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Chimec S.p.A.

Organisation, Management and Control Model
pursuant to Legislative Decree 231/2001

SPECIAL SECTION “A”

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1. – Offences against the public administration: outline

This Special Section covers offences committed within the framework of relations between the Company and the Public Administration.

Public administration or Public Entity means any legal person charged with the responsibility of implementing the public interest or performing duties of a legislative, administrative or judicial nature, in virtue of rules of public law or authoritative acts¹.

Pursuant to article 3 of Legislative Decree 163/2006, this category comprises all public bodies or corporations established to implement specific public interests, financed by the State, by the local government authorities or other public law bodies, or the management of which is subject to control by the latter, or whose management, direction or supervisory body comprises members more than half of whom are designated by the above mentioned entities, and which also has legal personality.

The category also includes the bodies and Institutions belonging to the European Communities.

The legal interest protected by the offences hereunder shall be identified with reference to the principles set out in article 97, paragraph 2, of the Italian Constitution, which provides that “public offices are organised according to the provisions of law, so as to ensure the efficiency and impartiality of administration”.

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It is precisely to achieve this aim that the law also sanctions any conduct adopted by private entities which, through solicitation, also of a fraudulent nature, by a public party, is liable to disturb the efficient and regular performance of administrative functions and responsibilities, and, therefore, to produce economic or other damage to the public administration as a whole.

It should also be specified that these offences are so-called “proper”, or specific, offences, which means that, in order to qualify as such they must be committed by a qualified party, a public official or a person authorised to provide a public service, thus differing from so called “common”, or ordinary, offences, which can be committed by anyone.

Therefore, given that many of the offences hereunder presuppose the activities of either “public officials” or “public service officers”, it shall be necessary to briefly define the two roles.

¹By way of example only, the reference is to: the State administrations (Presidency of the Council of Ministers, Financial Services and Markets Authority, Bank of Italy, Internal Revenue Service, Gas and Electricity Markets Authority); the European Community and related institutions; Local Health Authorities; Public Pensions Agency; Public Insurance Agency; Local, Provincial, Regional Governments.

Pursuant to article 357, first paragraph, of the Italian Criminal Code, a “public official” is defined – for criminal law purposes – as a person who is invested with “*a public function, whether legislative, judicial or administrative*”.

The second paragraph goes on to define the concept of “*public administrative function*” as “*a public function regulated under public law and by authoritative acts and characterised by the formation and expression of the will of the public administration or by its implementation, by means of authoritative or certification powers*”.

Given the straightforward identification of the roles and persons concerned, the code does not elaborate further on “*legislative function*” and “*judicial function*”.

According to article 358 of the Italian Criminal Code, “*a public service officer is a person who performs a public service*.”

A public service is an activity regulated in the same manner as a public function, but without the powers typically vested in the latter, and excluding the performance of mere routine duties or purely manual work”.

A service may qualify as a “public” service when it is regulated by public law but does not come with certification, authorisation and decision-making powers (which, instead, are typical of a public function).

Legislators have also specified that a “public service” excludes the performance of “mere routine duties” or “purely manual work”.

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Case law has identified the category of public service officers, stressing their instrumental and ancillary nature, compared to public officials proper. In brief, they are persons who effectively contribute to implementing a public service – albeit in a subsidiary and complementary capacity – therefore, for all intents and purposes, performing a public function.

It provides a set of “indicators” defining the Public nature of an Entity, emblematised by the cases relating to joint stock companies with majority public shareholdings. In particular, it:

- (a) is subject to control by the State, or other public entities, which has the power to determine its policies and appoint and dismiss its directors;
- (b) operates under an agreement and/or concessionary arrangement with the public administration;
- (c) receives funding from the State;
- (d) operates in the public interest.

The offences hereunder, from a purely subjective point of view, are characterised by intent, which, generally speaking, may be defined as awareness or knowledge of wrongdoing.

Finally, this Special Section also includes two offences – article 640, paragraph II, and 640-*bis* of the Italian Criminal Code, relating to fraud to the detriment of the State and aggravated fraud for securing public funds – which do not included among the typical offences against the Public Administration referred to in Book II, Title II, Chapter I of the Italian Criminal Code, and have been included here because the type of fraud envisaged therein nevertheless requires interaction between the perpetrator and the Public Administration.

2. – Offences referred to in article 24 of the Decree

2.1. – Misappropriation to the detriment of the State (article 316-*bis* of the Italian Criminal Code)

This offence sanctions “*whosoever, although not a member of the public administration, having received contributions, subsidies or other funds from the State or other Public Entity or from the European Communities, for the purpose of executing works or performing activities in the public interest, then fails to use them for these purposes?*”.

The conduct constituting the commission of this offence is the misappropriation and use of all or part of any monies received from the PA, the State or the European Community for purposes other than for the execution of works or the performance of activities in the public interest for which they were originally granted.

This is an “instantaneous” offence, the commission of which occurs concomitantly with the misappropriation.

2.2. – Undue receipt of funds to the detriment of the State or the European Union (article 316-*ter* of the Italian Criminal Code)

This provision, unless the fact constitutes the offence of aggravated fraud for the purpose of securing public funds or grants pursuant to article 640-*bis* of the Italian Criminal Code, sanctions “*whosoever, by using or presenting false or untrue declarations or documents, or by omitting any material facts or information, unduly secures, for himself/ herself or others, contributions, funds, facilitated loans or other grants of the same type, however, denominated, from the State or other public entities or the European Communities. The penalty imposed is the imprisonment from one to four years if the offence is committed by a public official or a person in charge of a public service abusing his/ her capacity or powers?*”.

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If the sums involved are equal to or below 3,999.96 euros a fine of between 5,164 euros and 25,822 euros shall apply. The fine, however, shall not exceed three times the benefit secured.

This offence, therefore, sanctions whosoever uses materially altered documents, false declarations, or omits material information, for the purpose of securing loans or funds from the State (or the European Union).

Unlike the preceding offence, there is no reference to the specific purpose for which the sums received are used.

The sanction here applies solely to the fraudulent and unfair conduct adopted by the perpetrator to secure the funds, which, together with the actual disbursement of the funds by the State or other Public Entity, constitutes the commission of the offence.

