

**CIRCOLARE N. 23 DEL 19 LUGLIO 2021**

**MERCATO DI CAPITALI E SOCIETÀ QUOTATE**

## **Principles for Listed Companies' Dialogue with Investors**

## ABSTRACT

Il nuovo Codice di Corporate Governance (in seguito "Codice") affida all'organo di amministrazione il compito di promuovere il dialogo della società con gli azionisti e gli altri *stakeholder* rilevanti. In particolare, l'organo di amministrazione è chiamato ad adottare, su proposta del presidente d'intesa con il CEO, un'apposita politica per la gestione del dialogo con la generalità degli azionisti.

Al fine di supportare le società quotate nella definizione della propria politica di dialogo con gli investitori, Assonime ha individuato alcuni Principi chiave che delineano ruoli e responsabilità nella definizione della politica e nella gestione del dialogo, in coerenza con le funzioni e i compiti che il Codice attribuisce ai diversi attori del sistema di governance. I Principi sono stati elaborati con la collaborazione di oltre 100 società quotate partecipanti all'Osservatorio che Assonime ha costituito sul tema e sono stati sottoposti a diverse forme di consultazione che hanno coinvolto rappresentanti degli investitori, delle altre componenti mercato e del mondo accademico.

I Principi affermano l'esigenza di una gestione unitaria del dialogo con gli azionisti, svolta nell'interesse della società e dell'integrità della gestione delle informazioni societarie, con particolare riferimento alle informazioni privilegiate e al principio di confidenzialità cui sono tenuti gli amministratori.

A questo fine, i Principi assegnano:

- al consiglio di amministrazione, la funzione di indirizzo e di monitoraggio del dialogo, attraverso l'approvazione della politica e la verifica della sua attuazione sulla base di adeguati flussi informativi forniti dai soggetti incaricati di gestire il dialogo;
- agli amministratori che hanno la responsabilità di rappresentare la società (CEO e/o Presidente), il compito di applicare la politica, attraverso la gestione delle varie fasi del dialogo e delle relative scelte, compresa la possibilità di coinvolgere eventuali funzioni aziendali e altri amministratori (in particolare i presidenti dei comitati endoconsiliari) sulla base delle competenze loro attribuite all'interno della società sulle materie oggetto del dialogo;
- a un "punto di contatto" (normalmente la funzione di Investor Relation e/o la segreteria societaria), che opera sotto la responsabilità degli amministratori incaricati di gestire il dialogo, il compito di assicurare una gestione unitaria delle richieste di dialogo provenienti dagli investitori e delle iniziative di dialogo avviate su iniziativa della società.

## **PROVVEDIMENTI COMMENTATI**

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### **Principio IV e raccomandazione 3 del Codice di Corporate Governance (2020)**

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## Preamble

The new Italian Corporate Governance Code (hereinafter the "Code") states that the Board of Directors should pursue the "sustainable success" of the company, defined as the creation of long-term value for the benefit of shareholders, taking into account the interests of other stakeholders relevant to the company<sup>1</sup>.

For this purpose, the Code entrusts the Board of Directors with the duty of promoting dialogue with shareholders and other stakeholders that are relevant for the company<sup>2</sup>.

The Code recommends that the Board of Directors assumes a guiding and oversight role over the company's dialogue with its shareholders. More specifically, in terms of guidance, the Code recommends that the Board of Directors adopts, upon proposal of the Chairperson in agreement with the Chief Executive Officer, a policy for managing the dialogue with the generality of shareholders (hereinafter the "Policy"), also taking into account the best practices of engagement policies adopted by institutional investors and asset managers<sup>3</sup>. With respect to the oversight role of the Board, its Chairperson is required to timely inform the Board about the significant contents of the dialogue that has taken place<sup>4</sup>.

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In order to support companies in the adoption of their own Policy and to monitor the evolution of the practices, Assonime has established a Forum on the Company's Dialogue with its Shareholders. Representatives of more than one hundred Italian listed companies have already joined the Forum. It is supported by the Italian Association of in-house lawyers (AIGI) and receives advice from Prof. Marco Ventoruzzo of Bocconi University.

