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Milan, 25 February 2020

Società Cattolica di Assicurazione - Società Cooperativa
Lungadige Cangrande, 16
37126 Verona

For the attention of Director Paolo Bedoni.

Dear Sirs,

Please find our comments below with regard to the *(weighty)* opinion *"for the truth"* (hereinafter for brevity: the "Opinion") formulated by professors Niccolò Abriani and Marco Lamandini and published on your Company's website.

1. The *"Opinion"* opens with a long list and description of the truly copious legislation that would apply to this case.

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The obvious purpose of this listing and description, the purpose stated by the authors of the *Opinion* , is in particular to demonstrate the existence in the legal universe of a sort of legislative *“trend”* developed in an overall logic of (i) the efficiency of the *governance* of companies, (ii) the "rejuvenation" (and more generally renewal) of boards of directors, at least those of listed companies, and more specifically of cooperatives, (iii) to avoid phenomena of "infeudation of control groups" (on page 19). .

Regardless of the general nature of the reconstruction performed in the *“Opinion”,* which bundles together rules with *different rationales*, it should be noted that the authors attach particular importance to:

(a) a rule that is still *in flux* and/or “in progress”. This concerns in particular the amendment to Article 76 of the Insurance Code, cited on page 5, where it is stated that the persons carrying out management and control activities must be “suitable for the performance of the office”. Which, clearly, has nothing to do with the age, nor with the number of mandates already held by such persons;

(b) and, indeed, to a rule that has been *repealed,* such as paragraph 4 of Article 2542, mentioned on page 19.

In these terms, it seems right to conclude here that the supposed legislative *trend* favouring the thesis of the authors of the “Opinion” is inconsistent, if not non-existent.

2. The *"Opinion"* then attempts, going even further, to identify arguments favouring a thesis that is proposed outside the law and outside national borders.

And this has paradoxical consequences:

- because the Italian practice cited in relation to introducing age limits for company representatives into the Articles of Association regards an infinitesimal percentage of domestic listed companies;

- and because it is still very difficult to understand the significance (and relevance), with regard to the Italian system of cooperatives, of solutions specific to other and/or foreign legal systems (such as the Indian system), with reference to contexts that are clearly quite foreign to the particular nature of Italian cooperatives.

3. These considerations are also useful in ruling out the basis of the conclusions reached in the *"Opinion"* relating to one of the central points of the ongoing discussion about Cattolica.

The two authors (page 30 et seq.) observe in particular that the position of the incumbent directors, who are obviously interested in holding on to their office, must give way in the face of a supposed corporate interest expressed as adherence to the *“Request for Evolution of Governance”* brought by the shareholders who proposed the amendments to the Company’s Articles of Association.

However, this reasoning does not hold true in the case in question and, in particular, does not seem to hold up to criticism, even weak criticism.

In particular, the *"Opinion"* (para. 33), states the following: "the abstract conformity ... to the corporate interest" of the changes concerning the requirements of directors.

Two considerations arise on this point: firstly, in order to be able to justify the sacrifice of (other) endogenous interests, the corporate interest must be a *concrete and current interest,* not a purely abstract interest; secondly - and this is an even more important point - the authors of the opinion derive this (claimed) interest from the "systematic and comparative reconstruction performed above".

This clearly represents a purely circular argument; since the amendments in question would correspond to a *trend* that is widespread (also) outside Italy (which, moreover, is not even true, as stated above), then these would be consistent with the corporate interest!

4. The conclusions reached by the *"Opinion"* in the part that specifically considers the position of the directors whose term of office would be terminated (pages 39 et seq.) are completely paradoxical.

In this regard, the two authors cannot remain silent about the risk of these directors suing the company to obtain compensation for the loss of their office.

In fact, the *"Opinion"* prudently states (p. 40) that a "prognosis" on the possible intervention of the judge, called upon to decide whether or not there is just cause for revocation, "does not appear prudent"!

In particular, it is precisely on the basis of case law for the purpose referred to in the *"Opinion"* that it maintains that: "The prognosis ... appears ... particularly uncertain."

In the face of this, however, the authors show that they do not give too much weight to all this, merely stating that shareholders will be "certainly able to appreciate this additional, possible consequence (only compensatory)" (SIC!) (page 41).

5. The progressive approach that is found in the "*Opinion*" to the risk/almost certainty of a case for the directors whose office has been terminated to obtain compensation once again poses the question, negatively this time, of finding a suitable corporate interest to justify the clauses of the Articles of Association in question.

In particular, we need to ask how the decision to start the effects of the termination of three directors immediately, and a fourth director before the natural expiry of his term in office, could be considered as being consistent with the corporate interest, when it would be much wiser and more conservative to wait for the natural expiry of their office.

Moreover, if the supervisory authorities have never raised any objections to date with regard to the *governance* of Cattolica, thus implicitly considering it to be entirely regular and adequate, why should the Company be subjected to the concrete risk of having to pay substantial compensation to the terminated directors rather than waiting for the natural expiry of their office.

It is not clear, frankly, how the choice in the proposed amendment and endorsed by the "Opinion" can be judged to be consistent with the corporate interest.

6. Having said this, the assertion (page 14) that the highly organisational choices are matters for the shareholders' meeting is certainly not disputed.

What is disputed, and radically so, is rather that the supposed *trend* on *governance* is supported, in respect of directors' requirements, by a decision (i) involving an "implicit revocation" and (ii) which appears clearly to be made on a *personal basis.*

Moving, for the sake of convenience, to the second assumption, we note that the authors of the *"Opinion"* are careful (page 22 et seq.) to describe cases, including those which have also been examined by the judiciary, in which the termination of directors was legitimately an immediate consequence of an organisational decision.

However, the authors forget to point out that, on those occasions, the amendment was a matter concerning the board in its entirety!

Limiting ourselves to just one example: the (legitimate) organisational decision to switch from a collegial management body to a single-member body entails the immediate termination of all directors.

This would not happen, however, in the case in question, where a vote in favour of the amendments proposed by the minority at a shareholders' meeting would result in the "termination" of only four directors out of seventeen, while the others would remain in office.

The cases, referred to in the *"Opinion"* as cases of termination, in fact, and in particular, provide for the termination of the body (board of directors or board of statutory auditors) in its entirety, and not of its individual members.

On the other hand, termination can only refer to (i) a radical change in the organisational structure, or (ii) the loss of personal requirements that were possessed at the time the office was accepted, (iii) not to requirements added later to the Articles of Association, of which the candidate could obviously not have been aware at the time of acceptance (just a few months ago).