2.3. – Fraud to the detriment of the State (article 640, paragraph II no. 1 of the Italian Criminal Code)

This provision sanctions “*whosoever, through fraud and deceit, and by misleading any persons, thereby secures an unjust profit for himself or others, to the damage of the party concerned*”, increasing the penalty if the offence is committed “*to the detriment of the State or other Public Entity or for the purpose of avoiding military service.*”

This offence arises if the perpetrator’s conduct, aimed at securing an unjust profit, consists in any alteration of material facts (by fraud and deceit) such as to mislead the State (including public entities and the European Union), which, by disbursing the funds, incurs financial damage.

The offence is established when, as a result of the misleading actions, the perpetrator secures an unjust profit to the detriment of the State.

2.4. – Aggravated fraud for securing public funds (article 640-*bis* of the Italian Criminal Code)

This offence sanctions whosoever performs the fraudulent activities referred to in article 640 of the Italian Criminal Code, for the purpose of securing “*contributions, funds, facilitated loans and other disbursements of the same kind, however denominated, from the State, other public entities or the European Communities.*”

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This offence should not be confused with article 316-*ter* of the Italian Criminal Code (cf. par. 2.3.), in that the latter provision is applied on a subsidiary basis, i.e. if the offence of fraud pursuant to article 640-*bis* of the Italian Criminal Code cannot be applied.

The difference consists in the elements of “fraud and receipt”, which characterise the undue receipt of funds from the State (entailing misrepresentation or the omission of material information), where the conduct is part of a much broader fraudulent framework aimed at intensifying the effects of the deceitful actions, in order to more effectively mislead the injured party.

The offence arises when, as a result of the fraud and deceit, the State or other Public Entity actually disburses the requested funds.

2.5. – Computer fraud to the detriment of the State or other Public Entity (article 640-ter, paragraph II, of the Italian Criminal Code)

The provision sanctions "*whosoever, by tampering with a computer or data transmission system in any way or by altering the data, information or software stored in or related to a computer or data transmission system, without being entitled or authorised to do so, secures an unjust profit for himself or others, to the damage of the party concerned*", and provides, in paragraph 2, for an increased penalty, if the aggravating circumstances referred to article 640, paragraph II, no.1, apply (actions committed to the detriment of the State or other Public Entity) or if the fact is committed by acting abusively in the quality of systems operator.

Computer fraud differs from ordinary fraud only in that the fraudulent activities are not carried out directly on the injured party, but on a computer or data transmission system, and related appurtenances.

The offence arises when the perpetrator tampers with an information system, without being entitled to do so, altering the functioning thereof.

2.6. – Penalties applicable to the offences referred to in article 24 of the Decree

Regarding the penalties applicable for the commission of the above mentioned offences, the Entity shall be liable to a fine of up to 500 quotas. 59

Furthermore, if the Entity secures a considerable profit or causes very severe damage, it shall be liable to a fine of between 200 and 600 quotas.

Finally, the disqualification penalty pursuant to article 9, paragraph II, letters c), d) and e) of the Decree shall apply².

² Cf. Reference should be made to paragraph 1.3 of the General Section of the Model on disqualification of the Entity as a result of the determination of an unlawful conduct.

3. – Offences referred to in article 25 of the Decree

3.1. – Extortion in office (article 317 of the Italian Criminal Code)

This provision sanctions “*a public official who, abusing of his position or powers, obliges a party to deliver or unlawfully promise money or other benefits to him or a third party*”.

The offence comprises two key elements.

First of all, the public official must exercise so-called *metus publicae potestatis*, i.e. must fear the distorted exercise of his duties or powers, to the detriment of the injured party.

Such a conduct, moreover, must also oblige the victim to deliver or promise to deliver a financial or other benefit.

“Constriction” means a state of absolute coercion for the injured party, who is therefore deprived of any possibility of acting in a manner contrary to the harm feared by the public official by abusing of his powers or duties.

Furthermore, if it is found that any of the parties referred to in article 5 of the Decree have delivered, or promised to deliver, a financial or other benefit as a result of this “constriction” by a public official, the Entity shall be liable to the extent that the Company receives an unlawful benefit or satisfies a specific interest from the conduct of the private party.

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Finally, the offence arises when the financial or other benefit is received or promised; in the latter case, if the promise is followed by performance, the offence arises in connection with the latter event.

3.2. – Corruption for exercising a function (article 318 of the Criminal Code).

This provision³ sanctions a “*public official who, to exercise his functions or powers, illegally receives money or other benefits, for himself or others, or accepts the promise thereof*”.

This offence is grounded on the rationale that, in order to be committed, it requires the participation of a number of persons and, therefore, presupposes a contribution by both the in its commission, with the contribution of both the corruptor and the corrupt public official.

In this case, the offence envisages an action or behaviour within the framework of the official duties of the public official.

³ Article 318 of the Italian Criminal Code has been amended by Law 190/2012, which has finally repealed the distinction between so-called “antecedent” and “subsequent” types of corruption, limiting the offence to only the episode of corruption regarding the function with which the public official is invested.

The offence arises, alternatively, when the financial or other benefit is delivered or promised. It ensues that, if the promise is followed by the delivery of the financial or other benefit, the offence shall arise in the latter case.

3.3. – Corruption to obtain an act contrary to official duties (article 319 of the Italian Criminal Code)

This sanctions “*a public official who, in order to omit or delay, or for having omitted or delayed, an official duty, or for performing or having performed an action contrary to his official duties, receives money or other benefits for himself or others, or accepts the promise thereof*”.

Unlike in the case of the preceding paragraph, this type of corruption requires that the *pactum sceleris* between the public official and the corruptor must concern specific actions to be omitted or delayed, or which are contrary to the duties of the public official, under the rules investing him with his powers, depending on whether the relevant public function is exercised before or after the criminal arrangement⁴.

With regard to the actual commission of the offence, the same considerations provided in the preceding paragraph shall apply, the only difference being that, if the corruption arrangement takes place after the performance of an action by the public official, the offence shall be established only if the promise is followed by the delivery of financial or other benefits.

