisory Unit” which the Bank has made available, regardless of which channel is used to report the conduct or breach.<sup>14</sup>

Each report must contain sufficient justification to appear deserving of attention, to allow the Supervisory Unit to proceed in timely manner. Regarding the data of the whistle-blower themselves, the report may be sent anonymously, provided that in addition to being sufficiently justified, it must also be suitably detailed and accurate, to enable the Supervisory Unit to perform the necessary checks and assess the reliability of the report.<sup>15</sup>

The Supervisory Unit shall in any case analyse every report received in timely manner and assess whether or not to intervene in order to ascertain whether or the allegation is founded, involving the control units or external parties if necessary to make further enquiries and investigations.

At the end of the enquiries, the Supervisory Unit makes a proposal regarding the action to be taken by the General manager and Head of Group HR (which may entail disciplinary proceedings being initiated).

The Supervisory Unit guarantees that the identity of the whistle-blowers remains confidential, to protect them against reprisals or discrimination of any kind or nature.<sup>16</sup>

No staff member is allowed to carry out reprisals or discrimination, direct or indirect, with effects on employment conditions or behaviour which is otherwise unfair to the whistle-blowers. Anyone who does act in such a way or who breaches the measures put in place to

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<sup>13</sup> The channels referred to below are the ones provided by the Mediobanca Whistle-blowing Policy, adopted to enact the provisions of the Bank of Italy's Supervisory Instructions in this area. If the Supervisory Unit receives reports which are not relevant for the purposes of the Decree, these must be forwarded promptly to the Head of internal reporting systems. The opposite applies of the latter receives reports which are relevant for purposes of the Decree.

<sup>14</sup> Reference is made to Special Part V.

<sup>15</sup> Anonymous reports limit the possibility of the Bank investigating effectively as it is not possible to establish a channel for information with the whistle-blower. In such cases, the Bank will consider, among the relevant factors for assessing the anonymous report, the seriousness of the breach reported, the credibility of the facts represented in it, and the possibility of being able to check the truthfulness of the allegation from reliable sources.

<sup>16</sup> It is hereby agreed that if one of the parties referred to in this section (e.g. the General Manager, Head of Compliance & Group AML, etc.) should be involved in the facts described in the report, the Supervisory Unit cannot involve them in the analysis, assessment and decision-making process.



protect whistle-blowers, or who makes serious allegations out of fraud or wilful misconduct which subsequently prove to be unfounded, may be subject to disciplinary proceedings.<sup>17</sup>

External advisors and Mediobanca staff who work with the Supervisory Unit are also bound to maintain confidentiality with respect to the activities performed by the Unit.

#### **9.2.4. Assessment of Model adequacy**

The Supervisory Unit is also responsible for the following duties:

- ◆ Monitoring the effectiveness of the Model in relation to the company's structure and its actual ability to prevent crimes being committed;
- ◆ Assessment of whether or not the Model continues to meet the requirements in terms of solidity and functioning over time, with reference in particular to keeping pace with developments in the regulatory framework and management of new activities;
- ◆ Proposing updates to the Model, inter alia with the assistance of the other units involved.

#### **9.2.5. Data collection and storage**

All documentation (including reports, checks, etc.) regarding the activities performed by the Supervisory Unit must be stored for a period of ten years, without prejudice to compliance with the regulations in force on personal data privacy and guaranteed rights of data subjects.

All documentation (e.g. reports, audits, etc.) in respect of activities performed by the Supervisory unit must be kept for a period of 10 years, without prejudice to the obligation to comply with provisions in respect of personal data privacy and the interested parties' personal rights.

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<sup>17</sup> For the sanctions, reference is made to the provisions of the Company Disciplinary Code regarding breaches of the Model.



## 10 Special Parts

The Model includes the Special Parts listed below.

### 10.1. Special Part I: Mapping activities at risk under Italian Legislative Decree 231/01

Document which serves to identify the instances of crime and the possible means of committing them in the performance of the Bank's activities.

### 10.2. Special Part II: Protocols

Documents summarizing series of activities, controls and reporting mechanisms to ensure that the Bank's organizational system is adequate in view of the rules instituted by the Decree.

A list of the protocols contained in the Model is provided below:

[...omissis...]

### 10.3. Special Part III: Code of ethics

Document summarizing the ethical principles on which the Bank operates.

### 10.4. Special Part IV: Flows of information to and from the Supervisory unit

Document summarizing the principal information flows from/to the Supervisory Unit.

### 10.5. Special Part V: Form for reporting breaches of the Model to the Supervisory Unit

Form to be used to report breaches of the Model or instances of unlawful conduct of relevance for purposes of the same.

### 10.6. Special Part VI: List of crimes under Italian Legislative Decree 231/01 applicable to Mediobanca S.p.A.

Document describing the underlying crimes applicable to the Bank which, if committed, entail administrative liability for the Bank under the terms of the Decree.