All of this makes it clear that the matter can only be correctly qualified by the institution of *revocation.*

But, having identified the correct semantic scope (revocation, and not termination), it should be noted that *revocation* cannot be contained in a wider resolution and cannot be the (indirect) effect of a resolution with a different purpose.

More specifically, with reference to the case in question, since the revocation is interpreted as the effect of an implicit resolution, but - as the authors of the *"Opinion"* (p. 34) seem to point out - there is a hypothesis of an indirect negotiation, and regardless of the abstract legitimacy of these two institutions, in the case in question any resolution would certainly be unlawful if it did not provide for the continuance of effects.

Furthermore, the effect/revocation would not be undertaken at the place assigned by the Civil Code in this case (the ordinary shareholders' meeting) and would in any case be extraneous to the meeting's agenda.

This seems logical when considered from the perspective of those who proposed the amendments to the Articles of Association, because otherwise the clearly *personal* nature of the proposed decision would be evident.

7. This last perspective brings to light a further inconsistency in the *"Opinion".*

In responding to the criticisms made in the professional opinions requested by the Company on the (lack of) information, a problem which is all the more serious since Cattolica securities are listed on the market, the authors of the *"Opinion"* essentially maintain that the necessary information would arise from the "arranged combination" of the "explanatory report" submitted by the minority shareholders in support of their request for the shareholders' meeting, and the supplementary information provided by the Board of Directors on 16 January 2020.

This interpretation is certainly unsubstantiated.

The information envisaged for listed companies is in fact intended to provide the shareholders that are called upon to vote on a particular resolution with accurate knowledge on the subject matter of the resolution. The information must therefore be formulated in accordance with the rules dictated by the law, rules that cannot be replaced by "substitutes".

In the case in question, the aforementioned nature of (implicit) *revocation* in the proposed amendment would mean that shareholders would need to be informed not only of the general practical scope of the decision, but also of the names of the directors who would be removed from office (who - a factor which is not legally decisive but which is certainly significant - represent the senior management of Cattolica).

There is no sign of this last point in the documents cited in the *“Opinion”,* which thus appears to justify a case of revocation without indicating the persons being revoked.

While the statement on page 37 appears quite ridiculous in affirming that, since there is legal disclosure regarding the persons holding the post of director, shareholders would in any case be able to find out the date of birth of each director and the "composition of the administrative body of the Company over time" (sic!).

(Also) in terms of information, the amendment resolution proposed by the minority should therefore be considered unlawful/irregular.

8. A final point worth considering is the provision which gives the most-voted minority list the option of appointing the sole deputy chairman and the chairman of the management control committee.

In this regard, I reiterate what we said in our opinion, that this would be attributing abnormal power to a list which could have obtained the consent of only a small number of shareholders; what is of note here is a clear contradiction inherent in the reasoning of the authors of the *"Opinion".*

In particular, they acknowledge that the proposal, if accepted, would represent a *"unique"* event for a listed company. And yet they consider this choice as not being inconsistent with the law.

It should be noted, however, that, in their lengthy reasoning based on the supposed correspondence of the proposed governance amendments to an irresistible trend, both domestic and international, it is strange that in this case a solution is proposed which is instead totally detached from any market practice.

From a technical point of view, it should also be noted that the explanatory report of the proposing shareholders does not deal in any way with the problem of the mechanism for replacing the deputy chairman should this office become vacant. This strongly leads one to suspect that the provision of the Articles of Association under consideration would not pass the scrutiny of the supervisory authorities.

9. On the basis of all this, we believe that we can definitely confirm the conclusions of our opinion given on 13 January 2020.

Dear Sirs, we remain available for any clarification, and we express our best regards.

[Illegible Signature] [Illegible Signature]

(Prof Sergio Patriarca) (Prof Giulio Tremonti)

Notes on the independent opinion "for the truth" given by lawyers Prof. Niccolò Abriani and Prof. Marco Lamandini at the request of the shareholder Credit Network & Finance S.p.A.

Concerning the assessments and conclusions made by Profs. Abriani and Lamandini (in essence, contrary to the various opinions provided to Cattolica Assicurazioni soc.coop. by four university professors including the undersigned), the following observations can be made.

I) General introduction

1. The "supplementary" autonomy of the Articles of Association as such cannot be called into question: what is certain is that there are limits and, above all, that for all the amendments intended to be immediately applicable with the proposal of the requesting shareholders of 18.12.2019, there must be a corporate interest underpinning the amending resolution, but not a non-corporate interest, which on the contrary seems to be the case here: the proposed amendment is based on inconsistent and grey grounds of alleged "good governance" (the proposed clauses with the greatest impact, namely the introduction of age and mandate limits and the figure of a minority Deputy Chairman are, in reality, extremely rare in listed companies and are in actual fact quite *unique,* in the way they are formulated, as even seems to be admitted in the opinion of Profs. Abriani and Lamandini, § 59, p. 25 and § 11.3, p. 44) and has no corporate interest, except for its purpose, which is indeed effective, of trying to "decapitate", in one fell swoop, the company's entire senior management with a singular, or rather anomalous, transitional clause (no. 59.3).
2. It should be emphasised that there is no clause in the current Articles of Association of Cattolica which is not compliant with any law or regulation, and therefore no clause needs – by law – to be amended.

   Instead, the amendment proposed by the shareholders should be appropriately and sufficiently substantiated, particularly in a listed company of public interest, beyond its abstract legitimacy. It is difficult to find an appropriate reason of corporate interest, let alone public interest, in the proposal.

This author cannot consider as relevant, here and now, the examination referred to in the opinion of Profs. Abriani and Lamandini of the position of the Indian Reserve Bank, the partnership limited by share (s.a.p.a.), or the references to the public limited liability company in French law, which are very far from the issue and the case in question. However, as sometimes happens, the excessive amount of information is used to hide the inconsistency of the statements.

II) <u>Specific issues</u>

II.A) <u>On the critical or anomalous aspects of the proposed new requirements (eligibility and tenure) for directors (maximum number of years in office and age limits), the associated revocation system and the related transitional rules.</u>

3. <u>*The absence of prescriptive rules and the very different practices in other companies in terms of seniority of age and of length of service*</u>

The independent opinion "for the truth" of Profs. Abriani and Lamandini states (pages 13 et seq.) that the proposed new personal requirements for directors (Art. 30.6: age limit and limit on years in office) are not prescribed by any general or special rule in our legal system and that there is wide debate in legal theory, including internationally, about the costs and benefits of introducing such requirements on a voluntary basis.

It would therefore be a matter of opportunity ("*eminently organisational choices*", as also stated in the opinion given by Profs. Abriani and Lamandini).

