

ENEL

"231 GUIDELINES"

***Guidelines applied to Non-Italian Subsidiaries
pursuant to Legislative Decree no. 231
of June 8, 2001***

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INTRODUCTION

Legislative Decree 231 of 8 June 2001, "Discipline of the administrative liability of legal entities, companies and associations" (the "231 Decree") introduced **into Italian law** a regime of administrative liability of **Italian companies** as a result of certain offences committed, **in Italy or abroad**, on behalf or for the benefit of such entities (the "Crimes and Administrative Infractions").

A company can be liable to prosecution in Italy if the offences, referred to in the 231 Decree are committed abroad in two different cases:

- offences committed abroad by an Italian Company if the State where the offences were committed doesn't intend to prosecute the company;
- offences committed abroad or in Italy by a Non-Italian Subsidiary when the activity carried out was broadly analyzed/approved by the Italian company that controls it.

The broadening of the liability aims at punishing also those entities that have benefited from the offence. The most serious sanctions provided for by the law include various types of disqualification.

Nevertheless the 231 Decree provides for a specific kind of exemption from said liability if the legal entity adopts a specific compliance program.

The Board of Directors of Enel SpA implemented the aforesaid 231 Decree through the adoption of a compliance program on July 23, 2002 (the "**Compliance Program**") conscious that the Compliance Program can constitute a valid instrument for making all the persons who work on behalf of Enel aware that they should behave fairly and transparently, so as to prevent the risk of committing the Crimes and Administrative Infractions. The Compliance Program has been constantly updated through further Board of Directors' resolutions with the purpose of being compliant with the amendments to the 231 Decree.

The Italian Companies are entrusted with the adoption, adaptation (if needed), and application of the Compliance Program with regard to the activities they carry on.

As regards the Non-Italian Subsidiaries, Enel defined guidelines (the "**231 Guidelines**") that represent the point of reference for the identification of the behaviours, expected from all employees, directors, statutory auditors, officers (hereinafter the "**Corporate Members**") and – where specified – from consultants, contractors, business partners, agents, suppliers (hereinafter the "**Third Parties**" and, together with the Corporate Members, the "Addressees"), according to the Legislative Decree no. 231/01.

The rules of behaviour are integrated with those of the Ethical Code and the Zero-Tolerance-of-Corruption Plan adopted by the entire Enel Group.

The Ethical Code expresses the ethical commitments and responsibilities in the performance of business activities and corporate operations by the employees.

The Zero Tolerance of Corruption Plan was adopted by Enel to pursue its commitment to fight corruption, in compliance with the tenth principle of Global Compact¹, by applying the criteria of transparency recommended by Transparency International.

¹ Promoted by the United Nations in July 2000 at the direct investigation of the Secretary General, intended to involve the world of business in a new form of collaboration with the United Nations, by (their) adhesion to 10 universal principles in the areas of human rights, labour protection and environmental protection and anti-corruption (www.unglobalcompact.org)

1. ADMINISTRATIVE LIABILITY REGIME FOR LEGAL ENTITIES, COMPANIES AND ASSOCIATIONS - LEGISLATIVE DECREE N.231/2001

The 231 Decree initially aimed at bringing Italian law in the area of corporate liability in line with several international agreements, such as the *Brussels Convention of 26 July 1995* on the protection of European Community financial interests, the *Brussels Convention of 26 May 1997* on the fight against corruption involving officials of the European Union or of Member States of the European Union, the *OECD Convention of 17 December 1997* on combating bribery of foreign public officials in international business transactions.

Such Decree has been supplemented afterwards, overcoming the limits set forth by the abovementioned conventions, in order to provide for new hypotheses of corporate liability different from the "corruption and fraud area" (for a complete description of all criminal offences, please see below).

The 231 Decree introduced **into Italian law** a regime of administrative liability (which is broadly related to the criminal liability of physical persons) of **Italian companies** as a result of certain offences committed, **in Italy or abroad**, on behalf or for the benefit of such entities, (i) by individual persons having a representative, administrative or managerial position in the company or in one of its branches or business units, as well as by individual persons who, also *de facto*, manage and control the bodies, as well as (ii) by individual persons subject to the management or supervision by one of the subjects mentioned above. Liability of legal entities does not exclude that of individuals who materially committed the offence.

