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## Compliance Standard

### **Related Party Transactions and Transactions in which Directors and Statutory Auditors are interested**

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Macro-Process: Compliance

Process: Compliance with transactions with Related Parties

Sub-process: Related Party Transactions

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#### Revision history

- Rev. R02: Amendment of the provisions on transactions involving the Directors and Statutory Auditors. Regulatory update.
- Rev. R01 (30-06-2021)
- Rev. 00 (14-12-2017)  
*Repealed documents:*
  - [ITH-PRO-017-R01] “Transactions in which Directors and Statutory Auditors have an interest and Transactions with Related Parties”, approved by the Board of Directors of Italgas SpA at its meeting on 14/06/2021.

The company intranet is the official source of documents in force. If you are using printed documents, you should always check that they are up to date with the original in force on the company intranet.

The Company, where the conditions are met, is required to comply with the unbundling legislation in all its forms. In particular, it is subject to accounting separation obligations and the management of Commercially Sensitive Information must be carried out in compliance with the provisions of the specific regulations.

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## INDEX

1.	ABSTRACT .....	4
2.	DEFINITIONS .....	4
3.	CENSUS OF RELATED PARTIES. PRELIMINARY ACTIVITY.....	7
3.1	Related Parties Database .....	7
<b>3.2</b>	<b>Preliminary Activity</b> .....	8
<b>3.3</b>	<b>Information flows</b> .....	8
4.	TRANSACTIONS WITH RELATED PARTIES .....	9
4.1	Roles and authorization process.....	9
4.2	Procedure for Transactions of Minor Importance .....	10
4.3	Procedure for Major Transactions .....	11
4.4	Transactions with Related Parties for the Shareholders' Meeting.....	11
4.5	Framework resolutions .....	12
4.6	Cases of exclusion .....	12
4.7	Public information obligations.....	14
4.8	Information to the Board of Directors and the Board of Statutory Auditors.....	14
5.	TRANSACTIONS INVOLVING THE INTERESTS OF DIRECTORS AND STATUTORY AUDITORS .....	14
5.1	Roles and authorization process.....	14
5.2	Information to the Board of Directors and the Board of Statutory Auditors.....	14
6.	SUPERVISION OF COMPLIANCE WITH THE STANDARD AND FINAL PROVISIONS.....	14
6.1	Supervision of compliance with the Standard.....	14
6.2	Final provisions.....	15
7.	ANNEX LIST .....	15

## I. ABSTRACT

This Standard (the "**Standard**"), adopted by the Board of Directors (the "**Board of Directors**") of Italgas S.p.A. ("**Italgas**" or also the "**Company**") pursuant to and for the purposes of Article 2391-bis of the Italian Civil Code and Consob Resolution "Regulation of transactions with related parties" no. 17221 of 12 March 2010, as last updated with the amendments made by Resolution no. 21624 of 10 December 2020 (hereinafter, "**Consob Regulation**", attached to this Standard as Annex 1), establishes the principles and rules to which Italgas and its companies, directly or indirectly, controlled pursuant to art. 93 of Legislative Decree 58/1998 ("**TUF**") or in any case subject to management and coordination activities pursuant to art. 2497 et seq. of the Italian Civil Code (hereinafter referred to as the "**Subsidiaries**" and, together with Italgas, the "**Group**" or the "**Italgas Group**") must comply in order to ensure the transparency and substantial and procedural correctness of the Transactions with Related Parties and the Transactions in which the directors and standing auditors of Italgas are interested, carried out by Italgas or through its subsidiaries, also taking into account the aim of avoiding the risk of impoverishment of the company's assets.

This Standard, as well as subsequent amendments and/or additions, shall apply from the day indicated by the Board of Directors in the approval resolution. Considering that transactions with related parties are important for the Group in relation to two different aspects – management methods and corporate reporting – this Standard is issued:

- to take into account the discipline introduced by the Consob Regulation;
- in accordance with the provisions and recommendations of the Corporate Governance Code for listed companies approved by the Corporate Governance Committee to which Italgas adheres (hereinafter, the "**Corporate Governance Code**") and the Code of Ethics of the Italgas Group;
- in accordance with the Unbundling Regulations, taking into account the specific nature of the activities carried out by the Italgas Group, subject to the supervision of the Regulatory Authority for Energy, Networks and the Environment (in accordance with Law No. 481 of 1995 and Legislative Decree No. 164 of 2000);
- in coordination with the provisions of the administrative and accounting procedures referred to in Article 154-bis of the TUF.

The Company applies this Standard to Transactions with Related Parties carried out by Italgas, directly or through Subsidiaries, also taking into account: (i) Consob Communication no. DEM/10078683, published on 24 September 2010, containing "Indications and guidelines for the application of the Regulation on transactions with related parties adopted by resolution no. 17221 of 12 March 2010 as subsequently amended" (the "**Consob Communication**"), attached to this Standard as Annex 2; (ii) art. 13, paragraph 1-bis, of Decree-Law No. 95 of 30 June 2025, converted with amendments by Law No. 118 of 8 August 2025, as subsequently amended and supplemented.

## 2. DEFINITIONS

In addition to any terms defined in the articles of this Standard, capitalized terms and expressions used in this Standard have the meanings indicated below, it being clarified, however, that the same meaning applies to both singular and plural.

**Directors Involved in the OPC:** directors of Italgas who have an interest, on their own behalf or on behalf of third parties, in the Transaction with Related Parties that conflicts with that of the Company.

**Independent Directors:** directors of Italgas who meet the independence requirements provided for by the *regulations in force* at the time and by the Corporate Governance Code<sup>1</sup>;

**Unrelated Independent Directors:** Independent Directors other than the counterparty to a given Transaction and the related parties of the counterparty.

**Unrelated and Uninvolved Independent Directors:** Independent Directors other than the counterparty to a given Transaction and the related parties of the counterparty, who do not have an interest, on their own behalf or on behalf of third parties, in the Related Party Transaction that conflicts with that of the Company.

**Unrelated Directors:** directors of Italgas other than the counterparty to a given Transaction and the related parties of the counterparty.

**Unrelated and Uninvolved Directors:** directors of Italgas other than the counterparty to a given Transaction and the related parties of the counterparty, who do not have an interest, on their own behalf or on behalf of third parties, in conflict with that of the Company in the Related Party Transaction.

**Control, Risk and Related Party Transactions Committee and Nomination and Remuneration Committee:** Committees set up by the Board of Directors of Italgas within Italgas pursuant to the recommendations of the Corporate Governance Code.

**Conditions Equivalent to Market or Standard Conditions:** conditions similar to those usually applied to unrelated parties for transactions of the same nature, size and risk, or based on regulated tariffs or imposed prices or those applied to parties with whom the company is obliged by law to contract at a certain price<sup>2</sup>. The conditions determined as a result of competitive and transparent procedures governed by general company rules or rules consistent with the legal procedures for the acquisition of goods and services are usually included, as well as, where applicable, the conditions provided for by the provisions of art. 14.4 of Annex A to Resolution no. 296/2015/R/com and subsequent amendments and additions of the Regulatory Authority for Energy, Networks and the Environment (Unbundling Regulations).

**Independent Expert:** natural or legal person in possession of the requisites of professionalism, integrity and independence required by the nature of the assignment conferred. Independence is assessed in advance by the Committee called upon to issue the opinion on the RPT pursuant to paragraphs 4.2 and 4.3 below or, in the event that the Independent Expert is called upon to issue such opinion by the Board of Directors, having regard, in particular, to any economic, equity and financial relationships between the Independent Expert and (i) the Related Party counterparty of the OPC, the companies controlled by it, the persons who control it and the companies under common control; (ii) Italgas, the persons who control Italgas, the companies controlled by Italgas or subject to common control with the latter, (iii) the directors of the companies referred to in points (i) and (ii) above; information on any relationships is attested by a declaration that the expert issues at the time of the assignment<sup>3</sup>;

**Function:** within the meaning of this Standard, an organizational unit of the Company or its subsidiary that is responsible for the activities specified in the various process phases. The function is precisely

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<sup>1</sup> The possession of the independence requirements of the directors is assessed after the appointment and annually by the Board of Directors; The outcome of the evaluations is made known to the public.

<sup>2</sup> It should be taken into account that the Italgas Group carries out many activities that are strictly regulated by the Regulatory Authority for Energy, Networks and the Environment both from a contractual and tariff point of view, thus leaving no elements of discretion in the agreements entered into by the Italgas Group in strict execution of provisions and tariffs approved by the Authority.

<sup>3</sup> The Consob Communication specifies that the Experts chosen by the independent Directors must not necessarily be different from those appointed by the company. In addition, the economic, equity and financial relationships indicated above may be considered irrelevant for the purposes of the independence judgment, without prejudice to the need to provide express reasons for them in the information document referred to in Annex 4 of the Consob Regulation.

identified in the organization chart in force on the basis of the responsibilities declined in the relevant company organizational documents.

**Italgas Group or Group:** the corporate group consisting of Italgas and its Subsidiaries.

**Unbundling Regulations:** Provisions issued by the Regulatory Authority for Energy, Networks and the Environment referred to in Annex A to Resolution 137/2016/R/com - Integrated text of accounting unbundling (TIUC) and referred to in Annex A to Resolution 296/2015/R/com - Integrated text of functional unbundling (TIUF).

**Transaction:** any transfer, active or passive, of resources, services or assumption of obligations, regardless of whether a consideration has been agreed. However, the following are considered to be included:

- mergers, demergers by incorporation or demerger in the strict non-proportional sense;
- any decision relating to the assignment of remuneration and economic benefits, in any form, to the members of the administrative and control bodies and to managers with strategic responsibilities<sup>4</sup>.

**Transactions with Related Parties or RPTs:** transactions defined as such by the international accounting standards adopted in accordance with the procedure referred to in Article 6 of Regulation (EC) No. 1606/2002 ("**International Accounting Standards**") in force at the time of the start of negotiations on a RPT or, in the absence of negotiations, at the time when the relevant decision<sup>5</sup> is taken, taking into account the provisions of art. 13, paragraph 1-bis, of Decree-Law no. 95 of 30 June 2025, converted with amendments by Law no. 118 of 8 August 2025, as subsequently amended and supplemented; for ease of reference, Annex 2-bis to this Standard contains the definition of Transactions with Related Parties and the definitions that are functional to it set out in the International Accounting Standards *in force at the time*<sup>6</sup>.

**Transactions of Major Significance:** RPTs that exceed the materiality thresholds provided for by the regulations in force from time to time and which, on the date of approval of this Standard, correspond to the RPTs identified as such by [Annex 4](#) to this Standard.

**Transactions of Minor Importance:** OPCs other than Transactions of Greater Importance and Transactions of Small Amount.

**Small Amount Transactions:** OPCs identified as such by [Annex 5](#) of this Standard, which, in view of the size of the Italgas Group, do not involve any appreciable risk for investor protection and the integrity of the company's assets.

**Ordinary Transactions<sup>7</sup>:** OPCs that fall within the ordinary exercise of operating activities and related financial activities.

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<sup>4</sup> Cf. paragraph 4.6

<sup>5</sup> Consob Communication is expressly referred to in the part in which it provides that "*In the event that the transaction is carried out by a listed company through another listed company, in the sense indicated above, both companies will be required to apply the procedures according to their respective roles: the parent company will apply, when examining or approving the transaction, the rules autonomously identified, while the subsidiary will apply the procedures required by the Regulations for transactions of greater or lesser importance. This, of course, provided that the related party is also such for the subsidiary company*".

<sup>6</sup> Any purely formal changes to the aforementioned definitions that may be necessary to comply with legislative or regulatory provisions may be made by the Legal Department, subject to a compliant assessment by the Committee itself, which will inform the Board at the first available meeting.

<sup>7</sup> The expression recalls the concept of *ordinary course of business*. Pursuant to the Consob Communication, "an "ordinary" transaction occurs when two selection criteria are met at the same time. Firstly, the transaction must be attributable to the operating activity or, alternatively, to the financial activity connected to it. Secondly, the same transaction must also be part of the "ordinary" exercise of the operating activity or the related financial activity". "Operating activities" means all (i) the Company's principal revenue-generating activities and (ii) all other management activities that cannot be classified as "investment" or "financial". In identifying "ordinary exercise", it is necessary to take into account the object, recurrence, function or purpose, size, contractual terms and conditions, nature of the counterparty and timing.

**Related Parties:** the entities defined as such by the International Accounting Standards in force at the time of the start of negotiations on a RPT or, in the absence of negotiations, at the time when the relevant decision is taken, taking into account the provisions of art. 13, paragraph 1-bis, of Decree-Law no. 95 of 30 June 2025, converted with amendments by Law 8 August 2025, 118, as subsequently amended and supplemented; for ease of reference, the definition of Related Parties and the functional definitions indicated in the International Accounting Standards in force at the time are set out in Annex 2-bis to this Standard <sup>8</sup>. It should be noted that, in any case, the directors and standing auditors of Italgas are considered Related Parties of Italgas.

**Person in Charge:** as the case may be, head of the function or unit, project manager or attorney, if identified, with competence with reference to the specific Related Party Transaction.

**Unrelated Shareholders:** persons with voting rights, other than the counterparty of a given RPO and parties related to both the counterparty of the OPC and Italgas.

In the examination of each relationship with Related Parties, attention must be paid to the substance of the relationship and not only to its legal form.

## FUNCTIONS INVOLVED

Function Mentioned in this document	Organizational Unit
Legal Function	Legal (IGLEGAL)
Corporate Affairs Function	Corporate Affairs (CORAFF)
Legal Compliance Function	Compliance, Anti-Corruption, Legal and Supervisory Boards (COMPLA)
Internal Audit Function	Internal Audit (INTAU)
Budget Function	Administration and Budget (AMBIL)

## 3. CENSUS OF RELATED PARTIES. PRELIMINARY ACTIVITY.

### 3.1 Related Parties Database

Italgas' Related Parties and Persons of Interest are sorted, in compliance with confidentiality regulations, in a database ("**Database of Related Parties and Persons of Interest**" or also "**Database**") created on the basis of:

- the registry of the Italgas Group's shareholdings;
- the declarations that the persons referred to in point I, letter a) (i) and (ii) of Annex 2-bis to this Standard, as well as the directors, standing auditors and managers with strategic responsibilities of Italgas periodically issue with reference to the identification of the Related Parties referable to them<sup>9</sup>;

<sup>8</sup> Any purely formal changes to the aforementioned definitions that may be necessary to comply with legislative or regulatory provisions may be made by the Legal Department, subject to a compliant assessment by the Committee itself, which will inform the Board at the first available meeting.

<sup>9</sup> It is the responsibility of the persons identified as Related Parties pursuant to point I, letter a) (i) and (ii) of Annex 2-bis to this Standard, as well as to the directors, standing auditors and other managers with strategic responsibilities of Italgas, to promptly inform the Italgas Corporate Affairs Department of any update relating to the declarations issued.

- any further information available to the Italgas Group<sup>10 11</sup>.

For the purpose of updating the Database, the Corporate Affairs Function sends every six months to the persons indicated in point I, letters a (i) and (ii) of Annex 2-bis to this Standard, as well as to the directors and standing auditors and other managers with strategic responsibilities of Italgas, a declaration to be completed, signed and transmitted to the Corporate Affairs Function. attached to this Standard as Annex 3. The Related Parties Database is maintained by the Corporate Affairs Department. The manager, identified by the Head of the Corporate Affairs Function ("**Database Manager**"), ensures that it is updated, possibly also with the help of external consultants.

In addition, the Corporate Affairs Function prepares and maintains, by means of a special electronic register, an archive (i) of the Related Party Transactions approved in accordance with the procedures referred to in paragraphs 4.2 and 4.3 below, as well as of the framework resolutions referred to in paragraph 4.5; (ii) Related Party Transactions falling within the causes of exclusion indicated in paragraph 4.6 below.

### 3.2 Preliminary Activity

At the time of initiating any transaction, or modifying the conditions of an already approved transaction, the Person in Charge is responsible for ascertaining, also through the person delegated by him for the investigation, whether the transaction falls within the scope of application of this Standard<sup>12</sup>.

In particular, the Person in Charge must verify, also through the person delegated by him for the investigation, whether the counterparty to the transaction is a Related Party, with the support of the Corporate Affairs Function.

Each Person in Charge at the time of initiating any Transaction, or modifying the conditions of an already approved Transaction, is required, with the support of the Corporate Affairs Function, to verify in the Related Parties Database, through access from a special application on the company intranet, whether the party or parts of the possible agreement are identified in the Database. The Database Manager, at the request of the Data Subject, is required to respond promptly indicating whether or not the name of the counterparty is present in the Database.

The Person in Charge keeps track of the possible application of one of the causes of exclusion indicated in paragraph 4.6 below to Transactions with Related Parties and in any case informs the Corporate Affairs Function, so that it can enter the transaction in the archive referred to in paragraph 3.1.

### 3.3 Information flows

The Person in Charge, if it ascertains that it is a Transaction with Related Parties, is required to initiate, with the support and after verification by the Corporate Affairs Function, the investigation of the OPC referred to in this Standard, unless one of the cases of exclusion referred to in paragraph 4.6 below occurs. In particular, the Person in Charge must transmit the information<sup>13</sup> with the related assessments on the OPC, through the Head of the competent Function:

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<sup>10</sup> Such as, for example, the information derived from the mapping of its related parties periodically forwarded by the person or legal entities required for this purpose to the head of the Company's Legal Department.

<sup>11</sup> The information and data on Related Parties contained in the Database consist of: (i) for natural persons, in the name and surname, date and place of birth, tax code; (ii) for legal persons, in the company name, registered office, tax code/VAT number. Information relating to directors, statutory auditors and managers with strategic responsibilities is acquired and processed in compliance with privacy legislation.

<sup>12</sup> In the case of operations that require the completion of auctions, tenders or other competitive procedures, the checks must be carried out already during the preparation of the documentation necessary for participation or the announcement of the competitive procedure.

<sup>13</sup> The information relating to the OPC is formulated consistently and compatibly with the provisions of the "Information document relating to transactions of greater importance" in [Annex 6](#).

- (i) to the Chief Executive Officer of Italgas in the event of transactions falling within the competence of the Board of Directors of Italgas or the Chief Executive Officer of Italgas;
- (ii) to the CEO of the competent Subsidiary or to the top management of another entity not having a corporate nature, whose management bodies are mainly composed of employees of Italgas or its Subsidiaries, in the case of Transactions of interest to them.

The Head of the competent Function shall ensure that the competent Chief Executive Officer carries out the checks relating to the information and assessments received, before the subsequent communication to the Committee called upon to formulate the opinion, as well as the further activities required pursuant to paragraphs 4.2 and 4.3 below.

In any case, if the competence to decide is attributed to a person or body other than the person who carried out the investigation, the same information and the related assessments indicated above are transmitted, by the Person in Charge also through his or her managers, to such person or body.

## **4. TRANSACTIONS WITH RELATED PARTIES**

### **4.1 Roles and authorization process**

The task of providing the opinion envisaged in paragraphs 4.2 and 4.3 below is entrusted to the Control, Risk and Related Party Transactions Committee, set up by the Board of Directors from within it<sup>14</sup>. In the case of Related Party Transactions concerning the remuneration of directors, statutory auditors, general managers and other executives with strategic responsibilities of Italgas, this opinion is expressed by the *Nomination and Remuneration Committee* set up by the Board of Directors within it<sup>15</sup>.

The Committee shall meet in due time in view of the date scheduled for the approval and/or implementation of the OPC. The opinion of the Committee must in any case be delivered in time for the approval and/or implementation of the RPT.

In the cases provided for in paragraphs 4.2 and 4.3 below, if the Committee is not entirely made up of Non-Related and Non-Involved Directors, the members of the Committee who are not Unrelated and Non-Involved Directors are replaced, for the issue of the opinion referring to that specific RPT:

- in the case of a Transaction of Minor Importance, by Unrelated and Non-Involved Directors in order of seniority until it is entirely made up of Unrelated and Non-Involved Directors, the majority of whom are Independent Directors;
- in the case of a Transaction of Greater Importance, by Unrelated and Uninvolved Independent Directors in order of seniority until it is entirely made up of Unrelated and Non-Involved Independent Directors.

If it is not possible to provide for this temporary replacement, the Committee shall inform the Board of Directors, which shall entrust the task to an Independent Expert<sup>16</sup>.

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<sup>14</sup> The Control, Risk and Related Party Transactions Committee must be composed of non-executive directors, the majority of whom are independent. The opinion referred to in paragraph 4.3 below relating to Transactions of Major Significance must be issued by a committee, also specifically constituted, composed exclusively of Unrelated Independent Directors. Therefore, if Italgas' Control, Risk and Related Party Transactions Committee is composed of non-executive directors, the majority of whom are independent, in application of the procedure indicated in the last paragraph of this paragraph 4.1, the opinion referred to in paragraph 4.3 below is expressed by a specially constituted committee, appointed by the Board of Directors and composed only of Independent Unrelated and Non-Involved Directors, or by an Independent Expert identified by the Board of Directors.

<sup>15</sup> The opinion referred to in paragraph 4.3 below relating to Transactions of Major Significance must be issued by a committee, also specifically constituted, composed exclusively of Unrelated Independent Directors. Therefore, if the Nomination and Remuneration Committee is composed of non-executive directors, the majority of whom are independent, in application of the procedure indicated in the last paragraph of this paragraph 4.1, the opinion referred to in paragraph 4.3 below is expressed by a specially constituted committee, appointed by the Board of Directors and composed only of Independent Directors Who are not Related and Not Involved, or by an Independent Expert identified by the Board of Directors.

<sup>16</sup> This procedure will also be followed if the Committee called upon to express the opinion referred to in paragraph 4.3 below is composed of independent Unrelated and Non-Involved Directors, for the most part independent.

## 4.2 Procedure for Transactions of Minor Importance

For Transactions of Minor Importance, without prejudice to the decision-making powers established by the Italgas Group governance system and the provisions of paragraph 4.6 below, the following procedure must be completed.

- a) Before the approval of a Transaction of Minor Importance, the information referred to in paragraph 3.3 above shall be transmitted, as soon as it is available and in any case at least seven days before the first available meeting, by the competent Function to the Control, Risk and Related Party Transactions Committee for the issuance of the opinion referred to in letter b) below<sup>17</sup>. If the conditions of the OPC are considered by the Person in Charge to be Equivalent to Market or Standard Conditions, the documentation prepared must contain objective elements of confirmation.
- b) The Control, Risk and Related Party Transactions Committee expresses a non-binding reasoned opinion on the Company's interest in fulfilling the OPC, as well as on the convenience and substantial correctness of the related conditions<sup>18</sup>. The opinion is annexed to the minutes of the meeting of the Committee at which it was delivered.

In this regard:

- (i) the Committee may be assisted, at the company's expense, by one or more Independent Experts of its choice, subject to verification of their independence; this verification is conducted by the Committee taking into account the economic, equity and financial relationships between the Independent Expert and: (i) the Related Party counterparty to the Transaction, the companies controlled by it, the persons who control it and the companies under common control; (ii) Italgas, the persons who control Italgas, the companies controlled by Italgas or subject to common control with the latter, (iii) the directors of the companies referred to in points (i) and (ii) above;
  - (ii) if the competence to decide is attributed to a person or body other than the Person in Charge or to the person who carried out the investigation, the opinion issued by the Committee shall be transmitted to him, in addition to the information already transmitted pursuant to paragraph 3.3;
  - (iii) if the competence to decide on the Transaction of Minor Importance lies with the Board of Directors of Italgas, the Directors Involved in the Transaction shall abstain from voting on the same<sup>19</sup>;
  - (iv) the opinion issued by the Committee on the Transaction of Minor Importance provides adequate justification regarding Italgas' interest in the completion of the OPC, as well as the convenience and substantial correctness of the related conditions.
- c) The Board of Directors and the Board of Statutory Auditors receive from the Chief Executive Officer at least quarterly information on the execution of Transactions of Minor Importance, with evidence of any transactions approved despite the negative opinion expressed by the Committee and the related reasons.
  - d) Without prejudice to the provisions of Article 17, paragraph 1, of Regulation (EU) 596/2014 ("**MAR**")<sup>20</sup>, if Transactions of Minor Significance have been approved despite the negative opinion

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<sup>17</sup> In any case, the time deemed necessary by the Committee itself is without prejudice to the time it deems necessary, so that it is allowed to carry out an adequate investigation of the documentation transmitted.

<sup>18</sup> The opinion is expressed by the Nomination and Remuneration Committee in the case of transactions concerning the remuneration of directors, statutory auditors, general managers and other executives with strategic responsibilities.

<sup>19</sup> During the Board resolution, the directors concerned may propose not to take part in the discussion, leaving the meeting room.

<sup>20</sup> *The issuer shall communicate to the public, as soon as possible, inside information which directly relates to that issuer.*

expressed by the Control, Risk and Related Party Transactions Committee pursuant to letter b) above, it shall be made available to the public, within fifteen days of the end of each quarter of the financial year, at the Company's registered office and in the manner indicated in Part III, Title II, Chapter I of the Issuers' Regulation adopted by Consob with resolution no. 11971/1999 as subsequently amended ("**Issuers' Regulation**"), a document containing an indication of the counterparty, the object and the consideration of the Transactions of Minor Significance approved in the reference quarter with the negative opinion of the Committee, as well as the reasons why it was decided not to share this opinion. Within the same period, the opinion shall be made available to the public as an annex to the information document or on the Company's website.

### **4.3 Procedure for Major Transactions**

For Transactions of Greater Importance, without prejudice to the provisions of paragraph 4.6 below, the following procedure must be carried out.

- a) Before the approval of a Transaction of Greater Importance, the information referred to in paragraph 3.3 above shall be transmitted, as soon as it is available and in any case at least seven days before the first available meeting<sup>21</sup>, by the competent Function to the Control, Risk and Related Party Transactions Committee for the issuance of the opinion referred to in letter c) below. If the conditions of the Transaction of Greater Significance are deemed by the Person in Charge to be Conditions Equivalent to Market or Standard Conditions, the documentation prepared must contain objective elements of confirmation.
- b) In this regard:
  - 1) the Committee, or one or more of its members, delegated by it, is promptly involved in the negotiation phase and in the preliminary phase through the receipt of a complete, updated and timely flow of information, with the right to request information and make observations from the delegated bodies and the persons in charge of conducting the negotiations or the investigation;
  - 2) the Committee may be assisted, at the company's expense, by one or more Independent Experts of its choice, subject to verification of their independence, to be conducted in compliance with the provisions of paragraph 4.2, letter b(i) above;
  - 3) the minutes or documents approving the RPT, where applicable, shall contain adequate justification regarding the company's interest in the fulfilment of the RPT, as well as the convenience and substantial correctness of the related conditions.
- c) The competence to resolve on the Transaction of Major Importance is reserved to the Board of Directors of Italgas and the Directors Involved in the Transaction abstain from voting on the same<sup>22</sup>. The Board of Directors approves the Transaction of Major Importance subject to the reasoned favourable opinion<sup>23</sup> of the Control, Risk and Related Party Transactions Committee on the Company's interest in fulfilling the RPT, as well as on the convenience and substantial correctness of the related conditions. The opinion is annexed to the minutes of the meeting of the Committee at which it was delivered.