According to the requesting shareholders and therefore the opinion of Profs. Abriani and Lamandini, this option is part of the broader context of strengthening the *governance,* as a means of promoting *"more effective and rapid forms of 'renewal' and, accordingly, of 'diversity', of the administrative body*"*:* whence it would be consistent with the corporate interest (it should be noted, however, that in a recent contribution Prof. Abriani stated that it was appropriate to provide for possible age and mandate limits in the Articles of Association, but <u>in particular</u> for the members of the Management Control Committee, in a perspective of independence and certainly not of immediate incompatibility: see N. ABRIANI, *Minority requests and new perspectives for corporate governance,* in *Dirittobancario.it,* editorial of 2 November 2019: "Developments regarding the anticipated 'limits of age and mandate for directors' may be *no less compelling – and virtuous–. Here it is not only a question of 'taking seriously' the nine-year term provided for in the Code of Self-Governance as a maximum limit* <u>*for the independence of directors,*</u> *requesting a more rigorous explanation for those wishing to deviate from it, but of considering whether it is not appropriate to predetermine this maximum limit in the Articles of Association;* <u>*in particular for the independent members of the risks committee for banks, for the statutory auditors of companies with traditional systems and for members of the Management Control Committee of companies with a unitary board structure*</u>"*).*

In fact, this author does not see how an amendment to the Articles of Association can be deemed to conform to the interest of the company when it immediately introduces into said Articles of Association a <u>permanent element of instability in the term of office</u> of the administrative body and therefore in the operation of the body (here, in particular, <u>of the entire senior management</u> of the company), which is anything but a principle of good *corporate governance*.

It should be noted that the corporate practice cited in the same opinion is quite different: in effect, the Articles of Association of Mediobanca and UBI provide (and, for a very short time, so did Generali) for an age limit only on appointment, while, with regard to a maximum limit for mandates, the Articles of Association of Mediobanca and Intesa Sanpaolo provide for the loss of the requirement of independence after a certain number of years in office; UBI provides for a limit to the special position of Chairman or Deputy Chairman after three mandates, and ICCREA Banca makes auditors ineligible for office after three mandates.

None of these Articles of Association (a negligible percentage is noted, however, in the *panel* of companies listed on the MTA and even more so on the European markets) provides for the immediate revocation of directors if they exceed the limits of age or term in office during their mandate, as would be the case in the proposed clause.

It is one thing to provide for eligibility requirements, whereby a person who does not have those requirements cannot be appointed; it is quite a different matter to provide that only those directors who exceed the limit of age or years in office during their mandate shall have their office terminated. In other words, and to reiterate: it is one thing to provide for grounds for revocation for the entire body due to organisational changes, but it is quite another matter to affect the subjective position of some directors only (not by chance in this case the top management), surreptitiously terminating their office.

The wording of the amendments, as proposed, therefore continues to raise important critical issues, but above all it is completely devoid of even a minimum of corporate interest, at least in the immediate future.

4. *On the implicit revocation following the transitional provisions proposed for the new personal requirements of directors, with the consequent unlawfulness, and on the abuse that is construed*

It is indisputable (but not unique, as Profs. Abriani and Lamandini assert on page 26, § 62) that the nature of the singular transitional regime proposed by the requesting shareholders for the new requirements to be introduced, which would also be applied to members of the body already in office (see Art. 59.3) is critical.

In this regard, the opinion of Profs. Abriani and Lamandini assesses and justifies this option of the requesting shareholders, while at the same time acknowledging (see page 25, § 59) that it is different from that which "*the legislator now wishes to do with the draft legislative decree amending Article 76 of the Insurance Code, or that which has been done by the Corporate Governance Code and various Articles of Association of banks that have introduced additional personal requirements for directors (such as age limits), deferring the effects until after the expiry of the body in office.*", since these have chosen "*a slower process of induction, by means of the Articles of Association, to the renewal of the directors in office*".

The clause (which is already singular, as it refers only to one of the many amendments to the Articles of Association proposed at the same time) remains anomalous in its wording, perhaps precisely because it is based on the actual and opaque aims it pursues: it translates, in fact, into the selective revocation of the persons for whom it is intended.

There can be no doubt that directors may be revoked: however, with a legal instrument and the consequent responsibilities, namely calling an ordinary shareholders' meeting, a proposal, a resolution and possible compensation for damages in the absence of just cause.

There is none of this in the case in question, only an implicit, opaque, unjustified revocation by a non-competent body (the extraordinary shareholders' meeting).

In this sense, the case law invoked in the opinion of Profs. Abriani and Lamandini is not helpful, since it concerns very different cases (changes to the structure, including changes in numbers, of the administrative body, which was not in fact proposed by the requesting shareholders). In fact, the opinion itself does not exclude the possibility that in the case *in question,* a right to compensation for damages could be established, which is indeed implicitly admitted (see § 60, 65, 103).

To reiterate: it would be different if the body had been terminated due to new rules regarding its composition/function (as in a change to the administration and control system), it is different if only some of its members are terminated *(or, more correctly,* are forced to terminate). In the case *in question,* the abuse, and therefore its illegality, lies in the lack of transparency of the proposal of the requesting shareholders and, conversely, in the absence of a corporate interest underpinning the proposal, precisely to the extent that, under the alleged cover of an *"evolution in governance",* it selectively impacts certain persons in the current administrative body, without even seeking to clarify this burdensome effect. Moreover, in this author's opinion, the fact that the revocation was obtained by means of a resolution of an extraordinary shareholders' meeting, and not an ordinary meeting, which would by contrast be competent, is illegal because it is contrary to the organisational and imperative principle of separation of the decision-making powers of the shareholders' meeting in ordinary and in extraordinary session. Essentially, the extraordinary shareholders' meeting is not allowed to deliberate on matters that are the competence of the ordinary shareholders' meeting and vice versa (see *ex plurimis,* Court of Cassation no. 14695 of 13.6.2017)

In any case, the described anomalies and critical issues of the proposed amendment to the Articles of Association under review here cannot be reduced to a question of compensation or indemnification, and to the possible risk of an *"uncertain"* prognosis according to Profs. Abriani and Lamandini (see page 40, § 100), to pay compensation or indemnification to the directors "impacted" by the amendment.

A similar line is even more jarring in the context of the self-declared proposal for reform, claimed to be an improvement, of *governance,* or rather of supposed "good governance".

Moreover, any serious consideration on the "sound and prudent management" that must guide the Company, and therefore the relevant Articles of Association and their amendments, to be subjected to regulatory scrutiny, is missing from the perspective of the opinion under review here: the particular nature of the insurance company imposes considerations that are very different from those set out in the *de quo* opinion which would perhaps be sufficient for an ordinary cooperative company.