The broadening of the liability aims at punishing - for certain criminal offences - also these entities that have benefited from the offence. The most serious sanctions provided for by the law include various types of disqualification such as the suspension or withdrawal of licences and permissions, the prohibition from entering into agreements with the Italian Public Administration, the debarment from performing certain activities, the barring from or withdrawal of subsidies and contributions, and the prohibition from advertising goods and services. The 231 Decree also provides for monetary sanctions in relation to the gravity of the offence, the economic conditions of the company, the activities carried out to mitigate the consequences of the offence.

As to the type of offences triggering said regime of corporate liability, the 231 Decree refers, inter alia, to the following offences – that are either included in the Compliance Program or Enel is considering whether to include them – that may be committed by persons acting on behalf or for the benefit of the Enel Group:

- **Criminal Offences against Governmental/public entities** (Embezzlement of State or European Union Funds; Wrongful obtainment of grants from the State or the European Union; Extortion by a public official; Bribery to obtain from a public officer a due act or an act contrary to official duties; Inducement to accept bribe; Bribery in judicial proceedings; Fraud against the State, other public entities, or the European Union; Aggravated fraud to obtain public grants; fraud against the State or another public entity through IT means).
- **Corporate Crimes** (Fraudulent financial statements; Fraudulent prospectuses; Fraudulent reports or communications issued by the external auditors; Obstruction of inspections; Wrongful distribution of capital; Illegal allocation of profits or reserves; Illegal transactions involving shares or quotas of the company or the controlling company; Transactions prejudicial to creditors; Failure to communicate conflict of interest; Fictitious formation of capital; Wrongful allocation of company assets by liquidators; Illegal influence over the stockholders meeting; Stock manipulation; Obstruction of performance of public supervisory authorities functions).
- **Terrorist offences and subversion of the democratic order** (Associations promoting terrorism, also international, or subversion of the democratic order; Support of terrorist or subversive associations; Recruitment for acts of domestic or international terrorism; Training for acts of domestic or international terrorism; Acts

of terrorism; Attacks for terrorist or subversive purposes; Act of terrorism with deadly or explosive devices; Kidnapping for the purpose of terrorism or for subverting the democratic order; Inducement to commit crimes against the State; Political conspiracy through agreements and associations; Formation of and participation in an armed organization; support to conspirators or members of an armed organization; Terrorist offences as provided by special laws: portion of Italian legislation enacted in the 1970s and 1980s, aimed at fighting terrorism; Offences, different from the ones set forth in the Criminal Code and in special laws, that are in violation of Art. 2 of the New York Convention of December 8, 1999).

- **Offences against the person** (Placing or holding a person in conditions of slavery or servitude, Possession of pornographic material, Virtual pornography, Tourism for the purpose of exploiting child prostitution, Trafficking in human beings, Sale and purchase of slaves).
- **Market abuse as a criminal offence or administrative infraction** (Insider trading, Market manipulation).
- **Manslaughter and negligent serious or very serious personal injuries committed with violation of health and safety protection laws** (Manslaughter; Negligent serious or very serious personal injuries).
- **Money laundering crimes** (Money laundering; Investment of money, goods, or gains having illegal origin; Receipt of stolen goods).
- **Information technology crimes** (e.g. forgery of data-processing documents, unauthorized access to data-processing systems, damaging of data-processing data and systems, illegal interception, interference or interruption of a computer communication).
- **Criminal conspiracy crimes** (e.g. Racketeering, Mafia-type racketeering).
- **Crimes against industry and commerce** (e.g. disturbance of industrial or commercial activities, commercial fraud, selling of forged goods).
- **Intellectual property rights** (e.g. commercial distribution, import, selling or possession of registered programs, illegal use of database).

Therefore, as provided for by some foreign legislations, an immediate form of liability towards companies is connected to the commission of such crimes by their representatives or employees.

