

# NEXT

## YACHT GROUP

### **MODEL 231 ABSTRACT**

#### **ORGANIZATION AND MANAGEMENT MODEL UNDER LEGISLATIVE DECREE 231/01 ADOPTED BY THE COMPANY NEXT YACHT GROUP S.R.L**

Next Yacht Group s.r.l (hereinafter referred to as "the company)," through a special resolution of the Board of Directors, has adopted its own Organization and Management Model pursuant to Article 6 of Legislative Decree 231/01.

The company has also appointed a Supervisory Board and adopted a Code of Ethics and an internal Disciplinary System (Penalty Code), which provides for sanctions in case of non-compliance with the requirements and measures indicated in the Model and its annexes.

#### **"Discipline of administrative liability arising from criminal offences committed by legal persons, companies and associations, including those without legal personality"**

Legislative Decree No. 231/01 ("Decree 231") introduced into the Italian legal system a regime of so-called "administrative liability arising from criminal offences committed by entities."

Although we cannot speak of criminal liability in the strict sense, so as not to contradict constitutional dictate, it is nonetheless a criminal liability involving economic sanctions and disqualification measures that are just as afflictive as criminal ones.

The company's fault, if any, for a criminal offence committed in its interest or to its advantage, is an organizational fault: the entity is declared liable because it failed to organize effectively to prevent that particular type of criminal offence (e.g., it failed to organize an effective system of procedures and behavioral protocols).

► According to Art. 5 of Legislative Decree 231/01, the entity is liable for criminal offences committed in its interest or to its advantage:

- a) by persons who hold positions of representation, administration or management of the entity or of one of its organizational units having financial and functional autonomy as well as by persons who exercise, including de facto, the management and control of the entity (the so-called "Top Managers", such as Directors);
- b) by persons under the direction or supervision of one of the top managers (the so-called "Subordinates" such as employed, casual or self-employed workers, consultants, contractors of activities and services, etc.).

On the other hand, the entity is not liable if the aforementioned individuals acted in their exclusive interest or that of third parties.

Criminal offences generating the liability of the entity (namely autonomous liability and the liability

additional to that of the material perpetrator of the crime) are exclusively those typified in the list of the so-called "predicate offences" provided by Legislative Decree No. 231/01. In this regard, it is important to mention that manslaughter and culpable injury in violation of occupational health and safety regulations (Art. 25 *septies*) and environmental crimes (art. 25 *undecies*) have been recently included in the list of predicate offences; since these criminal offences are punishable even if they are unintentional, it is clear that the possibility of involving the entity's administrative responsibility has become extremely topical today.

- ▶ The sanctions applicable to the Company where liability under Legislative Decree 231/01 is established as follows:

### **Administrative penalties**

This penalty constitutes the "basic principal" mandatory penalty to be paid by the Entity making use of its own assets or common fund.

The administrative penalty is determined by the Criminal Judge according to the parameters dictated by Art. 11 of the law 689 /1981, supplemented by the reference to the amount of proceeds derived from the crime and, above all, the economic/equity capacity of the Entity.

The penalty is structured on a "quota" system: the amount of the quota can range from a minimum of € 258.22 to a maximum of € 1,549.37. In general, therefore, without prejudice to the distinctions to be made with respect to the various offenses covered by the Decree, the minimum penalty applicable to the Entity is € 25,822.84 while the maximum penalty is €1,549,370.70.

#### Prohibitory sanctions

These sanctions, governed by Article 13 of Legislative Decree 231/01, apply only in relation to the criminal offences for which they are expressly provided (offences of particular gravity).

The prohibitory sanctions, listed in Art **9, paragraph 2**, of the Decree, are as follows:

- disqualification from operation of the business;
- suspension or revocation of authorizations, licenses or concessions functional to the commission of the offense;
- prohibition of entering into contracts with the public administration, except to obtain the public services;
- exclusion from benefits, financing, contributions or subsidies and the possible revocation of those already granted;
- il divieto di pubblicizzare beni o servizi.