5. *On the lack of information on the shareholders' proposal*

A further issue of a critical nature, which is also relevant, is the lack of adequate information from the requesting shareholders; an effective *disclosure* regarding the actual effects of the proposed resolution to be approved has been totally eliminated from the related explanatory report on the amendments to the Articles of Association. This means that there is no clear indication that this proposed amendment, if approved, would lead, *inter alia,* to the immediate termination of the offices of the senior managers of the company (Chairman, Acting Deputy Chairman, Deputy Chairman) and of a fourth director immediately thereafter.

The explanatory report on the amendments to the Articles of Association, all the more so in a listed company, must provide shareholders with comprehensive information prior to the meeting (not to mention the duty of transparency whereby companies must note the information on proposals for shareholders' resolutions to enable the informed exercise of voting rights by the shareholders, by all shareholders).

This lack of information is also explicitly recognised in the opinion given by Profs. Abriani and Lamandini (see pages 36-37, § 89 and 91), even if, paradoxically, they regard the lack as being filled by the information provided by Cattolica's Board of Directors at the time of the assessments expressed *pursuant to* Article *125(b)* TUIF (Consolidated Law on Financial Intermediation) on the proposal underlying the request to convene the meeting; these assessments evidently had another function and cannot in any case be sufficient to overcome the opaque nature or the inadequacies inherent in the shareholders' proposal or to remedy any of its shortcomings!

It should in fact be noted that the law requires shareholders who exercise their right to request a shareholders' meeting *pursuant to* Article 2367 of the Civil Code to draw up an explanatory report on their proposals (see Article 125(b)(3) of the TUIF). It is unusual for requesting shareholders to rely on directors to fill in their gaps - directors' assessments have other purposes! The fact remains that the insufficient information underlying the proposal invalidates, or may invalidate, the resolution to approve it.

II.B) <u>On the critical or anomalous aspects of the proposal for a reinforced presence quorum for the transfer of the registered office</u>

6. With regard to the issue of raising the presence *quorum* for resolutions concerning the transfer of the company's registered office outside the territory of the Verona City Council, the opinion of Profs. Abriani and Lamandini merely refers to the provisions of the Civil Code on this matter, simply considering that the provisions for public limited liability companies are applicable.

More specifically, citing a single item of case law, the opinion asserts that *"the provision of a minimum quorum at second call in order to safeguard the company's foothold in the local area in relation to its registered office does not appear to be intended to limit the company's activity (a limitation of activity which, moreover, would not be determined by this provision) but rather, in accordance with the indications of legal theory, to promote the participation of shareholders"* (see p. 42). This is also acceptable in principle, since, as a cooperative society, it could be fair and of general interest to encourage as much participation as possible in company events. However, what the opinion does not consider - omitting, moreover, to take a clear position on what was expressed in this author's previous opinion - is that it is precisely the nature of a cooperative, with a very large audience of shareholders, which does not allow an excessive increase in the *quora* required for shareholders' meetings and resolutions: it would in fact be unthinkable, in a publicly held company such as Cattolica, to necessarily require the participation of several thousand shareholders <u>only, mark well, to discuss adopting a resolution</u>, albeit one relating to an important, but certainly not fundamental, aspect of corporate life. On the basis of these considerations, which may be somewhat trivial, what has already been stated is clear: *"raising the* quorum *required for meetings (and, mark - not for resolutions) for an extraordinary shareholders' meeting restricts the rights of* *shareholders and the possibility of extraordinary market transactions"* (see our opinion dated 14.1.2020, p. 4), not least because it is a listed company, which must be mindful of the provisions of the supervisory authority, in banking matters, but which also apply to the case in question, as regards amendments to the Articles of Association, on excessively raising the quora of shareholders' meetings, i.e. that *"there is a need […] to avoid boards having particularly high* quora *for resolutions, such as to hinder the decision-making processes"* (cf. Annex A, Title III, Supervisory Instructions for Banks, Circular No. 229/1999). The principle is clearly applicable, given Cattolica's specific cooperative characteristics, to the *quorum* required for shareholders' meetings, and indeed, all the more so as indicated above, given that requiring the presence of too many members could in fact prevent any decision being taken, perhaps not even allowing examination of a proposal, which could also be of interest to the company and to many members, whether or not they are from Verona.

The observations of the opinion in question concerning the presence of a higher *quorum* for the meeting at first call (which in practice, as is well known, is never constituted, despite legal provision) are meaningless, as is comparison with other clauses of Cattolica's Articles of Association. In particular, Article 57 provides for the case of a resolution to wind up the Company, that is, an event of such magnitude, including at general and "market" level, for which a particularly qualified *quorum* is well justified. As regards Article 58, it should be noted that its history and *rationale* are deeply rooted within Cattolica, and one could say they relate to the very essence of the company: therefore, since they have meta-legal and meta-economic value, it is not possible, at least here, to compare their significance to that of other organisational provisions in the Articles of Association, whether current or merely proposed at this stage.

A possible proposal to change the Company's registered office cannot, on the one hand, be equivalent to the "traumatic" event of winding up, nor can it be in any way considered as an event that would require greater participation than a normal extraordinary shareholders' meeting to amend the Company's Articles of Association; this is because, while recognising the territorial link between the Company and its current registered office, it cannot be disregarded that Cattolica is a publicly traded company which could, if necessary, encounter the need or the opportunity to change its registered office, while still maintaining the link with its territory of origin. The references in the opinion examined here to the registered office and the executive board as being necessary for authorisation purposes are clearly incongruous and unnecessary, and it is not even worth dwelling on them further.

Moreover, it should be stressed that in this author's opinion the objection to the clause was made not in terms of legitimacy, as Profs. Abriani and Lamandini seem to be implying, but of opportunity and consistency with the demands of a company that is supervised as well as listed, and of public interest (and therefore for the specific purposes of supervision).

II.C) On the critical or anomalous aspects of the proposal regarding the position of Deputy Chairman of the Board of Directors to be reserved for a minority list director

7. Once again, Profs. Abriani and Lamandini have not taken a specific position and nor have they refuted the defect found by the undersigned in relation to the uncertainty of application of the proposed clause (and those related thereto), which reserves the position of Deputy Chairman for a member taken from the minority list (Articles 33.4 and 33.10 of the proposal of the requesting shareholders), giving rise instead to excessive discrepancies in this regard.

   In particular, in the analysis of the "practical working" of the proposed Article 33.10, some "short circuits" were identified in the application of this clause in the event of the necessary replacement of the Deputy Chairman, which were not denied, or even examined in the opinion of Profs. Abriani and Lamandini; this is with reference to: both the position in which the Chairman of the Control and Management Committee could find himself (since, as a member of the Board of Directors, he would participate in the submission of the candidate representing the Board for the position of Deputy Chairman and could therefore be in opposition to the candidate representing the shareholding structure that had contributed to his own appointment) and, above all, the lack of coordination (which was necessary) between the proposal to reserve the office of Deputy Chairman for a member taken from the minority list (Article 33.10) and the general rule governing the replacement of directors terminated by a majority vote of the Shareholders' Meeting and by list voting (Article 34.4).