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3.4. – Aggravated corruption to obtain an act contrary to official duties (article 319-*bis* of the Italian Criminal Code)

The provision applies an increased penalty, for the general offence of corruption pursuant to article 319, if the *pactum sceleris* concerns the specific purpose of securing “*public employment or salaries or pensions or the awarding of contracts in which the administration of which the public official is a member has an interest, or the payment or reimbursement of taxes*”.

3.5. – Corruption in judicial proceedings (article 319-*ter* of the Italian Criminal Code)

This offence occurs when the corruption provided for in articles 318 and 319 of the Criminal Code is committed “*in favour of or against a particular party in civil, criminal or administrative proceedings*”.

Paragraph II increases the penalty if the offence leads to an unjust conviction.

Regarding the determination of when the offence arises, reference should be made to paragraph 3.3.

3.6. – Induced bribery (article 319-*quater* of the Italian Criminal Code)

This provision sanctions, unless the fact constitutes a more serious offence, “*a public official, or public service officer, who, by abusing his authority or powers, obliges someone to unduly deliver or promise to deliver money or other benefits to himself or others*”.

Paragraph 1 also sanctions “*whosoever delivers or promises money or other benefits*”.

The offence mentioned here replaces the previous offence of extortion by induction pursuant to article 317 of the Italian Criminal Code, ranking as a separate provision following the introduction of new anti-corruption laws (under Legislative Decree 190/2012).

Regarding the general aspects, reference should be made to the paragraph dedicated to extortion in office pursuant to article 317 (cf. para. 3.1.), however, specifying the meaning of the term “induction” (in the sense of moving to a course of action by influence or persuasion).

This offence is based on the presupposition that the abuse of his authority or powers by a public official is sufficient to “induce” (i.e. convince or persuade) the injured party that he must promise or deliver financial or other benefits.

This unlawful influence, however, is considered less effective, so to speak, than actual “constriction”, because the victim is not entirely coerced and could even decide not to accede to the public official’s request.

Therefore, the new legislative measures introduced in 2012 also sanction the injured party delivering or promising the financial or other benefits.

Finally, the Entity shall be liable for the offence if it is determined that the lawful conduct by the private party has satisfied an interest of or produced a benefit for the Company.

3.7. – Corruption of public service officers (article 320 of the Italian Criminal Code)

The purpose of this provision is merely to clarify that the corruption offences referred to in articles 318 and 319 of the Criminal Code also apply to public service officers, besides providing a reduced penalty by no more than one third.

3.8. – Penalties for the corruptor (article 321 of the Italian Criminal Code)

The penalties contemplated in articles 318, paragraph I, 319, 319-*bis*, 319-*ter* and 320 of the Criminal Code shall also apply to the corruptor, i.e. to the person who delivers or promises financial or other benefits to a public official or public service officer.

3.9. – Instigation to corruption (article 322 of the Italian Criminal Code)

The provision sanctions "*whosoever offers or promises money or other benefits not due to a public official or a public service officer, for exercising his functions or powers, if the offer or promise is not accepted*".

The provision also sanctions any corruptive offers or promises to omit or delay the performance of official acts by a public official or public service officer, or to perform acts contrary to their duties, and the latter shall be sanctionable if they have solicited the offer or promise.

The conduct sanctioned by the offence consists in the so-called unaccepted corruption proposal, which, for the purposes herein, must be serious, concrete and determined, or capable of generating the concrete possibility of acceptance by the recipient.

Instigation also arises when the offer is undefined and it is left to the recipient to establish its essential points.

3.10. – Misappropriation, extortion, illegal incitement to give or promise benefits, corruption and instigation to corruption of members of International Courts or bodies of the European Union or members of International Parliamentary Assemblies or of International Organizations and of officials of the European Communities and foreign States (article 322-bis of the Italian Criminal Code)

The provisions contemplated in articles 314, 316, from 317 to 320 and 322, paragraphs three and four, apply also to:

- 1) members of the Commission of the European Communities, of the European Parliament, of the Court of Justice and of the Court of Auditors of the European Communities;
- 2) officials and servants hired under contract, pursuant to the Regulations of Officials of the European Communities or the provisions applicable to the servants of the European Communities;
- 3) persons seconded by the Member States or any other Public or Private Entity to the European Communities and engaged in the performance of functions corresponding to those performed by the officials or servants of the European Communities;
- 4) members and personnel of entities established in pursuance of the Treaties establishing the European Communities;
- 5) persons who, within the other Member States of the European Union, are invested with functions or activities corresponding to those of public officials and public service officers;

5-*bis*) judges, public prosecutors, assistant prosecutors, officials and servants of the International Criminal Court, persons seconded by the States acceding to the Treaty establishing the International Criminal Court invested with functions corresponding to those of the officials or servants of the Court, the members and personnel of entities established pursuant to the Treaty establishing the International Criminal Court.

5-*ter*) persons performing functions or activities corresponding to those of public officials and public service representatives within international public organisations;

5-*quater*) members of International Parliamentary Assemblies or of an International or supranational Organisation and judges and officials of International Courts.

The provisions of article 319-*quater*, second paragraph, 321 and 322, first and second paragraph, shall apply also if the financial or other benefits are delivered, offered or promised:

1) to the persons indicated in paragraph one of this article;

2) to persons invested with functions or activities corresponding to those of public officials and public service officers in foreign States or international organisations.

The persons indicated in paragraph one are considered equivalent to public officials, if they are invested with corresponding functions, and to public service officers in all other cases.

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3.11. – Trading in influence/Influence peddling (article 346-*bis* of the Italian Criminal Code)

The article imposes a penalty on whoever, except for the cases of abetting the crimes pursuant to articles 318, 319, 319-*ter* and the offences of corruption pursuant to article 322-*bis*, unduly induces to give or promise money or other benefits to himself or others, by exploiting or boasting existing or alleged relations with a public official or a public service official or any other person as set forth in article 322-*bis*, as payment of his/her unlawful mediation towards a public official or a public service representative or any other person as specified in article 322-*bis*, or to remunerate him/her in connection with the performance of his/her duties or powers, with the penalty of imprisonment from one year to four years and six months.

The same penalty is imposed to whoever unduly gives or promises money or other benefits.

The penalty is higher if the individual, who has unduly induced to give or promise money or other benefits to himself/herself or others, is in charge as public official or as public service representative.