For the application of the sanctions, at least one of the conditions provided for in the aforementioned Article 13 must be met:

- 1) *The entity made a significant profit from the criminal offence and the offence has been committed by persons in a top position or by persons under the direction of others when, in this case, the commission of the criminal offence is determined or facilitated by serious organizational deficiencies.*
- 2) *In case of reiteration of offenses (commission of an offense dependent on a crime in the five years after a final judgment of conviction for another previous offense).*

### **Confiscation**

Confiscation consists in the coercive acquisition by the state, of the price or profit of the crime, except for the part that can be returned to the injured person and without prejudice to the rights acquired by third parties in good faith (art 19, paragraph 1, Decree).

This sanction is always ordered with a conviction and takes on the character of a principal and mandatory sanction. When it is not possible to perform the confiscation in accordance with Paragraph 1 of Article 19, confiscation may target sums of money, or other utilities with a value equivalent to the price or profit of the crime (so-called "confiscation of assets of equivalent value"). In addition, the Conversion Law (L.157 /2019) introduced the applicability to certain crimes (Articles 2,3,8 and 11 Legislative Decree 74/2000) of the so-called "extended confiscation" i.e. of money or other assets of which the convicted person cannot justify the origin and of which, even through an intermediary natural or legal person, he or she is found to be the owner or to have availability in any capacity in a value disproportionate to his or her income, declared for income tax purposes, or to his or her economic activity. (Articles 12 ter Legislative Decree 74/2000 and 240 bi of the Italian Criminal Code).

### **Publication of the judgment**

This sanction can be applied by the court when the entity is subject to the imposition of a prohibitory sanction: these are therefore the most serious cases for which the Legislator has deemed that making publicly available the conviction is legitimate to protect the public interest.

The publication shall be carried out at the expense of the entity against which the sanction was imposed, in one or more newspapers specified by the Judge in the judgment, as well as by posting the notice on the public notice board of the municipality where the entity has its main office.

### **THE EXEMPTION OF ADMINISTRATIVE LIABILITY FOR ENTITIES**

Articles 6 and 7 of the Decree provide specific forms of exemption from administrative liability for Entities for offenses committed, in the interest or to the advantage of the same, by both top managers and employees.

#### **Top managers**

Specifically, in the case of criminal offences committed by individuals in top positions, **Article 6** of the Decree provides for exoneration from liability if the entity proves that:

- a) The management body (Board of Directors) has adopted and effectively implemented, prior to the commission of the offense, organizational and management models suitable to prevent crimes of the kind that occurred (hereinafter the "Model");
- b) The task of supervising the functioning and observance of the models and updating them has been entrusted to a "body" having autonomous powers of initiative and control (Supervisory Body);
- e) The material perpetrators of the crime acted by fraudulently circumventing the said Model;
- d) There has been no failure of supervision or insufficient supervision by the Body referred to in letter b).

#### **Persons subject to the direction of others**

Regarding offenses committed by "subordinates" (persons subject to the management or supervision of top management), **Article 7** of the Decree stipulates that the Entity is liable if the commission of the offense was made possible by the failure to comply with management or supervisory obligations.

Article 7(2), however, provides, even in this case, a mechanism for the Entity to be exonerated from liability if the Entity has adopted and effectively implemented, prior to the commission of the crime, an organization, management and control model suitable for preventing crimes of the kind that occurred.

The Model must provide, in relation to the nature and size of the organization of the entity as well as to the type of activity carried out, appropriate measures to ensure the performance of the activity in compliance with the law and to discover and eliminate situations of risk in a timely manner.

- The Organization and Management Model "photographs" the entire organization of the Company, from the administrative area to the operational area; in each sector of the Company, the concrete risks of the commission of the various predicate offences (the so-called "Risk Analysis") are outlined and the procedures for the prevention of crimes are developed; these must be complied with by all employees, collaborators and consultants of the Company (Special Parts, Control Protocols).