In essence, the lack of coordination and the lack of provision of an adequate and automatic mechanism, as there usually is in Articles of Association of a company, such as Cattolica, with a unitary board structure, for the Chairman of the Control and Management Committee (who represents, or at least tends to represent, the minority), to replace the Deputy Chairman during the term of office - or, to quote Prof. Abriani, the failure to carry out a *"due "repechage" of the first eligible candidates not elected from the list"* (precisely as a comment on the Articles of Association of Cattolica switching to a unitary board structure, in N. ABRIANI, *Minority requests and new perspectives for* corporate governance, as cited above, p. 3) - could well result in either (i) the non-compliance *tout court* with the provision referred to in Article 33.10 or (ii) the election of a person taken from the minority list but different from the one from which the Chairman of the Management Control Committee was taken and which could, by chance, even be the one submitted by the current Board of Directors; and with the de facto frustration of the provisions of Article 33.10 of the shareholders' proposal; the uncertainty of application due to the failure to carry out *"due repechage"* in practice vitiates the proposed amendment.

Further inconsistencies and anomalies in the clause *under consideration* found in this author's opinion which were not denied and not disputed by Profs. Abriani and Lamandini concern:

(i) the case of the minority Deputy Chairman taking over the Chairman's functions *ad interim* , subject to the supervision and control of the Chairman of the Control and Management Committee who always represents the same side as he himself represents, with the obvious frustration of the *rationale* of Article 148, paragraphs *2(b)* and 4*(b)* of the TUIF;

(ii) the probability, for numerical reasons, given the proposal to exclude the Chairman from internal board committees (Art. 46.4), that the Deputy Chairman would sit on the appointments committee, with the foreseeable "absurdity" of being called upon, as a minority director, to guide the assessment of candidates and appointments and to form lists representing a structure that is different from the one he represents.

As for the observations made on the new Code of Self-Governance, it should first of all be reiterated that the version of the Code referred to is not - as Profs. Abriani and Lamandini claim - the one approved by the Corporate Governance Committee in January 2020, given that this is applicable, for companies adopting the Code, *"as from the first financial year starting after 31 December 2020"*. In any case, certain principles and recommendations of the above Code are cited - if it may be said - improperly (see the opinion of Profs. Abriani and Lamandini, page 9) since they are not congruous (or in line) with the proposed amendment to the Articles of Association requested by the requesting shareholders, with the furtive intention to confuse, by assimilating cases that are actually very different, namely the proposal for a minority Deputy Chairman and the provisions (not applicable, it must be reiterated) of the new Corporate Governance Code relating to requirements of independence. In this author's view, these considerations are purely speculative and instrumental, if not misleading. <u>As proof of this, it should be noted here that there are no principles or recommendations in the new Corporate Governance Code with regard to a minority director</u>, an aspect which is disregarded by the Code.

It is quite clear from this perspective that the mere possibility of an independent Chairman in the new Corporate Governance Code (see recommendation no. 7, last paragraph, referred to in the opinion of Profs. Abriani and Lamandini, p. 45, § 116) is a very different situation that is in no way comparable to the proposal of a Deputy Chairman taken from the First Section of the Minority List (it would still have been different if the proposal had provided, as an additional condition, for the aforementioned Deputy Chairman to possess the requirements of independence, <u>but it does not</u>).

It is sufficient to remember that *"the independence of the director is different from the "origin" of the candidature or the appointment by majority or minority shareholders"* (M. VENTORUZZO, *The composition of the board of directors of listed companies after Legislative Decree no. 303 of 2006: first observations,* in the journal Riv. società, 2007, 236) and that *"not all "minority" directors must necessarily meet the requirements of being independent, and not all independent directors are elected by the minority of shareholders"* (R. RORDORF, *Independent directors,* in the journal Giur. comm., 2007.1, 155).

Essentially, the opinion of Profs. Abriani and Lamandini does not specifically dispute the validity of what the undersigned stated with regard to the proposal of reserving the position of Deputy Chairman of the Board of Directors for a director from the minority list (see opinion dated 14.1.2020, § 2.3), but in this regard it becomes clouded by considerations that are of little relevance if not useless for specific purposes.

III) Conclusions

To conclude, very briefly: while appreciating the weighty and rather too comprehensive work of Profs. Abriani and Lamandini, this author must, in all conscience, reiterate that the proposals to amend the Articles of Association that were the subject of the shareholders' request on 18.12.2019, relating to clauses 1, 24.3, 30.6, 30.6, 30.9, 33.4, 33.10 and 59.3, appear in the first place not to be in the interest of the Company, and therefore of the undertaking and all its shareholders, and are also completely inappropriate in the perspective of the sound and prudent management of the Company, and clauses 30.6, 30.9 and 59.3 are in themselves considered unlawful and in any event liable to create operational and compensation risks for the Company, while clause 59.3 appears to be unlawful for the effects that it would entail.

Milan, 03 March 2020

[signature]

(Prof. Mario Cera)

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For the attention of the Chairman of the Management Control Committee Giovanni Glisenti

Re: Second opinion on certain clauses - articles 30.6, 30.9 and article 59.3 - subject to a request for amendment or for addition to the Cattolica Articles of Association at an extraordinary Shareholders' Meeting called at the request of shareholders. Considerations on the Abriani-Lamandini opinion

I have been asked to comment on the opinion given by Professors Abriani and Lamandini on the issues which were the subject of my previous opinion dated 14 January 2020.

I would like start by saying that my reading of the opinion submitted by Professors Abriani and Lamandini has not altered the conclusions I reached in my previous opinion.

The reasons for my conviction are as follows.

1. Firstly, I note that the opinion does not address the specific content of the resolution submitted for the attention of the shareholders' meeting.

I recall that clause 30.9, governing forfeiture of the office of director based on the eligibility requirements in paragraph 30.6 (including the new ones), links this forfeiture to the "**loss** during the term in office of the requirements". The transitional clause (50.9) states that the amending provisions in paragraphs 30.6 and 30.9 shall apply as of the date of approval of the financial statements, and therefore the transitional provisions also refer to the possibility of forfeiture due to **loss** during the term in office of the requirements.

The formula used is unequivocal (and, moreover, cites the text of the law): it is not the lack of the new requirements to cause the forfeiture, but "the loss during the term in office" of the requirements. Eligibility requirements that are not required at the time of appointment cannot be lost during the term in office.