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<sup>1</sup> See *principle I* ("The board of directors leads the company by pursuing its sustainable success.") and *definitions* ("Sustainable success: the objective that guides the actions of the board of directors and that consists of creating long-term value for the benefit of the shareholders, taking into account the interests of other stakeholders relevant to the company") of the [Italian Corporate Governance Code](#).

<sup>2</sup> See *principle IV* of the Italian Corporate Governance Code ("The board of directors promotes dialogue with shareholders and other stakeholders which are relevant for the company, in the most appropriate way.") of the Italian Corporate Governance Code.

<sup>3</sup> See *recommendation 3* of the Italian Corporate Governance Code ("Upon proposal of the chair in agreement with the chief executive officer, the board of directors adopts and describes in the corporate governance report a policy for managing dialogue with the generality of shareholders, also taking into account the engagement policies adopted by institutional investors and asset managers. The chair ensures that the board of directors is in any case informed, within the first suitable meeting, of the development and the significant contents of the dialogue that has taken place with all the shareholders.").

<sup>4</sup> See above, ft. 3.

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Based on the discussion and the analysis carried out in the Forum, Assonime publishes the following set of Principles with the aim of helping companies to identify the major issues that should be considered when drafting their Policies. The Principles are supplemented by Annotations commenting and explaining the Principles and, in some cases, suggesting possible options for their implementation.

The first draft of the Principles was discussed, through a survey carried out in cooperation with global shareholder engagement and corporate governance advisory firm Georgeson, using a sample of domestic and international institutional investors and asset managers active in the Italian market<sup>5</sup>.

The aim of the Principles and the Annotations is to help companies identify the challenges and opportunities of the dialogue with their shareholders, and formulate their own Policy based on the principle of proportionality, taking into due consideration the company's size, industry and ownership structure.

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<sup>5</sup> Respondents of the survey include the two largest asset managers in the world and 9 of the top-50 asset managers, representing about 24 trillion dollars of assets under management.

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## Principles

### **Principle 1 – Adoption of the Policy**

*Companies that comply with the Italian Corporate Governance Code adopt a Policy for the dialogue with the generality of shareholders (hereinafter the “Policy”) and make it available on the company’s website.*

*The Policy is approved by the Board of Directors, upon proposal of the Chairperson in agreement with the Chief Executive Officer.*

### **Principle 2 – Scope of the Policy**

*The Policy identifies the topics and the procedures for the dialogue between the company and the generality of its shareholders.*

*The Policy considers at least the topics within the competence of the Board.*

*The dialogue can be initiated upon shareholders’ request or upon the company’s initiative.*

*In light of the company’s size, industry and ownership structure, the Policy could also apply to the dialogue with other current or potential investors, as well as with voting service providers.*

*The Policy is not intended to deal with general communication and relations with the market.*

### **Principle 3 – Implementation of the Policy**

*The Board of Directors oversees the dialogue and is informed about its significant contents.*

*The management of the dialogue is entrusted exclusively to the Directors who can act on behalf of the company (hereinafter, the “Responsible Directors”), identified in the Chief Executive Officer and/or the Chairperson of the Board, consistently with their powers to represent the company and competences on the topic of the dialogue.*

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**Principle 4 – Responsible Directors**

*Responsible Directors, with the support of the company's competent function(s) acting as Contact point:*

- *decide whether and how to follow up on the shareholders' requests;*
- *identify the timing, format and procedure for carrying out the dialogue;*
- *involve in the dialogue, when appropriate and allowed by the Policy, individual Board members, including independent ones, having regard to their specific competences entrusted by the Board (e.g. LID and Committees' Chairs);*
- *timely inform the Board of Directors about any shareholders' significant concern regarding the dialogue.*

**Principle 5 – Contact point**

*The Policy identifies one (or more) Contact point(s) for the shareholders within the company's functions. The Contact point reports to the Responsible Directors, according to the role attributed to them by the Policy.*

*In particular, and unless differently indicated in specific cases or mandated by law, the Contact point:*