Nevertheless, in introducing corporate liability, Sec. 6 of the 231 Decree provides for a specific kind of exemption from said liability (which is not provided for by other foreign legislations) if the legal entity demonstrates that:

- a) prior to the offence being committed, the managing body of the entity adopted - and effectively implemented - a compliance program suitable for preventing offences of the same type as that/these perpetrated;
- b) the task of supervising the functioning of and compliance with compliance program - as well as overseeing its updating – was assigned to a "control body" of the legal entity having autonomous powers of initiative and control (the "Control Body");
- c) the persons who committed the crimes and administrative infractions acted by fraudulently circumventing the aforesaid compliance program;
- d) the body referred to under b) above did not fail to provide sufficient supervision.

The 231 Decree furthermore states that - with regard to the extension of the delegated powers and the risk of committing the offences – the compliance program as per letter a), must meet the following requirements:

1. identify the activities in which it is possible that crimes and administrative infractions may be committed;
2. provide for specific protocols aimed at planning the making and implementation of the legal entity's decisions regarding the crimes and administrative infractions;
3. establish procedures for managing financial resources that are suitable for preventing the commission of such crimes and administrative infractions;
4. introduce an obligation to keep the control body continuously informed about the working and the compliance with the compliance program;
5. introduce an internal disciplinary system suitable for punishing failure to comply with the measures specified in the compliance program.

2. **THE 231 GUIDELINES APPLIED TO NON-ITALIAN SUBSIDIARIES**

The 231 Guidelines are an official document, approved by the Board of Directors of Enel SpA on May, 12, 2010, and represent a point of reference for the identification of the standards of behaviour expected from all the Corporate Members and – where specified – from the Third Parties, according with the prescriptions of the 231 Decree.

The 231 Guidelines will have to be approved by the Board of Directors, or other governing body, and complied with by the Non Italian Subsidiaries and will have to be applied according to the activities they carry on, to the specific features of the organizational structures and to the local legislation.

Further substantive changes in and additions to the 231 Guidelines shall be entrusted to the Board of Directors of Enel SpA and shall be approved by the Board of Directors, or other governing body, of the Non-Italian Subsidiaries.

The Non-Italian Subsidiary's governing bodies shall appoint a Local control body ("Local 231 Officer") – after getting an opinion by Enel SpA Control Body – with the task of ascertaining that the guidelines work properly and effectively in the relevant Subsidiary and that they are complied with.

The choice of the Local 231 Officer must take into consideration the possession of adequate skills and competences, to be evaluated in consideration of his/her background, his/her current job position, his/her ethical conduct and his/her previous training activity on ethical business standards.

Considering the type of offences triggering the regime of corporate liability provided by the 231 Decree, each Non Italian Subsidiary shall:

- identify the areas of activity considered as being potentially at risk ("**Areas at Risk**") where the Crimes and Administrative Infractions may be committed;
- identify the relevant **behaviours** which all Corporate Members and – where expressly specified – Third Parties have to deal with in order to:
 - abstain from any behaviour that gives rise to any of the Crimes and Administrative Infractions described above; and
 - abstain from any behaviour that, even though does not constitute itself any of the Crimes and Administrative Infractions described above, could potentially turn into.
- apply the disciplinary system for punishing any failure to respect such behaviours;
- establish specific information flow in order to allow any Corporate Members who notice anything anomalous with reference to the commission of one of the Crimes and Administrative Infractions referred in these 231 Guidelines to immediately inform the appointed Local 231 Officer;

- provide training activities for all personnel to ensure the dissemination and correct understanding of both the 231 Guidelines, the Areas at Risk as well as the relevant behaviours;

An abstract of the main areas at risk and relative behaviours to be implemented is reported in the following section.

The Local 231 Officer shall:

- assure an adequate dissemination of knowledge of the 231 Guidelines, the Areas at Risk as well as the behaviours, within the Non-Italian Subsidiaries;
- monitor the behaviours in the Areas at Risk through appropriate analysis;
- ensure that all the disciplinary measures have been taken in order to punish any deviation from the standards established;
- inform periodically the Non-Italian Subsidiary's governing bodies as well as Enel S.p.A. Control Body about all the relevant activities under the 231 Guidelines;
- inform periodically the Non-Italian Subsidiary's governing Bodies as well as Enel S.p.A. Control Body of any reported violation of the 231 Guidelines.

