



# Fives OTO S.p.A.

Via Domenico Marchesi, 4  
Zona Industriale Rondello  
42022 Boretto (RE)  
Share Capital € 826,336.00 € fully paid up  
VAT ID no. IT 00908590359  
REA RE 147032

Company managed and coordinated by Fives Italy S.r.l.

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## ORGANISATIONAL AND MANAGEMENT MODEL PURSUANT TO LEGISLATIVE DECREE 231/2001

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Approved by the Resolution of the Board of Directors of Fives OTO S.p.A. of 23/03/2016

*For information purposes only*

REVISION	DATE	NATURE OF CHANGES
0	23/03/2016	1 <sup>ST</sup> Edition

## **DEFINITIONS**

<b>ODV</b>	Supervisory Body
<b>Model</b>	Organisational and Management Model
<b>Group</b>	Fives S.A.
<b>Company</b>	Fives OTO S.p.A.
<b>External collaborators</b>	External collaborators, self-employed professionals and consultants
<b>Partners</b>	Commercial partners
<b>Company members</b>	Directors, managers, employees and members of other corporate bodies
<b>Addressees</b>	Directors, managers, employees, members of other corporate bodies, external collaborators, self-employed professionals, consultants and commercial partners

## **GENERAL SECTION**

### **1. INTRODUCTION**

#### ***The administrative liability regime of Legal Entities***

The adaptation of Italian legislation to bring it into line with certain international conventions to which Italy is a party (the *Brussels Convention of 26 July 1995* for the protection of the financial interests of the European Community, the *Convention also signed in Brussels of 26 May 1997* on the fight against corruption involving officials of the European Communities or Member States and the *OECD Convention of 17 December 1997* on combating the bribery of foreign public officials in international business transactions) led to the approval of the Legislative Decree of 8 June 2001, no. 231, entitled '*Rules governing the administrative liability of legal entities, companies and associations including those not endowed with legal personality*'.

The decree introduced an administrative liability regime into Italian law applicable to Legal Entities<sup>1</sup> for certain offences (expressly indicated in articles 24 et seq.) committed in the interests of or for the benefit of the Entities themselves by persons who manage or supervise them, even on a de facto basis, or by their subordinates. Before the approval of the decree, only the individual who committed any offences was answerable for them, even if they were committed in the interests of a legal entity; now, however, the Entity is also answerable, is directly subject to independent criminal proceedings and may face extremely severe penalties, which may even prevent it from carrying out its ordinary operations.

In fact, apart from pecuniary sanctions, the decree also provides for the application of interdictory sanctions to the Entity (art. 9) such as:

- the prohibition of exercising its activities;
- the suspension or revocation of authorizations, licences or concessions stemming from the commission of the offence;
- the prohibition of concluding government contracts;
- exclusion from relief, financing, contributions or subsidies, with the possibility of revoking those already granted;
- the prohibition of advertising goods and services.

The administrative liability of the Entity, which may trigger the application of the aforementioned sanctions, is based on an 'organizational' fault: i.e. the Entity is deemed to be co-responsible for the offence by its company member if it has failed to put in place an organizational structure capable of effectively preventing its commission and, in particular, if it has failed to adopt an internal control system and adequate procedures for carrying out those activities that are most exposed to the risk of the commission of offences (for example, the conclusion of government contracts).

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<sup>1</sup> Within the meaning of Legislative Decree 231/2001 'Entities' is understood to refer to:

- Entities endowed with legal personality such as S.p.A., S.r.l., S.a.p.a., Cooperatives, recognised Associations, Foundations, other private and public economic entities;
- Entities lacking such legal personality such as S.n.c., S.a.s. even irregular, unrecognised Associations.

The methods for adopting such an internal control system, in addition, are indicated in articles 6 and 7 of the Decree, i.e.: (i) the approval of an 'organizational and control model'; and (ii) the creation of a supervisory body charged with the task of ensuring adherence to its provisions and constantly checking its preventative effectiveness.