The penalties are therefore higher if the acts are committed in relation to the exercise of judicial activities or to remunerate the public official or a public service representative or any other person as set forth in article 322-*bis* in relation to the performance of an act contrary to the official duties or to the omission or the delay of an act of his/her office.

The sanction is reduced if the offences are particularly tenuous.

Article 1, paragraph 9, subparagraph b), number 1) of Law no. 3, 9th January 2019 includes the crime in question in the list of crimes giving rise to the Entity's liability.

The crime consists in the undue offer or promise of money or other benefit; the latter must not consist only of patrimonial features but shall also include any material or intangible advantages, patrimonial or non-patrimonial ones which shall have a value for the receiver.

Money or other benefit is therefore the price of the illegal mediation towards the public official, the public service representative or any other subject as set forth in article 322-*bis* of the Italian Criminal Code or the remuneration for the performance, by one of them, of his/her duties or powers.

The law also punishes anyone who unduly gives or promises money or other benefits.

In particular, this offence seeks to sanction the most serious forms of corruption. If, in fact, the persons, provided for by the rule, participate to the subsequent *pactum sceleris* with the public official, their agreement would become a background not punishable autonomously: in particular, if the "intermediary" offers money or other financial advantage to the public official and the latter accepts it, the offence of corruption would be committed, and the crime in question would be absorbed by it; in the event that the "intermediary" would limit himself/herself to promise an economic benefit, but the public official rejects it, it would appear, instead, a hypothesis of "instigation to corruption".

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The reserve clause contained in this law, excludes, indeed, the same features of the fact in the event that the conduct of mediation (and the one of the person who "finances" it) specifically falls within the alleged abetting of offences as stated in articles 318, 319, 319-*ter* and 322-*bis* of the Italian Criminal Code.

3.12. – Penalties applied to the offences pursuant to article 25 of the Decree

If the Entity is found liable, the following fines shall apply, pursuant to article 25 of the Decree:

- 1) for the offences referred to in articles 318, 321 and 322, paragraphs I and III and article 346-*bis* of the Italian Criminal Code, a fine of up to 200 quotas shall apply;
- 2) for the offences pursuant to articles 319, 319-*ter*, paragraph I, 321, 322, paragraphs II and IV of the Italian Criminal Code, a fine of between 200 and 600 quotas shall apply;

3) for the offences pursuant to articles 317, 319, in the case of the aggravating circumstances provided for by 319-*bis*, if the Entity receives a significant benefit as a result of the offence, 319-*ter*, paragraph II, 319-*quater* and 321 of the Italian Criminal Code a fine of between 300 and 800 quotas shall apply.

Furthermore, the above fines shall also apply if the offences are committed by the persons specified in articles 320 and 322-*bis* of the Italian Criminal Code.

If the Entity is found guilty for any of the offences in items 2 and 3 of this paragraph, the disqualification penalty pursuant to article 9, paragraph II, of the Decree⁵ shall also apply for a duration of not less than four years and not more than seven years, if the offence was committed by one of the apical subjects within the company and for not less than two years and not more than four years if the offence was committed by subordinates.

If, prior to the first instance judgement, the Entity has applied effective measures to prevent and avoid the perpetration of the criminal offence to further consequences, to ensure evidence of the crimes, to identify those responsible or seize the sums or other transferred benefits and has eliminated the organizational deficiencies that had led to the offense by adopting and implementing organizational models suitable for preventing these offenses, the disqualification sanctions have the duration of not less than three months and not more than two years, pursuant to article 13, paragraph 2.

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⁵Cf. Reference should be made to paragraph 1.3 of the General Section of the Model on disqualification of the Entity as a result of the determination of an unlawful conduct.

4. – Offences referred to in article 25-*decies* of the Decree

Following is an overview of the only type of offence against the administration of justice among those envisaged by the Italian Criminal Code and referred to in article 25-*decies* of the Decree.

4.1. – Inducement not to make statements or to make false statements to the Judicial Authorities (article 377-*bis* of the Italian Criminal Code)

Unless the fact constitutes a more serious offence, the provision sanctions “*whosoever, with violence or threats, or with the offer or promise of money or other benefits, induces a person summoned by the judicial authorities not to make statements, or to make false statements, in connection with any criminal proceedings, when the person has the right to silence*”.

This provision aims to safeguard the proper functioning of the judicial machine against any type of undue interference.

The injured party shall necessarily be a person summoned to make statements before the judicial authorities.

The illegal interference must be result in the making of false statements, or in invoking the right to silence by a suspected or accused person, when he could otherwise provide his own exposition of the facts.

The offence arises when a person summoned before the Judicial Authorities either makes false statements or invokes the right to silence.

4.2. – Penalties applied to the offence referred to in article 25-*decies* of the Decree

If the Entity is found guilty, in respect of the offence of inducement not to make statements or to make false statements to the Judicial Authority, a fine of 500 quotas shall apply.

If, before the judgment at first instance, the institution has made effective efforts to prevent the criminal activity from being brought to further consequences, to ensure evidence of criminal offences and to identify those responsible or to seize the sums or other benefits transferred and has eliminated the organisational deficiencies that led to the crime by adopting and implementing organisational models suitable for prevent crimes of the kind that occurred, the prohibition sanctions have the duration established by article 13, paragraph 2, that is not less than three months and not more than two years.

5. – Risk areas

The offences herein are grounded solely on the relations existing between the Entity and the PA, including those of a judicial nature.