### **4.4 Transactions with Related Parties for the Shareholders' Meeting**

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<sup>21</sup> In any case, the time deemed necessary by the Committee itself is without prejudice to the time it deems necessary, so that it is allowed to carry out an adequate investigation of the documentation transmitted.

<sup>22</sup> During the Board resolution, the directors concerned may propose not to take part in the discussion, leaving the meeting room.

<sup>23</sup> The opinion is expressed by the Nomination and Remuneration Committee in the case of transactions concerning the remuneration of directors, statutory auditors, general managers and other executives with strategic responsibilities.

When a Transaction of Minor Importance is to be resolved or authorised by the Italgas Shareholders' Meeting, the provisions of paragraph 4.2 shall apply, in the preliminary phase and in the phase of approval of the resolution proposal to be submitted to the Shareholders' Meeting, insofar as compatible.

When a Transaction of Greater Significance is to be resolved or authorised by the Shareholders' Meeting, for the negotiation phase, the preliminary phase and the approval phase of the resolution proposal to be submitted to the Shareholders' Meeting, the provisions set out in paragraph 4.3 above shall apply.

#### **4.5 Framework resolutions**

Homogeneous Transactions, to be concluded with the same Related Party, may be approved through the adoption of framework resolutions.

In the preliminary phase and in the phase of approval of the framework resolution, the provisions set out in paragraphs 4.2 and 4.3 above shall apply, depending on the foreseeable maximum amount of the transactions covered by the resolution, cumulatively considered, insofar as they are compatible.

In any case, the framework resolutions must be effective for no more than one year, refer to sufficiently determined RPTs and report at least the foreseeable maximum amount of the RPTs to be implemented in the reference period and the justification of the conditions envisaged.

The CEO of Italgas, with the support of the Head of the Internal Audit Function, sends complete information to the Board of Directors at least quarterly on the implementation of the framework resolutions.

The additional provisions set out in paragraphs 4.2 and 4.3 above do not apply to the individual transactions concluded in implementation of the framework resolution.

#### **4.6 Cases of exclusion**

Without prejudice to the provisions of art. 2391 of the Italian Civil Code (where applicable), the procedures indicated in paragraphs 4.2, 4.3 and 4.4 and the public information obligations in paragraph 4.7 below, do not apply:

- 1) the resolutions of the Shareholders' Meeting referred to in Article 2389, first paragraph, of the Civil Code, relating to the remuneration due to the members of the Board of Directors;
- 2) resolutions on the remuneration of directors vested with special offices falling within the total amount determined in advance by the Shareholders' Meeting pursuant to Article 2389, third paragraph, of the Italian Civil Code;
- 3) the resolutions of the shareholders' meeting referred to in Article 2402 of the Civil Code, relating to the remuneration due to the members of the board of statutory auditors;
- 4) to Transactions with Related Parties of a Small Amount identified as such by Annex 5 of this Standard;
- 5) transactions approved by the Company and addressed to all shareholders on equal terms, including:
  - (i) capital increases in option, including to service convertible bonds, and free capital increases provided for by art. 2442 of the Civil Code;
  - (ii) demergers in the strict sense, total or partial, with a proportional allocation criterion;
  - (iii) the reductions in the share capital through reimbursement to shareholders provided for by art. 2445 of the Italian Civil Code and the purchase of treasury shares pursuant to Article 132 of the TUF.

Without prejudice to the provisions of Article 2391 of the Italian Civil Code (where applicable), as well as the provisions of the Consob Regulation on public information on financial reports<sup>24</sup>, the procedures indicated in paragraphs 4.2, 4.3 and 4.4 and the other public information obligations referred to in Annex 6, Section I, point I of this Standard, referred to in paragraph 4.8 below, do not apply:

- 6) the compensation plans based on financial instruments approved by the Shareholders' Meeting pursuant to Article 114-bis of the TUF and the related executive transactions;
- 7) resolutions on the remuneration of directors and directors vested with special offices, other than those indicated in points 1, 2 and 3 of the previous paragraph, as well as other executives with strategic responsibilities, provided that: (i) the company has adopted a remuneration policy approved by the Italgas Shareholders' Meeting; (ii) the Nomination and Remuneration Committee was involved in the definition of the remuneration policy; (iii) the remuneration assigned is identified in accordance with this policy and quantified on the basis of criteria that do not involve discretionary assessments;
- 8) to Ordinary Transactions with Related Parties that are concluded at Conditions Equivalent to Market or Standard Conditions. In such cases, in the case of Transactions of Greater Importance, without prejudice to the disclosure obligations referred to in Article 17, paragraph I, MAR:<sup>25</sup>
  - (i) the counterparty, the object and the consideration of the transactions that benefited from the exclusion, as well as the reasons why it is believed that the transaction qualifies as an Ordinary Transaction concluded at Conditions Equivalent to Market or Standard Conditions, must be communicated to Consob and to the Independent Directors called upon to express the opinion referred to in paragraph 4.3 above, providing objective elements of confirmation; the communication must be sent to Consob and the Independent Directors within seven days of the approval of the Transaction of Major Importance by the competent body or, if the competent body resolves to submit a contractual proposal, from the moment the contract, including the preliminary one, is concluded;
  - (ii) subject to notification by the Corporate Affairs Department, are indicated in the interim report on operations and in the annual management report, as part of the information required by the Consob Regulation on public information on financial reports<sup>26</sup> and reported in Annex 6, Sec. I, point 2 to this Standard, which of the Transactions of Major Significance subject to the disclosure obligations provided for therein have been concluded using the exclusion provided for Ordinary Transactions at Conditions Equivalent to Market or Standard Conditions;
- 9) to RPCs with or between Subsidiaries, including jointly, as well as to PRCs with Italgas associates ("Associates"), if there are no interests, qualified as significant according to the criteria defined in Annex 4, section II of this Standard, in other Related Parties of the Company in the Subsidiaries or Associates of the transaction. Significant interests are not considered to be those deriving from the mere sharing of one or more directors or other executives with strategic responsibilities between the Company and its Subsidiaries or Associates.

The Independent Directors called upon to express their opinion on the Transactions of Major Importance referred to in paragraph 4.3 above:

- (i) receive, from the Corporate Affairs Department, at least on an annual basis and with reference to Transactions of Major Importance, information on the application of the cases of exemption referred to in the previous points of this paragraph;

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<sup>24</sup> Article 5, paragraph 8, of the Consob Regulation.

<sup>25</sup> See footnote 20.

<sup>26</sup> Article 5, paragraph 8, of the Consob Regulation.

- (ii) on the basis of the information received from the Corporate Affairs Department pursuant to point 8 (i) of this paragraph, verify without delay the correct application of the exemption conditions to the Transactions of Major Importance defined as Ordinary Transactions and concluded at Market or Standard Conditions. More precisely, the Chairman of the competent Committee from time to time, within 3 working days of receipt of the information, shall convene the Committee itself to carry out the aforementioned checks. Where deemed necessary or appropriate for the purposes of verifying their competence, the Independent Directors may address requests for information to the Legal Department, which is required to provide timely response to the requests received.

#### **4.7 Public information obligations**

The Related Party Transactions carried out by the Italgas Group are disclosed to the public at the time of their completion and, periodically, as part of the Interim Report on Operations and the Annual Report on Operations.

Information to the public is provided in accordance with the relevant provisions of the Consob Regulation (see [Annex 6](#) to this Standard).

#### **4.8 Information to the Board of Directors and the Board of Statutory Auditors**

The Chief Executive Officer shall inform the Board of Directors and the Board of Statutory Auditors of the execution of all Related Party Transactions (with the exception of those exempted from the application of this Standard) at least quarterly.

### **5. TRANSACTIONS INVOLVING THE INTERESTS OF DIRECTORS AND STATUTORY AUDITORS**

#### **5.1 Roles and authorization process**

Before the discussion of each item on the agenda of the meeting of the Board of Directors, in accordance with the provisions of Article 2391 of the Italian Civil Code, each director and statutory auditor is in any case required to indicate any interests, on their own behalf or on behalf of third parties, of which they are the bearers in relation to the matters or issues to be discussed, specifying their nature, the terms, origin and scope.

If the interest in the Transaction concerns the Chief Executive Officer and the Transaction falls within his competence, he shall in any case abstain from carrying out the Transaction itself, referring the matter to the Board of Directors (Article 2391 of the Italian Civil Code).

#### **5.2 Information to the Board of Directors and the Board of Statutory Auditors**

The Chief Executive Officer, the Board of Directors and the Board of Statutory Auditors of Italgas shall inform the Board of Directors and the Board of Statutory Auditors of Italgas on at least quarterly basis on the execution of all Transactions in which the directors or statutory auditors have an interest.

### **6. SUPERVISION OF COMPLIANCE WITH THE STANDARD AND FINAL PROVISIONS**

#### **6.1 Supervision of compliance with the Standard**

The Board of Statutory Auditors monitors the compliance of this Standard with the law, the Articles of Association and the principles set out in the Consob Regulation, as well as their compliance, on the

basis of the information it receives pursuant to paragraph 4.8 above and reports thereon in the report to the Shareholders' Meeting.

## 6.2 Final provisions

The Chief Executive Officer of Italgas implements the provisions of this Standard, including through application provisions that are implemented in accordance with the provisions of the Group's Regulatory System.

The Standard and its amendments are approved by the Board of Directors, subject to the favourable opinion of the Control, Risk and Related Party Transactions Committee if composed only of Independent Directors, or of another committee specifically set up for this purpose composed of only Independent Directors, which meets in due time for the meeting during which the Board of Directors is called upon to express its opinion on the Standard and subsequent amendments. The meeting of the Committee is attended by the Chairman of the Board of Statutory Auditors or another auditor designated by him/her. The Committee's opinion is transmitted to the Board of Directors in time to allow all directors to be able to view it and thus take decisions on the Standard in an informed manner.

The Control, Risk and Related Party Transactions Committee assesses the adequacy of this Standard on an annual basis, taking into account, among other things, any changes that may have occurred in the ownership structure, as well as the effectiveness demonstrated by the procedures in application practice, also with reference to the consistency of the materiality thresholds of the RPTs. At the end of the evaluation, the Committee submits to the Board of Directors any revisions it deems necessary. In any case, at least every three years, the Board of Directors expresses its opinion on the adequacy of the Standard, subject to the opinion expressed in this regard by the Control, Risk and Related Party Transactions Committee.

Any purely formal changes that may be necessary to comply with legislative or regulatory provisions, resolutions of the Board, or in relation to organisational changes to the Company, may be made by the Legal Department, subject to a compliant assessment by the Committee itself, which will inform the Board at the first available meeting.

This Standard is formally delivered to all statutory auditors, directors and other managers with strategic responsibilities of the Italgas Group by the Legal Department, and is published on the company intranet and on the Italgas [www.italgas.it](http://www.italgas.it) website and is referred to in the annual report on operations.

## 7. ANNEX LIST

Annex		Responsabile aggiornamento
1	Consob Regulation	Legal Compliance Function
2	Consob Communication	Legal Compliance Function
2-bis	Definitions of "Related Parties" and "Transactions with Related Parties" and definitions functional to them pursuant to International Accounting Standards in force as of 14 June 2021	Legal Compliance Function
3	Related Parties Mapping Request Form	Legal Compliance Function
4	Identification of the most significant transactions with related parties and indices of significance of the interests of other related parties of Italgas in transactions with or between subsidiaries or associates	Legal Compliance Function
5	Identification of small transactions	Legal Compliance Function
6	Public information obligations on transactions with related parties and Information document relating to transactions of greater significance with related parties	Legal Compliance Function



**Regulations containing provisions relating to transactions with related parties** (adopted by Consob with Resolution no. 17221 of 12 March 2010, later amended by Resolutions no. 17389 of 23 June 2010, no. 19925 of 22 March 2017, no. 19974 of 24 April 2017, no. 21396 del 10 June 2020 and no. 21624 of 10 December 2020)<sup>1</sup>

**The Resolution no. 21396 of 10 June 2020 temporarily suspended, from 20 June 2020 to 30 June 2021, in the event of operations of capital strengthening, the application of the provisions of the Article no. 11, paragraph 5, and of the Article no. 13, paragraph 6 of this Regulation, where provided for that, for the purposes of recourse to the faculty of exemption for urgent cases, this faculty is envisaged by the procedures adopted pursuant to the Article no. 4, paragraph 1, of the Regulation as well as in the company statute.**

### CONTENTS:

Article 1	- Legal basis .....	Page	3
Article 2	- Scope of application .....	"	3
Article 3	- Definitions .....	"	3
Article 4	- Adoption of procedures .....	"	4
Article 5	- Public information on transactions with related parties.....	"	5
Article 6	- Related party transactions and communications to the public.....	"	7
Article 7	- Procedures for transactions of lesser importance in companies adopting traditional or one-tier management and control systems .....	"	8
Article 8	- Procedures for transactions of greater importance in companies adopting traditional or one-tier management and control systems.....	"	9
Article 9	- Procedures for transactions in companies adopting dualistic management and control systems.....	"	9
<b>Article 10</b>	<b>- Regulation for certain types of companies .....</b>	<b>"</b>	<b>9</b>
Article 11	- Transactions attributed to the shareholders' meeting.....	"	10
Article 12	- Framework-resolutions .....	"	11
Article 13	- Cases and power of exclusion .....	"	11
Article 14	- Management and coordination, subsidiaries and associated companies.....	"	13
<b>Annex 1</b>	<b>- Definitions of related parties and related party transactions and functional definitions thereof (repealed) .....</b>	<b>"</b>	<b>15</b>
<b>Annex 2</b>	<b>- Procedures for transactions with related parties in companies adopting dualistic management and control systems.....</b>	<b>"</b>	<b>16</b>
<b>Annex 3</b>	<b>- Identification of transactions of greater importance with related parties.....</b>	<b>"</b>	<b>20</b>
<b>Annex 4</b>	<b>- Information document related to greater importance transactions with related parties.....</b>	<b>"</b>	<b>22</b>
<b>Appendix</b>	<b>Definitions of related parties and related party transactions and functional definitions thereof according to international accounting principles .....</b>	<b>"</b>	<b>25</b>

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<sup>1</sup> Resolution no. 17221 of 12 March 2010 and related regulation were published in Official Gazette no. 70 of 25 March 2010 and in CONSOB Fortnightly Bulletin no. 3.1, March 2010. Resolution no. 17389 of 23 June 2010 was published in Official Gazette no. 152 of 2 July 2010 and in CONSOB Fortnightly Bulletin no. 6.2, June 2010, regarding the entry into force of the provisions of Resolution no. 17221 of 12 March 2010 as amended by Resolution no. 17389 of 23 June 2010. Resolution 19925 of 22 March 2017 is published in the Official Gazette no. 88 of 14 April 2017 and in the CONSOB Fortnightly Bulletin no. 4.1 April 2017; it is in force from the fifteenth day following its publication in the Official Gazette. Letter a) of art. 3 of resolution no. 19925 of 22 March 2017 was subsequently amended with resolution no. 20250 of 28.12.2017, published in the Official Gazette n. 1 of 2.1.2018. Resolution 19974 of 27 April 2017 is published in the Official Gazette no. 106 of 8 May 2017 and in the CONSOB Fortnightly Bulletin no. 4.2 April 2017; it is in force from the fifteenth day following its publication in the Official Gazette. Resolution 21396 of 10 June 2020 is published in the Official Gazette no. 154 of 19 June 2020 and in the CONSOB Fortnightly Bulletin no. 6.1 June 2020; it is in force from the fifteenth day following its publication in the Official Gazette. Resolution no. 21624 of 10 December 2020 is published in the Official Gazette no. 317 of 22 December 2020 and in CONSOB Fortnightly Bulletin no. 12.1, December 2020; it enters into force on 1 July 2021. Para. 2 of Article 3 of resolution no. 21624 of 10 December 2020 provides that: "2. *The companies harmonize the procedures envisaged by article 4 of regulation no. 17221 of 12 march 2010 with the modifications made by this resolution by 30 June 2021 and apply them as from 1 July 2021*".



Article 1  
(*Legal basis*)

1. This regulation is adopted pursuant to Article 2391-bis of the Civil Code and Articles 113-ter, 114, 115 and 154-ter of Legislative Decree 24 February 1998, no.58.

Article 2  
(*Scope of application*)

1. This Regulation sets out the principles on which the Italian companies with shares listed on regulated Italian and other European Union countries and with shares widely distributed among the public that (hereafter in this Regulation, a unit, "the company") abide in order to ensure transparency and substantial and procedural fairness of related party transactions entered into directly or through subsidiaries.

2. Without prejudice to what is specified in Articles 2343-bis, 2358, 2373, 2391, by Articles 2497 to 2497 - f of the Civil Code and Articles 53 and 136 of legislative decree No. 385 dated 1 September 1993, and its implementing provisions.

Article 3  
(*Definitions*)

1. In this Regulation, the term:
- a) "related parties" and "related party transactions": those parties and transactions defined as such **by the international accounting principles adopted according to the procedure referred to in Article 6 of Regulation (EU) no. 1606/2002<sup>2</sup>**;
  - b) "transactions of greater importance": transactions with related parties identified as such pursuant to Article 4, subsection 1, paragraph a);
  - c) "transactions of lesser importance": transactions with related parties other than transactions of greater importance and transactions for smaller amounts pursuant to **Article 4, paragraph 1, letter a)<sup>3</sup>**;
  - d) "regular transactions": transactions carried out in the course of the regular business and related financial activities;
  - e) "market or standard equivalent terms": terms similar to those usually charged to unrelated parties for transactions of a corresponding nature, extent and risk, or based on regulated rates or at fixed prices or those charged to persons with which the issuer is obligated by law to contract at a certain price;
  - f) "smaller companies": companies for which neither their balance sheet assets nor their revenue, as of the latest consolidated financial statements approved, exceed € 500 million. Smaller companies shall not qualify as such if any of these requirements is not met for two consecutive years;
  - g) "company recently listed": companies with shares listed in the period between the trading start date and the financial statements approval date for the second year following the year of listing. Companies recently listed shall not qualify as such. Can not be defined newly combined company listing companies resulting from the merger or demerger of one or more companies with listed shares that are not themselves recently listed;

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<sup>2</sup> Letter thus amended by resolution no. 21624 of 10.12.2020, which replaced the words: "in Annex 1" with the words: "by the international accounting principles adopted according to the procedure referred to in Article 6 of Regulation (EU) no. 1606/2002." **For ease of reading, an excerpt from the definition of related party and related party transactions in accordance with IAS 24 and referral to other definitions related thereto envisaged by the international accounting principles is given in the Appendix to this Regulation.**

<sup>3</sup> Letter thus amended by resolution no. 21624 of 10.12.2020, which deleted the word "possibly" and replaced the words: "Article 13" with the words: "Article 4, paragraph 1, letter a)."

h) "independent directors", "independent management directors" and "independent supervisory directors":

- directors and managing directors who satisfy the independence requirements pursuant to Article 148, subsection 3 of the Consolidated Law and any additional requirements identified in the procedures laid down by Article 4, or industry regulations that may apply because of the company's business;

- should a company declare, pursuant to Article 123-bis, subsection 2 of the Consolidated, to adhere to a code of conduct promoted **by the operators** of regulated markets or by trade associations, including the independence requirements at least equivalent to those pursuant to Article 148, subsection 3 of the Consolidated Law, the directors and managing directors acknowledged as such by the company pursuant to the same code<sup>4</sup>;

i) "unrelated directors" and "unrelated managing directors": directors, managing or supervisory directors other than the counterparty of a particular transaction and **the counterparty's related parties**<sup>5</sup>;

***i-bis)* "directors involved in the transactions" and "managing directors involved in the transaction": directors, management or supervisory directors who have an interest in the transaction, be it their own or that of third parties, in conflict with that of the company**<sup>6</sup>;

l) "unrelated shareholders": those which hold the right to vote other than the counterparty in a particular transaction and subjects related to both the counterparty in a particular transaction or to the company itself;

m) "Consolidated Law": Legislative Decree No.58 of 24 February 1998;

n) "Issuers' Regulation": Regulation adopted by Resolution No. 11971 of 14 May 1999 and subsequent amendments and additions.

#### Article 4

##### *(Adoption of procedures)*

1. The boards of directors or management board of the company shall adopt, as specified in this regulation, the necessary procedures to ensure transparency and substantial and procedural fairness of related party transactions. In particular, these procedures shall:

a) identify the transactions of greater importance to include at least those that exceed the thresholds in Annex 3, **and the transactions of small amount establishing, in relation thereto, distinct criteria in consideration at least of the counterparty's nature**<sup>7</sup>;

b) identify the exemption cases provided for in Articles 13 and 14 to which the companies may resource;

c) identify, for the purposes of this Regulation, the requirements for independence of directors, managing or supervisory board members in accordance with Article 3, paragraph h);

d) establish the manner whereby related party transactions are executed and approved and identify rules with regard to cases in which the company shall review or approve the transactions of subsidiaries, Italian or foreign;

e) establish the manner and timing with which they are provided, to independent directors or board members advising on transactions with related parties as well as to the management and supervisory bodies, information on transactions, and related materials, before deliberations, during and after the execution thereof;

***e-bis)* establish the modalities and the time by which the independent directors or managing directors providing an opinion on the transactions with related parties:**

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<sup>4</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, in the second sub indentation, replaced the words: "by management companies" with the words: "by the operator."

<sup>5</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which replaced the words: "than its related parties" with the words: "than the counterparty's related parties."

<sup>6</sup> Letter added with resolution no. 21624 of 10.12.2020.

<sup>7</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "envisaged by Annex 3" has added the words: " , and the transactions of small amount establishing, in relation thereto, distinct criteria in consideration at least of the counterparty's nature."

- i) **receive information on the application of the cases of exemption identified in accordance with letter b) of this paragraph, at least in reference to the transactions of greater importance. This information is transmitted at least once a year;**
  - ii) **verify the correct application of the conditions of exemption from the transactions of greater importance defined as regular and concluded at market or standard conditions, communicated to the same in accordance with Article 13, paragraph 3, letter c), point i)<sup>8</sup>;**
- f) indicate the choices made by companies with regard to options, other than those mentioned in previous paragraphs, submitted to the same company from the provisions of this Regulation.

2. Companies shall assess whether to indicate as subjects on which to apply, in whole or in part, the provisions of this regulation, even entities other than the related parties, taking account in particular of ownership, of any contractual or statutory obligations relevant to Article 2359, subsection 1, No. 3), or Article 2497-septies of the Italian Civil Code and to the applicable industry regulations for related party transactions.

3. Resolutions on the procedures and any amendments shall be adopted following the favourable opinion of a committee, even specially formed, composed entirely of independent directors or, for companies that adopt the dual management and supervision system, of independent management and supervisory board members. Should no more than three independent directors remain in office, the resolutions shall be adopted following the favourable opinion of the existing independent directors or, failing that, after the non-binding opinion of an independent expert.

4. The procedures provided for in subsection 1, shall ensure coordination with the administrative and accounting procedures pursuant to Article 154-bis of the Consolidated Law.

5. In defining the procedures, boards of directors and management identifying which rules require amendments to the Statute and shall act in accordance with subsection 3 the resulting proposals to be submitted to the assembly.

6. The oversight body will ensure compliance with the procedures adopted the principles set out in this regulation and compliance with them and report to the assembly under Article 2429, second subsection, of the Civil Code or Article 153 of the Consolidated.

7. The procedures and amendments thereto shall be published without delay on the company website, without prejudice of the requirement of publicity, including reference to that site in its annual report on operations, under Article 2391-bis of the Civil Code.

8. Entities with a controlling interest and any other entities specified in Article 114, subsection 5 of the Consolidated Law, which are related parties of the companies, shall provide them with the necessary information to enable identification of related parties and transactions with the same **and promptly communicate any updates thereof<sup>9</sup>**.

#### Article 5

##### *(Public information on transactions with related parties)*

1. In the event of transactions of greater importance, including those carried out by Italian or foreign subsidiaries, the company shall provide, in accordance with Article 114, subsection 5 of the Consolidated Law, an information document prepared in accordance with Annex 4.

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<sup>8</sup> Letter added with resolution no. 21624 of 10.12.2020

<sup>9</sup> Paragraph thus amended with resolution no. 21624 of 10.12.2020, which, after the words: “transactions with the same” added the words: “and promptly communicate any updates thereof.”

2. Companies shall prepare the information document stated in subsection 1 even if, during the period, they conduct with the same related party, or related subjects to the latter or to the company itself, transactions that are homogeneous or made under a unified design which, while not qualifying as individual transactions of interest, exceed, when considered cumulatively, the thresholds of significance identified in accordance with Article 4, subsection 1, paragraph a). Operations carried out by Italian and foreign subsidiaries shall be deemed relevant for the purposes of this subsection with the exception of those eventually excluded pursuant to Articles 13 and 14.

3. Without prejudice of provisions of Article 17 of Regulation (EU) no. 596/2014, the information document referred to in subsection 1 shall be made available to the public at the registered office and in the manner described in **Part III, Title II**, Chapter I of the Issuers' Regulations, within seven days of approval by the competent body of the transaction or, if the competent body resolves to submit a contract proposal, from the point at which the contract, even preliminary, is drawn up according to the applicable rules. In cases of responsibility or Shareholders' Meeting authorization, the same information document shall be made available within seven days of the approval of the proposal to be submitted to the Shareholders' Meeting<sup>10</sup>.

4. Should the significant reporting threshold be exceeded by a combination of transactions envisaged in subsection 2, the information document shall be made available to the public within fifteen days of transaction approval or of the conclusion of the contract leading to the significant reporting threshold excess and shall contain information, including on an aggregate basis for homogeneous transactions, on all transactions under consideration for the aggregate. Should transactions exceeding the significant reporting threshold be carried out by subsidiaries, the information document shall be made available to the public within fifteen days from the time when the company liable for the preparation of that document became aware of the transaction approval or the conclusion of the contract leading to the relevant event. Pursuant to Article 114, subsection 2 of the Consolidated Law, the company required to prepare this document shall take all necessary steps to ensure subsidiaries provide the information required for the preparation of the document. Subsidiaries shall promptly submit such information.

5. Under the terms envisaged in subsections 3 and 4, as an attachment to the information document referred to in subsection 1 or on the web site, companies shall disclose **any opinions of the directors or independent directors and independent experts, selected in accordance with Article 7, paragraph 1, letter b), and the opinions issued by experts qualified as independent of which the management body has availed itself**. With reference to the **mentioned** independent expert opinions, companies shall publish only the elements indicated in Annex 4, justifying the decision in question<sup>11</sup>.

6. If, in relation to operation of greater importance, the company is required to prepare an information document pursuant to article 70, subsections 4 and 5, and 71 of the Issuers' Regulation, the latter shall be allowed to publish a single document containing the information required in subsection 1 and said articles 70 and 71. In this case, the document shall be made available to the public at the registered office and in the manner described in **Part III, Title II**, Chapter I of the

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<sup>10</sup> Subsection first amended with resolution no. 19925 of 22.3.2017 (as amended by resolution no. 20250 of 28.12.2017) which replaced the words: "article 114, subsection 1 of the Consolidated Law" with the words "article 17 of Regulation (EU) no. 596/2014", then with resolution no. 21624 of 10.12.2020 which replaced the words: "in Title II" with the words: "in Part III, Title II."