### ***The implementation of Legislative Decree 231/2001 by the Company***

Under the law, the adoption of the Model is optional: the Company, however, given the requirement of operating in a transparent and correct manner, has decided to go ahead with the adoption of a suitable model.

Apart from the provisions under the Decree, the Model thus applied has been prepared by referring to the Guidelines drawn up by trade associations and, in particular, by Confindustria.

The Model was adopted, for the first time, by the Company's Board of Directors by resolution of **23/03/2016** and is continually amended to reflect any adjustments that occur from time to time in the reference laws and regulations.

In implementation of what is envisaged under the Decree, the Board of Directors, when approving the Model, assigns the tasks of acting as a Supervisory Body to a Collegiate Body at the Company, with independent duties of supervision, control and initiative in relation to the Model.

## **2. THE COMPANY**

Fives OTO S.p.A., which now forms part of the multinational group Fives, is the result of the merger, over the years, of three different companies.

The first company, formerly OTO MILLS, was founded in 1980 and its activities have always been related to the planning, manufacture and installation of complete systems for the manufacture of welded tubes and profiles. Its main offices, which now house the headquarters and the Mills division, are located at via Domenico Marchesi no. 4 in Boretto (RE).

In 2005 OTO incorporated OTO Steel, now the division Metal Cutting, a company specialising in the manufacture of semi-finished products obtained by contour cutting on sheets of differing thicknesses, performed on any type of material. The headquarters of this division are located at via Leonardo da Vinci no. 14/16 in Motteggiana (MN).

Fives OTO Systems, formerly OTO Automation, a company engaged in the study and creation of automation systems for manufacturing plants in the metallurgical and steel industries, was incorporated on 1<sup>st</sup> July 2015. This company also specialises in planning and creating measurement and control systems for laminated and tubular products aimed at improving the quality of the final product and also possesses an IT division dedicated to the computerisation of plants (MES) in order to manage the flow of data associated with production, the traceability of products, and the management of warehoused materials. The headquarters of this division are located at via del Commercio no. 15 in Sovizzo (VI).

The company's Corporate Governance is based on a Board of Directors, made up of four incumbent directors, and its control organs are the Board of Auditors, made up of five auditors, and an Auditing Company. The former has the responsibility of supervising adherence to the law and the memorandum of association and adherence to the principles of proper administration and the suitability of the Company's organisational structure, the internal control system and the administrative-accounting system, including the reliability of the latter when it comes to properly reflecting

management operations; whereas the latter is responsible for carrying out statutory audits in accordance with current legislation.

### **3. PERSONS TO WHOM THE MODEL IS DIRECTED**

The addressees of the norms and requirements contained in the Model are all the members of the Company: the employees, the managers, the Directors and the members of the other corporate bodies and other addressees of the Model – who must, therefore, abide by its provisions – such as external collaborators, self-employed professionals, consultants and all the commercial partners.

### **4. THE ORGANISATIONAL AND MANAGEMENT MODEL**

#### ***Structure***

This Model consists of a 'General Section' and a 'Special Section', concerning those types of offence whose commission at the Company is theoretically conceivable in view of the activities in which the Company is engaged. The Code of Conduct, included in the annexes, should be understood to be part of the Model.

The original text of Legislative Decree 231/2001 went no further than identifying those offences that could trigger application of the sanctions including those imposed on the Entity, certain offences (in the broadest sense) against the Public Administration (articles 24 and 25); subsequent legislative amendments have led to the broadening of the range of offences which may trigger the Entity's administrative liability: see, for example, the introduction of art. 25-ter, which extended the applicability of Legislative Decree 231/2001 to the types of corporate offence described in articles 2621 et seq. of the Italian Civil Code, as re-formed by Legislative Decree 61/2002.

For this reason, the Company's Board of Directors will have the power to adopt suitable resolutions aimed at supplementing the Model with the insertion of those types of offences which, in the wake of various legislative amendments, have already been incorporated into or in any case linked to the scope of application of Legislative Decree 231/2001.

