

Edited by Valerio Piacentini

# Abstract of the Italian Civil Code translated in English Italian Company Law

(Artt. 2325 – 2510: Company Limited by Shares,  
Limited Liability Company, Liquidation, Transformation,  
Merger, Demerger)

III edition 2014



with the sponsorship of the British Chamber of Commerce in Italy



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## Preface by the curator and acknowledgements

This volume aims to give foreign entrepreneurs and investors operating on the Italian territory an important operative instrument for a correct management and administration of companies.

The articles of the Italian Civil Code here translated (from art. 2325 to article 2510) are the general normative reference valid for all types of capital companies.

However the reader has to remember that by respecting the Principle of Speciality of the norm, such norms could be outlawed by specific dispositions that discipline some company matters. Therefore companies that for the peculiar activity carried out or because of social capital characteristics are excluded from the application of some articles of the Civil Code, find a complementary regulation in Special Laws outside the Code. Such is the case of companies with quoted shares on regulated markets that, as per article 2325-bis, paragraph 2, are subject to the dispositions of Title V only “*in that they are not otherwise subject to other norms of this code or special laws*”. Those quoted companies are, in fact, disciplined by the Civil Code, but also by the T.U.F. (*Testo Unico della Finanza* – Consolidated Law on Finance), by lgs. decree n. 58 of February 24, 1998, by the Consob Regulations and by the Consob principles. Like listed companies, other companies are also subject to special legislation, as, for example, banks, insurance and financial companies, trusts and sports associations.

In the English text, in order to help the reader have a better understanding, the number of the articles of the basic institutes and/or correlated topics are often inserted in brackets.

**The text is updated under the current legislation as of February 1, 2014.**

I would like to thank in advance those who wish to forward me suggestions and advice.

Valerio Piacentini

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Dear Reader,

The British Chamber of Commerce for Italy is delighted to support the latest edition of this helpful work.

The English translation of the Italian Civil Code relating to joint-stock companies remains a valuable instrument for individuals, businesspeople, professionals and institutions operating in Italy. It also resonates with the Chamber's objectives of promoting business and commercial links between Italy

and the UK and of encouraging co-operation, understanding and exchange between our two countries.

The British Chamber of Commerce for Italy was established in Genoa in 1904. Its headquarters are now in Milan and we have regional branches operating throughout Italy. The primary mission of the British Chamber of Commerce for Italy is to assist and encourage the development of trade and investment between the United Kingdom and to support and promote the interests of its members' commercial activities.

With some 380 members, representing a wide range of Italian and British companies, the Chamber has helped countless individuals to succeed.

Doing business involves trust, and whilst a lot of business can be done online with no physical contact, we believe that nothing beats meeting people face-to-face. That's why we organize business-orientated events with high-profile speakers, numerous seminars and a wide variety of events of a less formal nature in many Italian cities (and in London) to enable like-minded people to get together in pleasant surroundings. With over 50 events already scheduled for 2014, you are certain to meet someone who has the solution to your problem, or who needs your goods or services. We also think you'll enjoy yourself.

We hope you will share our enthusiasm for this valuable publication and at the same time would warmly encourage you to come and join one of Italy's most vibrant business organizations.

***John J Law***

President

***Simona Frignani***

Secretary General

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Dear Reader,

As you will have already read in the  
foreword by our president, John

Law, we are delighted to support this work, representing, as it does, a valuable point of contact between the Italian legal system and the English speaking world.

We were particularly pleased to be asked to give our contribution on the editorial side, as we feel that this work is very much in symbiosis with our own efforts to promote knowledge of legal English among Italian lawyers and law students through our I.P.E.C. Legal English Module examinations. These examinations which were developed in collaboration with Milan's Just Legal Services are available at B2 and C1 levels, and are recognised as an external qualification for the degree course in law at Milan's Bocconi university. Thousands of young law students and lawyers have taken the examinations since their introduction in 2002, and have thereby acquired familiarity with legal English terminology and many aspects of the British legal system, as well as becoming aware of the British Chamber of Commerce and the services it can provide throughout their careers.

We would also like to take this opportunity to briefly present the rest of the I.P.E.C. programme to you:

Currently the basic IPEC examinations are offered at three of the levels established by the Council of Europe: Entry (Threshold B1 Level), Executive (Vantage B2 Level), and Excellence (Effective Proficiency C1 level), and are recognised as "crediti formativi" in Ital. They are also used or recognised as credits by several other important Italian universities. Apart from the universities, other users include "Istituti Superiori", private language schools and individual students. They are also used by large companies for internal grading and assessment.

Features of the examinations appreciated by our users include the challenging and stimulating nature of the examination materials, the flexibility in terms of availability at any time for groups of any size, the rapid turnaround of results and their topicality and authenticity. We have an agreement with the prestigious British magazine "Management Today" for the use of their articles as texts in our examinations. Naturally, the fact that the examinations are offered by the British Chamber of Commerce, apart from guaranteeing their direct relevance to the world of work, and the high quality of their preparation, offers a unique benefit both to users and to members of the Chamber.