- *receives all shareholders' requests for a dialogue with the company, including the requests addressed to the Board, to specific Board Committees or to individual Board members;*
- *processes the shareholders' requests, according to the rules defined by the Policy and also taking into account the information already provided by the company.*

**Principle 6 – Information disclosure rules and practices**

*Responsible Directors ensure that all information provided to shareholders during the dialogue is consistent with the company's policies regarding the management of corporate information, and compliant with disclosure rules and the general duty of confidentiality.*



**Principle 7 – Evaluation of the Policy and disclosure**

*The Chairperson ensures that the Board of Directors is duly informed about the development and the significant contents of the dialogue that has taken place. The information is provided at the first suitable meeting of the Board of Directors.*

*The Board of Directors evaluates the effectiveness of the Policy and its implementation. A description of the Policy and its implementation is reported in the Corporate Governance Report.*

*When necessary, the Board of Directors reviews the Policy.*

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## Principles with Annotations

### Principle 1 – Adoption of the Policy

*Companies that comply with the Italian Corporate Governance Code adopt a Policy for the dialogue with the generality of shareholders (hereinafter the “Policy”) and make it available on the company’s website.*

*The Policy is approved by the Board of Directors, upon proposal of the Chairperson in agreement with the Chief Executive Officer.*

### Annotations to Principle 1

Principle IV and recommendation 3 of the Italian Corporate Governance Code (hereinafter the “Code”) recommend that companies promote the dialogue with shareholders according to a policy adopted by their Board<sup>6</sup>.

The Policy is published on the company’s website in order to provide evidence of the company’s willingness to promote the dialogue and to provide shareholders with useful information, *inter alia*, about the Contact point as normal addressee of dialogue requests.

The Policy is approved by the Board upon proposal of the Chairperson in agreement with the Chief Executive Officer (hereinafter the “CEO”). In the preparatory phase, the Chairperson and the CEO are usually supported by competent company functions, such as the Investor Relations Office and/or Corporate Affairs Department. The proposal can be submitted to a Board Committee before Board examination.

The Policy is not set in a vacuum, as companies usually have already in place procedures and practices for relations with shareholders. To ensure the continuity of the company’s dialogue with shareholders, the Policy is drawn up considering the company’s experience in relations with shareholders, the engagement policies adopted by institutional investors and asset managers as well as other company’s policies that might be relevant to its prospective effectiveness.

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<sup>6</sup> See above, ft. 2 and 3.

## **Principle 2 – Scope of the Policy**

*The Policy identifies the topics and the procedures for the dialogue between the company and the generality of its shareholders.*

*The Policy considers at least the topics within the competence of the Board.*

*The dialogue can be initiated upon shareholders' request or upon the company's initiative.*

*In light of the company's size, industry and ownership structure, the Policy could also apply to the dialogue with other current or potential investors, as well as with voting service providers.*

*The Policy is not intended to deal with general communication and relations with the market.*

### **Annotations to Principle 2**

#### *Choice of topics*

The Policy should not necessarily cover all forms of relations between the company and its shareholders, as some of them can also be managed by specific company functions, according to existing procedures outside the scope of the Policy. It is therefore important that the Policy clearly identifies the topics that are covered and/or those that are not covered by the Policy itself.

The Policy covers at least the topics that fall within the competence of the Board of Directors, according to its tasks as identified by the Code (Recommendations 1 and 2): business plan, risk management, internal control system, corporate governance system, significant transactions, nomination and self-assessment, remuneration policy and sustainability.

#### *Definition of dialogue procedures*

The Policy is established in view of the dialogue with shareholders on the topics identified in the Policy. The procedures should provide channels to collect questions, concerns and comments by shareholders and to provide suitable answers, clarifications and statements by the company on the relevant topics. As such, the dialogue consists in an exchange of views between the company and the shareholders

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involved with the aim to increase their mutual understanding and for shareholders to review their expectations.

Besides the dialogue envisioned by this Policy, companies can establish further shareholders' channels for collecting questions, concerns and comments, without directly engaging in a dialogue with them.