<sup>11</sup> Subsection first modified with resolution no. 17389 of 23.6.2010, which deleted the expression "of the board of statutory auditors" then with resolution no. 21624 of 10.12.2020 which replaced the words: "opinions of directors or independent directors and independent experts" with the words: "opinions of directors or independent directors and independent experts, selected in accordance with Article 7, paragraph 1, letter b), and the opinions issued by experts qualified as independent of which the management body has availed itself," and, after the words: "With reference to" added the word: "mentioned."

Issuers' Regulations, within the shortest period envisaged by all applicable provisions. The companies, publishing the information referred to in this subsection in a separate document, may incorporate by reference the information previously published<sup>12</sup>.

7. The companies, together with the public communication, shall send Consob the documents and the opinions stated in subsections 1, 2, 5 and 6 with connection to the storage mechanism authorized under Article 65-septies, subsection 3, of the Issuers' Regulation.

8. Issuing companies with shares listed, having Italy as the home Member State, pursuant to Article 154-ter of the Consolidation Law, shall provide information, in the interim management report and annual report:

- a) on individual transactions of greater importance concluded during the reporting period;
- b) on any other individual transactions with related parties concluded in the reporting period, that have materially affected the financial position or results of companies<sup>13</sup>;
- c) on any change or development of related party transactions described in the last annual report that had a material effect on the financial position or results of the company during the reporting period.

9. For the purposes of subsection 8, information on individual transactions of greater importance may be incorporated by reference to information documents published pursuant to subsections 1, 2 and 6, reporting on any significant updates.

#### **Article 6**

*(Related party transactions and communications to the public)*<sup>14</sup>

**1. Should a transaction with related Parties be disclosed by means of the release of a communication pursuant to article 17 of Regulation (EU) no. 596/2014, the communication shall contain, in addition to other information to be published pursuant to that rule, at least the following information:**

- a) the description of the transaction;
- b) an indication that the counterparty to the transaction is a related party and the description of the nature of the relationship;
- c) the legal or commercial name of the counterparty to the transaction;
- d) whether the transaction exceeds or not the significant reporting threshold established under Article 4, subsection 1, paragraph a), and the indication of the possible subsequent publication of written information pursuant to Article 5;
- e) the procedure which has been or shall be followed for the transaction approval and, in particular, whether the company has used a case of exclusion set forth in Articles 13 and 14;
- f) any approval of the transaction despite the contrary opinion of the directors or independent directors<sup>15</sup>.

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<sup>12</sup> Subsection thus amended with resolution no. 21624 of 10.12.2020, which replaced the words: "in Title II" with the words: "in Part III, Title II."

<sup>13</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which deleted the words: "as defined under Article 2427, second subsection, of the Italian Civil Code."

<sup>14</sup> List thus modified with resolution no. 19974 of 27.4.2017, which deleted the words: "pursuant to Article 114, paragraph 1, of the Consolidated Law".

<sup>15</sup> Subsection first amended with resolution no. 19925 of 22.3.2017 and then thus replaced by resolution no. 21624 of 10.12.2020.

Article 7

*(Procedures for transactions of lesser importance in companies adopting traditional or single-tier management and control systems)*

1. With respect to transactions of lesser importance, without prejudice to the application of Article 8, the procedures shall at least foresee:

a) that, before transaction approval, a committee, also specially formed, composed exclusively of unrelated, non-executive directors, mostly independent, expresses a reasoned and not binding opinion on the interest of the company in the completion of the transaction and the convenience and substantial correctness of the underlying terms. **This opinion is attached to the minutes of the committee's meeting**<sup>16</sup>;

b) the ability of the committee to request the assistance, at the expense of company, to one or more independent experts of its choice. **The same committee preemptively verifies the independent nature of the experts, keeping into account the reports indicated in paragraph 2.4 of Annex 4**<sup>17</sup>;

c) that, the body responsible to resolve on the transaction and the committee indicated in paragraph a) above is provided with full and appropriate information in advance. Should the transaction terms be equivalent to market or standard terms, the documentation prepared shall include objective elements of comparison;

d) that, whenever at least two unrelated and independent directors are not available, specific internal controls equivalent to those set forth in paragraph a) shall be established, to protect the substantial correctness of the transaction;

**d-bis) that, in relation to the companies with shares listed on regulated markets, where the transaction is the purview of the Board of Directors, the directors involved in the transaction abstain from voting thereon**<sup>18</sup>;

e) that, where applicable, the approval resolution minutes shall bear adequate reasons with regard to the interest of the company in the completion of the operation and the convenience and substantial correctness of the underlying condition;

f) full disclosure, at least on a quarterly basis, to the Board of Directors and the Board of Statutory Auditors on the execution of transactions;

g) that, without prejudice to the provisions of article 17 of Regulation (EU) no. 596/2014, is made available to the public, within fifteen days after the close of each quarter, at the registered office and in the manner set out in **Part III, Title II**, Chapter I of the Issuers' Regulations, a document containing an indication of the counterparty, of the object and the consideration of the transactions approved in the reference quarter in the presence of a negative opinion pursuant to paragraph a) above and the reasons why it was deemed suitable not to share that opinion. In the same period, the opinion shall be made available to the public attached to the information document or on the website of the company<sup>19</sup>.

2. With reference to the use of independent experts set out in subsection 1, paragraph b), the procedures may define a maximum expense amount for each individual transaction, identified in absolute terms or in proportion to the transaction amount, for services rendered by independent experts.

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<sup>16</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "of the related conditions" added the words: ". This opinion shall be attached to the minutes of the meeting of the committee."

<sup>17</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "of its choice" added the words: ". The same committee preemptively verifies the independent nature of the experts, keeping into account the reports indicated in paragraph 2.4 of Annex 4."

<sup>18</sup> Letter added with resolution no. 21624 of 10.12.2020.

<sup>19</sup> Letter first amended with resolution no. 19925 of 22.3.2017, which replaced the words: "article 114 subsection 1 of the Consolidated Law" with the words "article 17 of the (EU) no. 596/2014," then with resolution no. 21624 of 10.12.2020, which, in the first clause, replaced the words: "in Title II" with the words: "in Part III, Title II,".

### Article 8

*(Procedures for transactions of greater importance in companies adopting traditional or single-tier management and control systems)*

1. Without prejudice to the application of Article 11 with respect to transactions of greater importance, in addition to the provisions of Article 7, subsection 1, paragraphs *b)*, *c)*, ***d-bis***, *e)* and *f)*, the procedures shall at least foresee<sup>20</sup>:

*a)* the reserved right to resolve of the Board of Directors

*b)* a committee, including specially formed, composed exclusively of unrelated independent directors, or one or more components delegated by it, are **immediately** involved in the negotiation phase and the initial inquiry through a complete and **updated** flow of information, with the possibility to request information and to submit comments to the managing bodies and entities responsible for the conduct of negotiations or inquiry<sup>21</sup>;

*c)* that the Board of Directors approves the transaction after the reasoned opinion of the Committee indicated in *b)* on the interest of the company in the completion of the transaction and on the convenience and the substantial correctness of the underlying terms, or, alternatively, that other approval modalities are applied to ensure that the majority of independent and unrelated directors play a decisive role. **This opinion is attached to the minutes of the committee's meeting**<sup>22</sup>;

*d)* if, at least three independent directors unrelated are not available, specific internal controls equivalent to those provided by the paragraphs *b)* and *c)* to protect the substantial correctness of the operation.

2. Procedures may foresee, subject to the statutory provisions required by law, that the Board of Directors approves transactions of greater importance despite the contrary opinion of independent directors, provided that the completion of these transactions is authorized, pursuant to Article 2364, subsection 1, number 5) of the Italian Civil Code, by the Shareholders' Meeting acting in accordance with Article 11, subsection 3.

### Article 9

*(Procedures for transactions in companies adopting dualistic management and control systems)*

1. Companies that adopt the dualistic system of management and control shall apply, instead of Articles 7 and 8, the principles contained in Annex 2.

### Article 10

*(Regulation for certain types of companies)*

1. **Without prejudice to the provisions of Article 5, and to the right of approval of the Board of Directors, in accordance with Article 8, subsection 1, letter *a)*, or of the management board, in accordance with subsections 2 and 3 of Annex 2, small listed companies, recently listed companies, and the companies with widely distributed among the public shares may apply to transactions of greater importance a procedure identified for transactions of lesser importance in Article 7, or in subsection 1 of Annex 2. Provisions held in this subsection shall not be of application to listed subsidiaries, even indirectly, of an Italian or foreign companies with shares listed on regulated markets.**

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<sup>20</sup> Indent thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "letters *b)*, *c)*," added the words: "d-bis,".

<sup>21</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "delegated by it, are involved" added the words: "immediately" and replaced the word: "timely" with the word: "updated."

<sup>22</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "independent and unrelated" added the words: ". This opinion shall be attached to the minutes of the meeting of the committee."

**2. The procedures shall be adapted to the provisions of exemption pursuant to subsection 1 within one hundred and eighty days after the end of the financial year in which the company can no longer qualify as a small company, should a sufficient number of directors or independent directors be in place, or within one hundred and ninety days after the first renewal of the Board of Directors or the Management Board following the end of the same financial year, in all other cases<sup>23</sup>.**

#### Article 11

##### *(Transactions attributed to the shareholders' meeting)*

1. For transactions of lesser importance with related parties attributed to or requiring the authorization of the shareholders' meeting, in the preparatory, inquiry or approval stages of proposed resolution to be submitted to the shareholders' meeting, the procedures shall foresee provisions pursuant to Article 7, subsection 1 of Annex 2.

2. For transactions of greater importance attributed to or requiring the authorization of the shareholders' meeting, the procedure shall foresee provisions pursuant to Article 8, subsections 2 and 3 of Annex 2, for the negotiation, preparation, and approval stages of proposed resolutions to be submitted to the shareholders' meeting. For shareholders' meeting matters, neither Article 8, subsection 2, nor the provisions of subsections 2 and 3 of Annex 2 shall apply. The procedures may foresee that proposed resolutions to be submitted to the shareholders' meeting shall be approved even with the contrary view of the Directors or Independent Directors, provided that in such cases, these procedures are in accordance with subsection 3.

3. If, in connection with a transaction of interest, the proposed resolutions to be submitted to be Shareholders' Meeting is approved with the contrary view of the Directors or Independent Directors, the procedures, without prejudice to the application of Articles 2368, 2369 and 2373 of the Italian Civil Code and subject to the statutory provisions as required by law, shall foresee provisions designed to prevent the completion of the transaction whenever the majority of unrelated voting shareholders shall vote against the operation. The procedures may foresee that the completion of the transaction is prevented only if the unrelated shareholders present at the meeting represent at least a certain percentage of share capital with voting rights, albeit under no circumstances exceeding ten percent.

4. Should there be relevant updates the information document published pursuant to Article 5, the company, within the twenty days of the Shareholders' Meeting, shall make available to the public at the registered office and as per the formalities described in **Part III, Title II**, Chapter I, of the Issuers' Regulations, a new version of the document. Companies may incorporate by reference information previously published<sup>24</sup>.

5. Where expressly permitted by the statute, procedures may foresee that, in case of emergency situations related to corporate crisis, without prejudice to the application of Article 5, where applicable, transactions with related parties shall be concluded notwithstanding the provisions of subsections 1, 2 and 3, provided that the Shareholders' Meeting is convened pursuant to Article 13, subsection 6, paragraph c) and d). Should the assessments of the control body pursuant to Article 13, subsection 6, paragraph c) be negative, the Shareholders' Meeting shall resolve as per subsection 3, otherwise, Article 13, subsection 6 e) shall apply<sup>25</sup>.

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<sup>23</sup> Article thus replaced by resolution no. 21624 of 10.12.2020.

<sup>24</sup> Subsection thus amended with resolution no. 21624 of 10.12.2020, which replaced the words: "in Title II" with the words: "in Part III, Title II,".

<sup>25</sup> **The Resolution no. 21396 of 10 June 2020 temporarily suspended, from 20 June 2020 to 30 June 2021, in the event of operations of capital strengthening, the application of the provisions of the Article no. 11, paragraph 5, and of the Article no. 13, paragraph 6 of this Regulation, where provided for that, for the purposes of recourse to the**

Article 12  
(*Framework-resolutions*)

1. If, for certain categories of transactions, procedures allow framework-resolutions for similar transactions with certain categories of related parties, these procedures shall at least foresee:

- a) provisions pursuant to Articles 7 and 8 and subsections 1 and 2 of Annex 2, depending on the expected maximum amount of transactions subject to resolution, considered collectively;
- b) framework-resolutions shall not be effective for more than a year and shall refer to sufficiently determined transactions, reporting at least the foreseeable maximum amount of transactions to be performed during the reporting period and the reasons for the foreseeable terms;
- c) full disclosure to the Board of Directors, at least on a quarterly basis, on the implementation of the framework-resolutions.

2. Upon approval of a framework-resolution, the company shall publish an information document pursuant to Article 5 whenever the foreseeable maximum amount of transactions subject to resolution exceeds the significant reporting threshold identified pursuant to Article 4, subsection 1, a).

3. Provisions envisaged in Articles 7 and 8 and subsections 1 and 2 of Annex 2 shall not apply to individual transactions completed in the implementation of framework-resolutions. Transactions completed in implementation of a framework-resolution described in an information document published pursuant to subsection 2 shall not be counted for the purpose of cumulation set forth in Article 5, subsection 2.

Article 13  
(*Cases and power of exclusion*)

1. The provisions of this Regulation shall not apply to the Shareholders' Meeting resolutions pursuant to Article 2389, first subsection, of the Italian Civil Code, relating to fees payable to members of the Board of Directors and Executive Committee, nor to the resolutions relating to remuneration of Directors holding particular offices included in the total amount determined in advance by the Shareholders' Meeting pursuant to Article 2389, third subsection, of the Italian Civil Code. Furthermore, the provisions of this regulation shall not apply to shareholders' meeting resolutions pursuant to Article 2402 of the Italian Civil Code in relation to remuneration for members of the board of statutory auditors and the supervisory board, or to shareholders' meeting resolutions on remuneration for members of the management board if appointed pursuant to Article 2409-*terdecies*, subsection 1, paragraph a) of the Italian Civil Code<sup>26</sup>.

**1-bis. The provisions of this Regulation shall not apply to the transactions approved by the companies and intended for all the shareholders, all conditions being equal, therein including:**

- a) capital increases on a rights offering, including for servicing convertible debenture loans, and the gratuitous capital increases envisaged by Article 2442, Italian Civil Code;
- b) demergers in the strictest sense, in whole or in part, with assignment of shares on a proportional basis;
- c) share capital reductions by means of reimbursement to shareholders, as provided for by Article 2445, Italian Civil Code, and purchases of own shares in accordance with Article 132 of the Consolidated Law<sup>27</sup>.

2. The provisions of this Regulation shall not apply to transactions for smaller amounts

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faculty of exemption for urgent cases, this faculty is envisaged by the procedures adopted pursuant to the Article no. 4, paragraph 1, of the Regulation as well as in the company statute.

<sup>26</sup> Subsection thus amended with resolution no. 17389 of 23.6.2010 which added the final sentence.

<sup>27</sup> Subsection added with resolution no. 21624 of 10.12.2020.

**identified by the companies in accordance with Article 4, subsection 1, letter a)<sup>28</sup>.**

3. Procedures may exclude, in whole or in part, from the provisions of this Regulation, without prejudice to the application of Article 5, subsection 8, if applicable:

a) compensation plans based on financial instruments approved by the Shareholders' Meeting pursuant to Article 114-bis of the Consolidated Law and its enactment regulations;

b) resolutions other than those indicated in subsection 1 in relation to remuneration for directors and board members holding special office, together with remuneration for other managers with strategic responsibilities and resolutions by which the supervisory board determines remuneration for management board members, provided that<sup>29</sup>:

i) the company has adopted a remuneration policy **approved by the shareholders' meeting**<sup>30</sup>;

ii) in the definition of the remuneration policy has been involved a committee consisting solely of directors or a majority of independent non-executive directors;

iii) *...omissis...*<sup>31</sup>;

iv) **the remuneration awarded is consistent with this policy and quantified on the basis of criteria that do not imply discretionary evaluations**<sup>32</sup>;

c) regular transactions completed in market-equivalent or standard terms. In case of exception to the disclosure requirements, established for transactions of greater relevance, set forth in Article 5, subsections 1 to 7, and without prejudice to the application of Article 17, of Regulation (EU) no. 596/2014:

i) **companies shall notify Consob, and the directors and independent directors giving an opinion on transactions with related parties, within the period specified in Article 5, subsection 3, of the counterparty, the object, the consideration for the transactions that benefited from the exclusion, as well as the of reasons why it is believed that the transaction is a regular one and is concluded at market-equivalent or standard conditions, providing objective facts**<sup>33</sup>;

ii) companies listed on regulated markets shall indicate in the interim management report and annual report, in accordance to provisions in Article 5, subsection 8, which of the transactions subject to disclosure requirements specified in that provision been concluded based on the exclusion provided in this paragraph;

iii) companies with common stock shall indicate in the annual report the counterparty, the purpose and the consideration for the transactions of greater relevance completed in the period entered taking advantage of the exclusion provided in this letter<sup>34</sup>.

4. The provisions of this regulation, without prejudice to the application Article 5, shall not apply to transactions for stabilization purposes required by the Italian Central Bank, or on the basis of regulations issued by the parent for the execution of instructions issued by the Italian Central Bank in the interest of the group stability.

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<sup>28</sup> Subsection thus replaced by resolution no. 21624 of 10.12.2020.

<sup>29</sup> Indent as amended by Resolution no. 17389 of 23 June 2010 which replaced the words: "resolutions on remuneration for directors and board members holding special office, other than those indicated in subsection 1, together with managers with strategic responsibilities, provided that" with the words: "resolutions other than those indicated in subsection 1 in relation to remuneration for directors and board members holding special office, together with remuneration for other managers with strategic responsibilities and resolutions by which the supervisory board determines remuneration for management board members, provided that".

<sup>30</sup> Point thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "remuneration policy" added the words: "approved by the shareholders' meeting."

<sup>31</sup> Point repealed with resolution no. 21624 of 10.12.2020.

<sup>32</sup> Point thus replaced by resolution no. 21624 of 10.12.2020.

<sup>33</sup> Point thus replaced by resolution no. 21624 of 10.12.2020.

<sup>34</sup> Letter thus amended with resolution no. 19925 of 22.3.2017, which replaced the words: "article 114 subsection 1 of the Consolidated Law" with the words "article 17 of Regulation (EU) no. 596/2014".

5. Without prejudice to the application of Article 5, for related party transactions subject to applicable provisions in Article 136 of Legislative Decree no. 385 of 1 September 1993, the company, in establishing the procedures, shall not apply the provisions and opinions of independent experts under Article 7, subsection 1, paragraphs a) b) d) g) and subsections 1.1, paragraphs to ), b) and g), 1.2 and 1.3 of Annex 2 and, for transactions of greater importance, Article 8, subsection 1, paragraphs a), c) and d) and 2, and subsections 2.1, paragraphs to ), c) and d) 2.2, b) and d), and 3.1 points a) c) d) e) of Annex 2.

**6. In cases where transactions are neither attributed to nor shall be authorized by the Shareholders' Meeting, procedures may foresee, as expressly permitted by statute, that in cases of urgency - without prejudice to the application of Article 5, and to the right of approval of the Board of Directors, in accordance with Article 8, subsection 1, letter a), or of the management board, in accordance with subsections 2 and 3 of Annex 2, applicable to transactions of greater importance - the transactions with related parties be concluded notwithstanding the provisions of Article 7 and other provisions of Article 8 and Annex 2, provided that<sup>35</sup>:**

a) for transactions falling under the responsibility of a Managing Director or the Executive Committee, the Chairman of the Board of Directors or of the Management Board is informed of the reasons of urgency **immediately and, in any case**, prior to closing the transaction<sup>36</sup>;

b) these transactions are subsequently, without prejudice to their effectiveness, subject to non-binding resolution of the first valid ordinary Shareholders' Meeting;

c) the body which convenes the Shareholders' Meeting prepares a report containing an adequate justification of the reasons for urgency. The control body reports to the Shareholders' Meeting its assessment on the existence of the reasons for urgency;

d) the report and the assessments referred to in paragraph c) are made available to the public at least twenty days before the date fixed for the meeting at the registered office and as per the formalities set out in **Part III, Title II**, Chapter I of the Issuers' Regulation. These documents may be contained in the disclosure document referred to in Article 5, subsection 1<sup>37</sup>;

e) within the day immediately after the Shareholders' Meeting the company makes available to the public as per the formalities specified in **Part III, Title II**, Chapter I of the Issuers' Regulation on voting results, particularly with regard to the number of total votes cast by unrelated shareholders<sup>38</sup>.

#### Article 14

*(Management and Coordination, subsidiaries and associated companies)*

1. If the company is subject to management and coordination, for transactions with related parties, the opinions provided pursuant to Articles 7 and 8, and Annex 2 shall timely indicate the reasons and the convenience of these transactions, where appropriate, in light the overall result of the supervision and coordination of transactions that is designed to fully eliminate the damage resulting from an individual Related Party transaction.

2. Procedures may foresee that the provisions of this Regulation, without prejudice to the application of Article 5, subsection 8, shall not apply, in whole or in part, to transactions with or

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<sup>35</sup> Indent thus replaced by resolution no. 21624 of 10.12.2020.

<sup>36</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "reasons of urgency" added the words: "immediately and, in any case,".

<sup>37</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which replaced the words: "in Title II" with the words: "in Part III, Title II,".

<sup>38</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which replaced the words: "in Title II" with the words: "in Part III, Title II,". **The Resolution no. 21396 of 10 June 2020 temporarily suspended, from 20 June 2020 to 30 June 2021, in the event of operations of capital strengthening, the application of the provisions of the Article no. 11, paragraph 5, and of the Article no. 13, paragraph 6 of this Regulation, where provided for that, for the purposes of recourse to the faculty of exemption for urgent cases, this faculty is envisaged by the procedures adopted pursuant to the Article no. 4, paragraph 1, of the Regulation as well as in the company statute.**

between subsidiaries, or jointly, as well as to transactions with associated companies, if its subsidiaries or associated counterparties no interests exist, which may qualify as significant under the criteria established in Article 4, by other related parties of the company. It shall not be considered as significant interests those derived from the mere sharing of one or more directors or other managers with strategic responsibilities between the company and its subsidiaries or associated companies<sup>39</sup>.

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<sup>39</sup> Subsection thus amended with Resolution no. 17389 of 23.6.2010, which, after the words: “or more directors or” added the words: “other”; and after the word: “subsidiaries” added the words: “or associated companies”.

**Annex 1**

**DEFINITIONS OF RELATED PARTIES AND RELATED PARTY TRANSACTIONS  
AND FUNCTIONAL DEFINITIONS THEREOF**

*...omissis...*<sup>40</sup>

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<sup>40</sup> Annex repealed with resolution no. 21624 of 10.12.2020.

## Annex 2

### PROCEDURES FOR TRANSACTIONS WITH RELATED PARTIES IN COMPANIES ADOPTING DUALISTIC MANAGEMENT AND CONTROL SYSTEMS

#### 1. Procedures for transactions of lesser importance

**1.1.** For companies adopting the dualistic system of management and control, with regard to transactions of lesser importance, the procedures shall at least foresee:

- a) that, before transaction approval, a committee, even specially formed, composed exclusively of unrelated advisory directors, mostly independent, expresses a reasoned and not binding opinion on the interest of the company in the completion of the transaction and the convenience and substantial correctness of its underlying terms. **This opinion is attached to the minutes of the committee's meeting**<sup>41</sup>;
- b) the ability of the committee to request the assistance, at the expense of company, from one or more independent experts of its choice. **The same committee preemptively verifies the independent nature of the experts, keeping into account the reports indicated in paragraph 2.4 of Annex 4**<sup>42</sup>;
- c) that, the body responsible to resolve on the transaction and the committee indicated in paragraph a) above is provided with full and appropriate information in advance. Should the transaction terms be equivalent to market or standard terms, the documentation prepared shall include objective elements of comparison;
- d) that, should the supervisory board members have an interest, be it their own or of third parties, in the transaction, they shall give notice to the other supervisory board members, specifying the nature, terms, origin and scope;
- d-bis*) that, in relation to the companies with shares listed on regulated markets, where the transaction is the purview of the Board of Directors, the directors involved in the transaction abstain from voting thereon**<sup>43</sup>;
- e) that, where applicable, approval resolutions minutes shall bear adequate reasons in respect of the interest of the company in the completion of the transaction and the convenience and substantial correctness of its underlying terms;
- f) full disclosure at least quarterly to the management board and supervisory board on execution of transactions;
- g) the application of Article 7, subsection 1, paragraph g).

**1.2.** With reference to the use of independent experts set out in subsection 1.1 b), procedures can define a maximum expenses amount for each individual transaction, identified in absolute terms or in proportion to the transaction amount, for services rendered by independent experts.

**1.3.** The procedures adopted by companies with at least one unrelated, independent Management Board member may foresee that the advance non-binding opinion referred to in subsection 1.1, paragraph a), shall be issued by such member or a committee, including specially formed, composed exclusively of unrelated, non-executive management board members, mostly independents. In this case, the right to be assisted by one or more independent experts, provided as indicated in subsection 1.2, fall to the management called to the opinion and information about the provisions of subsection 1.1, point c) shall be provided the Board.

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<sup>41</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "of the related conditions" added the words: "This opinion is attached to the minutes of the committee's meeting."

<sup>42</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "of its choice" added the words: ". The same committee preemptively verifies the independent nature of the experts, keeping into account the reports indicated in paragraph 2.4 of Annex 4."

<sup>43</sup> Letter added with resolution no. 21624 of 10.12.2020.

## 2. Procedures for transactions of greater importance

2.1. In companies adopting the dualistic system of administration and control, for transactions of greater importance, the procedures shall, in addition to the provisions of subsection 1.1, paragraphs b) to f), at least foresee:

- a) a degree of competence to act on the part of the board of management;
- b) that a committee, including specially formed, composed exclusively of unrelated independent supervisory directors, or one or more components delegated by it, are **immediately** involved in the negotiation phase and the initial inquiry through a complete and **updated** flow of information, with the possibility to request information and to submit comments to the managing bodies and entities responsible for the conduct of negotiations or inquiry<sup>44</sup>;
- c) that, the transaction is approved after reasoned and non-binding opinion on the interest the company holds in the completion of the transaction and on the convenience and the substantial correctness of the underlying terms, by the committee stated in the paragraph b). **This opinion is attached to the minutes of the committee's meeting**<sup>45</sup>;
- d) that, in the event that the Management Board approves the transaction with the negative opinion of the committee set out in paragraph b), without prejudice to its effectiveness, this transaction is subsequently subject to a non-binding resolution of the ordinary shareholders' meeting, to be convened without delay. Within the day after the shareholders' meeting, companies shall make available to the public, as per the formalities specified in **Part III, Title II**, Chapter I of the Issuers' Regulations, the information on voting results, especially with regard to the number of total votes cast by unrelated shareholders<sup>46</sup>.