Therefore, and taking into account Chimec's operations, the following risk areas have been identified:

- relations with the PA; in particular, given by way of example only, participation in the procedures for obtaining permits, certificates, authorisations, concessions and any other measure that is useful for the Company's operations; any relations established for the purpose of accessing administrative acts and obtaining information; any relations associated with audits and inspections by Public Administration bodies, law enforcement agencies and judicial authorities;

- the management of relations with suppliers or carriers holding quality certificates issued by public bodies and/or members of specific official organisations;

- relations with port and customs authorities, in connection with purchases and/or sales abroad of assets and/or services related to the Company's operations;

- procedures relating to the management of participation in tenders or launching of tendering procedures: this refers to the participation in tenders or direct awarding of tenders by the preparation of offers, the negotiation of contracts, the execution of orders and safeguard of scheduled collections. In each of these stages, the Company could, in fact, secure undue conditions or favouritisms of any kind (for example, recognition of reserves, extensions on timing/deadlines, etc.), through a conduct attributable to the crime of corruption, or by misleading the public official, or through conducts attributable to the act of "**Trading in influence/Influence Peddling**" (in the case of giving or promising money or other benefits to the person who takes advantage or boasts his/her own acquaintance and / or relationships, existing or alleged, with the officer in charge , as consideration for his/her illicit mediation in favour of the Company, in order to obtain, for example, the award of the tender, or extensions on the tender timing/deadline, etc.);

- any judicial procedures pending before Italian or foreign Judicial Authorities. These activities, in fact, involve contacts, including through intermediaries (for example, the Company's trusted lawyers), with the judicial or administrative bodies, competent to instruct and decide the dispute, as well as, possibly, with their auxiliaries, with Judicial Police, Financial Police, etc., who are responsible for carrying out inspections or investigations delegated by the Judicial Authority.

In the context of these activities, the offenses referred to this Special Section , aimed at ensuring the Entity's benefits of any nature in the management of the disputes, may be committed in the interest of the Company. As an example, the following cases can be mentioned:

i) corruption and bribery of a judge or a member of the arbitration panel, also through the intermediation of the Company's trusted lawyer, in order to let the adverse party convicted in the civil judgment , in exchange for the promise of a sum of money to be credited to an account in the name of a foreign company belonging to the same;

ii) corruption and bribery of an officer of the Finance Police during the tax investigation, directly or through the intermediation of the Company's accountant, in order to obtain a favorable and faster outcome of the assessment, in exchange for the commitment to pay a sum of money;

iii) corruption and bribery of an auxiliary of a judge in order to induce him/her to conceal an unfavorable document to the Company, contained in the file of the proceedings, in exchange for the payment of a sum of money;

iv) bribery of a judge of the European Court of Justice to obtain a sentence favourable to the Company, in exchange for the promise of undue advantages (for example, assignment of fictitious consultancy paid by the Company);

v) corruption and bribery of a judge, in order to obtain the discharge of a seizure order concerning the Company's assets, issued in the course of criminal proceedings, in exchange for the promise of a sum of money or other benefits;

vi) corruption and bribery of an official of social security institutions, as "ASL" (Local Health Authority) and/or the Labor Inspectorate, during investigations or checks, in exchange for the promise of a sum of money or other benefits;

vii) aggravated fraud to the detriment of the State, in relation to the misleading of the Judicial Authority, Administration and Tax Authorities having inspection and check tasks in order to obtain advantages and benefits of the Company;

viii) with particular reference to the offense of incitement to not make statements or to make false statements to the Judicial Authority (article 377-*bis* of the Italian Criminal Code) pursuant to article 25-*decies* of the Decree, such as , for example, inciting the person called to make statements before the Judicial Authority during criminal proceedings by violence or threatening, or by offering or promising money or other means and benefits , or to not make statements or make false statements, is hereby indicated as a possible way of committing the crime in the Company context , when such a person has the right to silence;

ix) with reference to the crime of trading in influence/influence peddling (article 346-*bis* of the Italian Criminal Code), such as, for example, by giving or promising money or other means or benefits to the person who takes advantage or boasts his/her own acquaintance and / or relationships, existing or alleged, with public officers in charge, as consideration for his/her illicit mediation in favour of the Company (in order to obtain, for example, a favourable order in legislative, regulatory and administrative proceedings where the Company is involved or, in the context of judicial proceedings and out-of-court disputes where the Company is involved) is hereby indicated as a possible way of committing this type of offence;

- management of gifts and entertainment and sponsorship expenses: these activities can, in fact, represent a vehicle for concealing the undue disbursement of sums of money or benefits of any nature to public officers in order to obtain undue favors, with consequent possible integration of corruption crimes. By way of example, the following types of offences can be taken into consideration:

- giving to a public officer, on the occasion of public holidays, a gift of a significant economic value, as consideration for having carried out an administrative act in the interest or to the benefit of the Company;

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- hiring of one of public officers' relatives or favourites or assigning consultancy contracts or awarding purchase orders to entities/subjects proposed by them, are intended as indirect favouritism;

- the promotional action, possibly implemented through agents or intermediaries, presents a particular risk profile especially in those territorial contexts where corruption practices are more common and tolerated.

The activities herein reported are therefore highlighted as a (possible) vehicle to conceal the undue disbursement of sums of money or benefits of any kind, in favor of a person who exploits or boasts his/her own acquaintance and / or relationships, existing or alleged, with public officers, as a "consideration" for his/her unlawful mediation in favor of the Company, in order to obtain undue advantages, with consequent possible integration of the crime of trading in influence/influence peddling (article 346-*bis* of the Italian Criminal Code);

- benefits or other incentives, subsidized loans: having access to public incentives, the Company is exposed to different crime risks:

- i) application stage and subsequent investigation for obtaining the relief: the Company may have an interest in seeking and obtaining the benevolence of public officials by giving or offering them undue benefits (corruption) or could yield to their unlawful claims (bribery). If the relief is granted to the Company not having full title/requirements, possibly through misrepresentations, the crime of

aggravated fraud and / or unlawful appropriation of public funding would occur; moreover, the crime of trading in influence/ influence peddling could arise, if the Company disburses (or promises the disbursement of) sums of money or benefits of any kind, in favor of a person who exploits or boasts his/her own knowledge and / or relationships, existing or alleged, with public officers, as "consideration" for his/her illicit mediation in favor of the Company, in order to obtain the relief granting;

ii) use stage of the loans received: the Company could transfer/divert part of these financial resources to inconsistent uses with the purposes for which they were granted (embezzlement/misappropriation crime);

iii) cost reporting stage provided for by the administrative license laws, or inspections / testing by the Public Body in charge: in addition to the crimes previously mentioned, conditions for aggravated fraud to the detriment of the State or of other Public Body may also arise if Company provides false or misleading representations to obtain unduly favorable advices or certifications;

▪ request and management of authorizations, licenses, administrative concessions: the activities related to the application and management of authorizations, licenses, administrative concessions, involve contacts, also through intermediaries, with public officers, competent both in the preliminary investigation of the file and in the issue, renewal, revocation, modification of the administrative provision/measure and verification of Company's obligations and procedures of its activity. In the context of these activities, corruption crimes may be committed in the interest of the Entity aimed at obtaining the public official's involvement in the administrative procedure, in exchange for giving or promising a sum of money or any other undue benefit.