We hope the above information may be of use to you and hope you will spend many useful hours consulting this valuable and accessible text.

David Gibbon  
Chief Examiner  
ipecc@britchamitaly.com



Dear Reader,

This publication encompasses a particular moment of the European and Italian financial market.

The action plan for the financial markets defined by the European Commission in order to guarantee integration, competitiveness and efficiency of the European system has, by now, reached its conclusion. The main phases of the “productive process” of the financial market system, such as the appeal to invest, the offer of financial instruments, the information to give to the public, the forms of participation to company life as well as the rules to contestability up to now regulated by a vast autonomy on behalf of the single European States, are or are going to be regulated harmoniously at European level. Yet what remains excluded from this process is company law specific for each State member.

This publication has the merit to promote access to knowledge and comprehension of those company rules representing national specificities. The availability of having domestic rules of company operation in two languages, indeed, integrates the harmonization effort at European level giving readers a facilitated access to national norms.

The publication therefore represents a valid outline in order to understand the working mechanisms of listed companies and a necessary support for foreign investors to have informed choices.

The Borsa Italiana (“Italian Stock Exchange”), since its foundation, has favoured an internationalization process of those markets it manages with the aim of giving Italian companies valid solutions to the need of financing and a superior liquidity pool. Its integration with the London Stock Exchange has given life to the main European Stock Exchange Group and has created the foundation for a further strong growth of the Italian market on a European and International scale.

Bearing this in mind, this publication represents an important merging instrument between the law provisions for the companies and for the foreign investors.

*Fabrizio Plateroti*

Borsa Italiana head of Regulation  
London Stock Exchange Group

## Presentazione Promos – Invest in Lombardy



PROMOS

Internationalization  
and territorial marketing

Dear Reader,

Promos, the Special Agency of the Milan Chamber of Commerce dedicated to supporting Small and Medium-sized Enterprises in their international business activities, is proud to present you this new edition of *Italian Company Law*.

In times of economic downturn, providing tools that could simplify, and therefore enhance, cross-border business relations has become increasingly important. This volume is a useful *vade mecum* for anybody who wants to set up a new business in Italy, and a precious ally for our mission, which consists both in promoting the local business community abroad and in strengthening Lombardy economic system competitiveness worldwide, easing the attraction of foreign resources in the area.

Attracting foreign direct investments is of crucial importance for Italy, as such flows play a significant role in the economic growth of our country, promoting employment, know-how and more broadly an over-all development on a number of levels.

The importance of FDI is becoming increasingly relevant especially now that Italy is on the verge to face a major challenge such as Expo 2015, an international event with over 21 million visitors which is going to put Italy, and more specifically Milan and Lombardy, under the spotlight.

Expo Milano 2015 is going to be a unique opportunity for companies to showcase leadership, innovations and solutions in a global forum. The entrepreneurial community will be able to engage with foreign and national institutions, governments and consumers from all over the world, thus becoming part of an international network which will allow them to build future strategic alliances and to catch unique business opportunities.

In 2012, after the successful experience of Invest in Milan – which has been running for almost 6 years now – Promos, in collaboration with *Unioncamere Lombardia*, the *Chambers of Commerce in Lombardy* and *Regione Lombardia* decided to tackle all these challenges by setting up Invest in Lombardy, a new, innovative Investment Promotion Agency geared to the needs of foreign businesses that are considering Milan, or more broadly Lombardy, as a destination for their investment projects.

By relying on an established network of partners involved in a broad range of business activities, Invest in Lombardy is able to support foreign investors during the entire process of settlement and investment, enabling them to exploit all the opportunities that Milan and Lombardy have to offer, and advising them on every aspect of starting and running a business in Italy.

Besides Expo 2015, there are many reasons for investing in Lombardy, a region characterized by a dynamic economy, with a strong manufacturing and industrial tradition, a land that can boast a well-combined natural attention to innovation, internationalization and openness to new sectors.

According to the Milan Chamber of Commerce, Lombardy alone attracts 70% of all Italian FDI and ranks amongst the 10 most appealing Western European regions with Milan qualifying in the top ten Western European cities for number of inbound investment projects during the decade 2003-2012.

Encouraging data come also from the Real Estate market. Lease rates and rent prices of logistic and industrial real estates in Lombardy are lower than in other European regions, such as Zürich, Moscow, London and Frankfurt.

These are important results that restate the leading role and the strategic position of Milan and Lombardy as well, a region that represents over 25% of Italy's GDP and can boast a strategic position between northern Europe and the Mediterranean basin, ensuring high accessibility of goods and people.

In our daily effort to assist companies in being successful in an increasingly competitive scenario, the chance of having technical and precise legal tools, such as this updated English translation of the Italian Civil Code with a focus on the Italian corporate law, represents a valuable help to our institution as well as a precious tool for all the entrepreneurs that are thinking of investing in Lombardy.