2.2. The procedures adopted by companies with at least one unrelated, independent Management Board member may foresee that the advance non-binding opinion referred to in subsection 2.1, paragraph a), shall be issued by such member or a committee, including specially formed, composed exclusively of unrelated, non-executive management board members, mostly independents. In such event, without prejudice to the Management Board reserved right to resolve on these matters, the procedures shall at least foresee:

- a) that the committee of independent management board members or one or more of its delegated officers or the independent board member are involved **immediately** in the negotiations and investigation stages by means of a full and **updated** flow of information and with the right to request information and issue comments to the delegated bodies and persons appointed to conduct the negotiations or investigations<sup>47</sup>;
- b) the right of the Board or committee envisaged in paragraph a) to be assisted by one or more independent experts. **The same board or committee preemptively verifies the independent nature of the experts, keeping into account the reports indicated in paragraph 2.4 of Annex 4**<sup>48</sup>;
- c) that, the information about the provisions of subsection 1.1, point c), is made available to the Management Board;

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<sup>44</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "delegated by it, are involved" added the words: "immediately" and replaced the word: "timely" with the word: "updated."

<sup>45</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "in letter b)" added the words: ". This opinion shall be attached to the minutes of the meeting of the committee."

<sup>46</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which replaced the words: "in Title II" with the words: "in Part III, Title II,".

<sup>47</sup> Letter first amended with resolution no. 17389 of 23 June 2010, which after the words: "the committee of independent management board members or" added the words: "one or more members delegated by it or" and replaced the words: "is involved" with the words: "are involved," then with resolution no. 21624 of 10.12.2020, which, after the words: "the independent management board members are involved" added the word: "immediately" and replaced the word: "prompt" with the word: "updated".

<sup>48</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "independent experts" added the words: ". The same management director or committee preemptively verifies the independent nature of the experts, keeping into account the reports indicated in paragraph 2.4 of Annex 4."

- d) should the Management Board approve a transaction with a negative opinion of the independent director or committee, either:
  - i) resource to, without prejudice to the transaction effectiveness, a subsequent non-binding resolution of the ordinary shareholders' meeting, to be convened without delay, subject to the provisions contained in subsection 2.1, d);
  - ii) that, a non-binding, reasoned opinion on the interest of the company in the completion of the transaction and on the convenience and the substantial correctness of the underlying conditions, is issued by a committee, including specially formed, composed exclusively unrelated, independent supervisory board members. In this case, the right to be assisted by one or more independent experts is held by this committee.

### 3. Procedures for strategic transactions

**3.1.** Should the supervisory board be convened to resolve on transactions with related parties pursuant to Article 2409-I f-bis) of the Italian Civil Code, the procedures shall at least foresee:

- a) the reserved right of the Management Board to resolve on the proposal to submit to the Supervisory Board;
- b) that a committee, including specially formed, composed exclusively of unrelated independent supervisory directors, or one or more components delegated by it, are **immediately** involved in the negotiation phase and the initial inquiry through a complete and **updated** flow of information, with the possibility to request information and to submit comments to the managing bodies and entities responsible for the conduct of negotiations or inquiry<sup>49</sup>;
- c) the power of the committee envisaged in paragraph b) to request the assistance, at the expense the company, of one or more independent experts of its choice. **The same committee preemptively verifies the independent nature of the experts, keeping into account the reports indicated in paragraph 2.4 of Annex 4**<sup>50</sup>;
- d) that, the supervisory board resolves on the transaction following a reasoned and favourable opinion, on the interest of the company in the completion of the transaction and on the convenience and the substantial correctness of the underlying terms, of the Committee indicated in paragraph b). **This opinion is attached to the minutes of the committee's meeting.** The procedures may foresee that the supervisory board decides in favour of the transaction despite the negative opinion of the committee provided this operation, without prejudice to its effectiveness, is subsequently subject to a non-binding resolution of the ordinary shareholders' meeting, to be convened without delay<sup>51</sup>;
- e) within the day immediately after the shareholders' meeting the company makes available to the public, as per the formalities specified in **Part III, Title II**, Chapter I of the Issuers' Regulation, information on voting results, particularly with regard to the number of total votes cast by unrelated shareholders<sup>52</sup>;
- f) that, the management board and the supervisory board are provided with full and adequate information in advance. Should the transaction terms be market-equivalent or standard, the documentation prepared shall include objective elements of comparison;
- g) that, should the supervisory board members have an interest, be it their own or that of third parties, in the transaction, they shall give notice to the other supervisory board members, specifying the nature, terms, origin and scope;

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<sup>49</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "delegated by it are involved" added the word: "immediately" and replaced the word: "timely" with the word: "updated."

<sup>50</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, after the words: "independent experts of its choice" added the words: ". The same committee preemptively verifies the independent nature of the experts, keeping into account the reports indicated in paragraph 2.4 of Annex 4."

<sup>51</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which, in the first clause, after the words: "indicated in letter b)." added the words: "This opinion is attached to the minutes of the committee's meeting."

<sup>52</sup> Letter thus amended with resolution no. 21624 of 10.12.2020, which replaced the words: "in Title II," with the words: "in Part III, Title II,".

**g-bis) that, in companies with shares listed on regulated markets, the directors involved in the transaction abstain from voting thereon<sup>53</sup>;**

- h) that the approval resolutions minutes bear adequate reasons in respect of the interest of the company in the completion of the operation and the convenience and the substantial correctness of the underlying terms;
- i) full disclosure at least quarterly to the management board and supervisory board on transactions execution.

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<sup>53</sup> Letter added with resolution no. 21624 of 10.12.2020.

### Annex 3

#### IDENTIFICATION OF TRANSACTIONS OF GREATER IMPORTANCE WITH RELATED PARTIES

1. Internal procedures set out quantitative criteria for the identification of the "transactions of greater importance" so as to include at least the categories of transactions listed below.

1.1. Transactions in which, at least one of the following relevance indexes, applicable depending on the specific operation, is greater than the 5% threshold:

**a) Equivalent-value relevance ratio:** the ratio between the equivalent transaction and the net equity drawn from the latest published balance sheet (consolidated, if so prepared) by the company or, for listed companies, if greater, the capitalization of the acquired firm at the end of the last trading day included in the period covered by the latest accounting periodical published document or semi-annual financial report or additional periodic financial information, if drafted). For banks, is the ratio between the equivalent of the operation and regulatory capital drawn from the latest published balance sheet (consolidated, if so prepared)<sup>54</sup>.

Should the economic conditions of the transaction not be determined, the equivalent operation shall be:

- i) for the cash component, the amount paid to or from the contract;
- ii) for the component in financial instruments, the *fair value* determined at the date of the transaction, in accordance with international accounting standards adopted by Regulation (EC) No. 1606/2002;
- iii) for funding transactions or grant of guarantees, the maximum amount payable.

If the economic conditions of the operation depends, in whole or in part, of magnitudes not yet known, the equivalent operation is the maximum admissible or payable value under the Agreement.

**b) Asset relevance ratio:** the ratio between the total assets of the entity in the transaction and the total assets of the company. Data to be used shall be obtained from the most recently published balance sheet (consolidated, if so prepared) by the company; whenever possible, similar data should be used for determining the total assets of the entity involved in the transaction.

For transactions involving the acquisition and sale of shares in companies that have an impact on the area of consolidation, the value of the numerator is the total assets of the investee, regardless of the percentage of capital being available.

For transactions of acquisition and divestment of holdings in companies that have no effect on the consolidation perimeter, the value of the numerator is:

- i) in the case of acquisitions, the counter operation plus the liabilities of the company acquired eventually assumed by the purchaser;
- ii) in case of supplies, the consideration of the divested business.

For transactions of acquisition and disposal of other assets (other than the purchase of a stake), the value of the numerator is:

- i) in case of acquisitions, the greater of the consideration and the carrying amount that will be attributed to the asset;
- ii) in case of supplies, the book value of the assets.

**c) Liabilities relevance ratio:** Description of characteristics, rules, terms and conditions of the

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<sup>54</sup> Letter thus amended with resolution no. 19925 of 22.3.2017 that replaced the words: "interim operating report" with the words "additional periodic financial information when drafted".

transaction. Data to be used must be derived from the most recently published balance sheet (consolidated, if so prepared) by the company; whenever possible, similar data should be used for determining the total liabilities of the company or company branch acquired.

**1.2.** Transactions with the parent company listed or subjects that are related to the latter in turn related to companies where at least one indicator of significance in subsection 1.1. higher than the threshold of 2.5%.

**1.3.** Companies evaluate whether to identify thresholds of significance lower than that mentioned in subsections 1.1 and 1.2 for transactions that could affect the issuer's management independence (e.g, disposal of intangible assets such as trademarks or patents).

**1.4.** In the case of overlapping of multiple transactions pursuant to Article 5, subsection 2, companies shall determine in the first place, the relevance of each individual transaction on the basis of the ratio or ratios, as prescribed in subsection 1.1, thereto applicable. To verify whether the thresholds specified in subsections 1.1, 1.2 and 1.3 are exceeded, the results for each indicator are added together.

**2.** Where a transaction or several transactions that are accumulated under article 5, subsection 2, are identified as "most relevant" according to the indices established in subsection 1 and this result is manifestly unreasonable in view of special circumstances, Consob may indicate, at the request of the company, alternative arrangements to be followed in determining these indices. To this end, the company announced to Consob the essential characteristics of the transaction and the special circumstances upon which the request prior to the conclusion of the negotiations was based.

## Annex 4

### INFORMATION DOCUMENT CONCERNING TRANSACTIONS OF GREATER IMPORTANCE WITH RELATED PARTIES

For companies quoted on regulated markets, with their common stock widely distributed among the public (hereinafter "the companies"), and conducting transactions of greater importance with related parties, the information document foreseen by Article 5 shall contain at least the following information:

#### *Contents*

##### *1. Warnings*

Highlight, in summary, the risks related to potential conflicts of interest arising from the operation with related parties described in the information document.

##### *2. Details of the transaction*

- 2.1. Description of characteristics, formalities, terms and conditions of the transaction.
- 2.2. Indication of related parties with involved in the operation, the nature of the relationship, and whether it has been disclosed to the Board of Directors, the nature and extent of the interests of such parties in the transaction.
- 2.3. Indication of the economic rationale and company suitability of the operation. If the transaction has been approved against the negative opinion of directors or independent directors, an analytical and adequate justification why it was deemed suitable not to share that view.
- 2.4. Methods of determining the consideration for the transaction and assessments regarding its adequacy in relation to market values of similar transactions. If the economic terms and conditions of the transaction are defined as market-equivalent or standard, providing adequate justification for such claim and comparison elements. Indicate whether there are independent expert opinions in support of the adequacy of such consideration and the conclusions of the same, stating:
  - bodies or individuals who commissioned the opinions and designated experts;
  - **the assessments conducted to select the independent experts and verification of their independence. In particular, include any economic relations, property and financial relations between the independent experts, and (i) the related party, the companies controlled by it, the entities controlling it, the companies under common control and the managers of the aforementioned companies; (ii) the company, the companies controlled by it, the entities controlling it, the companies subject to common control and the managers of the aforementioned companies, taken into account for purposes of qualification as an independent expert and the reasons for which these reports were considered irrelevant to the proceedings on independence. Information about possible relationships can be provided by attaching a declaration from these independent experts<sup>55</sup>;**

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<sup>55</sup> Sub-indent thus replaced by resolution no. 21624 of 10.12.2020.

- the terms and purpose of the mandate given to the experts;
- the names of experts appointed to assess the adequacy of the consideration.

Indicate that the opinions of independent experts or the essential elements thereof, pursuant to Article 5 of the Issuers' Regulations, are attached to the information document or published on the company website. The essential elements of the expressed opinion that shall be communicated are as follows:

- evidence, where applicable, of the specific limits encountered in the performance of office (e.g. with regard to access to relevant information), the assumptions used and the conditions to which the opinion is subject;
- evidence of possible criticisms reported by experts in relation to the specific transaction;
- Indication of the valuation methods adopted by the experts to comment on the adequacy of the consideration;
- Indication of the relative importance attributed to each of the valuation methods adopted for the purpose above;
- Indication of the values resulting from each valuation method adopted;
- In the event the valuation methods used provided a range of values, an indication of the criteria whereby it was determined the final value of the consideration;
- Indication of the sources used to compile the relevant data being processed;
- Indication of the main parameters (or variables) taken as reference for the application of each method.

With regard to elements of the publicly available expert opinion, confirm that this information has been reproduced in keeping with the content of opinions to which it refers, and that, as known to the issuer, there are no omissions that would render the reproduced information inaccurate or misleading.

- 2.5.** An illustration of the transaction economic and financial effects, providing at least the applicable ratios of relevance . If the operation exceeds the significant reporting threshold determined by Consob pursuant to Articles 70 and 71 of the Issuers' Regulations, which will be published to highlight pro-forma financial information provided in the document, as appropriate, by subsection 4 of Article. Or Article 70. 71 and in the terms established by those provisions. Notwithstanding the right to publish a single document pursuant to Article 5, subsection 6.
- 2.6.** If the amount of compensation for members of the board of the company and / or their subsidiaries is bound to change as a result of the operation, detailed particulars of the variations. If no changes are foreseen, insertion, however, of a declaration to that effect.
- 2.7.** In the case of transactions where the related parties involved are the members of the administrative and control bodies, top executives and directors of the issuer, information concerning the securities of the issuer that are held by entities identified above and to the interests of those in transactions overtime, provided for by Title 14.2 and 17.2 of Annex I to Regulation 809/2004/EC.
- 2.8.** Inspection bodies or administrators who have led or participated in the negotiations and / or educated and / or approved the transaction by specifying the respective roles, particularly with regard to independent directors, if any. Referring to the resolutions approving the transaction, specify the names of those who voted for or against the transaction or abstained, giving the reasons **in a detailed manner** for any dissent or abstentions. Indicate that, under Article 5 of the Issuers' Regulations, any opinions of independent directors are attached to

the information document or published on the website of the company<sup>56</sup>.

- 2.9.** If the significance of the transaction results from the cumulation - under article 5, subsection 2 - of more transactions carried out during the year with the same related party, or related persons to both the latter and the company, the information specified in the preceding subsections shall be provided with reference to all the above transactions.

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<sup>56</sup> Subsection thus amended with resolution no. 21624 of 10.12.2020, which, in the second clause, after the words: “or abstained, giving the reasons” added the words: “in a detailed manner”.

## Appendix

### DEFINITIONS OF RELATED PARTIES AND TRANSACTIONS WITH RELATED PARTIES AND FUNCTIONAL DEFINITIONS ACCORDING TO INTERNATIONAL ACCOUNTING PRINCIPLES

#### 1. Definitions of related parties and transactions with related parties according to international accounting principles

For the purposes of Article 3, subsection 1, paragraph *a*) of this Regulation, the following definitions contained in the international accounting principles, shall apply:

##### *Related parties*

A *related party* is a person or entity that is related to the entity that is preparing its financial statements (“reporting entity”).

- (a) A person or close member of that person’s family is related to a reporting entity if that person:
  - (i) has control or joint control over the reporting entity;
  - (ii) has significant influence over the reporting entity;
  - (iii) is a member of the key management personnel of the reporting entity or of a parent of the reporting entity.
  
- (b) An entity is related to a reporting entity if any of the following conditions applies:
  - (i) the entity and the reporting entity are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others);
  - (ii) one entity is an associate or joint venture of the other entity (or an associate or joint venture of a member of a group of which the other entity is a member);
  - (iii) both entities are *joint venture* of the same third party;
  - (iv) one entity is a *joint venture* of a third entity and the other entity is an associate of the third entity;
  - (v) the entity is a post-employment defined benefit plan for the benefit of employees of either the reporting entity or an entity related to the reporting entity;
  - (vi) the entity is controlled or jointly controlled by a person identified in (a);
  - (vii) a person identified in (a)(i) has significant influence over the entity or is a member of the key management personnel of the entity (or of a parent of the entity) [IAS 24, paragraph 9].

In the definition of related party, an associate includes the subsidiaries of the associate and a joint venture includes the subsidiaries of the joint venture. Therefore, for example, a subsidiary of an associate and the investor that has significant influence over the associate are related to each other [IAS 24, paragraph 12].

### *Transactions with related parties*

A *related party transaction* is a transfer of resources, services or obligations between related parties, regardless of whether a price is charged [IAS 24, paragraph 9]<sup>57</sup>.

## **2. Functional definitions to those of "related parties" and "transactions with related parties" according to international accounting principles**

The notions of "control", "joint control", "significant influence", are defined in IFRS 10, IFRS 11 (*Joint arrangements*) and in IAS 28 (*Investments in associates and joint ventures*) and are used with the meanings specified in those IFRS [IAS 24, paragraph 9].

### *Key management personnel*

*Key management personnel* are those persons who have the power and responsibility, directly or indirectly, for planning, directing and controlling activities of the company, including directors (whether executive or otherwise) of the company [IAS 24, paragraph ].

### *Close relatives*

*Close relatives of an individual* are those family members who may be expected to influence or be influenced by, that individual in their dealings with the company, and include:

- (a) the individual's children and spouse or domestic partner;
- (b) children of the individual's spouse or domestic partner;
- (c) dependants of the individual or the individual's domestic partner [IAS 24, paragraph 9].

## **3. Principles of interpretation of the definitions**

**3.1** In considering each possible related party relationship, attention is directed to the substance of the relationship and not merely its legal form [IAS 24, paragraph 10].

**3.2** The interpretation of the definitions above is accomplished by referring to the set of international accounting standards adopted by the procedure laid down in Article 6 of Regulation (EC) No. 1606/2002.

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<sup>57</sup> These transactions include:

- mergers, demergers by incorporation or non-proportional demergers in the strictest sense, if carried out with related parties;
- decisions regarding the assignment of remunerations and financial benefits, in any form whatsoever, to the members of management and control bodies and of key management personnel.

**Communication No. DEM/10078683 of 24-09-2010**

**SUBJECT: Guidance and Guidelines for the Application of the Regulation on Related Party Transactions adopted by Resolution No. 17221 of 12 March 2010 as amended**

This communication provides indications on the guidelines that Consob intends to follow in its supervisory activity on the implementation of the regulation on related party transactions adopted by resolution No. 17221 of 12 March 2010 and subsequently amended by resolution No. 17389 of 23 June 2010 ("Regulation"). The document deals with the main aspects of the new discipline, clarifying the Commission's point of view on the application modalities of the Regulation deemed most appropriate to achieve the objectives of transparency and substantive and procedural fairness identified by the legislator, without prejudice to the need to assess on a case-by-case basis the concrete behaviour of companies both with regard to the definition of the procedures and their actual application.

**1. Definition of 'Related Party Transactions' (Art. 3( a)and Annex 1)**

**1.1.** The notions of "related party" and "related party transaction" reproduce those contained in the international accounting standard IAS 24 ("*Related Party Disclosures*") ("IAS 24"), in the text adopted according to the procedure set forth in Article 6 of Regulation (EC) No. 1606/2002 and in force on the date the Regulation came into force. The wording of Annex 1 does not make a direct reference to the international accounting standard; therefore, the perimeter of related parties and significant transactions is not automatically changed in the event of changes in international accounting standards: in fact, the latter, which are justified from the point of view of accounting regulations, are not necessarily also justified from the point of view of the transparency and fairness regulations covered by the Regulation. In incorporating the definitions contained in IAS 24, Annex 1 makes some marginal adjustments to the national regulatory framework and introduces some clarifications.

Although in the absence of a direct reference to IAS 24, in identifying the subjective scope of correlation and the notion of related party transactions, the definitions contained in the Annex no. 1 will be considered, in the exercise of supervisory activity, having regard - in addition to the entire body of international accounting standards as set forth in the Regulation (see § 3.2. of Annex No. 1) - also to the interpretations dictated by the competent bodies, provided that

applicable to IAS 24 adopted in accordance with the procedure set out in Article 6 of Regulation (EC) No. 1606/2002 and in force at the date of entry into force of the Regulation.

**1.2.** With reference to the notion of 'related party', Annex No. 1 uses general criteria: as is the case for the preparation of periodic accounting documents under international accounting standards, the concrete application of these criteria is left to the companies, which assess in relation to the specific circumstances of the case whether a party can be considered their 'related party'.

The valuation of the company is particularly important to determine whether a person is able to exercise control, even joint control, or significant influence over the company. For this reason, Annex No. 1, for instance, does not establish in general and abstract terms in which cases one or more parties to a shareholders' agreement are to be considered related parties. Assuming that, as in the international accounting standards system, mere participation in an agreement does not in itself imply that the covenantor is a related party of the issuer, it is deemed that such qualification will apply to the individual covenantor if, due to the specific characteristics of the agreement, it is possible to detect control (individual or joint) or significant influence over the issuer within the meaning of the functional definitions contained in the same Annex No. 1. The criteria for assessing relatedness include, inter alia, the size of the shareholdings (individual and total) and the clauses governing the relationship between shareholders. As to the latter aspect, the content of the covenant will be assessed, beyond the *nomen iuris* attributed to it by the parties to the covenant, also taking into account its enforcement practices with regard to the determination of the company's financial and management policies.

Notwithstanding the foregoing, it is not considered that mere participation in an agreement from which one or more persons derive the power to exercise control or significant influence over the company determines the status of related parties of the company for all the covenants, per se. It is therefore with regard to the individual subject that the existence of the power to exercise control (including jointly with one or more of the other covenants) or significant influence will be assessed, in light of the power to determine (or to help determine) the financial and management policies of the company or, respectively, to participate in their determination.

For the purpose of identifying related parties, the definitions in Annex No. 1 do not cover the case where significant influence is exercised by more than one person jointly. Since, however, significant influence is resolved in the 'participation' in the determination of the company's financial and management policies, it is clear that the attribution of such power to one party does not exclude that others may, likewise, participate in the same determination, with or without forms of coordination (e.g. within a shareholders' agreement).

**1.3.** Annex No. 1 provides, inter alia, that a person is a 'related party' to a company if, including through subsidiaries, trusts or intermediaries, it holds a shareholding in that company that allows it to exercise significant influence. Therefore, a related party is the parent company of a company that exercises significant influence

on the listed or widespread issuer. Conversely, persons exercising significant influence over the parent company of the listed or widespread issuer are not deemed to be related parties. Annex no.

1 also stipulates that companies over which the latter exercises a significant influence are related parties of the listed or widespread company. Similarly to what has been stated with reference to companies upstream of listed or widespread issuers in the chain of control, companies over which the subsidiaries of the listed or widespread issuer exercise significant influence are deemed to be related parties; conversely, subsidiaries of companies subject to the significant influence of the listed or widespread issuer are not deemed to be related parties.

**1.4.** It should also be noted, in line with what was stated in the outcome document of the consultations of 27 July 2006 on '*International Accounting Standards: Financial Statements for Companies and Corporate Reporting*', that the category of 'key management personnel' is also deemed to include the effective members of the control bodies (board of statutory auditors and supervisory board).

**1.5.** Furthermore, it is considered that the reference to pension funds in the definition of related party in Annex 1 refers not to all pension funds from which all or some of the employees benefit generically, but only to funds established or promoted by companies as well as funds over which they are able to exercise influence.

**1.6.** As already indicated, the definition of 'related party transactions' relevant to the regulation under review also incorporates, with some clarifications, IAS 24 adopted with the procedure set forth in Article 6 of Regulation (EC) No. 1606/2002 in force at the time the Regulation was issued.

In particular, it is provided that '*a related party transaction is any transfer of resources, services or obligations between related parties, regardless of whether a consideration is agreed upon*'.

It is further specified that '*they are in any case considered to be included*:

- *merger, demerger by incorporation or demerger in the strict non-proportional sense, if carried out with related parties;*
- *any decision concerning the allocation of remuneration and economic benefits, in any form whatsoever, to members of the management and control bodies and to executives with strategic responsibilities*'.

With specific regard to mergers and demergers, the Regulation therefore clarifies that all mergers involving the listed company and a related party are subject to the rules in question and, with regard to demergers, only demergers by incorporation with a related party (i.e. transactions whereby the listed company, for example, demerges part of its assets for the benefit of the parent company or vice versa) or demerger transactions in the strict non-proportional sense (i.e. transactions whereby the assets of the listed company are split, for example, between the listed company and a related party),

in several companies with non-proportional allocation of shares to its<sup>shareholders</sup><sup>1</sup>). On the other hand, demergers in the strict sense of the proportional type are not included, as these are transactions addressed to all shareholders on equal terms. A similar consideration applies to capital increases. Only capital increases with the exclusion of pre-emptive rights in favour of a related party are considered as related party transactions, while pre-emptive rights are excluded as they are addressed, on equal terms, both to any related parties holding financial instruments and to all other holders of such instruments.

**1.7.** Transactions with related parties also include syndicated loans granted by *pools of banks* in which a related party and several other unrelated parties participate, unless the minority role played within the syndicate, as a mere participant, by the related party is evident: for this purpose, regard shall be had to the related party's influence in making decisions on the economic and legal terms of the loan as well as its share of the total loan. Financing transactions in which the related party plays, alone or together with other banks, the role of *arranger* or lead *arranger* are therefore always subject to the Regulation.

## **2. Definition of 'Transactions of Greater Importance' (Art. 3 (b) and Annex No. 3, para. 1.3] and cumulation of transactions [Art. 5(2) and Annex No. 4, para. 2.9]**

**2.1.** The Regulation provides that companies, in adopting the procedures pursuant to Article 4(1)(a), must identify the "transactions of greater importance" - to which the rules of transparency with disclosure document and the stricter procedural rules apply - including at least those transactions exceeding the quantitative significance thresholds indicated in Annex No. 3 of the Regulation.

In particular:

i) transactions of greater importance are those for which at least one of the indices of importance identified in the same Annex No. 3 (equivalent value of the transaction in relation to shareholders' equity<sup>2</sup> or, if greater, capitalisation<sup>3</sup>; total assets of the entity subject to the transaction

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<sup>1</sup> Provided, of course, that there are shareholders who qualify as 'related parties' of the company and, in particular, shareholders capable of exercising control or significant influence.

<sup>2</sup> Where the company required to apply the Regulation prepares consolidated accounts, the assessment as to whether the materiality ratios are exceeded shall be made by reference to the consolidated net assets or alternatively, if greater, to the capitalisation. Also in consideration of the need for homogeneous, albeit alternative, parameters to be applied when assessing the size of the transaction, it is deemed that the value of shareholders' equity should not include non-controlling interests for the purposes of Appendix No. 1: this is also consistent with the separate identification, with respect to the group's equity, of the portion of capital and reserves pertaining to non-controlling interests in consolidated subsidiaries as required by international accounting standards.

<sup>3</sup> For banks, reference is made only to the ratio of the countervalue of the transaction to the regulatory capital taken from the most recently published balance sheet (consolidated, if prepared).

over total assets of the company; total liabilities of the acquired entity over total assets of the company) exceeds 5%;

ii) the materiality threshold is reduced to 2.5% for transactions entered into with the listed parent company, or with parties related to the latter that are themselves related to the company, in view of the structurally higher separation between ownership and control in listed companies controlled by other listed companies and the consequent higher risks of extracting private benefits of control to the benefit of the latter;

iii) this is without prejudice to the right of companies to identify, in the procedures, materiality thresholds lower than those set out in the Regulation, even only for certain categories of transactions, as well as to identify criteria, both quantitative and qualitative, in addition to those indicated in Annex no. 3, which may result in an extension of the list of material transactions. The possibility of identifying, on a case-by-case basis, transactions to which the rules laid down for 'highly significant' transactions may be applied, even if they are below the materiality thresholds, also remains unaffected;

iv) companies must consider whether to provide for materiality thresholds lower than those indicated above, for transactions "*that may affect the management autonomy*" of the companies "*(e.g. transfer of intangible assets such as trademarks and patents)*".