Had this been the intention of the proponents, the clause should have related the forfeiture to the **lack** — and not the **loss** — of the new requirements introduced by the articles of association, which would evidently have constituted:

a) in formal terms:

– an unlawful retrospective effect of the requirements of the articles of association that did not exist at the time of appointment;

– circumvention of the rules on the appointment and revocation of directors of listed companies, which certainly do not state that the revocation of a director may be the effect not of a resolution of a shareholders' meeting at which the subject is an item on the agenda (with the relevant information requirements concerning the reasons and consequences of such revocation), but of a transitional regulation governing a resolution amending the eligibility requirements;

– implicit (and at the same time "selective") revocation, without a specific resolution, both of the shareholders' meeting decision that appointed the current board of directors, granting those directors, in perfect possession of the requirements of the articles of association, the fiduciary mandate to manage the company, and of the mandate granted to the directors, the source of which is not to be found in any of the cases linked by the law to the termination of a directorship.

b) in substantive terms

– the use of a resolution supposedly intended to regulate the future requirements for the election of directors but twisted in order to bring about the immediate removal from the Board of the Chairman and the two Deputy Chairmen.

2. The opinion devotes many pages to general matters with which, in abstract terms, there is no issue.

No one doubts – and the law provides for this – that the articles of association may introduce requirements of eligibility for the office of director relating to integrity, professionalism, or independence. However, it may be debatable — and I expressed my opinion on this in the opinion previously provided — whether requirements relating to qualities other than those mentioned by law may be envisaged and, if so, whether the provisions of articles 2382 and 2387 may apply to them (and I did not in any case base my opinion on such doubts).

On this point, I merely note that:

– in the list of articles of association provisions of other companies cited in the Abriani-Lamandini opinion containing age restrictions or limits on the number of terms of office, no particular transitional rules appear to have been established for obtaining the immediate forfeiture of office of directors legitimately appointed[1];

– the long digression over whether or not to include the new eligibility requirements and the battle against the feudalisation of the management of cooperative societies has little to do with the matter that was the subject of the opinion provided to me, as it does not affect assessment of the legitimacy of the resolutions concerning the transitional regulations.

Similarly, it may also be agreed that, in general and in theory, the directors do not have a "right to stability of office" and no one is questioning whether the shareholders' meeting can revoke the directors at any time, with prejudice to the payment of compensation for damages in the event of absence for just cause[2].

Again: the subject of my opinion does not concern the question of the legitimacy of a shareholders' meeting resolution aimed at the revocation of directors, but precisely the opposite: whether, without a resolution of revocation, it is legitimate to obtain the forfeiture of the office of some directors on the basis of the introduction of *new* eligibility requirements, attributing a *retrospective effect to the same, on a transitional basis, as if the directors lost an eligibility requirement that did not exist at the time of their appointment.*

3. In my opinion, I gave a negative answer to this question, which I stand by.

The reasons given in the Abriani-Lamandini opinion, to support a different response, are not persuasive.

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[1] I also note that, except in the case of ICCREA concerning auditors, the limits on the number of terms of office cited in the opinion do not affect eligibility, but only recognition of the requirement of independence.

[2] A consequence that the opinion — while wrongly believing it to be non-existent in the case in question — tends to consider negligible in the name of the right of the shareholders' meeting to immediately (without waiting for the natural expiry of the terms of office) obtain the forfeiture of the office of director by those who do not possess the new and more "calibrated" eligibility requirements. This is a consequence that the proponents did not feel the need to highlight in the extensive description of the rules of good governance.

I will limit myself to providing a summary analysis of the most directly relevant passages to motivate my conviction.

4. The Abriani-Lamandini opinion invokes the principle that the company's own organisational needs prevail over an individual director's expectation of continuing the relationship. This is justification for the legitimacy of the amendments to the Articles of Association relating to the Board structure even if these would result in removal from the office of director. The examples cited are those of the change from board of directors to sole director and vice versa, i.e. a reduction or increase of the number of directors.

In actual fact, as the opinion states, also in these cases the case law cited does not identify a just cause for revocation (p. 21-22). This confirms the conclusion of the opinion prepared by myself that, whichever the preferred argument — should the amendments to the articles of association in question be approved and the automatic forfeiture of the office of directors who do not possess the new eligibility requirements be deemed applicable — Cattolica Assicurazioni would be exposed to liability for compensation vis-à-vis the Chairman and the two deputy chairmen who do not possess the new eligibility requirements that they wish to introduce, also and precisely because it would be a revocation that was not voted on, as such, at the shareholders' meeting.

I would also like to point out that the cases covered by the rulings cited in the opinion concern a total change in the structure of the board of directors. Therefore the result of the approval of the amendments to the Articles of Association in those cases is the removal of the entire board, which is replaced by a new board consistent with the amendment to the Articles of Association. In fact, in my opinion, I also referred to legal maxims in which, when amendments to the Articles of Association governing the number of directors have been made, the entire board was removed, with a specific shareholders' meeting resolution to renew its appointment (see page 14 of my opinion: also cited in the Abriani-Lamandini opinion on page 23, where they emphasise that the entire board be removed also if the number of directors was merely amended by the Articles of Association).

However — even though a similar solution would be expected in this case, which could even be applied in the simplest case of reducing the number of directors — the Abriani-Lamandini opinion states on page 23 that such a mechanism would not apply in this case where "it would only be a matter of replacing directors without the requirements of the Articles of Association" (despite the fact that, on page 29, it is stated that the new requirements would concern the board and not its appointment, and therefore for consistency's sake the entire board should be removed).

However, in this case, as it does not comprise a change to the entire board of directors, such replacement must be considered in the same way as the rules governing forfeiture of office due to the loss of eligibility requirements, the rules governing the revocation of directors and the rules governing the directorship relationship. And it must be assessed with regard to the decision to render eligibility requirements immediately applicable to members of a board of directors legitimately appointed in the absence of such requirements, and, above all, to render such new requirements the cause for forfeiture of office due to the loss of eligibility requirements not existing at the time of election by means of a transitional rule and not a revocation resolution.

5. I remain firm in my conviction that such forfeiture of office cannot be the result of a requirement not existing at the time of election.

First of all, it seems to me that the assumption of the Abriani-Lamandini Opinion that the new eligibility requirements provisions do not concern the appointment but the board is contrary to the letter of Articles 2382 and 2387. Both regulations refer to the appointment and taking of office: forfeiture of office refers to the loss of the legal requirements or the requirements of the Articles of Association in force at the time of the specific director taking office. It is a rule that establishes the requirement of eligibility which, it is tempting to say almost by definition, has as its reference the subjective situation of the individual director at the time of his or her election, which must meet the requirements provided for at that time by the articles of association and which entail forfeiture of office only if said requirements are lacking or are lost.