#### ***General Section***

According to art. 6, paragraph three of Legislative Decree 231/2001 (and according to the Guidelines prepared by Confindustria), the General Section should have three fundamental objectives:

##### **I. Identification and mapping of risks**

Art. 6, paragraph 2, letter (a) of Legislative Decree 231/2001 stipulates, above all, that the Model must see to it that risks are mapped: in other words, the Company's activities must be analysed and the operational or decision-making phases within the Company associated with the possibility of the commission of illegal acts must be identified.

At Fives Oto S.p.A., the mapping of risks was carried out and recorded in the annexed document 'Assessment of the risks of the commission of offences falling within the scope of application of Legislative Decree 231/2001 as subsequently amended and supplemented'. The conclusions of this analysis were initially used to prepare this document and to define the management procedures referred to in the Model.

The mapping of risks may never be said to be final and inalterable but, on the contrary, should be subject to ongoing monitoring and revision and continually updated, also in the event of any structural changes or activities undertaken by the Company.

II. Structure of an ex ante control system

As set out in art. 6, paragraph 2, letter (b) of Legislative Decree 231/2001, once the analysis and selection of the risk areas has been completed, specific protocols must be drawn up for decision-making and implementation of decisions at the Entity in the areas of activity at risk.

Therefore, each chapter of the Special Section, for these types of activity, lays down the guidelines for the measures and procedures (such as, for example, the separation between functions, the participation of various persons in the same decision-making activity at risk, specific authorisation and documentation obligations for more sensitive phases) capable of preventing or at least significantly reducing the risk of the commission of offences; the ODV, based on the provisions of this Model, must proceed to define the specific content of such measures and procedures.

The instructions within the company for the implementation of the Model and for any updates and adjustments are issued by the relevant company functions following approval by the Board of Directors.

Apart from the procedures described, which apply *ex ante*, it will always be possible to carry out subsequent checks on individual operations or individual instances of corporate conduct (*ex post* monitoring).

The procedures and the solutions adopted, in the same way as the mapping of risks, may never be regarded as final: rather, their effectiveness and completeness must be continually re-assessed and any improvements, supplements and amendments required from time to time must be proposed and implemented.

III. Appointment of the Supervisory Body

The third objective of the General Section is the identification of the Supervisory Body responsible for:

- constant monitoring of adherence to the requirements under the Model, and to the specific instructions for implementation of the measures and procedures envisaged when this Model is implemented issued by the managers and employees of the Company;
- constant and ongoing assessment of the suitability of the mapping of risks and the procedures described in points I) and II);
- submitting any recommendations for modifications to the Board of Directors.

The body described above is of a collegiate nature, within the Company, but acts with complete autonomy and independence.

***Special Sections and Code of Conduct***

The Special Section of this Model describes the types of offences and lays down certain specific and complementary rules apart from the general rules mentioned in the Model.

The Code of Conduct contains the ethical norms which should be observed by all the addressees specified therein within the scope of the company's activities.

The Special Section, together with the Code of Conduct, constitutes an integral part of the Model.

## **5. ADOPTION OF THE MODEL**

Fives OTO S.p.A. drafts and approves the Model and is obliged to update it in the light of any requirements that emerge over time. It will be the specific task of the Supervisory Body to check and monitor the effective and proper implementation of the Model in relation to the activities carried out.

### ***Amendments and supplements***

This Model is a document originating from the company's governing body (in accordance with the provisions of art. 6, paragraph one, letter a) of the decree); any substantive subsequent amendment or supplement is carried out by the Company's Board of Directors. The Company's Managing Director is also granted the power to make any formal changes or additions to the text.

## **6. MAPPING OF RISKS**

### **Areas of activity at risk in relation to offences**

At Fives Oto S.p.A., the mapping of risks has been carried out and recorded in the annexed document 'Assessment of the risks of the commission of offences falling within the scope of application of Legislative Decree 231/2001 as subsequently amended and supplemented', a document that describes the criteria adopted for the analysis of conduct and presents the results reached.