With regard to point ( i ), Annex No. 3 provides that, in the application of the asset materiality ratio, for transactions involving the acquisition and disposal of equity interests in companies that do not affect the scope of consolidation, the value of the numerator is defined, in the case of acquisitions, by the "*countervalue of the transaction plus any liabilities of the acquired company assumed by the acquirer*". In this regard, it should be noted that the value of the numerator will also take into account the liabilities of the acquired company only if it is contractually provided that the acquirer must assume certain obligations in respect of those liabilities, as may occur in the case of an assumption by the transferee of the debts of the acquired company *pursuant to* Article 1273 of the Civil<sup>Code</sup><sup>4</sup>. In the absence of obligations of this nature, therefore, the numerator of the indicator will only be equal to the countervalue of the transaction.

Again with reference to the asset materiality ratio, for transactions involving the acquisition of assets other than a shareholding, the Annex provides that the numerator is the

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<sup>4</sup> With regard to the manner in which the liabilities to be added to the countervalue of the transaction are to be computed, account must be taken of the obligations specifically arising from the sale and purchase agreement. If, for example, the sale and purchase agreements provide that the buyer assumes all liabilities of the acquired company, recognised at a certain date, the countervalue of the transaction will have to be increased by the full amount of the liabilities of the *target* company. A similar logical course must be followed where the agreements between the seller and the buyer are of a different content from the case considered above by way of example. Thus, if such agreements provide for the assumption by the listed issuer of particular obligations to repay certain liabilities of the target company (as may be the case when a loan agreement includes a change of control of the debtor company as an *event of default* and the acquirer does not obtain the elimination of such a clause at the time of the purchase), such liabilities will have to be added to the acquisition consideration.

"the *higher of the consideration and the book value that will be attributed to the asset*". To this end, the issuer is deemed to first determine the book value that will reasonably be attributed to such an asset in its financial statements. For example, where an issuer that has acquired a property intends, under the conditions of international accounting standards, to recognise it in the balance sheet at *fair value*, the numerator of the ratio will have to show the *fair value*, if higher than the countervalue of the transaction. Similar criteria apply in the case of a transaction that qualifies as a *business combination* under IFRS 3, whereby the assets acquired and liabilities assumed must be measured at *fair value* determined at the date of acquisition, and if this amount is greater than the countervalue of the transaction, the former must be indicated in the numerator of the ratio.

With regard to the materiality ratio of liabilities, it should be noted that in the determination of the 'total liabilities', items of the liabilities of the balance sheet of the acquired entity constituting components of equity are to be excluded (i.e. item ( r ) of paragraph 54 of IAS 1, or, in the case of financial statements of financial statements prepared in accordance with Italian GAAP, item A of the liabilities pursuant to Article 2424 of the Italian Civil Code). With regard to the asset materiality index, in order to provide more guidance on the categories of balance sheet items to be included, and taking into account that IAS/IFRS do not prescribe mandatory balance sheet formats, it is considered that it may be a useful reference point for the determination of 'total assets' to consider the total of the items included by Article 2424 of the Civil Code in the assets of the balance sheet. Where the company, taking into account the nature of its business, adopts different balance sheet formats, it will consider the total of the different categories of asset items resulting from its balance sheet.

With regard to point ( *iii*), specific thresholds, lower than those set forth in the Regulation, or qualitative criteria could, for example, be applied to transactions that result in the transfer of control of investee companies which, while not large enough to cause the 5% threshold (or 2.5%, as the case may be) to be exceeded, are nonetheless particularly significant on account of the strategic relevance of the activity they perform.

With reference to point ( *iv*), companies are called upon to consider whether to provide for reduced materiality thresholds for transactions involving activities or assets of strategic importance for their business, especially if they involve intangible assets for which the mere value of the consideration might underestimate their actual materiality. For example, transactions involving the transfer to a related party (e.g. the parent company) of the ownership of a trademark essential to the company's business and the reacquisition of the right to use the same by entering into a licence agreement may fall into this category. Similarly, the sale to a related party of the only industrial plant used for the production of the company managed by the listed company in anticipation of the subsequent purchase of products from the same related party at the

end of their marketing<sup>5</sup>. Transactions of this kind can, in fact, lead to a close dependence of the company on the related party and, incidentally, constitute techniques for defending against transfers of control not appreciated by the related party, especially if they are accompanied by contractual clauses that jeopardise the company's ability to continue producing goods or services (e.g. termination of the contract by the owner of the trademark in the event of a change of control of the licensing company).

It should be noted that, obviously, it is not possible to provide an exhaustive list of the cases that may arise in practice, but a useful identification criterion is that of assessing whether a specific transaction is to be considered in isolation or whether a complex of transactions that appear to be functionally linked (e.g. the repurchase of finished products from the relevant shareholder for subsequent marketing) should not be taken into account for the purposes of management autonomy.

**2.2.** Unless otherwise specified (in particular, Article 5(2) of the Regulation: see par. 2.3), related party transactions are assessed, for the purpose of calculating their materiality, on an individual basis. In the case of the allocation of remuneration and economic benefits, in any form, to members of the management and control bodies and to executives with strategic responsibilities, it is therefore deemed that the allocation of remuneration to each member and each executive constitutes an independent transaction with a related party, to be considered individually for the purposes of selecting the applicable procedural rules. With regard to transparency rules, the rules on cumulation - to be carried out with regard to the individual key manager - relating to homogeneous transactions or transactions linked by a unitary design will naturally apply.

**2.3.** The Regulation provides that information must be disclosed to the public, by means of a specific document, on transactions other than those "of greater importance" which are homogeneous or carried out in execution of a unitary design concluded with the same related party, or with parties related both to the latter and to the listed company<sup>6</sup>, if they cumulatively exceed the thresholds of significance during the financial year, without prejudice to the exemptions established by the Regulation or by the companies pursuant to Articles 13 and 14 of the same Regulation (see

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<sup>5</sup> Although the purchase of the finished products from the controlling shareholder apparently falls within the ordinary course of business, it is in fact a direct consequence of the decision to dispose of the only production plant available to the listed issuer. Undoubtedly, the latter can be considered a transaction extraneous to the activity typically carried out by the issuer; moreover, the repurchase of the finished products from the controlling shareholder determines a substantial change in the activity carried out by the listed company, since it loses its production activity and becomes a marketing company only. These are also non-recurring transactions (as they have not been recorded on a historical basis), significant in terms of size (and this seems to be the case by definition, given that this is the only production plant), and with risks of conflicts of interest related to the nature of the counterparty.

<sup>6</sup> Thus, for example, transactions between the issuer required to apply the Regulation and companies subject to common control with the latter will be cumulated if they are homogeneous or linked by a unitary design, provided that such transactions are not subject to exemption, e.g. because they are not ordinary (Art. 13(3)(c) of the Regulation) or small (Art. 13(2)).

article 5(2) of the Rules of Procedure; see also par. 2.5). It is therefore considered that, in verifying whether the size thresholds are exceeded in application of Annex No. 1, companies should consider only those transactions made since the beginning of the financial year that do not fall within the excluded transactions because, for example, they are of small amounts or are ordinary transactions or transactions carried out with subsidiaries or affiliated companies. A similar effect at the end of the financial year is also the publication of the disclosure document following the exceeding of the size thresholds as a result of cumulation: transactions that are disclosed in that document will no longer have to be taken into account, even if the financial year has not yet elapsed, when assessing whether the size thresholds are again exceeded on a cumulative basis.

**2.4.** Article 13(3)(c) provides for the possibility of excluding from the application of the Regulation (without prejudice to periodic accounting reporting requirements) ordinary transactions (on which see para. 3). In the event that companies decide to avail themselves of the exclusion, the same rule provides, in addition to certain disclosure requirements to be provided in the context of the interim management report and in the annual management report, for an obligation to notify Consob of the counterparty, the object and the consideration of the transactions of greater importance that have benefited from the exclusion (point (i) of Article 13(3)(c)). The transactions to be communicated to Consob pursuant to the latter provision therefore do not include ordinary transactions of lesser importance which, benefiting from the exemption, do not contribute to cumulation pursuant to Article 5(2) of the Regulation.

**2.5.** In the event that the materiality thresholds are exceeded as a result of the accumulation of several transactions, Annex No. 4 requires the company to provide the information required by the disclosure schedule 'with reference to all such transactions'. As made clear by Article 5(4) of the Regulation, this information may *also* be included '*on an aggregate basis, by homogeneous transactions*'.

### **3. Definition of 'Ordinary Transactions' (Art. 3(d))**

**3.1.** The Regulation provides for the possibility for companies to apply a regime of disclosure and procedural exemptions for related party transactions that qualify as 'ordinary', provided they are concluded on market or standard terms.

The *rationale* of the provision lies in the desire to calibrate compliance burdens in light of the costs they cause in the transactions of companies, with reference to transactions that present less risk of harming shareholders' interests. The exemption therefore covers transactions that fall within the '*ordinary course of business*' or the '*financial activity*' connected therewith.

The elements that are relevant for the definition of *ordinary transactions* are in some cases already known to the companies as they are partly inspired by international accounting standards, and thus

tended<sup>7</sup> to be taken into account in the preparation of accounting documentation, with particular regard to the classification of the origin of cash flows required for the preparation of the cash flow statement (IAS 7)<sup>8</sup>.

In the Regulation, an "ordinary" transaction occurs when two selective criteria are simultaneously fulfilled. First, the transaction must be attributable to the operating activity or, alternatively, to the related financial activity (see Sections 3.2 and 3.3). Secondly, again in order to benefit from the exemption, the same transaction must also fall within the 'ordinary' course of business of the operating activity or the related financial activity (see Section 3.4).

**3.2.** The main element of the definition of an *ordinary transaction* is the concept of *operational activity*, by which is meant the whole: (i) the company's principal revenue-generating activities and (ii) all other management activities that are not classifiable as 'investment' or 'financial'.

The notion of operating activities thus encompasses both, on the positive side, those transactions that fall within the activities that contribute to generating the main components of turnover - or, for non-industrial entities, current operations - and, on the negative side, all other transactions that, although unrelated to the main activity of the company's object, are not attributable to the other two management areas (investment and financing).

Investment activity includes, for these purposes:

(i) transactions that result in the acquisition and disposal of fixed assets - such as, for example, purchases and disposals of property, plant and equipment or intangible assets - with the exception of non-current assets<sup>9</sup> that are held for sale;

(ii) financial investments that do not fall under the so-called "cash equivalents"<sup>10</sup>.

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<sup>7</sup> For the purposes of this Communication, transactions that are not recognised in the cash flow statement because they do not require the use of cash or cash equivalents (so-called non-cash transactions) are also considered.

<sup>8</sup> The elements defining *ordinary transactions* in this Communication are therefore interpreted by Consob in accordance with international accounting standards. Conversely, the notion of an *ordinary transaction* in the Regulation and the guidelines on its application naturally have no impact on the interpretation of the definitions contained in the International Accounting Standards.

<sup>9</sup> The term 'non-current' refers to tangible, intangible and financial assets of a long-term nature. An activity is understood to be 'current' when: (i) it is expected to be realised, or held for sale or consumption, in the entity's normal course of business or (ii) it is held primarily for the purpose of being traded or (iii) it is expected to be realised within twelve months after the balance sheet date or (iv) it is restricted from being exchanged or used to settle a liability for at least twelve months after the balance sheet date. When the normal operating cycle of an entity is not clearly identifiable, its duration is assumed to be twelve months.

<sup>10</sup> Cash equivalents are considered, in addition to cash and demand deposits (i.e. "cash and cash equivalents") means short-term, highly liquid financial investments that are readily convertible to known amounts of cash and are subject to an insignificant risk of change in value.

Transactions that result in the purchase or sale of non-current assets held for sale and cash equivalents may therefore be exempt provided they are in the *ordinary course* of business as more fully specified in Section 3.4 below.

Financial activities include activities that result in changes:

- (i) the size and composition of the paid-up equity capital;
- (ii) of the financing obtained by the company.

It is considered that the classification of a transaction within one of the three broad areas of activity (operating, investment, financial) must be made in the most appropriate manner according to the activity carried out by the company: consider, for example, the nature of the activity carried out by banks or financial companies indicated in Articles 106, 107 and 113 of Legislative Decree No. 58 of 27 June 1998. 1 September 1993, No 385 ('Testo Unico Bancario' or 'TUB'), for which the granting of loans, in whatever form, is usually classifiable as an operating activity rather than an investment activity, since it falls within the company's main revenue-generating activities.

**3.3.** The second element of the definition of an 'ordinary transaction' is the *financial* activity (also called 'financing activity') related to operating activities. This element makes it possible to extend the benefit of the exemption even to transactions that in abstract terms qualify as financial, insofar as they are ancillary to the conduct of business. On the other hand, financing obtained for the performance of non-operating transactions (as they relate to investment activities) cannot be considered *ordinary transactions* .

In some cases, the ancillary link is easily identifiable insofar as it is reflected in the cause of the financing contract (e.g. purpose loans or non-monetary transactions<sup>11</sup> ) or in any case unequivocally reconstructible in light of the characteristics of the transaction (e.g. short-term liabilities functional to the purchase of raw materials): among the other criteria considered in the supervisory activity, particular attention will be paid to the duration of the loan, also in relation to the useful life of the assets purchased with it. As a general rule and barring specific exceptional circumstances, it is considered that the character of ancillary to the operational activity exists with reference to the so-called "bank 'bridging loans' obtained in order to temporarily ensure financial continuity or cover financial needs.

Where the financing transaction is not characterised by objective elements that permit an unequivocal reconstruction of the character of the ancillary to the operating activity, the presence of circumstances such as to justify the reasonable belief that the financing obtained will be used for that purpose is deemed sufficient. To this end, the reasonableness of

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<sup>11</sup> These are financing transactions from which no cash or cash equivalents flow (e.g. the acquisition of an asset by incurring a debt).

such an assessment according to the circumstances existing at the time of the conclusion of the transaction, irrespective of any subsequent different allocation where justified in the light of changing factual circumstances.

With regard to capital increases with the exclusion of pre-emptive rights - the only ones that are relevant since pre-emptive increases are not considered 'related party transactions' as defined in para. 1 - they are generally deemed not to be part of the ordinary course of business in connection with financial activities (see Section 3.4);

**3.4.** Finally, the definition of *ordinary transactions* requires that, in order to qualify for the exemption, a transaction must fall within the *ordinary course of business* or a related financial activity. A further selective criterion must therefore be applied to the above classifications.

In particular, the following elements will be taken into account in assessing whether a transaction falls within the ordinary course of business or the related financial activity:

*i) object of the transaction.* The fact that the object of the transaction is not related to the company's typical activity constitutes an indication of abnormality that may indicate its non-ordinary nature;

*ii) recurrence of the type of transaction in the company's business.* The regular repetition of a transaction by the company is, in fact, a significant indicator of its belonging to ordinary activity, in the absence of other indicators to the contrary<sup>12</sup>;

*iii) size of the operation.* A transaction that is part of the operational activity of a company may not be part of the ordinary course of business because it is of a particularly significant size. However, it should be recalled that the exemption in question also applies to transactions of greater importance (i.e. transactions exceeding the thresholds of significance calculated according to Annex No. 1): what matters is that the transaction is not significantly larger than those usually characterising similar transactions carried out by the company;

*iv) contractual terms and conditions, also with regard to the characteristics of the consideration.* In particular, transactions for which a non-monetary consideration is envisaged, even if they are the subject of expert appraisals, are normally considered to be outside the ordinary course of business

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<sup>12</sup> Indeed, consider the role that the element of repetition is assigned, in identifying the entity's ordinary activities, by the *Framework for the Preparation and Presentation of Financial Statements* (paragraph 72), which states that '*it is common practice to distinguish between those items of income and expense that arise in the course of the entity's ordinary activities and those that do not. This distinction is made on the basis of whether the source of an item is relevant in assessing the entity's ability to generate cash or cash equivalents in the future; for example, exceptional transactions, such as the disposal of a long-term investment, are not likely to be repeated on a regular basis. When distinguishing between elements in this way, the nature of the entity and its activity must be taken into account. Elements that originate from the ordinary activity of one entity may be unusual for another*'.

by third parties. Similarly, contractual clauses that deviate from usage and bargaining practice may be a significant indication of non-ordinary nature;

v) *nature of the counterparty*. In the context of transactions that are already subjectively qualified because they are carried out with related parties, it is possible to identify a subset of transactions that do not fall within the ordinary course of business (or of the related financial activity) because they are carried out with a counterparty that presents anomalous characteristics with respect to the type of transaction carried out: consider, merely by way of example, the case of a company that sells a capital asset, classified as a non-current asset held for sale, to a company controlled by a director that does not carry on business in the sector in which that asset is used or that is manifestly lacking in an organisation capable of employing that asset.

The materiality of the above elements will be assessed by paying particular attention also to the time of approval and completion of the transaction. In particular, in assessing the indicators of ordinary business transactions and related financial activities, it must be considered that an element of abnormality may assume greater weight in such an assessment if the transaction is resolved upon close to the end of the financial year of the listed company or related party.

**3.5.** In assessing whether a transaction qualifies as an 'ordinary transaction', regard shall be had to the activity performed by the company effecting the transaction: this is so even if the company effecting the transaction prepares consolidated financial statements or is included in the scope of consolidation of the financial statements prepared by the company required to apply the procedures. Therefore, in the event that the transaction is carried out by a subsidiary of the listed company, the activity carried out (or one of the activities ordinarily carried out) by the subsidiary will be taken over. However, if the company carrying out the related party transaction is a special purpose vehicle set up for the purpose of carrying out such a transaction, it is considered that the ordinary course of business test must also be performed with respect to at least one of the activities carried out by the group to which it belongs, consisting of the companies included in the consolidated financial statements prepared by the parent listed company or the parent company further up the chain of control. In the case of transactions carried out by vehicle companies, in fact, the simultaneous satisfaction of the two conditions (ordinariness for the company carrying out the transaction; ordinariness in the light of one of the group's business activities) better corresponds to the *rationale*, recalled above, underlying the exemption relating to ordinary transactions. This means that it is not possible to avail oneself of the exemption through special-purpose vehicles established for the sole purpose of carrying out a transaction that is unrelated to the characteristic activities carried out up to that time by the companies included in the scope of consolidation.

**3.6.** For the purpose of the application of the exemption for ordinary transactions concluded on market or standard terms, the procedures adopted by the companies pursuant to Article 4 of the Regulation may better identify, also in light of the activity carried out by the company, the general characteristics of the transactions that may be subject to the exemption.

#### **4. Smaller companies, newly listed companies and companies with shares widely distributed among the public (Art. 3(1)(f) and (g) and Art. 10)**

**4.1.** The definition of 'smaller companies', dictated for the purpose of identifying those entities that may benefit from certain procedural simplifications (Article 10), provides for asymmetrical rules regarding the acquisition and loss of qualification. A favourable provision for companies, in fact, stipulates that it is sufficient to meet the size requirements for even one financial year in order to qualify as a 'smaller company', while the same requirements must be exceeded for two consecutive financial years for the qualification to lapse.

The status of smaller companies may also be acquired seamlessly by companies that, having lost their 'newly listed company' status, meet the requirements. In the case of the demerger of a company with listed shares with simultaneous admission to trading of the shares issued by a newly incorporated spun-off company, it is possible that the same spun-off company, while not being able to avail itself of the exemption for newly listed companies, immediately presents the characteristics of a 'smaller company'. It is considered that, even prior to the accrual of the first financial year following the demerger, the newly created spun-off company may be considered 'smaller' within the meaning of the Regulation if the relevant size requirements are met having regard to the assets of the balance sheet, the items assigned to the spun-off company according to the demerger plan and, as regards revenues, the pro forma data contained in the listing prospectus. As for the demerged company, the assessment as to whether the size limits have been complied with relates to the first financial statements prepared after the demerger.

**4.2.** Article 10 of the Regulation provides for a simplified procedural regime for transactions of greater importance carried out by smaller companies, newly listed companies or companies with shares widely distributed among the public. Indeed, procedures adopted under the provisions referring to transactions of lesser importance may also apply to such transactions. However, it is understood<sup>13</sup> that the provisions concerning the calculation of majorities set forth in Article 11, paragraph 3, of the Regulation (the so-called *whitewash*) shall apply to transactions of major importance falling within the competence of the shareholders' meeting on which the committee of independent directors has expressed a contrary opinion: this also applies in the event that the opinion is of a non-binding nature since the company has decided to avail itself of the option to adopt the procedures set forth in Article 7 of the same Regulation.

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<sup>13</sup> Among the exempted rules, Article 11 of the Regulation on transactions within the purview of the shareholders' meeting is not mentioned; moreover, Article 11(3) generally refers to cases in which the proposal for a shareholders' meeting resolution on a transaction of greater importance is approved in the presence of an adverse opinion of the directors or independent directors, without referring only to the opinions expressed pursuant to Article 11(2).

## **5. Definition of Independent Directors (Art. 3(1)(h))**

The Regulation generally requires that a director, in order to be defined as 'independent' within the meaning of the regulation, must meet at least the requirements set forth in Article 148 of Legislative Decree No. 58 of the Italian Civil Code. 24 February 1998, No 58 ('Testo Unico'). However, for companies that declare in the 'Report on Corporate Governance and Ownership Structures' that they adhere to a corporate governance code of conduct promoted by regulated market management companies or trade associations (Article 123-bis of the Consolidated Law), the Regulation requires that directors deemed to be 'independent directors' are those directors deemed to be so by companies pursuant to the same code, provided that the criteria for assessing independence set forth in such code are at least equivalent to those set forth in Article 148 of the Consolidated Law.

The criteria currently laid down in the Corporate Governance Code adopted by the Corporate Governance Committee are deemed to be *'at least equivalent to those of Article 148(3) of the Consolidated Law'*. Therefore, "independent directors" for the purposes of the Regulation are those directors recognised as such by companies in application of the principles and application criteria of the Corporate Governance Code.

This assessment is based on a comparison of the overall level of independence required by the Consolidated Law, on the one hand, with that offered by the application of the criteria of the Corporate Governance Code, on the other.

The greater restrictiveness of the requirements of Article 148 of the Consolidated Law on certain individual aspects (e.g. more detailed indication of the degree of relevant relatives) is, in fact, more than compensated for by the broader indication of significant cases of non-independence and by the existence of a general principle of substance over form that guides the application of the Code's criteria and entails a strong accountability of the companies themselves.

Consob will consider possible amendments to the Self-Regulatory Code in order to assess whether to confirm, also for the new text, the opinion of equivalence expressed herein with regard to the current version of the Code.

## **6. Adoption of procedures [Art. 4]**

**6.1.** Article 4 of the Regulation requires boards of directors or management boards to adopt procedures containing rules ensuring the transparency and substantive and procedural fairness of related party transactions.

The same rule provides for certain safeguards of fairness and, in particular, the expression of a favourable opinion by a committee of independent directors only, applicable

with regard to both the adoption of procedures and their possible modification. In this regard, it is considered that companies are free to select such a committee from among those already existing that meet the composition requirement or to set up a new one specifically. It is recommended that companies assess at least every three years whether to revise the procedures, taking into account, *inter alia*, any changes in ownership structures as well as the effectiveness of the procedures in practice. It also seems appropriate, although not required by the Regulation, to obtain an opinion from the committee of independent directors also with regard to the possible decision not to proceed, at the outcome of the evaluation of the existing procedures, with any changes.

**6.2.** The Regulation stipulates that, if at least three independent directors are not in office, companies must use an alternative to the committee of independent directors when deciding on procedures. In particular, in such a case, it is provided that resolutions are approved '*subject to the favourable opinion of any independent directors present or, in their absence, subject to the non-binding opinion of an independent expert*'. Therefore, if only one or two independent directors are in office in the companies required to adopt the procedures, their favourable opinion may be used, without the need to change the composition of the board of directors, management board or supervisory board. On the other hand, possible measures do not include the expression of an opinion by the Board of Statutory Auditors: this body, in fact, is already entrusted not only with the task of monitoring compliance with the procedures adopted, but also with the task of verifying the conformity of those procedures with the principles set out in the Regulation (see Article 2391-bis of the Civil Code, Article 149 of the Consolidated Law and Article 4(6) of the Regulation). In this regard, it is believed that the Board of Statutory Auditors' assessment concerns both the conformity of the procedures adopted with the Regulation and compliance with those procedures when approving individual transactions: in the former case - as, of course, in the latter - these are *ex post* evaluations, but it is believed that nothing prevents the Board of Statutory Auditors from obtaining an opinion on the legitimacy of the procedures before they are approved<sup>14</sup>. In that case, the opinion would complement, but not replace, the opinion expressed by the independent directors or independent experts when the procedures were adopted.

## **7. Transactions by subsidiaries (Art. 4(1)(d) and Art. 5(1))**

Transactions entered into by subsidiaries may present risks similar to those inherent in transactions entered into directly by parent companies that are directly subject to

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<sup>14</sup> Moreover, companies may also involve other persons in the drafting of the procedures, also through the expression of specific opinions, such as the manager in charge of drafting corporate accounting documents (in order to ensure coordination with the administrative and accounting procedures laid down in Article 154-bis of the Consolidated Law: see Article 4(4) of the Regulation).

to the fairness and transparency rules laid down in the Regulation as issuers of shares traded on regulated markets or widely distributed among the public.

For this reason, transactions carried out by subsidiaries<sup>15</sup> are always included, under the circumstances envisaged (in particular: individual or cumulative size), among those subject to the disclosure requirements laid down in Article 5 of the Regulation pursuant to Article 114(5) of the Consolidated Law.

In contrast, on the subject of substantive and procedural fairness, Article 4(1)(d) of the Regulation requires companies to define specific rules with exclusive regard to cases in which the parent company '*examines or approves*' transactions carried out by Italian or foreign subsidiaries. The provision, which is intended to establish the general principles governing transactions effected '*through subsidiaries*' (Article 2391-bis of the Civil Code<sup>16</sup>), thus requires that there be a qualified activity (in the form of examination or approval of the transaction) on the part of the parent company in order for the latter to be required to implement rules of propriety.

The Regulation does not, therefore, require parent companies to exercise influence (with or without management and coordination activities) beyond that which they already exercise in their relations with their subsidiaries. In fact, it merely affects the decision-making processes, relating to the transactions carried out by the subsidiaries, adopted by the companies independently of the implementation of the Regulation, either by autonomous choice or by imposition of the law (the latter being the case, for instance, of the transactions on which the parent company is called upon to express its consent pursuant to Article 136(2) of the Consolidated Law on Finance).

For these purposes, it is considered that:

- the examination or approval of transactions need not be conducted pursuant to internal regulations, nor need they necessarily take place by express resolution, but it is sufficient that a corporate officer of the parent company examines in advance or approves the transactions by virtue of the powers delegated to him;
- examination" may be understood as meaning not merely the mere receipt of information on the transaction carried out by the subsidiary (e.g. for control purposes or for the purpose of drawing up the corporate accounting documents) but an assessment of the transaction that may lead to an intervention (e.g. in the form of an opinion, even non-binding) capable of affecting the subsidiary's approval process of the transaction.

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<sup>15</sup> For these purposes, reference is made to the notion of control under Article 2359 of the Civil Code rather than to the definition relevant to the identification of related parties.