This literal reference makes it possible to describe the effect of the transitional clause as "retrospective" and to exclude the legitimacy of a clause requiring, by way of transitional law, the automatic forfeiture of office of members of the board of directors due to the absence of eligibility requirements not in place at the time of taking office. It follows that the resolution approving such a clause would be at the very least subject to annulment because contrary to the law (if only due to the actual unlawfulness of the subject) and ineffective against the director.

I note, in fact, that the passage on page 30 of the Abriani and Montalenti opinion according to which "the changes regarding in the personal requirements of the directors are immediately effective at the time of their replacement" cannot be supported by the following sentence which merely states that the company can always revoke a director in order to guarantee the fiduciary bond, a phrase taken from Abriani-Montalenti in their *Trattato di diritto commerciale Cottino (Cottino Commercial Law Treatise).*

The phrase in fact establishes the revocation of a director as the means provided by law to dissolve the directorship: in a specific resolution, which is submitted to the shareholders' meeting, with an indication of the reasons and consequences (as must be the case in a listed company), and not by introducing new eligibility requirements to be applied retrospectively during a term of office as a cause for forfeiture of office.

This is supported by what is provided for, for example, in the Corporate Governance Code for listed companies when action is taken on the composition of the board or the quality of the directors. Therefore, in the case of the very recent application of the recommendation for large companies regarding the number of independent directors, the Code provides that this requirement applies "from the first renewal of the board of directors after 31 December 2020" (the same choice as for the application of the gender quota when the effects of the law cease to apply).

Bearing in mind that article 2387 of the Civil Code provides that the requirements of the articles of association also include those arising from the Corporate Governance Code (which thus becomes part of the rules applicable to the company), it is significant that the Code takes care not to adopt a transitional clause for the immediate forfeiture of the Board or of certain members in order to appoint independent directors in sufficient numbers. In fact — and reasonably — it establishes the first renewal of the board as the time when the new rules on the board composition will have to apply.

6. As I stated in my opinion it is a general principle that the autonomy of articles of association with regard to the requirements of eligibility is conditional on compliance with the exclusive power of the shareholders' meeting to appoint and (most importantly, in our case) to revoke directors. In the case in question, as indeed the Abriani-Lamandini opinion indicates, the aim is to obtain the replacement of some directors (three, at the time of the proposed resolution) with others on the basis of a transitional rule in which new eligibility requirements are retrospective, while the requirements necessary for eligibility at the time of appointment and for the entire current term of office have been fully met. Certainly not a total "palingenesis" of the board, which having being removed, has to be re-elected (as, to cite another example mentioned in the Abriani-Lamandini opinion, in the case of a merger, when the operation does have a structural impact on the entire board or boards, and not on the individual case of a single director).

And if it is a case of regulating single and specific positions and, in addition, if it is a case of assessing not a structural change to the Board, but of introducing new eligibility requirements which are intended to be used, on a transitional basis, to end the mandate of individual directors lawfully appointed and who possess all the eligibility requirements necessary at the time of appointment, it seems to me that clause 59.3 inevitably adds to the cases mentioned that in my opinion show the inadmissible sacrifice of the competence of the shareholders' in the appointment and revocation of directors. In fact requirements have been constructed — *ex post* — for maintaining the office of director, in order to immediately remove from office specific directors without passing through the channel of revocation by the shareholders' meeting.

I should point out in this regard, for example, that a clause linking the eligibility requirement, on penalty of forfeiture, to the fact that the director holds another position in the group is deemed invalid. Despite the emphasis on the functionality for improving information flows, we considered the clause on the "competence of the shareholders' meeting over the revocation of directors which is a fundamental rule for the matter" to be limiting[3].

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[3] Le società per azioni, Abbadessa-Portale, I, p. 1281

Just as clauses establishing eligibility requirements that limit the appointment of directors to "known persons" are invalid, so are amendments to eligibility requirements that result in the *ex post* automatic forfeiture of office of predetermined persons the termination of whose office of director would have required a specific revocation resolution, as they were in full possession of said eligibility requisites at the time of appointment. It seems to me once again that the resolution approving the transitional clause in question was invalid due to its contravention of the rules governing the termination of office of directors by constructing an unlawful early forfeiture of office without a specific revocation resolution.

7. While denying that there could be any reason for invalidity of the resolution approving the transitional clause, the Abriani-Lamandini opinion observes that in any case, even if a form of indirect or implicit revocation were to be found or a resolution was found to be invalid (in our case, the approval of the transitional clause for the retrospective application of the new ineligibility requirements) in order to obtain the revocation of the directors who would be removed from office, the only consequence would be that of compensation, as would be the case if they were revoked without just cause.

In other words, if the effect of removing directors from office, without a revocation resolution, using unlawful corporate deeds or through unlawful or illicit conduct of the shareholders (in this case, to remove the Chairman and the two Deputy Chairmen of the company, i.e. the heads of the board of directors of Cattolica), the only "price to be paid" would be the compensation for damages to the directors. The resolution with which this effect was achieved, even if contrary to the law or the articles of association or part of an abuse of law, would be perfectly valid.

I would just like to point out that the good governance of which the proposals should be the expression would suggest other views and other conduct.

But let us remain with the rules.

Firstly, case law and jurisprudence allow the director access to the remedy of an appeal including against a revocation resolution containing legal defect[4].
Furthermore, dissenting shareholders can certainly appeal against a resolution concerning the approval of unlawful clauses such as the one in question: resolutions resulting in an atypical removal from office of a director are generally exposed to a claim of invalidity, like any resolution that in this way breaches the general principle according to which the revocation of a director must be the subject of a specific shareholders' meeting decision.

I also believe — despite the efforts made in the Abriani-Lamandini opinion — that it is difficult to deny that the transitional clause does not comply with the aims of corporate interest and has the sole aim of indirectly using the transitional clause to "eliminate" the top members of the board. The transitional clause is certainly better than what should have been the correct content of the proposal, in order for it to be considered legitimate and transparent: that is, the inclusion on the agenda of the "decision to revoke the Chairman and the two Deputy Chairmen of the Board without just cause".

However, also in the light of the overall proposal it seems an unlikely proposition that an objective corporate interest regarding the management structures (also in the perspective of good governance) could be found in the immediate selective forfeiture of office of the Chairman and the two Deputy Chairmen.

[4] V. La società per azioni, Abbadessa-Portale, cit., p. 1234

The interest that underpins the clause and the proposal for its approval is precisely the pursuit of the "selective" forfeiture of office of the Cattolica top directors.