### **THE TYPE OF PREDICATE OFFENCES PROVIDED FOR BY LEGISLATIVE DECREE N° 231/01.**

The list of predicate offenses provided for in Legislative Decree No. 231/01 is constantly expanding, and several new types have been included in recent years.

At present, the predicate offenses concerning the administrative liability of entities are those named in the following articles of Legislative Decree No. 231/2001:

- **Undue perception of public funds, fraud to the prejudice of the State or a public body or the European Union aiming to the achievement of public financing and computer fraud to the prejudice of the State or a public body**

[art. 24 of Legislative Decree 231/01].

- ▶ Computer fraud and unauthorized data processing [art. 24 bis of Legislative Decree 231/01].
- ▶ Organized crimes [Art. 24 *ter* of the Legislative Decree 231/01].
- ▶ Embezzlement, bribery, inducement or promise to give undue benefit and corruption and abuse of functions [Art. 25 of the Legislative Decree 231/01].
- ▶ Crimes involving counterfeit money, public credit bonds, tax stamps and emblems [Art. 25 *bis* of the Legislative Decree 231/01].
  
- ▶ Crimes against manufacturing and trade [Art.25 bis 1 of the Legislative Decree 231/01].
- ▶ Corporate crimes [art. 25 *ter* of Legislative Decree 231/01].
- ▶ Crimes aimed to terrorism or subversion of the democratic order [Art.25 *quater* of the Legislative Decree 231/01].
- ▶ Mutilation of female genital organs [Art.25 *quater* 1 of the Legislative Decree 231/01]
  
- ▶ Crimes against the individual personality [Art. 25 *quinquies* of the Legislative Decree 231/01].
- ▶ Market abuse [art. 25 *sexies* Legislative Decree 231/01].
- ▶ Manslaughter and severe or very severe bodily harm, committed in violation of the rules on protection of health and safety at work [art. 25 *septies* Legislative Decree 231/01].
- ▶ Receiving stolen goods, money laundry and use of money, goods or assets having illicit origin and self-laundering [art. 25 *octies* Legislative Decree 231/01].
- ▶ Crimes relating to non-cash payment instruments [art 25 *octies* 1 Legislative Decree 231/01]. Crimes relating to non-cash payment instruments [art 25 *octies* 1 *par.* 2 Legislative Decree 231/01].
- ▶ Crimes related to infringements of copyright [art. 25 *novies* Legislative Decree 231/01].
- ▶ Inducement not to make statements or to make false statements to the judicial authority [art. 25 *decies* Legislative Decree 231/01].
- ▶ Environmental crimes [art. 25 *undecies* Legislative Decree 231/01].
- ▶ Employment of foreign citizens staying illegally in the Country [art. 25 *duodecies* Legislative Decree 231/01].
- ▶ Racism and xenophobia [art. 25-*terdecies* Legislative Decree. 231/01].
- ▶ Fraud in sports competitions, unlawful gaming or betting and gambling exercised by means of prohibited devices [Art. 25-*quaterdecies* Legislative Decree 231/01].
- ▶ Tax crimes [art. 25-*quinquiesdecies* Legislative Decree 231/01].
- ▶ Crime of Smuggling [Art. 25-*sexiesdecies* Legislative Decree 231/01].
- ▶ Crimes against cultural heritage [art. 25-*septiesdecies* Legislative Decree 231/01].

- ▶ **Laundering of cultural property and devastation and looting of cultural and environmental property [Art. 25-*duodevicies* Legislative Decree 231/01].**
- ▶ **Transnational Crimes [Art. 10 Law 146/2006].**

## **CODE OF ETHICS ADOPTED BY THE COMPANY NEXT YACHT GROUP S.R.L**

The Company has adopted a Code of Ethics as a "*Charter of Fundamental Rights and Duties*" through which it identifies and clarifies its responsibilities and ethical commitments to its internal and external *stakeholders* as well as an integral part of the Organization and Management Model provided for in Article 6 of Legislative Decree No. 231/01 regarding the administrative liability of Entities.