<sup>16</sup> For the identification of the subsidiaries indicated in Article 2391-bis of the Italian Civil Code, reference is made to the notion of control set forth in Article 2359 of the Italian Civil Code and not to the definition relevant to the identification of related parties, contained in Appendix 1 to the Regulation and borrowed from the international accounting standards in force on the date the Regulation came into force: this clarification may be relevant since it is believed that the statutory definition refers only to individual control; on the contrary, the definition contained in the aforementioned Appendix 1 contains an express reference to joint control.

If, on the basis of the foregoing, companies are required to identify rules relating to transactions effected through subsidiaries, the Regulation leaves it entirely to the responsibility of the companies to identify rules capable of ensuring the substantive and procedural correctness of the transactions. The parent companies will not, therefore, be required to apply the procedural provisions of the Regulation in full to the transactions of the subsidiaries they examine or approve. The latter, in fact, may be declined by each parent company according to the degree of influence it exercises in accordance with its autonomous determinations on relations with its subsidiaries, or according to the greater or lesser importance of the transaction.

In the event that the transaction is carried out by a listed company through another listed company, in the sense indicated above, both companies will be required to apply the procedures in accordance with their respective roles: the parent company will apply, when examining or approving the transaction, the rules independently identified pursuant to Article 4(1)(d) of the Regulation, while the subsidiary company will apply the procedures required by the Regulation for transactions of greater or lesser importance. This, of course, provided that the related party is also a related party of the subsidiary.

As part of the supervisory activity carried out by the supervisory bodies of the companies required to apply the procedures, particular attention will be paid to the performance by subsidiaries of transactions with related parties of the parent company that may indicate - by reason of their number, type, size or frequency - a circumvention of the fairness safeguards set out in the Regulation.

## **8. Identification of relevant persons for the application of the discipline [Art. 4(2)]**

The rules of the Regulation apply to transactions with "related parties" as defined in Appendix 1 of the Regulation.

Pursuant to Article 4(2) of the Regulation, when adopting the procedures, companies must assess whether to identify - and consequently indicate in the procedures themselves - additional categories of persons, with respect to related parties as defined in the aforementioned Annex No. 1, to which the procedural and transparency rules in question<sup>17</sup> are to be applied, in whole or in part<sup>17</sup>.

For the purposes of this assessment, companies must take into account:

- particular ownership structures. For example, a company with a particularly fragmented ownership structure might decide to apply the discipline, in whole or in part, to holders of shareholdings lower than those relevant for the presumption of exercising significant influence (20 per cent provided for in Appendix 1 of the Regulation and borrowed from the current IAS 28; 10 per cent

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<sup>17</sup> For instance, companies might decide to apply only the transparency rules with disclosure document provided for in Art. 5 to transactions with the aforementioned additional parties.

indicated with reference to shareholdings in companies with listed shares in Article 2359 of the Civil Code), regardless of whether a significant or dominant influence (individual or joint) is exercised over the investee company;

- any contractual constraints relevant for the purposes of Article 2359(1)(3) of the Civil Code, as well as any contractual or statutory constraints through which management and coordination within the meaning of Article 2497-septies of the Civil Code may be achieved. In particular, reference is made to contracts that, pursuant to Article 2359 of the Civil Code, may result in a dominant influence on the company; reference is also made to cases in which a company is subject to management and coordination activities by virtue of a contract or clauses in its articles of association;

- industry regulations that may be applicable to related parties. If, for the purposes of a similar or contiguous sector discipline (e.g. in banking), a company is required to identify a "perimeter of correlation" that is broader than that resulting from the definitions contained in Annex No. 1, it may find it useful, for the purpose of simplifying procedures, to identify a single perimeter for both disciplines.

When considering whether to broaden the range of persons to whom the procedural and transparency rules set forth in the Regulation should apply, in whole or in part, companies may also have regard to the applicable accounting rules. In particular, the scope of the entities included in Annex No. 1 may be extended by referring to one or more of the additional cases of correlation envisaged by the notion of "related party" contained in the IAS 24 accounting standard adopted by Regulation (EU) No. 632/2010 of 19 July 2010. Since this is merely an extension of the scope of the Regulation, it remains that the correlation cases common to the new IAS 24 and Annex No. 1 would remain governed by the latter source.

## **9. Publication of the disclosure document for transactions of greater importance, the opinions of the committee of independent directors and any opinions of independent experts [Art. 5(1)]**

As expressly stated in Article 5(1) of the Regulation, the publication of the disclosure document for transactions of major importance as well as the publication of the opinions of the committee of independent directors and the opinions of independent experts, if any, is required by Consob pursuant to Article 114(5) of the Consolidated Law. This also makes the rules on claims for serious harm provided for in paragraph 6 of Article 114 of the Consolidated Text<sup>18</sup> applicable.

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<sup>18</sup> In particular, paragraph 6 of Article 114 of the Consolidated Text provides: "*If the persons referred to in paragraph 1 and the listed issuers having Italy as their home Member State object, by means of a reasoned complaint, that the public disclosure of information required pursuant to paragraph 5 may result in serious harm to them, the disclosure obligations shall be suspended. Consob may, within seven days, exclude even partially or*

The Regulation requires the publication of the disclosure document and the opinions now mentioned with regard to significant transactions only. This does not, of course, preclude the dissemination of a document containing the information required for such transactions (or even only part thereof) on the occasion of the approval of transactions of lesser importance, in accordance with the procedures laid down for regulated information: in other words, issuers may freely assess whether a transaction, even irrespective of the existence of the obligation to publish an information document pursuant to the Regulation, merits greater *disclosure* for the benefit of the market. This option may be of assistance to issuers in "borderline" hypotheses, in which, although a transaction qualifies as "of lesser importance" pursuant to Annex No. 3, it falls just below the threshold of greater importance .

## **10. Periodic financial reporting [Art. 5(8)]**

Without prejudice to the disclosure requirements under IAS 24, Article 5(8) of the Regulation contains rules on periodic disclosure of related party transactions (additional periodic disclosure requirements are provided for in other provisions: see, e.g., Article 7(1)(g) of the Regulation).

In particular, it is requested that information be provided in the interim management report and the annual management report:

- a) on individual transactions of greater importance concluded during the reporting period (Art. 5 (8) (a));
- b) other individual transactions with related parties 'which have materially affected' the financial position or results of the company (Art. 5(8)( b));
- c) on changes or developments in related party transactions described in the last annual report that had a 'material effect' on the company's financial position or results in the reporting period (Art. 5(8)( c)).

The provisions of points b) and c) implement, in accordance with Article 154-ter, paragraph 6, of the Consolidated Law, the provisions of the European directives on related party transactions to be included in the interim management report (Article 5, par. 4, Directive 2004/109/EC and Art. 4 Directive 2007/14/EC). For this reason, the subject matter of the information, including the relevant scope of the correlation, is defined by reference to the notion established by international accounting standards, as required by European directives for companies preparing accounting documents according to these standards (see also Recital 5 of Directive 2007/14/EC). Subparagraph (a), on the other hand, refers to 'transactions of greater importance ' as defined under

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*temporary disclosure of information, provided that this cannot mislead the public as to essential facts and circumstances. After that period, the complaint shall be deemed to have been upheld.'*

pursuant to Article 3(1)( b) of the Regulation with regard to both the subjective scope and the materiality criteria of the transaction.

With regard to the information to be included in the periodic documentation on individual transactions, the following constitute relevant information:

*a) in the annual management report:*

- 1) where applicable, a description of the policies within which related party transactions may be framed, also with reference to the strategy pursued with such transactions;
- 2) an indication for each transaction, also in tabular form, of the following information:
  - the name of the counterparty to the transaction;
  - the nature of the relationship with the related party;
  - the object of the transaction;
  - the consideration for the transaction;
  - any other information that may be necessary to understand the effects of the related party transaction on the company's financial statements;

*b) in the interim management report:*

- 1) any change in related party transactions described in the last annual report that had a 'material effect' on the company's financial position or results during the reporting period;
- 2) an indication for each transaction, also in tabular form, of the information indicated in point ( a)(2).

As indicated in Article 5(9) of the Regulation, the information may also be included in the periodic financial documentation by reference to any disclosure documents published on the occasion of the approval of a major transaction.

## **11. Related party transactions and public disclosures pursuant to Article 114(1) of the Consolidated Law [Art. 6]**

Article 6 of the Regulation, in the event that related party transactions are subject to the disclosure requirements of Article 114(1) of the Consolidated Law, requires that in the

press release to be disclosed to the public is to include certain specific information, '*in addition to the other information to be published*' pursuant to the aforementioned provision.

In this regard, it should be recalled that Article 66(2)( *a*) of Consob Regulation No. 11971 of 14 May 1999 ('Issuers' Regulation') provides that the press release with which inside information is published must contain '*such elements as will allow a complete and correct assessment of the events and circumstances represented*': therefore, any information capable of having a significant effect, even in combination with other information, on the prices of the relevant financial instruments must be disclosed. This is also without prejudice to any disclosure requirements established by *price-sensitive* disclosure schemes defined by the management companies of the market on which the shares issued by the company are admitted to trading.

With regard to cases in which the issuer does not publish the disclosure document prepared in accordance with Annex no. 4 of the Regulation, either because the transaction does not exceed the materiality thresholds identified pursuant to Article 4(1) of the Regulation or because the cases and options for exclusion set forth in the Regulation apply, the following is a non-exhaustive list of information elements that may be relevant for the purposes of compliance with the aforementioned Article 66(2)( *a*) and which, without prejudice to the provisions of Article 6 of the Regulation, normally constitute a reference parameter for the purposes of Consob's requests for the publication of additional information on the statements relating to such transactions. These elements are:

- i*) the essential characteristics of the transaction (price, terms of execution, timing of payment, etc.);
- ii*) the economic rationale of the operation;
- iii*) a summary description of the economic, equity and financial effects of the transaction;
- iv*) the manner in which the consideration for the transaction was determined, as well as the assessments of its fairness with respect to the market values of similar transactions; in the event that the economic conditions of the transaction are defined as equivalent to market or standard conditions, in addition to the statement to that effect, an indication of the objective elements of verification;
- v*) the possible use of experts for the valuation of the transaction and, in such case, the indication of the valuation methods adopted in relation to the fairness of the consideration as well as the description of any criticalities pointed out by the experts in relation to the specific transaction.

## **12. Procedures for transactions of lesser importance [Art. 7(1) and Annex No. 2, par. 1.1]**

**12.1.** The provisions of the Regulation on Procedures for the Approval of Related Party Transactions represent the minimum level of protections on substantive and procedural fairness dictated pursuant to Article 2391-bis of the Civil Code. This is without prejudice to the right of companies to adopt more stringent measures, as made clear by the term "at least" (for transactions of lesser importance, see Article 7(1) of the Regulation and par. 1.1. of Annex No. 2; similar provisions concern transactions of major importance and strategic transactions, see Article 8(1) of the Regulation and para. 2.1. and 3.1 of Annex

n. 2). With regard to transactions of lesser importance in particular, Article 7(1) of the Regulation expressly reserves the possibility of adapting the procedures to the provisions on transactions of greater importance (set out in Article 8). It follows that the procedures may adopt, on a voluntary basis, the latter safeguards or even only some of them<sup>19</sup>, without prejudice to the right to identify other measures, in addition to those applicable under Article 7, not provided for in the Regulation. Similar considerations apply, even in the absence of an express reference to the provisions on major transactions, to companies adopting the two-tier system of administration and control (Annex No. 2, par. 1.1.).

**12.2.** For transactions of lesser importance, the use of a non-binding prior opinion issued by a committee composed of non-executive and unrelated directors<sup>20</sup>, the majority of whom are independent, is provided for (Article 7(1)(a)). The provision allows both the use of already existing committees, such as, for instance, the internal control committee required by the Corporate Governance Code for Listed Companies<sup>21</sup>, and the use of committees set up on the occasion of the approval of the individual related party transaction.

However, it remains desirable that companies, possibly on the occasion of the first renewal of corporate bodies following the entry into force of the rules in question, even for transactions of lesser importance, set up a committee composed exclusively of

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<sup>19</sup> Even for some only minor transactions.

<sup>20</sup> Pursuant to Article 3(i) of the Regulation, 'unrelated directors' means directors other than the counterparty to a given transaction and its related parties.

<sup>21</sup> It should be noted that the Corporate Governance Code requires an internal control committee composed exclusively of independent directors for listed companies controlled by another listed company. It should also be noted that the new Article 37 of the Market Regulation provides for the admission to listing of subsidiaries subject to management and coordination activities when fully operational (see, for guidance on transitional rules, paragraph 23 below):

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

b) that, where established, other committees recommended by corporate governance codes of conduct promoted by regulated market management companies or trade associations also be composed exclusively of independent directors.

independent directors, as required by international best practice. This would also make it possible to concentrate the supervision of related party transactions in a single committee<sup>22</sup>.

In any event, it is recommended that companies avoid including in the committee responsible for the opinion on the transaction non-executive directors who, although not related to the counterparty of the transaction, have relationships with it that might impair its independence: for example, if the transaction were to be concluded with the controlling shareholder and a non-executive director had a professional or family relationship with the latter, it would be preferable not to assign that director any role in expressing the required opinion.

Particular guarantees of fairness could be ensured by giving the independent directors on the board a significant role in choosing the members of this committee.

### **13. Opinions prior to the approval of transactions (Art. 7(1)( a) and ( d); Art. 8(1)( c) and ( d); Annex No. 2, paras. 1.1.a, 1.3, 2.1.c, 2.2, 3.1.d]**

The Regulation attaches certain legal effects to unfavourable opinions issued by those required to express them. These effects may, for example, consist - depending on the importance of the transaction, the system of administration and control adopted or the choices made when drafting the procedures - in the impossibility of resolving on the transaction, the obligation to resort to the resolution of a different corporate body or, more simply, in disclosure obligations.

It is considered useful to provide some clarifications with regard to certain particular hypotheses for the formulation of the opinion. In order for the opinion to be considered 'favourable', it is necessary that it manifests full agreement with the transaction, so that the expression of a negative opinion on even a single aspect of it is capable, in the absence of any indication to the contrary in the same opinion, of producing the effects mentioned above. It is therefore desirable that, where the opinion is defined as favourable and, therefore, permits the conclusion of the transaction despite the presence of certain elements of dissent, an indication be provided of the reasons why the latter elements are deemed not to affect the overall judgement on the company's interest in the completion of the transaction as well as on the substantive fairness of the related conditions.

A positive opinion issued under the condition that the transaction is concluded or executed in compliance with one or more indications will be deemed "favourable" within the meaning of the Regulation, provided that the

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<sup>22</sup> It is recalled, in fact, that:

- for the adoption of the procedures, pursuant to Article 4 of the Regulation, a binding prior opinion of a committee, also specially constituted, composed exclusively of independent directors, is required;
- for transactions of greater importance, pursuant to Article 8 of the Regulation, the involvement in the negotiation phase, the preliminary investigation phase and the decision-making phase (with the issuance of a binding prior opinion) of a committee, also specifically constituted, composed exclusively of independent directors, is required.

conditions laid down are effectively complied with: in that case, evidence of compliance with the indications is provided in the report on the execution of transactions to be made to the administrative or supervisory bodies (Article 7(*f*) and Annex No. 2, paras. 1.1.f and 3.1.i].

**14. Independent experts [Art. 7(1)( *b*); Annex No. 2, paragraphs 1.1.b, 1.3, 2.2.b, 3.1.c]**

**14.1.** The Regulation stipulates, in a provision referred to in several provisions, that unrelated independent directors or committees composed of them are entitled to be assisted at the company's expense by one or more independent experts of their choice. The principle does not require that the experts chosen by the independent directors must be different from those eventually appointed by the company: therefore, it is believed that this provision is respected even when the independent directors are assigned the power to indicate the experts that the company will appoint to carry out the transaction, provided that the assignment expressly provides that the expert will also and specifically assist the independent directors in carrying out their duties pursuant to the procedures on related-party transactions. The clarification applies regardless of the transaction being examined by the independent directors; if the transaction is of lesser importance, the possibility for the company to set a cost limit, referred to each individual transaction, for the services rendered by the independent experts will also apply. The assessment of the independence of the expert called upon to assist the independent directors is, of course, the responsibility of the latter.

**14.2.** With reference to the independence requirements of experts, Annex No. 4 ("*Disclosure Document on Related Party Transactions of greater importance*") indicates the relationships to be taken into account in qualifying the expert as independent and which must be mentioned in the document. However, it is specified in the same Annex that such reports may be considered irrelevant for the purposes of the independence assessment, subject to the need to provide express reasons for this in the document.

**15. Alternative Safeguards in the Absence of Independent Directors [Art. 7(1)(a) *d*) (Art. 8(1)( *d*))**

**15.1.** The Regulation provides that companies must resort to specific safeguards in cases where, due to the small number of independent directors, it is not possible to set up a committee in accordance with the rules set out in Article 7. The alternative measures thus adopted must in any case be equivalent to the one indicated in Article 7( *a* ) .

Without prejudice to the right of the companies to find other solutions, the taking of the resolution after a reasoned, non-binding opinion on the company's interest in carrying out the transaction as well as on its appropriateness and fairness shall in any case be considered "equivalent safeguards"

substantial of the latter's terms and conditions issued by the board of auditors or an independent expert. In the event that the opinion is issued by the board of auditors, the equivalence may, however, only be deemed to exist if the members of that body, if they have an interest, on their own behalf or on behalf of third parties, in the transaction, inform the other auditors, specifying its nature, terms, origin and scope. The use, for the expression of the opinion, of the independent unrelated director, if any, is also considered to be an equivalent safeguard.

Regardless of the solution chosen by the companies pursuant to Art. 7(1)( *d*), the assessment of equivalence also covers the substantive compliance with the transparency provisions in respect of approved transactions in the presence of contrary indications that have arisen in application of the safeguards adopted (Art. 7(1)( *g*)). It follows that if the safeguard consists in the expression of an opinion - be it issued by internal persons or independent experts - the disclosure document and the negative opinion must be published pursuant to Article 7(1)( *g*).

**15.2.** Similar remedies are provided for the approval of major transactions. In this case, the equivalence with respect to the functions performed by the independent directors in the forms provided for in subparagraphs ( *b* ) and ( *c* ) of Article 8 (concerning negotiations, preliminary investigation and approval of the transaction) is deemed to be fulfilled, without prejudice to the right of the companies to find other solutions:

*i*) with reference to the negotiation and preliminary investigation phases, by assigning to one or more of the unrelated independent directors who may be present or to the Board of Statutory Auditors or to an independent expert the tasks indicated in the aforementioned letter *b*);

*ii*) with reference to the stage of approval of the transaction, by passing the resolution subject to the favourable reasoned opinion of the independent directors indicated in point *i* ) on the company's interest in carrying out the transaction and on the appropriateness and substantive fairness of its terms, or subject to the reasoned opinion, on the same subject, of the board of statutory auditors or the independent expert indicated in point *i*).

As indicated for transactions of lesser importance, the equivalence of the opinion issued by the Board of Statutory Auditors with respect to the safeguards set forth in the Regulation may be deemed to exist only if the members of the Board of Statutory Auditors, if they have an interest, on their own behalf or on behalf of third parties, in the transaction, inform the other Statutory Auditors, specifying its nature, terms, origin and scope. Opinions issued in implementation of the alternative headmasters are also subject to publication pursuant to Article 5(5).

Similarly, the adoption of the resolution, in accordance with the articles of association, subject to the authorisation of the transaction by the shareholders' meeting pursuant to Article 2364(1)(5) of the Civil Code, is deemed to be an equivalent safeguard.

**16. Procedures for transactions of greater importance (Art. 8(1)( c) and (2); Annex No. 2, par. 2.2]**

**16.1.** With reference to transactions of greater importance, pursuant to Article 8 of the Regulation, the procedures must provide, *inter alia*, that the transaction be approved by the board of directors subject to the favourable opinion of a committee composed solely of independent directors, also specifically constituted for the individual transaction, *'or, alternatively, that other methods of approving the transaction be applied that ensure a decisive role for the majority of unrelated independent directors'*. The procedures may therefore provide for transactions to be approved, instead of by the committee of independent directors, the use of which is in any case required during the negotiation and preparatory phase, directly by the board of directors with double majorities or enhanced *quorums* giving a decisive role to the independent directors. For instance, it could be stipulated that the transaction must be approved by the administrative body not only with the majorities provided for by law or the articles of association, but also with the favourable vote of the majority of the unrelated independent directors constituting that body.

Moreover, it is believed that the opinion of a committee of independents can more effectively guarantee the procedural and substantive fairness of the transaction, as this solution not only allows for greater prominence to be given to the opinion of the independents with the publication of their opinion, but also for greater freedom of expression on the part of the independents, as they can meet alone within the committee.

As already indicated for transactions of lesser importance, particular guarantees of fairness could be ensured by the choice of assigning the independent directors on the board a significant role in the selection of the members of this committee.

**16.2.** The second paragraph of Article 8 provides for the possibility of allowing the board of directors to approve a transaction of greater importance, by resorting to authorisation by the shareholders' meeting, even in cases where the independent directors have expressed an 'opinion against' the completion of the transaction. The expression quoted, which is deliberately broad, refers to the different ways in which the procedures may decline the role of the independent directors in the approval phase of the transaction as set forth in Article 8(1)( c). The expression therefore includes both the issuance of the opinion by the committee indicated in subparagraph ( b) and the vote against by the majority of the independent directors and, finally, any other manner of expression by the independent directors that the companies may have decided to adopt in assigning the majority of such directors (or the persons called upon to express their opinion by virtue of the alternative safeguards, if applicable) a decisive role in the approval of the transaction.

**16.3.** It is recalled that the disclosure document to be published for transactions of major importance pursuant to Article 5 of the Regulation expressly requires that

continued: "*Where the transaction has been approved in the presence of a contrary opinion of the directors or independent directors, [the disclosure document shall contain] an analytical and adequate justification of the reasons why it is considered that such opinion is not shared*" (cf. par. 2.3 of Annex No. 4 to the Regulation).

With reference to the content of the same disclosure document, para. 2.4 of Annex No. 4 requires an indication of "the terms and subject matter of the mandate", if any, given to independent experts to assess the fairness of the transaction. For these purposes, "terms of the mandate" means the clauses ancillary to those identifying the subject matter of the mandate, including those defining the so-called "terms of the mandate". 'assumptions'. On the other hand, companies are not required to indicate the remuneration paid to the *advisor* or the other economic conditions of the engagement.

### **17. Whitewash procedure in the shareholders' meeting [Art. 11(3)]**

With regard to transactions of greater importance, for cases in which, in accordance with the procedures, a proposed resolution to be submitted to the shareholders' meeting is approved in the presence of a contrary opinion of the directors or independent directors, the Regulation provides that the procedures must contain rules aimed at preventing the transaction from being carried out if the majority of the 'non-related voting shareholders' vote against the transaction.

The definition of unrelated 'shareholders' in Article 3(1) includes all persons, including those other than shareholders, who are entitled to vote. The definition also considers "unrelated" and, therefore, included in the calculation of the special *quorum*, holders of voting rights who (i) are not counterparty to the transaction and (ii) are not simultaneously related to that counterparty and the company. Thus, only persons who are directly related to the company in addition to the counterparty of the transaction are taken into account for the purpose of excluding from the calculation of the majority required in Article 11(3). For the purpose of establishing related party relationships of the company, the company will make use of the information received pursuant to Article 4(8) of the Regulation.

The provision indicated in Article 11(3) of the Rules is without prejudice to the applicability of the provisions of the Civil Code concerning majorities in shareholders' meetings (in particular, Articles 2368 and 2369) and concerning conflicts of interest of shareholders (in particular, Articles 2368(3) and 2373). To these rules is added, but not replaced, the condition that there is no vote against by a majority of 'unrelated shareholders', to be calculated on the basis of those voting alone in order to avoid abstentions being counted for or against the resolution.

This result can certainly be achieved by means of an appropriate provision in the articles of association pursuant to Articles 2368 and 2369 of the Civil Code. However, it is believed that the same effect can be achieved even in the absence of amendments to the articles of association by means of a rule, to be included in the procedures, that requires the inclusion in the proposed shareholders' resolution of a

provision that conditions its effectiveness on the special majority indicated in Rule 11(3) of the Rules of Procedure.

### **18. Procedures for transactions within the competence of the shareholders' meeting in cases of urgency related to corporate crisis situations [Art. 11(5)]**

For transactions that fall within the purview of the general meeting, there is the possibility, where expressly permitted by the articles of association, to deviate from the procedural provisions in cases of urgency, subject to the rules on transparency, provided that certain conditions set out in Article 11(5) are met.

Considering that the transactions falling within the purview of the shareholders' meeting are those that can most directly affect the structure of a company (e.g. a merger or a capital increase with the exclusion of pre-emptive rights), it was decided to limit the use of this option for related party transactions falling within the purview of the shareholders' meeting to '*urgent cases related to corporate crisis situations*'.

It should be noted that, for the sole purpose of these rules, the term 'corporate crisis' refers not only to situations of established crisis but also to situations of financial strain. In particular, reference is made not only to cases of significant losses pursuant to Articles 2446 and 2447 of the Civil Code, to situations in which the company is subject to bankruptcy proceedings or, again, to situations in which there are uncertainties as to the company's ability to continue as a going concern as expressed by the company or its auditor, but also to situations of financial distress that are likely to result in a rapid reduction in the capital that is significant pursuant to the aforementioned Articles 2446 and 2447 or a rapid deterioration of the regulatory capital ratios in conditions of particular tension on the financial markets.

### **19. Transactions of negligible value [Art. 13(2)]**

The procedures may provide that the Rules do not apply to transactions involving small amounts. To this end, they identify, pursuant to Article 4(1)(b), the size of the transactions to be exempted.

In identifying the 'insignificance threshold', companies take into account the fact that the exemption is dictated by the logic of excluding transactions that do not entail *prima facie* any appreciable risk for the protection of investors, even though they are concluded with a related party. While such a judgement cannot disregard the size of the company, it is appropriate for companies to use absolute values rather than percentage-type quantities whenever possible when defining size thresholds for small transactions. Attention is also drawn to the fact that the identification of a particularly high threshold in relation to the size of the

company, however defined in absolute terms, would constitute a violation of the Regulation<sup>23</sup>. It should also be noted that the procedures could also identify different thresholds of exiguity depending on the type of transaction or the category of related party involved.

As part of the supervisory activity carried out by the supervisory bodies of the companies required to apply the procedures, particular attention will be paid to possible circumvention of the rules due to splitting transactions in such a way that, despite the overall value of the transactions themselves, they benefit from the exemption relating to the threshold of insignificance.

## **20. Waiver of Procedures for Urgent Transactions [Art. 13(6)]**

**20.1.** The Regulation allows companies whose articles of association so provide to derogate, in cases of urgency, from the procedural provisions for the approval of related party transactions. In such cases, the Regulation indicates certain obligations that companies are required to fulfil. If the transaction to be performed falls within the remit of a managing director or the executive committee, the aforementioned safeguards also include a prior disclosure to the chairman of the board of directors or management committee of the reasons for the urgency. In this way, the provision ensures that the persons in a position to convene the collegiate administrative bodies are informed of the non-application of the safeguards of propriety of the transaction and the reasons why. Since the principles of fairness contained in the Regulation and its Annexes may always be departed from in a more restrictive sense by companies (as made clear by the use of the term "at least" in Articles 7 and 8 as well as in Annex No. 2), the latter may always provide in the procedures, in the event that the chairman of the board of directors or management board does not qualify as an independent unrelated director, that the same information is also provided to an independent director, designated in advance, who is granted the power to call meetings between independent directors only. This figure can of course coincide with the *lead independent director* envisaged in the Corporate Governance Code for Listed Companies promoted by the Corporate Governance Committee.