#### *Actors of the dialogue*

While promoting the dialogue is a specific duty of the Board, the dialogue with shareholders is a responsibility of the company and not of individual Board members. The role of individual Board members in the definition and in the management of the Policy is defined by the Policy itself, consistently with their tasks within the Board.

The dialogue is open to the generality of shareholders. This means that the dialogue aims at involving all kinds of current and potential shareholders without discrimination. The Policy can diversify dialogue procedures according to different types of current or potential shareholders and include other categories of current or potential investors (e.g. bondholders). The Policy can also provide for dialogue procedures with voting consultants or proxy advisors who, even if they do not directly invest in the company, can nonetheless significantly affect the shareholders' views of the company.

#### *Activation of the dialogue*

The aim of the Policy is to increase the mutual understanding between the company and its shareholders. As a consequence, the Policy sets up at least the procedures for the dialogue activated by the shareholders (reactive engagement). However, it can also set the procedures for the dialogue activated upon the initiative of the company (proactive engagement).

### **Principle 3 – Implementation of the Policy**

*The Board of Directors oversees the dialogue and is informed about its significant contents.*

*The management of the dialogue is entrusted exclusively to the Directors who can act on behalf of the company (hereinafter, the “Responsible Directors”), identified in the Chief Executive Officer and/or the Chairperson of the Board, consistently with their powers to represent the company and competences on the topic of the dialogue.*

#### **Annotations to Principle 3**

##### *Oversight role of the Board of Directors*

The Board of Directors has the general duty of promoting the company's dialogue with all shareholders in view of its leading task, identified in Principle I of the Code<sup>7</sup>. This general duty encompasses the Board's competence to set the guidelines of the dialogue (the Policy) and to monitor their effectiveness over time, ensuring proper dialogue with shareholders and adequate information to all Board members about shareholders' views and expectations.

##### *Management of the dialogue by Responsible Directors*

The power and the duty of ensuring the actual management of the dialogue is entrusted exclusively to specific Responsible Directors, namely those Board members who have adequate powers to represent the company *vis a vis* shareholders and proper competence on the topic of the dialogue, also taking into account the company's system of delegated powers. These powers are therefore typically assigned to the CEO and/or the Chairperson of the Board.

The specific tasks entrusted to the CEO and/or the Chairperson could be tailored consistently with their respective competences. For example, where the Policy covers a wide range of topics, the company could allocate the management of the dialogue on business/strategy and the related risks, on the one hand, and governance-related issues, on the other, between the CEO and the Chairperson respectively.

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<sup>7</sup> See above, ft. 1.

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Considering its governance model and the opportunity to have streamlined and efficient dialogue procedures, the Policy could choose to identify only one Responsible Director, namely the CEO or the Chairperson. This choice could also be considered, for example, where the scope of the Policy is limited to certain topics only.

In companies with a concentration of offices (e.g. a Chair-CEO), the Board of Directors could consider entrusting the tasks of Responsible Director to another Executive Director, in conjunction or in alternative to the Chair-CEO.

The choice to entrust the management of the dialogue with shareholders to one (CEO or Chair) or two Responsible Directors (CEO and Chair) is also taken with due consideration of the company's size, industry, business complexity and ownership structure, including the presence of institutional and active investors. This choice, as well as other operational choices in relation to the structure and the contents of the Policy, should be proportionate to the company's features and should not create superfluous structures: for this purpose, the company should also consider its past engagement practices and its foreseeable evolution.

## Principle 4 – Responsible Directors

*Responsible Directors, with the support of the company's competent function(s) acting as Contact point:*

- *decide whether and how to follow up on the shareholders' requests;*
- *identify the timing, format and procedure for carrying out the dialogue;*
- *involve in the dialogue, when appropriate and allowed by the Policy, individual Board members, including independent ones, having regard to their specific competences entrusted by the Board (e.g. LID and Committees' Chairs);*
- *timely inform the Board of Directors about any shareholders' significant concern regarding the dialogue.*

### **Annotations to Principle 4**

*No contact with other individual Board members*

As the management of the dialogue is entrusted exclusively to the Responsible Directors, it cannot be activated by individual Board members or by a Board committee, neither on their own initiative nor on the shareholders' request. To ensure compliance with the company's information policies and disclosure rules, individual Board members, who have received a request for a contact, do not engage in the dialogue with the requesting shareholder but immediately forward the request to the Contact point or to the Responsible Directors.