The Code of Ethics is binding for the organs of the Company, management, employees, external collaborators, business partners, suppliers and all those who have relations with the Company.

Attributed to the Code of Ethics are:

- **A function of legitimacy:** the Code makes explicit the Company's duties and responsibilities to *stakeholders*;
- **A cognitive function:** the Code, through the enunciation of abstract and general principles and rules of behavior, allows to recognise unethical behavior and to indicate the correct ways of exercising the functions and powers attributed to each person;
- **A preventive function:** the codification of basic ethical principles and rules of conduct by which all *stakeholders* must abide, constitutes the express declaration of the Company's serious and actual commitment to be the guarantor of the legality of its activities, with particular reference to the prevention of wrongdoing. The Company does not tolerate the violation of the aforementioned principles, combats material and moral corruption that may undermine its integrity, and puts in place organizational tools to prevent the violation of the principles set forth in the Code; the company also monitors that the Code is correctly complied and enforced.
- **An incentive function:** the Code, by requiring compliance with the principles and rules contained therein, contributes to the development of an ethical consciousness and strengthens the Company's reputation and the relationship of trust with its *stakeholders*. Similarly, the reputation of management and employees depends on the observance of the principles of the Code.

Compliance with the rules of the Code of Ethics is considered an essential part of the contractual obligations of all those working for the company.

THE CODE OF ETHICS CAN BE FOUND ON THE COMPANY'S WEBSITE

## **THE DISCIPLINARY SYSTEM**

The company has adopted a Code of Sanctions, pursuant to Article 6, Paragraph 2, lett. e) and Paragraph 2 bis, lett. d) and Article 7, Paragraph 4, lett. b) of Legislative Decree 231/2001. One of the essential elements for the construction, implementation and maintenance of an effective Organization and Management Model is, in fact, the existence of an adequate disciplinary system suitable for sanctioning non-compliance with the measures indicated in the model itself (internal protocols/procedures referred to by the Model itself, Code of Ethics, circular letters and service orders, etc.).

The definition of an adequate sanctioning system is an essential prerequisite to give the Organization and Management Model under Legislative Decree No. 231/2001 the significance of a justification with respect to the administrative liability of entities. Infringements of the

Organizational Model and the Code of Ethics will be subject to the disciplinary sanctions set forth in the Sanctions Code, regardless of whether the offender is criminally liable and regardless of the outcome of the relevant trial; these rules supplement and do not replace the rules of law and the clauses of collective bargaining on the subject of disciplinary sanctions.

The existence of a disciplinary system employees, or of persons subject to the direction or supervision of one or more senior persons, is inherent in the employment relationship, as provided for in civil law. Specifically, the legislator explicitly placed on the employee a duty of diligence and fidelity in the performance of his or her duties, as well as the possibility for the employer to resort to the application of disciplinary sanctions in case of behavior inconsistent with these obligations.

Of course, the sanction response must be commensurate with the seriousness of the infringement committed and must comply with the provisions contained in the Workers' Statute and the current National Collective Bargaining Agreement applied by the Company.

Pursuant to these regulations, therefore, the Company's senior management, employees and non-employees of the Company (based on the signing of specific "231 clauses" in the relevant collaboration/consulting/supply contracts) are subject to this Disciplinary System.

### **CONTROL PROTOCOLS: THE SYSTEM OF PREVENTIVE CONTROLS OF NEXT YACHT GROUP S.R.L**

The purpose of the Control Protocols adopted by the Company is to ensure that all persons involved in sensitive activities, regardless of their professional position, act in accordance with the policy adopted by the Company, in order to prevent the commission of the predicate offenses referred to in Legislative Decree No. 231/01.

The Company has prepared and implemented appropriate organizational monitoring to prevent and control the risk of commission of crimes in the performance of its activities.

In any case, the Company has structured its system of preventive controls so that the same cannot be circumvented except fraudulently.