The Non-Italian Subsidiaries shall formally provide the Local 231 Officer with all necessary powers, authority, independence and means (such as appropriate financial and human resources) in order to perform his/her activities

The 231 Guidelines are available and may be freely downloaded from Enel Group's Intranet.

3. AREAS AT RISK AND GENERAL BEHAVIOURAL GUIDELINES

Here below are listed the main Areas at Risk and relative behaviours. The list is merely indicative and does not exempt the Non Italian Subsidiaries from coming out their own risk assessment and subsequent definition of behavioural guidelines.

a) Criminal Offences against Governmental / public entities

The Non-Italian Subsidiaries' core businesses are built on extensive relationships with public administrations and national, state and local governments (the "Public Authorities"). In conducting business with these entities and their representatives, each Non-Italian Subsidiary is committed to acting with integrity and honesty and shall comply with all applicable laws and regulations.

Virtually, all Corporate Members may interact with government officials and/or employees of government and government agencies. In doing every business with government officials and employees they must always act with integrity, honesty, respect, and fair dealing.

Therefore, Enel strictly recommends to the Non-Italian Subsidiaries to observe all the prescriptions set forth in these 231 Guidelines when acting in the Areas at Risk as described below.

AREAS AT RISK

- relationships between the Non-Italian Subsidiaries – also through the assistance of consultants or partners – and the Public Authorities;
- participation, also in association with a foreign partner, in tendering or direct negotiation procedures called by Public Authorities for the award of contracts, supplies or services, concessions, partnerships or assets;
- participation – also by assignment of a specific consulting or representation agreement to a third party - in procedures for obtaining funds, contributions, loans from a public agency and their actual use;

- participation in procedures for obtaining particularly important authorizations from a Public Authority in particular in those regions not guaranteed by appropriate transparency standards (the country risk may be assessed for such purpose also taking into account the rating prepared by Transparency International).

GENERAL BEHAVIOURAL GUIDELINES

Also in accordance with the provisions of the Ethical Code, Corporate Members and Third Parties (pursuant to specific contractual terms), are specifically forbidden to:

- a) make gifts of money to public officials or to members of their families;
- b) distribute gifts or presents or grant other benefits of any kind (promises of employment, etc.) to representatives of Public Authorities other than what is provided for by corporate practice (i.e., any kind of gift offered or received exceeding normal practices of business or courtesy or in any case aimed at obtaining privileged treatment in the conduct of any corporate activity). Gifts allowed by the Group are always characterized by their scarce value or by their aim of promoting artistic initiatives (for example, the distribution of art books) or the Group's brand image;
- c) assign services to consultants, partners, and suppliers that are not sufficiently justified in the context of the contractual relation constituted with the latter;
- d) pay money to consultants, partners and suppliers that are not sufficiently justified with regard to the kind of assignment to be performed and to local practices at the time;
- e) make false declarations to a Public Authority in order to obtain public funds, contributions, or subsidized loans;
- f) use sums received from public agencies as funds, contributions or loans for purposes other than these for which they were granted.

The following principles shall apply for the purpose of implementing the behavioural guidelines described above:

- adequate evidence must be given of all main relationships entered with Public Authorities;
- all partnership agreements must be entered into in writing specifying all the terms of agreement – especially as far as the financial terms for joint bidding are concerned;
- all assignments given to independent consultants and contracts entered with suppliers must also be concluded/executed in written form, specifying the fees and consideration agreed;
- no payment in cash is allowed except under exceptional circumstances that shall be, in any case, duly documented;
- all the statements rendered to public authorities for the purpose of obtaining funds, grants or loans must only contain absolutely true information and, where said funds, grants or loans are obtained, these must be appropriately accounted for;
- all supervisors in charge of the obligations related to the performance of these activities (payment of invoices, allocation of State or European Community funds, etc.) must be particularly careful in complying with said obligations and report immediately any irregularity to the Local 231 Officer;
- suitable evaluation systems must be put in place for the selection of agents, consultants and the like as well as partners with which the Non-Italian Subsidiary intends to form a partnership (for example, a joint-venture, also in the form of a temporary company association, consortium, etc.) who will cooperate with the Non-Italian Subsidiary in relation to any activity that should be considered as "at-risk". Enel S.p.A. Control Body might from time to time circulate guidelines or send evaluation systems that must be taken into account by the Non-Italian Subsidiaries;
- any conduct by agents, consultants and the like as well as partners with which the Non-Italian Subsidiary intends to form a partnership, that contrasts with the

behavioural guidelines stated in this document, might trigger contractual mechanisms (such as the termination of the contract), according to the provisions contained in the specific clauses of the job orders or in the partnership agreements.