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As an example without limitation, the following events can be mentioned:

i) bribery of a city officers in order to obtain an authorization in exchange for a sum of money or other benefits;

ii) bribery of a public officer in order to obtain authorizations on safety and health in the workplace in exchange for a sum of money or other benefits;

iii) bribery of a public officer to obtain a license or an authorization functional for implementing a project or producing an asset of interest to the Company;

iv) aggravated fraud to the detriment of the State or other Public Body with regard to the forwarding of false documentation to Public Administration (Local Authorities, Social security Bodies, Financial Administration, etc.) in order to obtain advantages to the Company;

v) corruption of a public officer in charge to inspection tasks for any business area regulated by law (such as fiscal and social security assessments, verifications of compliance with occupational health and safety regulations or environment ones), in order to avoid any inspections, measures or orders against the Company such as fines, seizures, attachments, revocation of permits in order to receive advantages from the outcome of the investigations , inspections and assessments.

In the context of the aforesaid activities , it may occur the risk of committing the offence of trading in influence/influence peddling pursuant to article 346-*bis* of Italian Criminal Code whether the Company offers (or promises to offer) a sum of money or benefits of any kind, in favour of the person who takes advantage or boasts his/her own acquaintance and / or relationships, existing or alleged, with public officers as “compensation” of his/her illicit mediation in favour of the Company in order to :

- obtain an authorization , workplace health and safety one included;
- obtain a license or permit functional for implementing a projet or producing an asset of interest to the Company;
- avoid any inspections, investigations and orders taken against the Company such as fines, seizures, attachments, revocation of permits, etc. in order to receive benefits from the outcome of the inspections, investigations and assessments.

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With particular reference to the case of aggravated fraud to the detriment of the State or Public Body and offences relating to public funds, such as but not limited to, the following crimes that may be committed within the Company:

- submission of information addressed to the State or other Public Body by artifices or deceptions aimed at misleading the public officer charged to the inspections in order to issue the relevant authorizations, permits, licenses or, anyhow whatever procures an undue profit to the Company (article 640, paragraph 2, n. 1, Italian Criminal Code, as for example , during the inspection by the Authority in charge for issuing an authorization;
- provision of untrue information prodromal to the submission of artifices or deceptions aimed at obtaining authorizations, permits, licenses, concessions and aids and grants;
- submission of applications addressed to the State or other Public Body by through falsification of documents in relation to the possession of certain requirements or through false or omitted due statements (article 316-*ter* Italian Criminal Code), or through other artifices or deceptions aimed at misleading the public officer in charge to examine and inspect the applications to grant payments (article 640-*bis* of Italian Criminal Code);

- false statements on funds granted and received previously;

- false statements or documents or omitted information at the preliminary stage (article 316-*ter* Italian Criminal Code), or other artifices or deceptions aimed at misleading the public officer charged to the preliminary investigation to grant payments (article 640-*bis* Italian Criminal Code) such as for example, during the inquiry stage by the disbursing Body further to the application submission for financial aids:

- failure to allocate funds or loans granted by the State, by another public body or by the European Communities, for the purposes for which they are granted (316-*bis* Italian Criminal Code);

- failure to finalize the activities and expenses to which the payment is granted (article 316-*bis* of the Italian Criminal Code) (for example, by purchasing software instead of a training course, or by not carrying out the research and development activities object of the grant, or not performing the planned infrastructures);

- general accounting, balance sheet and financial and tax statements: the activities carried out by the Company functions having ordinary relations with the financial administration may present potential risk profiles for what concerns tax returns and all the requirements set forth by the legislation in this field, such as those connected to the management of relations with the offices of the financial and tax administration, also in the event of an inspection (corruption / aggravated fraud to the detriment of the State / IT fraud to the detriment of the State). As an example, the event of disbursement of sums in advance (not supported by invoices and receipt of the relevant goods or services) and allocation of the same for bribing purposes. Or, again, the event of accounting record of these instalments without then providing for their relevant account closing procedure, and, more generally, any disbursement to Public Bodies having bribing purposes;

- activities connected with the preparation of the Company's financial statement, activities connected with accounting (active and passive one) relating to suppliers and external collaborators can present risk profiles: these activities, in fact, even if they do not involve direct relations with the Public Administration, prerequisite for the creation, through accounting tricks (invoicing for non-existing services, overvaluation of the Company's assets, creation of fictitious debts to subsidiaries, etc.), of hidden funds intended for the attribution of undue benefits to public officers or intended for payment of the "consideration" for illicit mediation in the context of the crime of trading in influence/influence peddling (article 346-*bis* of the Italian Criminal Code).

Therefore , reference is made to the Company's commercial relations with suppliers and customers, and in particular to what will be dealt with and examined later on in the Special Section dedicated to corporate crimes.

The activity relating to commercial relations with the Company's suppliers and customers presents risk profiles, as it can act to shield the creation of a hidden availability of money.

This can happen, both in the event the Company lends an activity in favor of third parties (for example, by invoicing an amount lower than the actual cost of the service, with the understanding that the remaining part of the price will be paid "under the table" by the customer , and, therefore, outside of any accounting record), both in the event the Company purchases goods or services from suppliers (for example, by paying sums higher than the actual value of the service, with the understanding that the supplier will return part of the price paid "under the table").

For example, some kinds of following contractual relationships can be a vehicle for creating hidden availability:

i) sponsorships and advertising: a contract for the provision of advertising or sponsorships can be used by the Company as a means of creating hidden availabilities. This may occur when costs are artificially listed at the Company's expense higher than the economic value of the advertising and consultancy services provided in order to create hidden funds.