The activities associated with a risk for the Company of the commission of offences are recorded in the corresponding chapters of the Special Section.

## **7. THE SUPERVISORY BODY (ODV)**

The Company's ODV is a body made up of a number of members ranging from one to five of which the persons selected must be of proven competence and professionalism and which, at its first meeting, will appoint a Chair and adopt its own rules of procedure. The members of the ODV may also include a few employees (*'Internal Members'*) with the sole exception of the members of the Governing Body and the senior executives holding delegated operational powers.

The presence of the Internal Members, in fact, may correspond to the ODV's need, right from the outset, to have an immediate and in-depth knowledge of the Company's structure and its activities in relation to their effective function within the company.

In addition, with regard to the Internal Members, it is expressly stipulated that the maintenance of their subordinate employment relationship or capacity as collaborators of the Company is a prerequisite for their participation as members of the ODV and, accordingly, if their subordinate employment relationship or their capacity as collaborators no longer applies, this will trigger the automatic forfeiture of their membership of the ODV and the Chair of the ODV, or the oldest member in the event that the person forfeiting office is the Chair, must acknowledge the forfeiture of the member's membership and apply to the Board of Directors to replace the departing member.

The ODV is appointed by the Company's Governing Body, remains in office for the term indicated in the instrument of appointment and its members may be re-appointed.

The provisions of the Italian Civil Code relating to mandates are applicable to the ODV.

***Prerogatives and resources of the ODV***

Given the particularities of the powers assigned to the ODV and the specific professional skills required, the ODV, when performing its activities, will be supported by an operational staff (whose members may also be employed on a part-time basis) whose operating and organisational criteria will be determined by the ODV and it will have sufficient independent financial resources.

The ODV may enlist the collaboration of other persons belonging to the management teams if their knowledge and particular skills are required for specific analysis and for the assessment of specific operational and decision-making steps relating to the Company's activities.

In any case, wherever there is a need to enlist professional support not available within the supervisory body itself, and which cannot be provided by the operational staff mentioned above, it will be entitled to seek consultancy services from external professionals.

The ODV, at the beginning of its mandate, and at yearly intervals, will submit a request for a budget for its annual expenses to the Company's Governing Body for funding by the Company and, in particular:

- the ODV will submit a request for payment of the amount corresponding to the annual budget ('Amount') with sufficient and detailed supporting documentation, and the Governing Body will not be entitled to unreasonably refuse to make available such an amount, which may be used independently and without any obligation of prior authorisation by the ODV for the purposes envisaged in the Model;
- the Amount must cover: (i) the remuneration of the external and internal members of the ODV, (ii) an estimate of the expenses that will be independently incurred by the ODV in order to exercise its functions (without prejudice to the fact that any costs related to human or material resources made available by the Company will not be deemed to form part of the budget).

If extraordinary events or circumstances (i.e. those not occurring within the context of the ODV's ordinary activities) give rise to the need to allocate any sums exceeding the Amount, the chair of the ODV must submit a request stating its grounds to the Governing Body describing with a reasonable degree of detail the request for the allocation of monies in excess of the Amount, the reasons and the facts underlying such a request and indicating the shortfall in the monies constituting the Amount for dealing with the extraordinary events or circumstances. This request for further funds may not be unreasonably refused by the Governing Body.

***Functions and powers of the ODV***

In general terms, the Company's ODV is charged with supervising:

- a) adherence to the provisions of the Model and the documents related thereto by the Addressees, by taking any necessary initiative;

- b) the actual effectiveness and the effective capacity of the Model's provisions, in relation to the company's structure, in preventing the commission of the offences described in the Decree;
- c) any need to implement and update internal control procedures in line with the provisions of the Model.