### **WRONGDOING POTENTIALLY RELEVANT TO THE NEXT YACHT GROUP S.R.L**

In order to achieve the prevention objectives mentioned above, the areas that are "sensitive" to the commission of the crimes referred to in the Decree (so-called "predicate crimes") have been identified.

The "*Mapping*" was carried out by assessing the performance and conduct of the company's typical processes and comparing the practices with the predicate offenses provided for in the Decree; the results were formalized in the document "Risk Analysis" which will be subject to periodic verification by the Supervisory Board with the support of the Company's manager involved.

For a full discussion of the topics, please refer to the **Special Part of the Organizational Model** adopted by the company and the Protocols.

**INFORMATION FLOWS AND COMMUNICATIONS TO THE SUPERVISORY BODY** The Board of Directors, pursuant to Article 6, paragraph 1, letter b) of Legislative Decree No. 231/01, has entrusted the task of supervising the functioning and observance of the Model to a Supervisory Body.

According to the provisions of Articles 6 and 7 of Legislative Decree 231/01, **the Supervisory Body (SB)** has the following characteristics: autonomy, independence, professionalism and continuity of action.

This Body, endowed with autonomous powers of initiative and control, has the task of supervising the operation, observance and updating of the "Organization and Management Model" adopted by the Company.

The Company maintains an active Communication System with the Supervisory Body. The Supervisory Body must be informed, by means of appropriate reports, by those persons required to comply with the Model, of conduct that could give rise to the Company's liability under the Decree.

### **Whistleblowing from Company representatives or third parties**

The following requirements apply in this regard:

- Any reports relating to the violation of the Model, Code of Ethics, procedures or otherwise resulting from conduct not in line with the rules of conduct of the Model adopted by the Company must be collected.
- The Supervisory Body will evaluate the reports received and any subsequent action at its reasonable discretion and responsibility, hearing, if necessary, from the author of the report and the person responsible for the alleged violation and giving reasons in writing for any refusal to proceed with an internal investigation.
- Reports, according to the provisions of the Code of Ethics, must be in writing, even anonymously, and must concern any violation or suspected violation of the Model, the Code of Ethics or the procedures adopted by the Company. The SB will act in such a way as to guarantee whistleblowers against any form of retaliation, discrimination or penalization, while also ensuring the confidentiality of the whistleblower's identity, without prejudice to legal obligations and the protection of the rights of the Company or persons wrongly accused and/or accused in bad faith.
- In order to facilitate the flow of reports and information to the SB, "dedicated information channels" are to be created and, specifically, a special mailbox of the Supervisory Board (**odv@nextyachtgroup.com**).

### **Reporting from Company representatives or third parties**

In addition to the documentation prescribed in the Model according to the procedures contemplated therein, any other information of any kind, including from third parties and pertaining to the implementation of the Model in the areas of activity at risk or to the reporting of any conduct in violation of the rules contained in the Model and the Code of Ethics, must be brought to the attention of the Supervisory Board.

The following requirements apply in this regard:

- Reports, according to the provisions of the Code of Ethics, must be in writing and must concern any violation or suspected violation of the Model.
- The Supervisory Body will act in such a way as to guarantee whistleblowers against any form of retaliation, discrimination or penalization, while also ensuring the confidentiality of the whistleblower's identity (in compliance with the rules on whistleblowing) without prejudice to legal obligations and the protection of the rights of the persons wrongly accused and/or accused in bad faith.

## **THE ORGANIZATION AND MANAGEMENT MODEL OF NEXT YACHT GROUP S.R.L**

THE MODEL IS AVAILABLE IN ITS ENTIRETY AT THE COMPANY OFFICE.

The company pursuant to Legislative Decree 24/2023 so-called "Whistleblowing" has established the following internal Whistleblowing channels:

Platform: on the website of Next Yacht Group s.r.l

By mail: in an envelope marked "confidential to the Whistleblowing manager" to the law firm in Viareggio (LU). at Via Leonida Repaci No. 16. 55049.