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For example , the event of sponsorship of sporting or cultural initiatives for which a consideration paid by the Company is listed higher than the one actually intended for with the understanding that the sponsored subject will return, under hidden form , part of the consideration to the sponsoring Company. The insidiousness of this conduct appears particularly marked in consideration of the intangible nature of the service covered by the contract and, therefore, of the difficulty in identifying the actual economic value of the service rendered;

ii) consultancy: this type of service has characteristics similar to those highlighted above, in terms of the difficulty in identifying the value and content of the service.

- finance and treasury management: the activity under examination presents risk profiles, as a possible prerequisite for the creation of hidden economic resources to be allocated to corrupt public officers in order to obtain undue advantages in favor of the Company or to be allocated as "consideration" of the illicit mediation in the context of the crime of trading in influence/influence peddling (article 346-*bis* of the Italian Criminal Code).

Consider, for example, the payment of not actual fees for the purchase of goods and services (including professional ones) or payment of services not received to allocate the surplus or amount for bribery purposes or to be allocated as "consideration" for illicit mediation in the context of the crime of trading in influence/influence peddling (article 346-*bis* of the Italian Criminal Code). In particular, the risk is more sensitive in the field of services (which more frequently present difficulties in measuring the amount provided) and of purchases related to "non-standard" offers (for example those "on order" and not "on the price list"): for example by accepting offers with prices higher than the value, or by omitting checks upon receipt of the goods or service, or by paying amounts not corresponding to what was ordered or received, or by issuing false invoices, or by reusing the same supporting documents against multiple payments.

Particular attention must be paid first of all to the definition of financial policies, so as to find, whether possible, traces of the legitimacy of the choices of allocation of social resources, also in view of a subsequent verification of their effective use.

▪ personnel recruitment and management: the activity related to personnel recruitment presents risk profiles, as a possible form of indirect remuneration in favor of:

- public officers as consideration for the involvement in a file relating to the Company (corruption offenses); think, for example, of the proposed hiring of a family member of the public official or of subjects "reported" by the Public Official or by the person in charge of a public service for corrupt purposes or, in the future, by the same public official; think, again, of the improvement of the working position (classification, job, remuneration) in any case connected to the crimes of corruption and, finally, of the hypothesis of creating fictitious employees in the registry (matriculation register) and destination of salaries for corruption purposes;

- subjects who exploit or have their own knowledge and / or relationships, existing or alleged, with public agents, as "consideration" for their illicit mediation in favor of the Company (trading in influence/influence peddling); think, for example, of the proposed hiring of a family member of the "mediator" or of a person reported by him; think, again, of the hypothesis of improvement of the working position (classification, job, salary) in any case connected to the crime of trading in influence/influence peddling and, finally, to the hypothesis of creating fictitious employees in the registry (matriculation register) and destination of salaries as "consideration" for the illicit mediation.

In the context of these activities, the crimes of aggravated fraud against the State / IT fraud against the State in the event of misleading the Public Administration may also be committed (also through unauthorized access to a computer system and / o alteration of the information contained in a

database) regarding the recruitment of personnel belonging to protected categories or Company's social security and accident obligations;

- management of consultancy / professional service contracts: the activity concerned has multiple risk profiles. The provision of consultancy may, in fact, first of all be instrumental to the payment of undue benefits in favor of public officials or persons in charge of a public service or to the payment of the "consideration" for illicit mediation in the context of the crime of trading in influence/influence peddling (article 346-*bis* of the Italian Criminal Code). The following hypotheses can be envisaged:

- a) awarding of a fictitious consultancy contract - and recognition of the relative remuneration - in favor of a public agent (or his family members or Bodies related to him) in order to compensate him/her for undue favors or obtain an undue advantage or in favor of the "mediator" as "consideration" for illicit mediation in the context of the crime of trading in influence/influence peddling (article 346-*bis* of the Italian Criminal Code);

- b) establishment by the Company, through the awarding of fictitious consultancy contracts, of undue financial provisions to be used in view of the payment of public agents or as "consideration" for illicit mediation in the context of the crime of trading in influence/influence peddling (art . 346-*bis* of the Italian Criminal Code);

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- c) awarding of consultancy or professional service contracts in favor of third parties who could - in order to validate their activities before the Company - use part of the agreed remuneration for the allocation of undue advantages in favor of public agents and for the benefit of the Company or as "consideration" for the illicit mediation in the context of the crime trading in influence/influence peddling (article 346-*bis* of the Italian Criminal Code);

- management of information and communication systems: with particular reference to the risk of committing the crime of computer fraud to the detriment of the State or of a Public Body, by way of example, the possible ways of committing such a crime in the Company's context are reported here below:

- alteration of the functioning of a computer or data transmission processing with unfair profit to the Company and to the detriment of the State or to a Public Body;

- illegal interferences by any means on data, information or programs contained in a computer or data transmission system with unfair profit for the entity and to the detriment of the State or of a Public body;

- alteration of the computer or data transmission system used during a tendering procedure;

- alteration of Chamber of Commerce, Industry, Crafts and Agriculture (CCIAA) computer and data transmission system in order to alter its position;

- in general, untrue documentation transmitted electronically is also considered as a risk indicator;

- selection of suppliers or carriers holding quality certifications issued by Public Body and/or members enrolled in specific registers: such as, for example the selection of suppliers (professional services ones included) “reported” by a Public Official or public service officer for corruptive purposes or by a “mediator” (in the context of the crime of trading in influence/influence peddling pursuant to article 346-*bis* of the Italian Criminal Code) is considered as a way of committing a crime within the Company context;

Reference is made to the Company’s procedure for the selection of suppliers;

▪ investments: such as, for example, the event of functional investments to create funds for corrupting transactions (for example in "shell" companies, etc.) or as "consideration" of illicit mediation within the scope of the crime of trading in influence/influence peddling (article 346-*bis* of the Italian Criminal Code) is considered a possible way of committing a crime in the Company context.

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The areas specified above are relevant also if the relevant activities are carried out, in whole or in part, by individuals or corporations in the name and on behalf of Chimec, also based on proxies or powers or attorney or under contracts and other arrangements, of which the SB must be promptly informed.

6. – General rules of conduct and implementation

The purpose of this Special Section is to provide a set of rules of conduct aimed at preventing the commission of corporate offences, giving rise to the penalty system set out in the Decree in the event the Entity is found liable.