In particular, the Company's ODV will achieve the aforementioned objectives through:

- activation of the monitoring procedures, with the proviso, however, that primary control over the company's activities, including those related to the areas of activity at risk, will remain with the operational management and forms an integral part of the business process;
- identification of the company's activities in order to produce an updated map of the areas at risk within the context of the company's activities;
- implementation of suitable initiatives for the dissemination of the knowledge and understanding of the Model;
- preparation of the internal organisational documentation required for the functioning of the Model itself, containing the instructions, procedures, clarifications or updates;
- collection, processing and storage of the relevant information required for adherence to the Model, and updating of the list of information that must be mandatorily supplied to the ODV or made available to it;
- coordination with the other corporate functions (even by means of ad hoc meetings) so as to better monitor the activities in the risk areas;
- control of the actual existence, proper keeping and effectiveness of the documentation requested in line with what is provided for in the individual Special Sections of the Model for the various categories of offences;
- the ascertainment of alleged violations of the provisions of this Model and/or Legislative Decree 231/2001 and proposals for the adoption of the most suitable measures;
- reports to the relevant bodies of any shortcomings in the Model and proposals for any amendments or improvements;
- coordination with the heads of the corporate functions for the various aspects concerning the implementation of the Model;
- any other periodical checks or checks aimed at specifically performing individual operations, procedures or activities as and when required (ex post check).

The directives and the instructions issued by the ODV for the areas falling within its remit must always be taken into due consideration by the other corporate bodies when performing their functions in relation to the questions contemplated under this Model.

## **8. INTERNAL FLOWS OF INFORMATION**

### ***Disclosure requirements vis-à-vis the ODV***

Any information concerning the implementation of the Model in the areas of activity at risk and any violations of the provisions of the Model itself must be disclosed to the ODV.

The Governing Body and the other corporate bodies are obliged to fully disclose any information to the ODV relating to questions falling within the remit of the ODV.

Similarly, any manager and/or employee of the Company, with the guarantee of absolute confidentiality, must disclose any other information relating to possible internal irregularities and/or illegal activities; the ODV may also receive and evaluate reports and communications originating from third parties. The Governing Body will make available channels of communication so as to facilitate the transmission to the ODV of any reports relating to possible irregularities or illegal activities.

The ODV may request any sort of information and/or documentation useful for the checks and controls falling within its remit from the Governing Body, other corporate bodies and managers and employees, obliging the persons/bodies indicated to comply with any request by the ODV with the greatest degree of care, completeness and promptness.

The ODV may ask the Governing Body (in the case of Directors or other members of senior corporate bodies) or the HR Department (in the case of employees and managers) to impose disciplinary sanctions on any persons identified by it who fail to comply with the disclosure requirements.

#### ***Disclosure requirements of ODV vis-à-vis the corporate bodies***

The Company's ODV is assigned two reporting lines:

- the first one, on an ongoing basis, directly to the President and the Managing Director;
- the second one, on a periodical basis, vis-à-vis the Governing Body and the Board of Auditors.

The Company's ODV may be convened at any moment by the bodies indicated or, for its part, the ODV itself may issue such requests, in order to report on the functioning of the Model or on specific situations.

Each year, in addition, the Company's ODV will submit a written report to the Governing Body on the implementation of the Model.

## **9. DISCIPLINARY SYSTEM**

### ***General principles***

In the light of the provisions of art. 6, paragraph 2, letter (e) of Legislative Decree 231/01, an essential aspect for the effectiveness of the Model is the preparation of a sanctions system, as described below, for dealing with violations of the rules of conduct laid down in the Model for preventing the offences described in the Decree.

The application of the disciplinary sanctions does not depend on the outcome of any criminal proceedings, since the rules of conduct laid down in the Model are adopted by the company with complete autonomy, irrespective of the offence that may be committed as a result of any misconduct.

The ODV may propose that the relevant body take disciplinary steps.

### ***Sanctions vis-à-vis employees***

Any instances of conduct by employees in violation of the individual rules of conduct contained in this Model will constitute disciplinary offences.