b) Corporate crimes

AREAS AT RISK

- drafting of communications addressed to shareholders or to the general public regarding the revenues and expenses, financial conditions, or cash flows of the Non-Italian Subsidiary and the Group, even if these communications are other than the periodical accounting documents (financial statements, consolidated financial statements, quarterly and half-year reports);
- management of relations with the audit firm entrusted with the statutory audit of the accounts;
- drafting of communications to the public Supervisory Authorities and management of relations with the same.

GENERAL BEHAVIOURAL GUIDELINES

The Non-Italian Subsidiaries are required to keep books, records and accounts in a reasonable detail, duly and accurately also with the aim of fairly reflecting the transactions and dispositions of the assets of the companies.

The Non-Italian Subsidiaries are required to outline and maintain a system of internal control sufficient to provide reasonable assurance that:

- a) transactions are executed in accordance with the management's general or specific authorizations;
- b) transactions are recorded as necessary to permit the preparation of financial statements in conformity with the applicable generally accepted accounting principles or any other criteria applicable to such statements;
- c) the access to said transactions records is allowed only in accordance with the management's general or specific authorizations; and
- d) the procedure provided for by the paragraph herein, aimed at providing reasonable accuracy and completeness of the information and data contained in the documents mentioned above, are observed.

Furthermore, the Non-Italian Subsidiaries are required not to perform any conduct which impedes and, in any case, obstructs the checking and auditing activities by the audit firm entrusted with the statutory audit of the accounts through the concealment of documentation or the use of other fraudulent means.

The Non-Italian Subsidiaries are also required to comply with Group procedures regulating the assignments of additional tasks to audit firms that do business with the Group.

Finally, the Non-Italian Subsidiaries are required to make all communications towards the public Supervisory Authorities (as provided for by the local applicable law) in a correct, complete, proper and expeditious manner, not preventing them, in any way, from performing their duties, even in the context of any inspection (e.g. express opposition, unreasonable refusal, obstructive conduct or failure in giving cooperation).

c) Terrorist offences and subversion of the democratic order

AREAS AT RISK

- financial or commercial transactions carried out with: (i) natural and legal persons resident in the countries at risk specified in the so-called "Country Lists" published by recognized local, if any, and/or international agencies (eg. FATF-GAFI); or (ii) companies controlled by the persons specified above.

GENERAL BEHAVIOURAL GUIDELINES

The Non-Italian Subsidiaries are required:

- a) not to perform, promote, participate in, or cause actions implementing the crimes of terrorism or subversion of the democratic order or of the government of the country where they operate;
- b) not to use the Non-Italian Subsidiary or one of its organizational units, even occasionally, for the purpose of allowing or facilitating the commission of the crimes of terrorism or subversion of the democratic order or of the government of the country where they operate;
- c) not to provide, directly or indirectly, funds to persons who intend to commit crimes of terrorism or subversion of the democratic order;
- d) to pay specific attention to the carrying out of any commercial and/or financial transactions, either directly or through an intermediary, with legal representatives resident in the "countries at-risk", as specified in the so-called "Country Lists" published by recognized local, if any, and/or international agencies (eg. FATF-GAFI);
- e) not to carry out transactions with natural or legal persons which are known to be connected with international terrorism (e.g. because their names are present in the so-called "Name Lists" published by recognized local, if any, and/or international agencies like UN, EU, OFAC);
- f) not to accept or assign orders or carry out transactions that could be considered anomalous with reference to their objects, or that could determine the establishment or the maintenance of relations that could be considered anomalous with reference to the trustworthiness of the reputation of the counterparty;
- g) not to assign services to consultants, partners, or suppliers that are not sufficiently justified in the context of the contractual relationships established with the same;
- h) not to pay money to consultants, partners, or suppliers that are not sufficiently justified with regard to the kind of tasks to be carried out and with local practices and admitted by local law.

d) Offences against the person

AREAS AT RISK

- Productive activities, including any partnership with third parties or relying on local entrepreneurs, in countries with low protection of individual rights, so classified by recognized organizations;
- contracts with companies that utilize unskilled personnel from countries with low protection of individual rights, so classified by recognized organizations, and that do not already have business relations with the Group.