This has little to do with the corporate interest in adopting certain management structures, and much to do with elements of conduct contrary to good faith and illicit, typical, for example, of the cases already mentioned in the opinion, including the most recent one appropriately punished with invalidity of the resolution by the recent and already mentioned decision of the Court of Milan of 10 April 2019 in which the resolution to amend the articles of association (change to the administration from a board to a sole director; in our case: resolution to amend the articles of association with regard to transitional rules) was interpreted as the result of abuse of law, in the sense of having used the exercise of the right to vote to satisfy the personal interest of removing a critical director (in our case: forfeiture of office of the Chairman of the Board and the two Deputy Chairmen not acceptable to the proponents). With the aggravating factor, in our case, that, as stated, a clause was used which in itself is not lawful and which could not produce the effects indicated.

Of course, as has been said, there are those who claim that the unlawful behaviour in these cases "pays": it is just a case of paying the compensation due (the company pays). I do not share that view and believe that it neglects the corporate interest. This outcome could perhaps be understood in the presence of a clear and transparent vote on revocation of the director. Certainly not if it is the effect of unlawful conduct aimed at indirectly obtaining the removal from office of specific directors (Chairman and Deputy Chairmen) without passing through the channel of a revocation decision.

In addition without any adequate information about the matter. It is clearly wholly insufficient — in the face of the silence of the proposal on the practical consequences of the transitional clause — to state that this deficiency has been remedied by the responsible behaviour of the society and that the thousands of

Cattolica shareholders should have consulted the online Companies Register in order to understand the practical effects of the matter to be put to vote.

This also confirms the assessment just given made of the matter put before me.

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I therefore confirm the conclusions reached in my previous opinion.
I remain at your disposal for any further details and thank you for placing your trust in me.

Matteo Rescigno

PROF. PIERGAETANO MARCHETTI
PROFESSOR EMERITUS AT BOCCONI UNIVERSITY

Dear SOCIETÀ CATTOLICA DI ASSICURAZIONE
Verona

Note on the Abriani-Lamandini opinion of 11 February 2020

1. The purpose of this note is briefly to refute the arguments set out in the Abriani-Lamandini opinion of 11 February 2020, concerning the proposal to set a limit on the age and mandates of directors, using a specific transitional provision to give this resolution immediate effect.

2. The opinion tries at length to prove the validity of the above resolution and its contents but the Authors are forced to "lay down their arms" on one point.
Indeed, they can in no way rule out that "the judge ruling on the merit would not assimilate the amendment to the Articles of Association to a revocation". After initially asserting that it would be an implicit revocation for just cause, the authors of the opinion do not exclude the possibility that "the court seised would not find just cause in this case". Obviously, this would open the way for compensation to be paid by the company.

3. The fact that the initiative taken by shareholders to convene the meeting of Cattolica in order to approve a package of amendments to the Articles of Association needed to establish "good governance" makes the removal of those who exceed the new limits, whether due to age or to the number of mandates, inevitable is considered entirely physiological by the authors of the opinion; and this should lead to recognition of a just cause for revocation. In admitting that those directors whose term of office would be revoked as a result of the proposed amendments have not committed any malicious or negligent acts, they are admitting that the cause of the termination, or rather the removal, is related only to the new system of subjective requirements for directors.

Not only are no failures by the directors to fulfil their duties being alleged, but there are also no facts or circumstances that would constitute an irreparable rift in the existing relationship of trust, such that would not allow the current mandate to be completed. The objective, structural, external fact which, according to guidance from the Supreme Court, widely cited in the opinion, would result in the consequential automatic termination of the directors' term of office does not exist in our case or, rather, consists in wish to remove some directors from the helm of the company. The removal of the directors is not, therefore, as in the case cited in the opinion, the effect of a resolution amending the corporate organisation, but is the cause of this amendment. The situation is therefore radically reversed with respect to the case law cited.

4. In particular, it is easy to note the difference with respect to the case law referred to by the Supreme Court, according to which the structural change of the administrative body or, albeit with some

reservations, of the administration and control system, inevitably and physiologically entails the termination of the office of directors whose presence would not be compatible with the new structure.

In the case before the Supreme Court, let us repeat, the cause of the termination of the directors' office was an objective organisational fact that in itself did not suggest the wish or even the effect of impacting a director *ad personam*. In the case to which the cited case law refers, the director's office no longer existed because the new structure made the office objectively incompatible for any director. In our case, the directors who cease to hold office, who are required to cease to hold office, are those directors with personal characteristics that are required to be altered by amending the Articles of Association.

In fact, let us remember once again that case law (Court of Milan, 21 March 2019) disapproves of cases where the change in the structure of the administrative body is artfully arranged precisely to terminate the office of one director or another.

5. The opinion focuses extensively, with an abundance of citations, on frankly misleading aspects; it thus insists that directors do not have a right to hold office until the end of their term; it should be recalled that in the event of resolutions that lawfully terminate a director's office, these resolutions can have effect when they are registered in the Trade and Companies' Register. This all serves to reaffirm that the revocation is claimed to be fully lawful without just cause.

This, however, is not the problem. The problem lies in the method by which the real aim pursued by the shareholders who have requested a meeting is to be achieved: the aim, that is, to change the senior management. Resorting, therefore, to a system that leads to an implicit revocation decision (which in itself is highly questionable), constitutes an "artful and fraudulent" act, in the words of case law, contrary to the principles of transparency and propriety which must preside over the matter at the shareholders' meeting of a limited company right from the earliest phase (formation of the agenda).

It is precisely in this way that a resolution approving the proposals under discussion is flawed.

Moreover, in this case, it does not seem difficult to attribute the matter to the characteristics that the case law cited in the opinion considers to be typical of the relevance of majority abuse.

Indeed, the shareholders who requested the meeting: *a)* did not explain in a transparent and direct manner the reasons of corporate interest that would call for the immediate termination of some directors (it is one thing is to define a system with limits of age and mandates, albeit questionable and not at all widespread, as a corporate interest, but it is another matter to impose the immediate effectiveness of the new system with the targeted termination of the senior management); *b)* the transitional clause and the immediate effectiveness undoubtedly harmed the right of directors (albeit eased by compensation and not by actual effectiveness) to continue until the end of their mandate in the absence of infringements or just causes for revocation.

6. It should be noted that the opinion does not in any way seem to dispute the uniqueness of the proposal to amend the Articles of Association, as it is not only the need for a unanimous vote that remains confirmed, but also the invalidation of the whole package in the event that a single proposal in the package is inadmissible or

unlawful.

Milan, 2 March 2020

[signature]

Prof. Piergaetano Marchetti