*Assessment of shareholder's requests*

Responsible Directors decide with the support of the manager of the company's competent internal functions whether to accept the shareholders' request or activate the dialogue from the company's side.

For this purpose, Responsible Directors may consider a number of factors and circumstances, such as: the information already made available by the company, the relevance of the issue to be discussed, taking into account also the characteristics of the shareholder, the fact that the issue has already been discussed with the same or other shareholders, the potential interest of the issue for other investors, the outcome of the votes already cast by shareholders on the same issue during past

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general meetings, the actual possibility to establish a constructive dialogue on the issue, the foreseeable approach of the investors on the issue, considering also the possible leanings of potential investors as well as of voting service providers.

Responsible Directors timely inform the Board about any decision to decline a dialogue request and can involve the Board in such a decision.

If an investor requests to meet the entire Board or its individual non-executive members – due to their role and/or the matters to be discussed – Responsible Directors timely inform the Board about such a request and can involve the Board in the decision on it.

#### *Management of the dialogue*

Being entrusted with the management of the dialogue, Responsible Directors identify the appropriate timing and modalities of the dialogue and set the procedure that applies to each step of the relation with shareholders, including those of the Contact point, in accordance with the Policy. Responsible Directors can also delegate the management of the dialogue, or part of it, to the managers of the company's competent internal functions.

Considering the issues under discussion and the relevance of the shareholders' request, Responsible Directors decide on the suitability of involving other persons in the dialogue, such as the company's managers and/or individual Board members, having regard to their tasks within the company and the Board respectively and taking into account the possible specific requests by shareholders. Where the topic of the dialogue regards issues that are entrusted to the Board with the support of specific Board Committees, the Chairperson of the relevant Board Committee may be directly involved in the meeting with investors, if previously agreed with the Responsible Directors. Responsible Directors could consider involving in the dialogue also the *lead independent director* (hereinafter the "LID"), where appointed and as long as he or she has specific functions within the Board of Directors that could be functional to the dialogue, such as where the LID is required to support the Chairperson for ensuring proper information flows for the benefit of all Board members. The LID could also be involved where the dialogue concerns specific positions or issues relating to the Chairperson and/or the CEO.



*Shareholders' concerns about the dialogue*

Responsible Directors evaluate any significant concern about the dialogue, assess its nature and consider possible solutions. The Contact point and/or other company competent functions support Responsible Directors in this assessment. Responsible Directors ensure that the Board is timely informed about shareholders' relevant concerns and their assessment.

## **Principle 5 – Contact point**

*The Policy identifies one (or more) Contact point(s) for the shareholders within the company's functions. The Contact point reports to the Responsible Directors, according to the role attributed to them by the Policy.*

*In particular, and unless differently indicated in specific cases or mandated by law, the Contact point:*

- *receives all shareholders' requests for a dialogue with the company, including the requests addressed to the Board, to specific Board Committees or to individual Board members;*
- *processes the shareholders' requests, according to the rules defined by the Policy and also taking into account the information already provided by the company.*

### **Annotations to Principle 5**

#### *Identification of the Contact point*

The company identifies one or more company's internal functions (competent functions), to serve as first Contact point for all shareholders' requests for a dialogue with the company. Companies can confer this function to the Investor Relations Office, which usually already performs this task. Where the dialogue is limited by the Policy to specific topics under the Board remit, the Board Secretary can be identified as the Contact Point.

Besides the Contact point, in companies of larger size, higher business complexity and/or less concentrated ownership structures, specific tasks could also be conferred to other company's internal functions, such as the Board Secretary and the Corporate Affairs Office, where they are not Contact points already.