GENERAL BEHAVIOURAL GUIDELINES

Partners and suppliers must undertake the liability to fulfil the legal obligations provided by the regulations of the countries in which they operate with regard to health and safety conditions (workplace hygiene) and to the protection of the rights of minors and women, rights related to labour unions or, in any case, rights of workers' associations and representations.

The Non-Italian Subsidiaries and their partners must comply with local regulations on the minimum age for employment.

e) Market abuse

AREAS AT RISK

- management of public information (relations with investors, financial analysts and journalists and other representatives of the mass media) and the organization of and participation in meetings of any kind with the aforesaid persons;
- management of inside information connected to listed companies – and, particularly, listed companies of the Group – and the relevant financial instruments (for example, new products/services and markets, period accounting data, forecast data and quantitative targets concerning corporate performance, mergers/de-mergers, and particularly significant new undertakings, i.e., talks and/or agreements regarding the acquisition and/or sale of significant assets);
- management of inside information connected to energy derivatives;
- theoretically, purchase/sales/issue or other transactions relating to company's own financial instruments, or belonging to a third party, or to energy derivatives in regulated markets.

GENERAL BEHAVIOURAL GUIDELINES

The Non-Italian Subsidiaries are expressly prohibited - with reference to inside information related, directly or indirectly, to Enel – to:

- a) use inside information to negotiate, directly or indirectly, issued shares, financial instruments or energy derivatives, however, to gain personal advantage and/or to favour Enel or other Group companies;
- b) disclose inside information to third parties, except when this is required by law, or other regulatory provisions or specific contracts in which the counter-parties are obliged to use the information only for the purpose originally intended and maintaining its confidentiality;
- c) recommend or induce a person to carry out, on the basis of inside information, purchase, selling and other transactions about financial instruments.

Furthermore, the Non-Italian Subsidiaries are expressly prohibited to:

- spread false or misleading information through the media, including the Internet, or by any other means, just to move shares' prices, derivatives, or underlying activities towards a direction which support already planned transaction by the subject which spreads the hereof information;
- perform the sale and purchase transactions of a financial instrument violating the market abuse regulations.

f) Manslaughter and negligent serious or very serious personal injuries committed with violation of health and safety protection laws

AREAS AT RISK

- Any activity carried out in the workplace that could put employees' safety at risk (including gas and energy production and distribution, services providing, plants' building, maintenance activities)

GENERAL BEHAVIOURAL GUIDELINES

If the Non-Italian Subsidiary hires employees directly, it must ensure the observance of the applicable labour regulations and agreements with workers unions concerning hiring and employment in general. Observance of the rules of fairness and proper conduct in the workplace must also be ensured and, in any case, particular attention should be given to anomalous or abnormal work situations. All labour laws and regulations applicable to the Non-Italian Subsidiary must be respected.

g) Money laundering crimes

AREAS AT RISK

- financial and commercial transactions with suppliers, partners and third parties;
- management of inflows of capital;
- purchases and sales of real estate.

GENERAL BEHAVIOURAL GUIDELINES

In addition to all principles set forth above (see lett. a and c):

- all laws, regulations and internal procedures applicable to the Non-Italian Companies regarding the prevention of the crimes of money-laundering must be observed;
- particular attention should be given to anomalous situations or abnormal transactions that may concern cases of violation of the applicable laws, regulations and internal procedures for the prevention of the money-laundering;
- anonymous instruments shall not be used to carry out transactions for the transfer of substantial sums of money;
- corporate cash flows shall be constantly monitored: such controls must take into account the place in which the counterparty has its registered office (for example tax havens, countries at risk from terrorism, etc.), the banks used (the head office of the bank involved in the transaction) and any front companies or trust structures used for extraordinary transactions.