

*(only the Italian version is authentic)*

**DECREE n. 162 of 30 March 2000<sup>1</sup>**

Regulation laying down rules for the establishment of professional and good repute requirements of members of the board of statutory auditors of the listed companies to issue on the basis of article 148 of Legislative Decree no. 58 of 24 February 1998.

**THE MINISTRY OF JUSTICE**

together with the Minister of the Treasury, Budget and Economic Planning

Having regard to the consolidated provisions regarding financial intermediation issued with Legislative Decree no. 58 of 24 February 1998;

Having regard to article 148, paragraph 4 of the consolidated act, based on which the members of the board of statutory auditors of the listed companies shall possess the professional and good repute requirements established with the regulation of the Minister of Justice, adopted together with the Minister of the Treasury, Budget and Economic Planning, after hearing the opinion of Consob, the Banca d'Italia and ISVAP;

Having regard to article 13, paragraph 2 of the consolidated act, referred to by article 148, paragraph 4, on the basis of which the absence of the requirements determines the disqualification, that has to be declared by the Board of Directors within thirty days from the nomination or from the date when it has become aware of the loss of requirements;

Having heard the opinion of Consob;

Having heard the Banca d'Italia;

Having heard ISVAP;

Having regard to article 17, paragraph 3 of Law no. 400 of 23 August 1988;

Having heard the opinion of the Council of State, expressed by the advisory section on legal acts in its meeting of 20 March 2000;

Having regard to the letter ref. no. 683/U-24/7-2 of 28 March 2000 with which, pursuant to article 17, paragraph 3 of the above-mentioned Law no. 400/1988, the draft regulation has been communicated to the Presidency of the Council of Ministers;

**ADOPTS**

the following Regulation:

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<sup>1</sup> Published in the Official Journal no. 141 of 19 June 2000.

Art. 1  
(Professional requirements)

1. Italian companies with shares listed in regulated Italian markets or in other countries of the European Union choose from among registered auditors who have performed legal control of accounts for a period of no less than three years, at least one of the statutory auditors, if these number three, at least two regular auditors, if these number more than three and, in both cases, at least one of the alternate auditors.

2. Statutory auditors not in possession of the requirement provided by paragraph 1 are chosen from among those who have developed at least three years of experience in:

- a) administration or control, or management tasks at limited companies that have share capital of no less than two million Euro, or
- b) professional activities or tenured teaching in law, economics, financial or technical-scientific, closely related to the business of the undertaking, or
- c) management functions at public bodies or public administrations operating in the credit, finance and insurance sectors, or in sectors closely linked to the business of the undertaking.

3. For the purposes of that provided by paragraph 2, letters b) and c), the statutes specify the subjects and business sectors closely linked to the business of the undertaking. The statutes may provide further additional conditions for the existence of the professional requirements from previous paragraphs.

4. The role of statutory auditors may not be filled by those who, for at least eighteen months, in the period between the two years prior to the adoption of the relative measures and the current year, have performed administrative functions, management or control in undertakings:

- a) subject to bankruptcy, compulsory winding up or equivalent procedures;
- b) operating in credit, finance, real estate and insurance sectors subject to extraordinary administration.

5. Subjects against whom cancellation measures from the National Single Register of foreign-exchange dealers have been adopted may not fulfil the role of auditor, provided by article 201, paragraph 15 of Legislative Decree no. 58 of 24 February 1998, as well as stockbrokers who are excluded from negotiations on a regulated market.

6. The ban referred to in paragraphs 4 and 5 has a duration of three years from the adoption of the relative provisions. The period shall be reduced to one year in cases where the measure to initiate the procedure was adopted at the request of the entrepreneur, the administrative bodies of the undertaking or by the stockbrokers.

Art. 2  
(Good repute requirements)

1. The role of company statutory auditors indicated by article 1, paragraph 1, may not be fulfilled by those who:

- a. have been subject to preventive measures established by the judicial authority

pursuant to Law no. 1423 of 27 December 1956, or of Law no. 575 of 31 May 1965 and subsequent modifications and integrations, subject to the effects of rehabilitation;

- b. have been convicted by final judgement, subject to the effects of rehabilitation:
    - 1. have been sentenced to imprisonment for one of the offences provided by the regulations that govern banking, financial and insurance business, and by the regulations regarding markets and financial instruments, tax crimes and payment instruments;
    - 2. have been sentenced to imprisonment for one of the crimes described under Title XI of Book V of the Civil Code and in Royal Decree no. 267 of 16 March 1942;
    - 3. have been sentenced to imprisonment for a term not less than six months for a crime against public administration, public faith, property, public order, public economy;
    - 4. to imprisonment for a term not less than one year for any crime committed without criminal intent.
2. The post of company statutory auditor referred to in article 1, paragraph 1 cannot be held by those who have been sentenced to one of the sentences in paragraph 1 letter b) upon a request of the parties, except where the offence was statute-barred.

#### Art. 3

(Requirements verification)

- 1. The board of directors of the companies indicated in article 1, paragraph 1, confirm the existence of the requirements provided by articles 1 and 2.
- 2. With reference to the cases entirely or partly regulated by foreign law, the verification that the situations envisaged by article 1, paragraphs 4 and 5, and by article 2, is carried out by the board of directors of the companies on the basis of a substantial equivalence assessment.

#### Art. 4

(Companies operating in sectors subject to supervision)

- 1. The provisions of this regulation also apply to the companies statutory auditors referred to in article 1, paragraph 1, who operate in sectors subject to supervision in conjunction with the sector provisions that provide further conditions for the existence of the professional and good repute requirements of the statutory auditors.

#### Art. 5

(Transitional provision)

- 1. The boards of statutory auditors of the companies referred to in article 1, paragraph 1, previously appointed, remain in office until approval of the budget relative to the financial year in progress at the date of entrance into force of this regulation.