**20.2.** The option to avail oneself of the exemption for urgent transactions is also applicable to transactions effected through subsidiaries. To this end, in accordance with Article 13(6) of the Regulation, listed or widespread companies must include a specific provision in their articles of association.

## **21. Exclusion for transactions with or between subsidiaries and associated companies [Art. 14(2)]**

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<sup>23</sup> More precisely, although the threshold should preferably be expressed in absolute terms, the assessment to be conducted in identifying it can only be relative to the size of the company concerned.

The Regulation provides for the possibility of exempting from the application of the procedural and transparency rules (except for the provisions on periodic accounting information provided for in Article 5(8) of the Regulation) transactions carried out with or between subsidiaries and associated companies<sup>24</sup>, provided that there are no significant interests of other related parties of the company subject to the application of the Regulation (companies with listed or widely traded shares), which exercises control or significant influence in these companies. The qualification of the importance of the interests of other related parties is left to the companies, also on the basis of the criteria identified in the procedures. However, the Regulation makes it clear that the mere sharing of one or more directors or other executives with strategic responsibilities between the company and its subsidiaries (and, a fortiori, affiliated companies) does not, in itself, give rise to the emergence of significant interests such as to exclude the possibility of exemption.

The importance of interests of other related parties in the subsidiary or affiliate is left to the discretion of the companies required to apply the Regulation according to the general criteria set out in the procedures. In this context, companies may draw indications from any capital relationships existing between subsidiaries or associates, on the one hand, and other related parties of the company, on the other. Consider, for example, the existence of a significant claim against a subsidiary in the hands of the parent company's managing director: it is clear that such a legal relationship may provide an incentive to conclude transactions that strengthen the subsidiary's assets, which might not, however, be advantageous to the parent company.

Significant interests may, for example, exist if, in addition to the mere sharing of one or more directors or other executives with strategic responsibilities, such persons benefit from incentive plans based on financial instruments (or, in any case, variable remuneration) dependent on the results achieved by the subsidiaries or affiliated companies with which the transaction is carried out. The assessment of materiality is to be conducted in light of the weight that the remuneration dependent on the subsidiary's performance (including the aforementioned incentive plans) assumes in relation to the overall remuneration of the director or manager with strategic responsibilities.

The assessment of materiality is also left to the companies in the event that the subsidiary or associate is participated in (even indirectly, through parties other than the listed or widely held company required to apply the Regulation) by the party controlling the company. In such a case, the interest held in the related party by the person exercising control or significant influence over the company gives rise to a significant interest if the effective weight of that interest exceeds the effective weight of the interest held by the same person in the issuer. For the purpose of evaluating this effective weight, direct participations are weighted according to their entirety, while indirect participations are weighted according to the percentage of capital

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<sup>24</sup> For the purposes of the exemption, the definitions of relevant subsidiaries and affiliated companies are those contained in the Annex

n. 1. This makes it possible to exempt, for example, transactions carried out with *joint ventures* in which the company required to apply the Regulation has an interest.

held in the subsidiaries through which the shareholding in the related party is held<sup>25</sup>. Where the participation in the related party is accompanied by other economic interests, these interests are considered together with those arising from the participation calculated according to its actual weight.

On the other hand, the mere holding of a shareholding in the subsidiary or associated company by other companies controlled by the listed company or related to it does not in itself constitute a significant interest<sup>26</sup>.

## **22. Transitional Provisions of the Regulation on Related Party Transactions [Consob Resolution No. 17221 of 12 March 2010, par. IV.1, as amended by Resolution No. 17389 of 23 June 2010]**

**22.1.** In Resolution No. 17221 of 12 March 2010, amended by Resolution No. 17389 of 23 June 2010, with reference to the transitional regime of the provisions on related party transactions, the following is provided for

*a)* companies must adopt the procedures provided for in Article 4 of the Regulation by 1 December 2010;

*b)* the transparency provisions for transactions of major importance provided for in Article 5 of the Regulation (publication of an information document and disclosure in accounting documents pursuant to Article 154-ter of the Consolidated Law) shall apply as of 1 December 2010<sup>27</sup>. Exceptions to this are the provisions on the disclosure document concerning the accumulation of transactions with the same related party or with persons who are simultaneously

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<sup>25</sup> For illustrative purposes only, consider the following examples of evaluating the significance criterion:

(i) Company A controls company B (listed) with 50% of the capital represented by voting shares, which in turn controls company C (unlisted) with the same percentage. In addition, A directly holds the remaining 50% of C. In the transaction between company B and company C, company A has a significant interest in C since the actual weight of the shareholding in the latter company is  $50\% + (50 \times 50\%) = 75\%$ , whereas the weight of the shareholding in B is 50%: there is therefore an incentive for a net transfer of resources from B to C.

(ii) Company A controls with 30% of the capital represented by voting shares company B (listed), which in turn controls with 50% of the capital represented by voting shares company C, unlisted. In addition, A directly holds 10% of C. In the transaction between company B and company C, company A does not have a significant interest in C since the actual weight of the shareholding in the latter company is  $10\% + (30 \times 50\%) = 25\%$ , whereas the weight of the shareholding in B is 30%: there is therefore, in the absence of other significant interests, no incentive for a net transfer of resources from B to C.

<sup>26</sup> Consider, for example, the following circumstance: company A (listed) controls company B (unlisted) by holding 51% of the capital represented by voting shares. Company C (unlisted), over which A exercises control or significant influence, holds the remaining 49% of B's capital. In the transaction between A and B, the interest held by C in B does not constitute a significant interest for the purposes of Art. 14(2) of the Regulation.

<sup>27</sup> Until that date, Articles 71-bis (publication of the disclosure document for related party transactions), 91-bis (submission to Consob of the disclosure document for related party transactions) and 81, paragraph 1 (disclosure of related party transactions in the half-yearly financial report) of the Issuers' Regulation remain in force.

related parties of the latter and the company: this cumulation of transactions, provided for in paragraph 2 of Article 5, applies with reference to transactions concluded as from 1 January 2011. Companies whose financial year does not begin on 1 January will take into account, for the purposes of cumulation, transactions concluded from that date until the natural end of the financial year: the computation of transactions for the purposes of cumulation will be restarted with the beginning of the following financial year;

c) companies, pursuant to Article 5(5) of the Regulation, must transmit to Consob, at the same time as public dissemination, the documents and opinions published pursuant to the same Article 5 by way of connection with the storage mechanism authorised pursuant to Article 65-septies(3) of the Regulation on Issuers. Until the date of commencement of operations of the storage mechanisms, established by the Consob's authorisation measure provided for in Article 113-ter(4)( b) of the Consolidated Law, the transitional rules contained in point IV of Resolution No. 16850 of 1 April 2009 shall apply;

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

The provisions whose entry into force or applicability is deferred pursuant to the transitional rules contained in the aforementioned Resolution No. 17221 do not include Article 6 of the Regulation ("*Related Party Transactions and Public Disclosures Pursuant to Article 114(1) of the Consolidated Law*"). It follows that already from the entry into force of the Regulation<sup>28</sup> the notices published pursuant to Article 114(1) of the Consolidated Law must contain, in addition to the other information to be published pursuant to that provision, the particulars provided for in Article 6<sup>29</sup>, to the extent that these are applicable under the transitional rules.

In particular:

1) the provisions of Article 6(1)( a) and ( b) shall apply as of the entry into force of the Regulation with reference to transactions with related parties identified by companies for the purposes of the application of Article 71-bis (disclosure document) and Article 81(1) (half-yearly financial report) of the Issuers' Regulation, which, as mentioned, are repealed (together with Article 91-bis of the same Regulation) as of 1 December 2010;

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<sup>28</sup> On 9 April 2010.

<sup>29</sup> Article 6 ("*Related party transactions and public disclosures pursuant to Article 114(1) of the Consolidated Law*") provides: "*If a related party transaction is also subject to the disclosure requirements laid down in Article 114(1) of the Consolidated Law, the press release to be disclosed to the public shall contain, in addition to the other information to be published pursuant to the aforementioned provision, the following information:*

a) *an indication that the counterparty to the transaction is a related party and a description of the nature of the relationship;*  
b) *the name or call sign of the counterparty to the transaction;*  
c) *whether or not the transaction exceeds the materiality thresholds identified pursuant to Art. 4(1)(a), and an indication as to whether or not a disclosure document will be published pursuant to Art. 5;*  
d) *the procedure that has been or will be followed for the approval of the transaction and, in particular, whether the company has availed itself of a case of exclusion provided for in Articles 13 and 14;*  
e) *the possible approval of the transaction notwithstanding the contrary opinion of the independent directors or advisors.'*

2) article 6(1)( c) shall apply from 1 December 2010. As of the same date, the companies apply ( a) and ( b ) with regard to related parties as defined in the Regulation;

3) points ( d ) and ( e) of Article 6 shall apply from 1 January 2011.

**22.2.** With regard to transactions of greater importance that were approved prior to the entry into force of Article 5, paragraph 1, of the Transparency Regulation (1 December 2010) and that have not been the subject of disclosure pursuant to Article 71-bis, insofar as they have not yet been concluded, it is recommended that the disclosure document required by the aforementioned Article 5, paragraph 1, be published in any event, within the terms provided for therein, starting from the execution of the transaction, it being understood that Consob may request such publication pursuant to Article 114, paragraph 5, of the Consolidated Law, with reference to the specific transaction.

### **23. Transitional provision of Article 37 of the Market Regulation [Consob Resolution No. 17221 of 12 March 2010, paragraphs II and IV.2]**

Consob Resolution No. 17221 of 12 March 2010 amended Article 37 of the Market Regulations, which, in implementation of Article 62(3-bis) of the Consolidated Law, identifies the conditions under which subsidiaries subject to management and coordination activities may not be listed.

For the entry into force of the new discipline it is foreseen that:

a) companies with shares already listed and already subject to management and coordination activities at the effective date of the resolution, or which become subject to such activities by 1 October 2010, shall comply with the new provisions of Article 37 within 30 days of the first shareholders' meeting called after 1 October 2010 for the renewal of the board of directors or supervisory board;

b) companies subject to management and coordination activities that apply for listing before 1 October 2010 are subject to the conditions set out in Article 37 pre-amendment<sup>30</sup>. These companies will have to comply with the new requirements of the amended Article 37 as from the first shareholders' meeting renewing the board of directors or the

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<sup>30</sup> In particular, Article 37(1)(d), *pre-amendment* requires 'the presence of independent directors in such a number as to ensure that their judgement carries significant weight in the taking of board decisions. For the purposes of assessing the independence and adequacy of the number of the aforementioned directors, reference shall be made to the general criteria established by the management companies of regulated markets, taking into account the best practices governed by the codes of conduct drawn up by the same companies or by trade associations'. The Italian Stock Exchange, in turn, refers to the provisions of Article IA.2.13.6, paragraph 1 of the Instructions to the Stock Exchange Regulations for the STAR segment on the subject of the number of independent directors (at least 2 independent directors for boards of directors composed of up to 8 members; at least 3 independent directors for boards composed of 9 to 14 members; at least 4 independent directors for boards composed of more than 14 members) and to Article 3 of the Corporate Governance Code on the subject of the independence requirements of directors.

supervisory board convened after 1 October 2010. Also in this case, the adjustment deadline of 30 days following the shareholders' meeting mentioned in subsection ( *a*), inserted by Resolution No. 17389 of 23 June 2010 (deadline set in order to allow the committees to be formed in accordance with the new Article 37), applies;

*c*) companies applying for listing after 1 October 2010 will be subject to the new conditions set out in the amended Article 37.

THE DEPUTY PRESIDENT

*Vittorio Conti*

**ITH-STC-069-R02**  
**Annex 02-bis-R00**

**Definitions of "Related Parties" and "Transactions with Related Parties"  
and definitions functional to them pursuant to International Accounting  
Standards in force as of June 14, 2021**

**Update of 03/03/2026**

**I. RELATED PARTIES**

A related party is a person or entity that is related to the entity that prepares the financial statements (i.e. Italgas).

The following are related parties of Italgas, pursuant to IAS 24, paragraph 9 ("*Disclosure of financial statements on transactions with related parties*"):

- (a) a person or a "close family member" of that person if that person:
  - (i) has "control" or "joint control" of Italgas; o
  - (ii) exercises "significant influence" over Italgas; o
  - (iii) is a "manager with strategic responsibilities" of Italgas or of the shareholders, who also jointly, control Italgas;
- (b) an entity if any of the following apply:
  - (i) the entity and Italgas are part of the same group (which means that each parent, subsidiary and group company is related to the others);
  - (ii) the entity is an "associated company" of Italgas;
  - (iii) the entity is a "joint venture" in which Italgas is a participant;
  - (iv) the entity is an "associate" or "joint venture" that is part of a group of which the other entity is a member;
  - (v) both entities are "joint ventures" of the same third party;
  - (vi) the entity is a "joint venture" of a third entity and Italgas is an "associated company" of the third entity;
  - (vii) the entity is represented by a plan for benefits after the end of the employment relationship in favour of employees of Italgas or a company related to it;
  - (viii) the entity is controlled or jointly controlled by a person referred to in (a) above;
  - (ix) a person identified in (a)(i) above has significant influence over the entity or is one of the "executives with strategic responsibilities" of the entity (or its parent);
  - (x) the entity or any member of a group to which it belongs, provides management services with strategic responsibilities to Italgas or to the persons who, even jointly, control it.

**2. TRANSACTIONS WITH RELATED PARTIES**

According to IAS 24, paragraph 9 ("*Disclosure of Related Party Transactions*"), a "*related party transaction is a transfer of assets, services or obligations between a company and a related party, regardless of whether consideration has been agreed*".

These operations include:

- mergers, demergers by incorporation or non-proportional demergers in the strict sense, if carried out with related parties;
- decisions relating to the assignment of remuneration and economic benefits, in any form, to the members of the administrative and control bodies and to managers with strategic responsibilities.

### **3. DEFINITIONS FUNCTIONAL TO THOSE OF "RELATED PARTIES" AND "TRANSACTIONS WITH RELATED PARTIES" ACCORDING TO INTERNATIONAL ACCOUNTING STANDARDS**

**3.1** Pursuant to IAS 24, paragraph 9 ("*Disclosure of Related Party Transactions*"), the terms "**control**", "**joint control**" and "**material influence**" are defined in IFRS 10 ("*Consolidated Financial Statements*"), IFRS 11 ("*Joint Control Arrangements*") and IAS 28 ("*Investments in associates and joint ventures*") and are used in IAS 24 itself with the meanings specified in those IFRSs.

#### **3.1.1 - "Control"**

Pursuant to IFRS 10 ("*Consolidated Financial Statements*") "*an investor controls an investment entity when it is exposed to, or holds rights to, variable returns arising from his relationship with that entity and at the same time has the ability to affect such returns by exercising his power over that entity.*

*Therefore, an investor controls an investment entity if and only if it simultaneously:*

- power over the investment entity (an investor has power over an investment entity when it has valid rights that give it the current ability to direct the relevant activities, i.e. activities that significantly affect the returns of the investment entity);*
- the exposure or rights to variable returns arising from the relationship with the investment entity;* e
- the ability to exercise its power over the target entity to affect the amount of its returns*

*In determining whether he controls an investment entity, an investor must consider all the facts and circumstances. The investor shall reassess whether he or she controls an investment entity if the facts and circumstances indicate that there are changes in one or more of the three controls listed in paragraph 7 (see paragraphs B80–B85).*

*Two or more investors collectively control an investment entity when they need to work together to conduct the relevant activities. In such cases, since no investor can conduct the activities without the involvement of the others, no investor individually controls the investment. Each investor should account for his or her interest in the investee in accordance with the relevant IFRSs, such as IFRS 11 *Joint Arrangements*, IAS 28 *Investments in Associates and Joint Ventures* or IFRS 9 *Financial Instruments*'.*

#### **3.1.2 - "Joint Control"**

According to IFRS 11 ("*Joint Arrangements*"), "*Joint Control is the sharing, on a contractual basis, of control of an agreement, which exists only when the unanimous consent of all parties sharing control is required for decisions relating to the relevant activities*".

#### **3.1.3 - "Considerable influence"**

Pursuant to IAS 28 ("*Investments in associates and joint ventures*"), "*significant influence is the power to participate in the determination of the financial and management policies of the investee without having control or joint control.*

If an entity owns, directly or indirectly (e.g. through subsidiaries), 20 % or more of the investee's shareholders' meeting votes, the entity is presumed to have significant influence, unless it can be clearly demonstrated otherwise. Conversely, if the entity owns, directly or indirectly (e.g. through subsidiaries), less than 20 % of the votes exercisable at the investee's general meeting, the entity is presumed not to have significant influence, unless such influence can be clearly demonstrated. Even if another entity has an absolute or relative majority, this does not necessarily preclude an entity from having significant influence.

The existence of significant influence by an entity is usually signaled by the occurrence of one or more of the following circumstances: (a) representation on the board of directors, or equivalent body, of the investee; (b) participation in decision-making, including participation in decisions regarding dividends or other profit distribution; (c) the presence of material transactions between the entity and the investee; (d) the exchange of managerial staff; or (e) the provision of essential technical information'.

### **3.2 – “Executives with strategic responsibilities”**

Pursuant to IAS 24, paragraph 9 (*"Disclosure of financial statements on transactions with related parties"*) *"managers with strategic responsibilities are those persons who have the power and responsibility, directly and indirectly, for the planning, management and control of the activities of the entity [i.e. Italgas], including the directors (executive or not) of the entity itself"*. The managers with strategic responsibilities of Italgas are identified by the Board of Directors. The Consob Communication also specifies that *"the category of "managers with strategic responsibilities" also includes the effective members of the control bodies"*.

### **3.3 – “Close family members”**

Pursuant to IAS 24, paragraph 9 (*"Disclosure of Related Party Transactions"*), *"A person's immediate family members are considered to be family members who are expected to influence, or be influenced by, that person in their dealings with the entity, including, (a) that person's children and spouse or domestic partner; (b) the children of that person's spouse or common-law partner; (c) the dependants of that person or of the spouse or life partner."*

The definition of "close family members" relevant for the purposes of the application of the Standard also includes other persons recognized as such in the declarations that the Related Party periodically issues.

### **3.4 – “Associated Company”**

According to IAS 28, paragraph 3 (*"Interests in Associates and Joint Ventures"*), *"an affiliate is an entity over which the investor exercises significant influence"*.

Pursuant to IAS 24, paragraph 12 (*"Disclosure of Transactions with Related Parties"*), *"in the definition of a related party, an associate includes subsidiaries of the same associate ... Thus, for example, a subsidiary of a related company and the investor who has significant influence over the related company are linked to each other"*.

For the actual list of Italgas' "associated companies", reference is made to the annex to the consolidated financial statements, supplemented by the results of the Database referred to in paragraph 3.1 of the Standard.

### **3.5 – “Joint Venture”**

According to IAS 28, paragraph 3 (*"Interests in Associates and Joint Ventures"*), *"a joint venture is an arrangement jointly with an entity under which the parties having joint control have rights to the net assets of that entity."*; paragraph 3 of IAS 28 also states that *'a joint arrangement is an arrangement under which two or more parties have joint control of the economic activity that is the subject of the agreement'* and that *'joint control is the sharing, established by agreement, of control of an economic activity, which exists only when the unanimous consent of all the parties sharing the agreement is required for decisions relating to that activity. control"*.

Pursuant to IAS 24, paragraph 12 (*"Disclosure of related party transactions"*), *"in the definition of related party (...) a joint venture shall comprise the subsidiaries of the joint venture"*.

## **4. PRINCIPLES OF INTERPRETATIONS OF DEFINITIONS**

Pursuant to IAS 24, paragraph 10 (*"Disclosure of financial statements on transactions with related parties"*)), *"in the examination of each relationship with related parties, attention must be paid to the substance of the relationship and not simply to its legal form"*.

**ITH-STC-069-R02**  
**Annex 03-R00**  
**Related Parties Mapping Request Form**

**Update of 03/03/2026**

**DECLARATION ON RELATED PARTIES [AND TRANSACTIONS CARRIED OUT WITH ITALGAS AND ITS SUBSIDIARIES]**

The undersigned \_\_\_\_\_, born in \_\_\_\_\_, on \_\_\_\_\_, tax code \_\_\_\_\_ (hereinafter, the "Declarant"), in his capacity as \_\_\_\_\_, having taken note of the provisions of Consob Regulation on transactions with related parties of 12 March 2010 no. 17221, in the version in force as of 1 July 2021 and any subsequent amendments, as well as the provisions of the "Transactions with related parties" Standard (hereinafter, the "Standard") adopted by the Board of Directors of Italgas S.p.A. (hereinafter, "Italgas"), including what is indicated in Annex 2-bis to the Standard itself, to which reference is made for the correct drafting of this declaration (hereinafter, the "Declaration"),

**A) Related Parties**

DECLARES

under its own responsibility and on the basis of the information it notes, that the following persons are Related Parties referable to themselves at the date of compilation of this Statement<sup>1</sup>, pursuant to and for the purposes of the aforementioned Standard, and in particular pursuant to the International Accounting Standards adopted according to the procedure referred to in Article 6 of Regulation (EC) No. 1606/2002 currently in force. In particular:

**AI.** pursuant to point 3.3, of Annex 2-bis of the Standard<sup>2</sup>, are "close family members" of the Declarant:

- Name and Surname .....  
born ..... on ....., C.F. ....;
- Name and Surname .....  
born ..... on ....., C.F. ....;
- Name and Surname .....  
born ..... on ....., C.F. ....;
- Name and Surname .....  
born ..... on ....., C.F. ....;

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<sup>1</sup> It should be noted that, as specified in note 9 of the Standard, "It is the responsibility of the persons identified as Related Parties pursuant to point 1, letter a) (i) and (ii) of Annex 2-bis to this Standard, as well as to the directors, standing auditors and other managers with strategic responsibilities of Italgas, to promptly inform the Corporate Affairs department of the Italgas Group of any update relating to the declarations made" tag.

<sup>2</sup> Pursuant to IAS 24(9) ("Disclosure of Related Party Transactions"), "A person's immediate family members are considered to be those family members who are expected to influence, or be influenced by, that person in their dealings with the entity, including (a) that person's children and spouse or domestic partner; (b) the children of that person's spouse or common-law partner; (c) dependants of that person or of the spouse or life partner."

**A2 a).** pursuant to point I, letter b) (viii) of Annex 2-bis of the Standard, entities<sup>3</sup> directly or indirectly controlled, including jointly, by the Declarant:

- Name ..... Registered office .....  
Tax Code/VAT Number .....  
Relationship between the entity and the ..... Registrant<sup>4</sup>

- Name ..... Registered office .....  
Tax Code/VAT Number .....  
Relationship between the entity and the ..... Registrant<sup>5</sup>

- Name ..... Registered office .....  
Tax Code/VAT Number .....  
Relationship between the entity and the ..... Registrant<sup>6</sup>

- **A2 b) – Section to be completed only in the event that the Declarant exercises control or joint control over Italgas.** Pursuant to point I, letter b) (ix) of Annex 2-bis of the Standard, entities<sup>7</sup> subject to significant influence<sup>8</sup> of the Declarant, i.e. entities of which the Declarant is a "manager with strategic responsibilities"<sup>9</sup> directly or of one of its parent companies:

- Name ..... Registered office .....  
Tax Code/VAT Number .....  
Relationship between the entity and the ..... Declarant<sup>10</sup>

<sup>3</sup> "Entities" means entities other than natural persons, i.e. legal persons and other collective entities, whether in the form of companies or associations.

<sup>4</sup> Indicate, as appropriate, one of the following types of correlation: i) *control relationship* (specifying whether direct or indirect) or ii) *joint control relationship*.

<sup>5</sup> See Note 4.

<sup>6</sup> See Note 4.

<sup>7</sup> See Note 3.

<sup>8</sup> As indicated in point 3.1.3 of Annex 2-bis of the Standard, pursuant to IAS 28 ("*Investments in associates and joint ventures*") "*significant influence is the power to participate in the determination of the financial and management policies of the investee without having control or joint control. If an entity owns, directly or indirectly (e.g. through subsidiaries), 20 % or more of the investee's shareholders' meeting votes, the entity is presumed to have significant influence, unless it can be clearly demonstrated otherwise. Conversely, if the entity owns, directly or indirectly (e.g. through subsidiaries), less than 20 % of the votes exercisable at the investee's general meeting, the entity is presumed not to have significant influence, unless such influence can be clearly demonstrated. Even if another entity has an absolute or relative majority, this does not necessarily preclude an entity from having significant influence. The existence of significant influence by an entity is usually signaled by the occurrence of one or more of the following circumstances: (a) representation on the board of directors, or equivalent body, of the investee; (b) participation in decision-making, including participation in decisions regarding dividends or other profit distribution; (c) the presence of material transactions between the entity and the investee; (d) the exchange of managerial staff; or (e) the provision of essential technical information*".

<sup>9</sup> Pursuant to IAS 24, paragraph 9 ("*Disclosure of related party transactions*") in force, "*managers with strategic responsibilities are those persons who have the power and responsibility, directly and indirectly, for the planning, direction and control of the entity's activities, including directors (executive or otherwise) of the entity itself*". Consob Communication no. DEM/10078683, published on 24 September 2010, also specifies that "*the category of "managers with strategic responsibilities" also includes the effective members of the supervisory bodies*".

<sup>10</sup> Indicate, as the case may be, one of the following types of correlation: i) *relationship of significant influence*, or ii) *relationship of manager with strategic responsibilities* (specifying whether of the entity or of its parent company; in the latter case, indicate the name of the entity's parent company and the Tax Code/VAT number).

- Name ..... Registered office .....  
Tax Code/VAT Number .....  
Relationship between the entity and the ..... Registrant<sup>11</sup>

- Name ..... Registered office .....  
Tax Code/VAT Number .....  
Relationship between the entity and the ..... Registrant<sup>12</sup>

**A3 a).** pursuant to point I, letter b) (viii) of Annex 2-bis of the Standard, entities<sup>13</sup> directly or indirectly controlled, even jointly, by a "close family member" of the Registrant are:

- Name .....  
Registered office .....  
Tax code/VAT number .....  
Headed by<sup>14</sup> .....  
Relationship between the entity and the "close family" of the Declarant<sup>15</sup>  
.....

- Name .....  
Registered office .....  
Tax code/VAT number .....  
Headed by<sup>16</sup> .....  
Relationship between the entity and the "close family" of the Declarant<sup>17</sup>  
.....

**A3 b) – Section to be completed only in the event that the Declarant exercises control or joint control over Italgas.** Pursuant to point I, letter b) (ix) of Annex 2-bis of the Standard, entities<sup>18</sup> subject to significant influence<sup>19</sup> of a "close family" of the Registrant, i.e. entities of which the "close family" of the Registrant is a "manager with strategic responsibilities"<sup>20</sup> directly or of one of its parent companies:

- Name .....

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<sup>11</sup> See Note 11.

<sup>12</sup> See Note 11.

<sup>13</sup> See Note 3.