#### *Tasks of the Contact point*

To ensure proper management of the dialogue and consistency with the Principles, the Policy entrusts the Contact point with the task of receiving all shareholders' requests that are covered by the Policy, even if addressed to the whole Board, to specific Board Committees or to individual Board members. In case an individual Board member, a Board committee or the Board receive a shareholder's request, they forward it to the Contact point.

The Contact point operates under the direction of the Responsible Directors (Chairperson and/or CEO). The Contact point supports Responsible Directors in the actual management of the dialogue with the task of processing shareholders' requests and can be entrusted to manage specific parts of the dialogue.

Considering the number and complexity of shareholders' requests, the company can develop (or maintain) further channels for collecting questions, concerns and comments by the shareholders, without directly engaging in a dialogue with them. It is up to the company to decide whether to regulate these channels within the Policy or to manage them outside its scope.

## Principle 6 – Information disclosure rules and practices

*Responsible Directors ensure that all information provided to shareholders during the dialogue is consistent with the company's policies regarding the management of corporate information, and compliant with disclosure rules and the general duty of confidentiality.*

### **Annotations to Principle 6**

#### *General information disclosure rules and practices*

The dialogue is managed according to the principles of transparency and fairness. Responsible Directors ensure that all the information provided during the dialogue complies with the company's policies on the management of corporate information, the regulation on market abuse and disclosure best practices. They are therefore responsible for ensuring that the dialogue is carried out in compliance with laws, regulations and internal procedures even when they decide to involve in the dialogue other company's functions or individual Board members, without prejudice to the personal liability of each individual.

#### *Selective disclosure*

The disclosure of selective information must comply with the Market Abuse Regulation and the guidelines provided by the Italian Market Supervising Authority (Consob)<sup>8</sup>.

#### *Additional safeguards*

Any company's actor involved in the dialogue should act consistently with rules and company's policies, being aware of his/her general duty of confidentiality. To ensure the fairness of the dialogue, the Policy or the Responsible Directors could consider to explicitly require a specific commitment to confidentiality from all company's actors joining the dialogue.

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<sup>8</sup> See Consob, [Q&A of 18 March 2021 on selective disclosure towards shareholders and the controlling shareholder in particular, as well as the publication of inside information relating to business plans.](#)

## **Principle 7 – Evaluation of the Policy and disclosure**

*The Chairperson ensures that the Board of Directors is duly informed about the development and the significant contents of the dialogue that has taken place. The information is provided at the first suitable meeting of the Board of Directors.*

*The Board of Directors evaluates the effectiveness of the Policy and its implementation. A description of the Policy and its implementation is reported in the Corporate Governance Report.*

*When necessary, the Board of Directors reviews the Policy.*

### **Annotations to Principle 7**

#### *Information to the Board of Directors*

The Chairperson, with the support of the Board Secretary and the other competent company's functions involved in the dialogue, ensures that the Board of Directors is duly informed about the development and the significant contents of the dialogue that has taken place. The information is provided in a timely manner and consistently with the relevance and the urgency of the issues emerged during the dialogue.

The Code recommends that the Chairperson ensures that such information is provided to the Board "within its first suitable meeting" in order to guarantee adequate and timely information to all Board members. The promptness of the information is established by the Chairperson, considering at least the interest of the company in the issue concerned and the relevance and urgency of the shareholders' request; for the same purpose, the Chairperson also considers the other topics included in each Board meeting agenda, to ensure adequate discussion and the opportunity for efficient and effective time management of the Board meeting. For the same purposes, the Chairperson considers inviting, in agreement with the CEO, the managers of the company who are competent in the issues concerned to participate in the relevant Board meetings in order to provide appropriate insights.

*Assessment of the Board of Directors*

The Board of Directors monitors and assesses the consistent implementation of the Policy, its adequacy over time, as well as the possible actions needed to address the weaknesses emerged.

*Annual disclosure in the Corporate Governance Report*

The Board of Directors provides in the annual Corporate Governance Report adequate disclosure about its assessment of the Policy's implementation and, if deemed appropriate, the most significant issues discussed with the shareholders during the year, as well as the relevant steps, if any, taken by the company in order to meet shareholders' expectations.

Il Direttore Generale

**Micossi**