The rules of conduct apply to all the Recipients⁶ of the Model and, in particular to all those who operate in the risk areas defined above, including any persons who are not part of the Company.

The Board of Directors of Chimec, together with the SB, shall be responsible for the circulation and implementation of the said systems.

The Recipients are expected to know and abide by the rules set out herein, as well as the:

- Code of Conduct;
- disciplinary system;
- the internal procedures adopted by Chimec for hiring and training its staff;
- the internal procedures adopted by Chimec for managing relations and notifications with the PA;
- the internal procedures adopted by Chimec for managing relations with its suppliers.

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The Recipients and all external collaborators – duly informed by means of dedicated contractual clauses – are prohibited from:

- adopting any conduct capable of directly or indirectly leading to the commission of the offences referred to in articles 24, 25 and 25-*decies* of the Decree;
- adopting positions in clear conflict of interest with the PA, in relation to the above mentioned offences;
- obstructing the course of justice, by means of violence or threats.

In particular, it is absolutely forbidden to:

- accepting and/or delivering financial or other benefits – whether voluntarily or as a result of solicitation – from and/or to public officials or public service officers;
- allocating money or other benefits to those who exploit or boast existing or alleged relationships with a public official or a public service officer or to one of those subjects referred to article 322-*bis*, as a compensation for their unlawful mediation towards the public officer;

⁶ For the definition of Recipients, reference should be made to the General Section of the Model, Glossary.

- delivering and/or receiving gifts or granting benefit of any kind – whether voluntarily or as a result of solicitation – to public officials or public service officers such as to influence their impartiality or independence of judgement, or to induce them to provide specific benefits to Chimec;
- promising to employ people not on the basis of merit, competence and professional skills, but in the form of favours and patronage;
- granting emoluments or services to persons outside the Company (e.g., consultants, auditors or other professionals) which are unjustified and unrelated to any engagements on behalf of the Company, and paying emoluments for services never provided;
- presenting materially altered or untruthful declarations to national or EU bodies, for the purpose of securing contributions or facilitated loans;
- misappropriating any funds received from the State, from other public entities or from the European Community, for purposes other than those for which they were granted;
- providing false and misleading Company notices or of its qualifications and competences during the tender admission process in order to fall within selection criteria of the participants in the tender not being fully qualified;
- offering or promising undue benefits, during the subsequent tender negotiation phase, to public officials (crime of corruption) or to those who exploit or boast having existing or alleged relationships with the public officer, as “consideration” of their illicit mediation (trafficking in illicit influences), in order to obtain otherwise unattainable contractual conditions;
- hiring subjects who, in the last three years, have been employed by an Entity belonging to the Public Administration and have exercised, in such a period of time, authoritative or negotiating powers on behalf of the P.A. towards the Company or a company controlled or participated by the latter;
- hiring subjects whose recruitment could result to the Company, one or more situations of potential conflict of interest as governed by art. 42 paragraph 2 of Legislative Decree 50/2016 as amended which could imply the obligation of abstention, as governed by art. 7 of Presidential Decree 62/2013 for public employees;
- in any case, engaging in unlawful conducts during the execution phase of an order , including through induction or bribery of the public official, or by giving or promising money or other benefits to those who exploit or boast having existing or alleged relationships with the public officer , as remuneration of their illicit mediation, aimed at ensuring undue conditions or favoritism of any kind (for example, recognition of reservations, deadline extensions).

To foster the implementation of the conducts above, the Recipients:

- must ensure that all relations with the PA are transparent;
- must ensure that the selection of suppliers and consultants takes into account of the objective and impartial criteria in terms of honourableness and professionalism;
- must ensure that, within their interactions with third parties (for example suppliers and consultants), the verification that the agreed price is congruent with the requested service, as well as the monitoring of the effective and correct performance of the activity carried out in compliance with the contract provisions;
- in the event of inspections by the PA (e.g., law enforcement bodies), file copies of all the relevant documents and records issued by the PA (e.g., inspection and search orders and related statements and reports), as well as all the documents and records relating to the procedures;
- with regard to the engagement of external professionals, the relative contracts must be drafted in writing, must contain a clear and accurate description of the service(s) to be provided and the related remuneration. Before engaging the professional, the agreements must be approved by the competent Company officer and the related engagement documents duly filed;
- external professionals must inform Chimec and the SB about the existence of any criticalities found in the performance and execution of the activities contracted out, especially if they come across any form of conduct or behaviour that could lead to breaches to the Model in general, or the commission of the offences herein;
- no payment shall be made in cash or in kind but solely by means of transparent and easily traceable methods, except for small expenses;
- the statements to be made to the PA, or other Community bodies, also for the purpose of obtaining grants and funds, must contain true information, which shall be duly checked;
- the Company officers invested with the duty to control payments, or check the use of any contributions granted, shall perform their duties accurately and effectively and immediately report any irregularities to the SB;
- regarding the management of any criminal proceedings pending before Italian or foreign Judicial Authorities, each Recipient is prohibited from acting with violence or threats, or delivering or promising financial or other benefits to ensure that the accused or suspected person does not make statements or makes false statements or exercises the right to silence, instead of providing his own exposition of the facts.

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Finally, the Board of Directors may provide for other measures aimed at protecting the identified risk areas, in addition to the obligations and requirements mentioned above.

7. – Evidence Sheets

It shall be necessary to provide proof of the operations carried out in connection with the above mentioned risk areas.

Activities at risk must be reported to the SB by the competent officers (or their delegates) by means of an “Evidence Sheet”, which must be periodically updated and containing:

- i)* the activities carried out with members of the Public Administration;
- ii)* the place and date of the activities;
- iii)* the corporate officer(s) responsible for managing the activities;
- iv)* the members of the Public Administration body managing the activities;
- v)* observations by the Corporate Officer on the risk of commission of offences against the Public Administration;
- vi)* declaration by the Internal Officer – for himself / herself and any internal subordinates delegated to carry out activities entailing the establishment of relations with the Public Administration – evidencing his / her awareness of the formalities that need to be carried out and the obligations to be complied with in the performance of the operations and the he / she has not committed the offences referred to in the Decree.

Regarding the operations in question, the SB may prepare further controls, concerning which written records must be provided.