<sup>14</sup> Indicate the "close family member", among those indicated in point A1 of this Declaration, to which the entity indicated belongs.

<sup>15</sup> See Note 4.

<sup>16</sup> See Note 15.

<sup>17</sup> See Note 4.

<sup>18</sup> See Note 3.

<sup>19</sup> See Note 11.

<sup>20</sup> See Note 12.

Registered office .....

Tax code/VAT number .....

Headed by<sup>21</sup> .....

Relationship between the entity and the "close family" of the Declarant<sup>22</sup>  
.....

- Name .....

Registered office .....

Tax code/VAT number .....

Headed by<sup>23</sup> .....

Relationship between the entity and the "close family" of the Declarant<sup>24</sup>  
.....

I also declare that I have been informed, pursuant to Article 13<sup>25</sup> of Regulation (EU) No. 2016/679, about the processing of personal data collected, and that I have informed the subjects whose personal data are provided in this declaration, about the processing of personal data collected, and in particular that such data will be processed, including by electronic means, exclusively in the context of the procedure for which this declaration is made, in the manner and for the purposes indicated in the Procedure and for the purposes of periodic accounting information. In addition, it guarantees that any personal data provided relating to third parties have been made available in compliance with the applicable legislation on the protection of personal data.

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<sup>21</sup>Indicate the "close family member", among those indicated in point A1 of this Declaration, to which the entity indicated belongs.

<sup>22</sup>Indicate, as the case may be, one of the following types of correlation: i) *relationship of significant influence*, or ii) *relationship of manager with strategic responsibilities* (specifying whether of the entity or of its parent company; in the latter case, indicate the name of the entity's parent company and the Tax Code/VAT number).

<sup>23</sup> Indicate the "close family member", among those indicated in point A1 of this Declaration, to which the entity indicated belongs.

<sup>24</sup> See Note 24.

<sup>25</sup> Pursuant to Article 13 of Regulation (EU) No. 2016/679 on the protection of personal data, "1. In the event of collection of data concerning the data subject from the data subject, the data controller shall provide the data subject with the following information at the time the personal data are obtained: a) the identity and contact details of the data controller and, where applicable, of its representative; (b) the contact details of the Data Protection Officer, where applicable; c) the purposes of the processing for which the personal data are intended as well as the legal basis for the processing; (d) where the processing is based on Article 6(1)(f), the legitimate interests pursued by the controller or by a third party; e) any recipients or categories of recipients of personal data; (f) where applicable, the intention of the controller to transfer personal data to a third country or to an international organisation and the existence or absence of an adequacy decision by the Commission or, in the case of transfers referred to in Article 46 or 47, or in the second subparagraph of Article 49(1), a reference to the appropriate or appropriate safeguards and the means of obtaining a copy of those safeguards or the place where they have been made available. 2. In addition to the information referred to in paragraph 1, at the time the personal data are obtained, the controller shall provide the data subject with the following additional information necessary to ensure proper and transparent processing: (a) the retention period of the personal data or, if this is not possible, the criteria used to determine that period; b) the existence of the right of the data subject to request from the data controller access to personal data and the rectification or erasure of the same or the limitation of the processing of personal data concerning him or her or to object to their processing, as well as the right to data portability; (c) where the processing is based on Article 6(1)(a) or Article 9(2)(a), the existence of the right to withdraw consent at any time without prejudice to the lawfulness of the processing based on the consent given before the withdrawal; (d) the right to lodge a complaint with a supervisory authority; e) if the provision of personal data is a legal or contractual obligation or a requirement for the conclusion of a contract, and if the data subject is obliged to provide the personal data as well as the possible consequences of not providing such data; (f) the existence of automated decision-making, including profiling as referred to in Article 22(1) and (4), and, at least in such cases, meaningful information on the logic used, as well as the significance and envisaged consequences of such processing for the data subject. 3. Where the controller intends to further process personal data for a purpose other than that for which they were collected, it shall provide the data subject with information about that different purpose and any other relevant information referred to in paragraph 2 prior to such further processing. 4. Paragraphs 1, 2 and 3 shall not apply if and to the extent that the data subject already has the information."

The undersigned undertakes to promptly communicate any changes in the data indicated above by means of a specific declaration to the email address: [segreteria@societaria@italgas.it](mailto:segreteria@societaria@italgas.it).

**Date**

**Signature**

.....

.....

## ITH-STC-069-R02 Annex 04-R00

### Identification of the most significant transactions with related parties and indices of significance of the interests of other related parties of Italgas in transactions with or between subsidiaries or associates

Update of 03/03/2026

#### Section I - IDENTIFICATION OF THE MOST SIGNIFICANT TRANSACTIONS WITH RELATED PARTIES

##### I. Calculation criteria for identifying the Transactions of Major Importance

The regime provided for by the Consob Regulation provides for two different thresholds of materiality, respectively 5% for all transactions with related parties and 2.5% for transactions with the listed parent company or with related parties that are in turn related to the companies, in relation to the following indices of materiality:

- a) Turnover materiality ratio: is the ratio between the value of the transaction and the shareholders' equity taken from the most recent consolidated balance sheet published by the Group or, if greater, the Company's capitalisation recognised at the close of the last trading day included in the reference period of the most recent periodic accounting document published (annual or half-yearly financial report or additional periodic financial information, where drafted).

If the economic conditions of the transaction are determined, the value of the transaction is:

- (i) for cash components, the amount paid to/by the contractual counterparty;
- (ii) for components consisting of financial instruments, the *fair value* determined at the date of the transaction<sup>1</sup>;
- (iii) for financing or guarantee operations, the maximum amount that can be disbursed.

If the economic conditions of the transaction depend in whole or in part on quantities not yet known, the value of the transaction shall be the maximum value that can be received or payable under the agreement.

- b) Asset materiality ratio: this is the ratio between the total assets of the entity being dealt with and the total assets of the Group. The data to be used must be taken from the most recent consolidated balance sheet published by the Group; Where possible, similar data shall be used to determine the total assets of the target entity.

If the object of the transaction is the acquisition/sale of shareholdings in companies that have effects on the scope of consolidation, the value of the numerator is the total assets of the investee from the perspective of the consolidated financial statements, regardless of the percentage of capital subject to disposal.

If the object of the transaction is the acquisition/sale of shareholdings in companies that have no effect on the scope of consolidation, the value of the numerator is:

- (i) in the case of acquisitions, the value of the transaction increased by any liabilities of the acquired company assumed by the purchaser;
  - (ii) in the case of transfers, the consideration for the asset transferred.
- For transactions involving the acquisition and sale of other assets (i.e. other than equity investments), the value of the numerator is:
- 1) in the case of acquisitions, the greater of the consideration and the carrying amount that will be attributed to the asset;

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<sup>1</sup> The determination of *fair value* is carried out in accordance with the International Accounting Standards adopted in accordance with the procedure set out in Article 6 of Regulation (EC) No. 1606/2002 (cf. Regulation (EC) No. 1126/2008 and subsequent amendments and additions).

- 2) in the case of disposals, the carrying amount of the asset.
- c) Liability materiality ratio: is the ratio between the total liabilities of the acquired entity and the total assets of the Group. The data to be used must be taken from the most recent consolidated balance sheet published by the Group; Where possible, similar data shall be used to determine the total liabilities of the acquired company or business unit.

The same parameters are used to assess the significance of transactions between subsidiaries; therefore, the denominators of the ratios refer to the parent company.

## **2. Cumulation of Transactions with Related Parties**

For the purposes of identifying the Transactions of Major Importance, transactions that are homogeneous with each other or carried out in execution of a unitary design are also considered which, although not individually qualified as transactions of greater importance, exceed, where cumulatively considered, the thresholds of significance indicated above.

For the purposes of determining cumulation, transactions excluded pursuant to the provisions of paragraph 4.6 (Cases of exclusion) of the Standard to which this Annex refers are not considered.

In the case of the cumulation of several transactions, the significance of each transaction shall first be determined on the basis of the index or indices indicated above, applicable to it; To verify that the threshold is exceeded, the results relating to each index are then added together.

## **3. Alternative calculation criteria for the identification of Transactions of Major Significance**

If a transaction or several transactions cumulated together are identified as "of greater importance" according to the indices indicated above and this result appears manifestly unjustified in consideration of specific circumstances, Consob may indicate, at the request of the company, alternative methods to be followed in the calculation of the aforementioned indices.

To this end, the company communicates to Consob the essential characteristics of the transaction and the specific circumstances on which the request is based before the conclusion of the negotiations.

## Section II - INDICES OF SIGNIFICANCE OF THE INTERESTS OF OTHER RELATED PARTIES OF ITALGAS IN TRANSACTIONS WITH OR BETWEEN SUBSIDIARIES OR ASSOCIATES.

The exemption provided for in paragraph 9 of paragraph 4.6 (Exclusion cases) of the Standard referred to in this Annex, relating to transactions with or between subsidiaries or associates, does not apply where:

- the companies involved in the transaction share one or more directors or managers with strategic responsibilities, and these parties benefit from incentive plans based on financial instruments (or in any case variable remuneration) dependent exclusively on the results achieved by the subsidiaries or associates with which the transaction is carried out. The assessment of significance must be carried out in the light of the weight that the remuneration dependent on the performance of the subsidiary or associate assumes with respect to the overall remuneration of the director or manager with strategic responsibilities;
- the subsidiary or associate party to the transaction is owned (even indirectly, through parties other than the Italgas Group) by the entity that controls the Italgas Group and the actual weight of this shareholding exceeds the actual weight of the shareholding held by the same entity in the Italgas Group. For the purposes of assessing this effective weight, direct shareholdings are weighted in total, while indirect shareholdings are weighted according to the percentage of share capital held in the subsidiaries through which the shareholding in the Related Party is owned<sup>2</sup>. If the investment in the Related Party is accompanied by other economic interests, such interests are considered together with those deriving from the participation calculated according to its actual weight.

On the other hand, the mere holding of a shareholding, in the subsidiary or associate, by other companies controlled by Italgas or associated with it does not represent a significant interest in itself.

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### 2 Examples:

(i) **SIGNIFICANT INTEREST:** Company A controls company B (Italgas) with 50% of the capital represented by shares with voting rights, which in turn controls company C, which is not listed, with the same percentage. In addition, A directly holds the remaining 50% of C. In the transaction between company B and company C, company A has a significant interest in C since the effective weight of the shareholding in the latter company is  $50\% + (50\% \times 50\%) = 75\%$ , while the weight of the shareholding in B is equal to 50%.

(ii) **NON-SIGNIFICANT INTEREST:** company A controls company B (Italgas) with 30% of the capital represented by shares with voting rights, which in turn controls company C, which is not listed, with 50% of the capital represented by shares with voting rights. In addition, A directly holds 10% of C. In the transaction between Company B and Company C, Company A does not have a significant interest in C since the effective weight of the shareholding in the latter Company is equal to  $10\% + (30\% \times 50\%) = 25\%$ , while the weight of the shareholding in B is equal to 30%; therefore, in the absence of other significant interests, there is no incentive to transfer resources from B to C.

**ITH-STC-069-R02**  
**Annex 05-R00**  
**Identification of small transactions**

**Update of 03/03/2026**

For the purposes of applying the exemption provided for in paragraph 4.6 (cases of exclusion) of the Standard to which this annex refers, the following transactions are considered to be of a Small Amount<sup>1</sup>:

- 1) Transactions concluded with the persons indicated in point I, letter a) (iii) of Annex 2-bis to the Standard to which this annex refers, with a value not exceeding €500,000, except in the case of directors or statutory auditors of the company, in which case the value must not exceed €100,000.
- 2) Transactions concluded with the parties indicated in point I, letter b) (viii) and (ix) of Annex 2-bis to the Standard to which this annex refers, with a value not exceeding the following:
  - €500,000 if the subject is not a company;
  - €2,500,000 if the entity is a company with shares listed on regulated markets in Italy or other countries of the European Union or with shares widely distributed among the public and €1,000,000 for all other companies.
- 3) Transactions concluded with the parties indicated in point I, letters a) (i) and (ii), as well as letters b) (i), (ii), (iii), (iv), (v), (vi), (vii) and (x) of Annex 2-bis to the Standard to which this annex refers, with a value not exceeding the following:
  - €1,000,000 if the subject is not a company;
  - €5,000,000, if the subject is a company with shares listed on regulated markets in Italy or other countries of the European Union or with shares widely distributed among the public and €2,000,000 for all other companies.
- 4) Transactions carried out on the basis of tariffs or under regulated conditions, for an amount not exceeding €500,000.

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<sup>1</sup> The Small Amount prevails over any other cause of exemption that may compete with the transaction (e.g. ordinary transaction at market or standard conditions, transaction with subsidiaries). Small Amount Transactions are excluded from the application of both the procedures provided for by the Standard for Transactions with Related Parties and the transparency regime provided for by art. 5 of the Consob Regulation.

## ITH-STC-069-R02

### Annex 06-R00

# Obligations to provide public information on transactions with related parties and Information document relating to transactions of greater significance with related parties

Update of 03/03/2026

## Section I - PUBLIC DISCLOSURE OBLIGATIONS ON TRANSACTIONS WITH RELATED PARTIES

### I. Information Document for Transactions of Major Importance

For the purposes of this Paragraph I, the Related Parties are identified taking into account art. 13, paragraph 1-bis, of Decree-Law No. 95 of 30 June 2025, converted with amendments by Law No. 118 of 8 August 2025, as subsequently amended and supplemented.

On the occasion of Transactions of Major Importance, the Italgas Group prepares, pursuant to Article 114, paragraph 5, of the TUF, an information document prepared in accordance with Annex 4 of the Consob Regulation (see Section II – *Information document relating to transactions of greater significance with related parties* referred to in this annex).

The information document is also prepared if, during the year, Italgas concludes, directly or through one of its subsidiaries, with the same related party, or with parties related to both the latter and the Italgas Group, transactions that are homogeneous with each other or carried out in execution of a unitary plan which, although not individually qualified as transactions of greater importance, exceed, where cumulatively considered, the materiality thresholds identified in Annex 4. For the purposes of cumulation, transactions carried out by subsidiaries are also taken into account and any transactions excluded pursuant to paragraph 4.6 (Excluded cases) of the Standard to which this annex refers, are not considered.

### I. Terms for the publication of the information document

Without prejudice to the provisions of Article 17, paragraph 1, MAR, the information document shall be made available to the public, at the Company's registered office and in the manner indicated in Part III, Title II, Chapter I, of the Issuers' Regulation, within seven days of the approval of the transaction by the Board of Directors or, if the Board of Directors resolves to submit a contractual proposal, from the moment the contract, including the preliminary one, is concluded according to the applicable regulations. In cases of competence or authorization by the Shareholders' Meeting, the same information document is made available within seven days of the approval of the proposal to be submitted to the Shareholders' Meeting.

In the event that the materiality thresholds are exceeded by the cumulation of transactions, the information document shall be made available to the public within fifteen days of the approval of the transaction or the conclusion of the contract that determines the exceeding of the materiality threshold and shall contain information, including on an aggregate basis for homogeneous transactions, on all the transactions considered for the purposes of cumulation. If the transactions that determine the exceeding of the materiality thresholds are carried out by subsidiaries, the information document is made available to the public within fifteen days from the time Italgas has received notice of the approval of the transaction or the conclusion of the contract determining the materiality. Pursuant to Article 114, paragraph 2, of the TUF, the Subsidiaries shall promptly transmit the information necessary for the preparation of the document in accordance with the procedures provided for by the Italgas Group.

When a transaction of greater significance falls within the competence of the shareholders' meeting or must be authorised by it, if there are significant updates to be made to the published information document, Italgas, within twenty-one days before the shareholders' meeting, shall make a new version of the document available to the

public at the Company's registered office and in the manner indicated in Title II, Chapter I, of the Issuers' Regulation. Italgas may include by reference the information already published.

## **2. Publication of the opinions of independent directors or experts**

Within the deadlines set for the publication of the information document, Italgas shall make available to the public, as an annex to the information document or on the website: (i) any opinions of the committee of independent directors and/or of any independent experts appointed by the committee to assist it in issuing the opinions and (ii) the opinions issued by experts qualified as independent that may have been used by the Board of Directors Administration. With reference to the aforementioned opinions of independent experts, Italgas may avail itself of the right to publish only the elements indicated in Annex 4 of the Consob Regulation, justifying this choice in this case.

## **3. Mergers, demergers, capital increases through contributions of assets in kind, acquisitions and disposals**

If, in relation to a Transaction of Major Importance, Italgas is required to prepare an information document pursuant to Articles 70, paragraphs 4 and 5, and 71 of the Issuers' Regulation, it may publish a single document containing the information required by Annex 4 for the preparation of the information document and by the same Articles 70 and 71. In this case, the document is made available to the public, at the Company's registered office and in the manner indicated in Part III, Title II, Chapter I, of the Issuers' Regulation, in the shortest term provided for by each of the applicable provisions. Where separate documents are published, the Italgas Group may include by reference the information already published.

## **4. Communication to Consob**

Italgas, at the same time as dissemination to the public, transmits to Consob the documents and opinions indicated above by means of a link with the storage mechanism authorised pursuant to Article 65-septies, paragraph 3, of the Issuers' Regulation.

## **2. Periodic information requirements to the market for Transactions with Related Parties**

2.1 For the purposes of this Paragraph 2.1, the Related Parties are identified taking into account art. 13, paragraph 1-bis, of Decree-Law No. 95 of 30 June 2025, converted with amendments by Law No. 118 of 8 August 2025, as subsequently amended and supplemented.

Pursuant to Article 154-ter of the TUF and Article 5, paragraph 8 of the Consob Regulation, Italgas provides information, in the interim report on operations and in the annual management report:

- a) on the individual Transactions of Major Significance concluded in the reference period;
- b) any other individual transactions with related parties, concluded in the reference period, which have had a significant influence on the financial position or results of the companies;
- c) on any changes or developments in the related-party transactions described in the last annual report that had a material effect on the financial position or results of the companies in the reporting period.

- Information on individual Transactions of Major Importance may be included by reference to the published information documents, reporting any significant updates. Furthermore, if a transaction that can be classified as being of greater significance is exempted from the authorisation procedures described in the Standard as an Ordinary Transaction concluded under Conditions Equivalent to Market or Standard Conditions, Italgas is required to notify Consob and the Independent Directors who express opinions on the Transactions of Major Significance within the deadline specified in the counterparty's Standard, the object and consideration of the transactions that benefited from the exclusion, as well as the reasons why it was considered that the OPC was an Ordinary Transaction and concluded at Conditions Equivalent to Market or Standard Conditions, providing objective elements of confirmation. In addition, in the Interim Report on Operations and in the Annual Management Report, in addition to the provisions of letter "a" of paragraph 2.2 below, it is indicated that the Ordinary Transactions concluded at Conditions Equivalent to Market or Standard Conditions, although significant, were concluded in the *reporting period* using the procedural exemption.

2.2 With regard to the information to be included in the periodic documentation on individual transactions with related parties pursuant to IAS 24, the following information is material:

a) In the annual management report:

- 1) where applicable, a description of the policies under which transactions with related parties may be framed, also with reference to the strategy pursued with such transactions;
- 2) the indication for each operation, also in tabular form, of the following information:
  - the name of the counterparty to the transaction;
  - the nature of the relationship with the related party;
  - the object of the transaction;
  - the consideration for the transaction;
  - any other information that may be necessary to understand the effects of the transaction with related parties on the company's financial statements;

b) In the interim report on operations:

- 1) any changes in the related-party transactions described in the last annual report that have had "a material effect" on the company's balance sheet or results of performance during the reporting period;
- 2) the indication for each transaction, also in tabular form, of the information indicated in letter a), point no. 2 above.

### **3. Disclosure obligations for transactions of minor importance**

For the purposes of this Paragraph 3, the Related Parties are identified taking into account art. 13, paragraph 1-bis, of Decree-Law No. 95 of 30 June 2025, converted with amendments by Law No. 118 of 8 August 2025, as subsequently amended and supplemented.

Without prejudice to the provisions of point 0, there are no specific external disclosure obligations for Transactions of Minor Importance, with the exception of transactions approved with a negative opinion of the Control and Risk Committee and Transactions with Related Parties, of which information must be provided to the public on a quarterly basis with evidence of the counterparty, object and consideration of the transaction, as well as the reasons why it was decided not to share this opinion. Within the same period, the opinion shall be made available to the public as an annex to the information document or on the Italgas website.

### **4. Press releases on price-sensitive transactions**

If a transaction with related parties is capable of significantly influencing the stock market prices of Italgas shares, the related press release issued pursuant to Article 17, paragraph 1, MAR contains, in addition to the information to be published pursuant to the aforementioned provision, the following information:

- a) the description of the transaction;
- b) an indication that the counterparty to the transaction is a related party and the nature of that relationship;
- c) the identification of the counterparty to the transaction;
- d) whether or not the transaction exceeds the materiality thresholds set out in Annex 4 to this Standard and an indication of whether or not the subsequent publication of the information document for the most significant transactions will be published;
- e) the procedure that has been or will be followed for the approval of the transaction and any cases of procedural exclusion referred to in paragraph 4.6 (Excluded Cases) of this Standard to which this Annex refers;
- f) the possible approval of the transaction despite the contrary opinion of independent directors.

## Section II - INFORMATION DOCUMENT RELATING TO TRANSACTIONS OF GREATER SIGNIFICANCE WITH RELATED PARTIES

For the purposes of this Section II, the Related Parties are identified taking into account art. 13, paragraph I-bis, of Decree-Law No. 95 of 30 June 2025, converted with amendments by Law No. 118 of 8 August 2025, as subsequently amended and supplemented.

In cases where the Italgas Group carries out Transactions of Greater Importance, the information document provided for in section I of this annex must contain at least the following information.

### I. Warnings

To highlight, in summary, the risks associated with potential conflicts of interest deriving from the transaction with a related party described in the information document.

### 2. Transaction Information

- 1) Description of the characteristics, methods, terms and conditions of the transaction.
- 2) Indication of the related parties with whom the transaction has been carried out, the nature of the correlation and, if this is communicated to the administrative body, the nature and extent of the interests of these parties in the transaction.
- 3) Indication of the economic motivations and convenience for the company of the operation.
- 4) If the transaction has been approved in the presence of a contrary opinion from the independent directors, an analytical and adequate justification of the reasons why it is believed not to share such a view.
- 5) Methods for determining the consideration for the transaction and assessments of its fairness with respect to the market values of similar transactions.
- 6) If the economic conditions of the transaction are defined as equivalent to market or standard conditions, adequately justify this statement by providing objective evidence. Indicate the possible existence of independent expert opinions to support the adequacy of this fee and the conclusions of the same, specifying:
  - the bodies or entities that commissioned the opinions and designated the experts;
  - the assessments carried out to select the independent experts and the checks on their independence. In particular, indicate any economic, equity and financial relationships between the independent experts and: (i) the Related Party counterparty to the RPT, the companies controlled by it, the persons who control it and the companies under common control; (ii) Italgas, the persons who control Italgas, the companies controlled by Italgas or under common control with Italgas, (iii) the directors of the companies referred to in points (i) and (ii) above taken into consideration for the purposes of qualifying the expert as independent and the reasons why these relationships were considered irrelevant for the purposes of the judgment on independence. Information on any reports may be provided by attaching a statement by the independent experts themselves;
  - the terms and subject matter of the mandate given to the experts;
  - the names of the experts in charge of assessing the adequacy of the consideration.

Indicate that the opinions of the independent experts or the essential elements thereof are attached to the information document or published on the Italgas Group website. The essential elements of the opinions that must be published are the following:

- evidence, where appropriate, of the specific limitations encountered in the performance of the assignment (e.g. with regard to access to meaningful information), of the recruitments used as well as of the conditions to which the opinion is subject;
- evidence of any critical issues reported by experts in relation to the specific transaction;
- indication of the valuation methods adopted by the experts to express their opinion on the adequacy of the consideration;
- an indication of the relative importance attributed to each of the valuation methods adopted for the purposes specified above;

- indication of the values resulting from each valuation method adopted;
- where a range of values is identified on the basis of the valuation methods used, an indication of the criteria used to establish the final value of the consideration;
- indication of the sources used for the determination of the relevant data subject to processing;
- indication of the main parameters (or variables) taken as a reference for the application of each method.

With regard to the elements of the experts' opinions made public, confirm that this information has been reproduced consistently with the content of the opinions referred to and that, to the best of the Italgas Group's knowledge, there are no omissions that could render the information reproduced inaccurate or misleading.

- 1) An illustration of the economic, equity and financial effects of the transaction, providing at least the applicable materiality ratios.
- 2) If the transaction exceeds the significance parameters determined by Consob pursuant to Articles 70 and 71 of the Issuers' Regulation, please note that pro-forma financial information will be published in the document provided, as the case may be, by paragraph 4 of the aforementioned Article 70 or by Article 71 and within the terms provided for by the same provisions. This is without prejudice to the right to publish a single document in accordance with point 0.
- 3) If the amount of remuneration of the members of the board of directors of Italgas and/or its subsidiaries is likely to change as a result of the transaction, detailed details of the changes. If no changes are envisaged, insertion, in any case, of a declaration to that effect.
- 4) In the case of transactions where the related parties involved are members of the administrative and control bodies, general managers and executives of Italgas, information relating to the financial instruments of Italgas held by the persons identified above and the interests of the latter in extraordinary transactions, provided for in paragraphs 14.2 and 17.2 of Annex I to Regulation no. 809/2004/EC.
- 5) Indication of the bodies or directors who conducted or participated in the negotiations and/or instructed and/or approved the transaction, specifying their respective roles, with particular regard to independent directors, if any.
- 6) With reference to the resolutions approving the transaction, specify the names of those who voted for or against the transaction, or abstained, specifying in detail the reasons for any dissent or abstentions. Indicate that any opinions of the independent directors are attached to the information document or published on the company's website.
- 7) If the significance of the transaction derives from the accumulation of several transactions carried out during the year with the same related party, or with parties related to both the latter and the Italgas Group, the information indicated in the previous points must be provided with reference to all the aforementioned transactions.

**ITH-STC-069-R02**  
**Annex 07-R00**  
**External references**

**Update of 03/03/2026**

**External references**

The main external regulations to which the Standard refers are reported below:

- Legislative Decree no. 58 of 24 February 1998;
- Legislative Decree no. 93 of 1 June 2011;
- Regulation (EC) No 1126/2008;
- Regulation (EU) No 596/2014;
- Consob Regulation no. 11971/1999;
- Regulation (EC) No 1606/2002;
- Article 13, paragraph 1-bis, of Decree-Law No. 95 of 30 June 2025, converted with amendments by Law No. 118 of 8 August 2025, as subsequently amended and supplemented;
- Consob Resolution no. 17221 of 12/03/2010;
- Consob Resolution no. 17389 of 23/06/2010;
- Consob Resolution no. 19925 of 22/03/2017;
- Consob Resolution no. 19974 of 27/04/2017;
- Consob Resolution no. 21624 of 10/12/2020;
- Consob Communications DEM/10078683 of 24 September 2010;
- Corporate Governance Code to which Italgas adheres;
- Annex A to Resolution of the Regulatory Authority for Energy, Networks and Environment 137/2016/R/com - Integrated text of accounting unbundling (TIUC);
- Annex A to the Resolution of the Regulatory Authority for Energy, Networks and Environment 296/2015/R/com - Integrated text of functional unbundling (TIUF).