The sanctions that may be imposed on employees fall within the scope of those envisaged under the CCNL [National Collective Bargaining Agreement] applied at the company, with due regard to the procedures envisaged under article 7 of Law 30 May 1970, no. 300 (Workers' Statute) and any applicable special legislation.

The sanctions will be ordered by the HR Department, following a proposal submitted by the ODV.

#### ***Sanctions vis-à-vis managers***

If the violation of the rules of conduct set forth in the Model is committed by a manager, the disciplinary measures envisaged in the instruments of the national collective bargaining agreement for the sector in question will apply.

These disciplinary measures, similarly, will be ordered by the HR Department, following a proposal submitted by the ODV.

#### ***Measures vis-à-vis the Directors***

In the event of violations of the Model by Directors, the ODV will inform the entire Governing Body and the Board of Auditors about the violation, and they will see to it that the appropriate actions envisaged under current legislation are taken.

#### ***Measures vis-à-vis external collaborators and partners***

Any conduct by external collaborators or partners in violation of the rules of conduct set forth in this Model and which could entail the risk of the commission of one of the offences described in Legislative Decree 231/2001 may trigger the termination de jure of the contractual relationship, without prejudice to any claims for compensation if the Company in the Group incurs damages/losses as a result of such conduct, which would be the case, for example, if a judge were to order the measures envisaged under the Decree.

### **10. DISSEMINATION AND KNOWLEDGE OF THE MODEL WITHIN THE COMPANY**

#### ***Training of personnel***

The Company will promote awareness of the Model, the associated internal controls and any updates to the Model among all the employees, who are therefore obliged to familiarise themselves with its content, abide by its provisions and help improve the implementation of the Model.

In order to put the Model into practice the HR Department and the Company's Director, in collaboration with the ODV, will manage the training of personnel, which will be organised along the following lines:

- Managerial personnel and managers of the Company's functional areas: initial training through ad hoc meetings in the period immediately following the approval of the Model, dissemination via internet of material relating to its subject matter, with ongoing and timely communication of any updates and modifications; information for new employees when they are hired;
- Other personnel: internal explanatory note about the Model and its functions; information for new employees when they are hired; submission to employees who have an email address of information via email.

***Information provided to external collaborators and partners***

The Company will also promote awareness with and adherence to the Model among partners and collaborators, who are not answerable to any superior. They will be informed about the content of the Model right from the beginning of their professional or commercial relationship with the Company.

**11. PERIODIC CHECKS**

In relation to the tasks of monitoring and updating the Model assigned to the ODV under art. 6, paragraph 1, letter (b) of Legislative Decree 231/2001, the Model will be subject to three types of checks:

- checks on documents: an annual check will be performed of the main corporate documents and the most significant contracts concluded by the Company in the areas of activities at risk;
- checks on procedures: the effective functioning of this Model will be checked using the methods decided upon by the ODV;
- each year all the reports received during the year, the actions undertaken as recommended by the ODV and the other persons involved, the events and the episodes regarded as constituting the greatest risk and the actual degree of familiarity of all the Addressees with the content of the Model and the types of offence envisaged under the Decree will be re-examined.

The results of this examination must be reflected, even if this takes the form of a summary, in the report drafted annually by the ODV for the Governing Body and envisaged in the paragraph 'Internal flows of information'.

**12. MODEL AND CODE OF CONDUCT**

The rules of conduct contained in this Model supplement those contained in the Code of Conduct.

In the light of what has just been said, the following should be made clear:

- the Company has received the Code of Conduct of the Fives Group, which sets out to provide a clear vision of the Group's fundamental values and to lay down the principles and rules of conduct that should be disseminated and applied;
- the Model corresponds to the specific provisions contained in the Decree, aimed at preventing the commission of certain types of offences;
- the ethical principles contained in the Code of Conduct relating to the subjects dealt with in the General Section and the Special Section of the Model constitute the rules of conduct upon which the legitimate performance of the company's activities is based.