*Pier Andrea Chevallard*  
Direttore Promos

*To learn more about our services and activities, please visit our website:  
[www.investinlombardy.com](http://www.investinlombardy.com).*



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**Regio decreto 16 marzo 1942, n. 262**  
**Approvazione del testo del codice civile**

(G.U. n. 79 e 79-bis, 4 aprile 1942, Serie Generale)

LINGUA ITALIANA	ENGLISH LANGUAGE
<p style="text-align: center;"><b>LIBRO V – Titolo V</b></p> <p style="text-align: center;">CAPO V</p> <p style="text-align: center;"><b>SOCIETÀ PER AZIONI</b></p> <p style="text-align: center;">SEZIONE I</p> <p style="text-align: center;"><b>DISPOSIZIONI GENERALI</b></p>	<p style="text-align: center;"><b>BOOK V – Title V</b></p> <p style="text-align: center;">CHAPTER V</p> <p style="text-align: center;"><b>COMPANY LIMITED BY SHARES</b></p> <p style="text-align: center;">SECTION I</p> <p style="text-align: center;"><b>GENERAL PROVISIONS</b></p>

**Art. 2325 – Responsabilità**

[1] Nella società per azioni per le obbligazioni sociali risponde soltanto la società con il suo patrimonio.

[2] In caso di insolvenza della società, per le obbligazioni sociali sorte nel periodo in cui le azioni sono appartenute ad una sola persona, questa risponde illimitatamente quando i conferimenti non siano stati effettuati secondo quanto previsto dall'articolo 2342 o fin quando non sia stata attuata la pubblicità prescritta dall'articolo 2362.

**Art. 2325-bis – Società che fanno ricorso al mercato del capitale di rischio**

[1] Ai fini dell'applicazione del presente titolo, sono società che fanno ricorso al mercato del capitale di rischio le società con azioni quotate in mercati regolamentati o diffuse fra il pubblico in misura rilevante.

**Art. 2325 – Liability**

[1] In a company limited by shares, any liability arising in relation to obligations contracted, may be satisfied solely with the company's assets.

[2] In the event of the insolvency of the company, any obligations incurred during the period in which the shares of the company were held by a sole shareholder, the sole shareholder will be exposed to unlimited liability when contributions have not been made pursuant to the provisions of article 2342 or for the entire period prior to the time in which the publication requirements have been fulfilled pursuant to the provisions of article 2362.

**Art. 2325-bis – Companies that resort to the risk capital market**

[1] For the purposes of the application of this Title, companies which issue shares which are listed on regulated market or widely distributed among the public are considered as companies that resort to the risk capital market.

[2] Le norme di questo titolo si applicano alle società con azioni quotate in mercati regolamentati in quanto non sia diversamente disposto da altre norme di questo codice o di leggi speciali.

#### **Art. 2326 – Denominazione sociale**

[1] La denominazione sociale, in qualunque modo formata, deve contenere l'indicazione di società per azioni.

#### **Art. 2327 – Ammontare minimo del capitale**

[1] La società per azioni deve costituirsi con un capitale non inferiore a centoventimila euro.

#### **Art. 2328 – Atto costitutivo**

[1] La società può essere costituita per contratto o per atto unilaterale.

[2] L'atto costitutivo deve essere redatto per atto pubblico e deve indicare:

1) il cognome e il nome o la denominazione, la data e il luogo di nascita o lo Stato di costituzione, il domicilio o la sede, la cittadinanza dei soci e degli eventuali promotori, nonché il numero delle azioni assegnate a ciascuno di essi;

2) la denominazione e il comune ove sono poste la sede della società e le eventuali sedi secondarie;

3) l'attività che costituisce l'oggetto sociale;

4) l'ammontare del capitale sottoscritto e di quello versato;

5) il numero e l'eventuale valore nominale delle azioni, le loro caratteristiche e le modalità di

[2] The provisions of this Title apply to companies with shares listed on regulated markets unless otherwise provided for in other provisions of the Civil Code or in applicable laws.

#### **Art. 2326 – Company Name**

[1] The company name, in whatever way formulated, shall include the indication that it is a company limited by shares.

#### **Art. 2327 – Minimum Capital Amount**

[1] A company limited by shares shall be established with a share capital of not less than one hundred and twenty thousand Euros.

#### **Art. 2328 – Articles of Association**

[1] The company may be established by way of either a contract or a unilateral deed.

[2] The Articles of Association shall be drafted by public deed and shall specify:

1) the name and surname or the company name, the place and date of birth or the State of incorporation, the domicile or the address of the registered office, the citizenship of the shareholders or of any promoters, as well as the number of shares subscribed by each of them;

2) the company's name of the municipality in which the company has its registered office, and the indication of any secondary offices;

3) the company's business purpose;

4) the amount of the share capital subscribed and paid-in;

5) the number of shares and their par value; the characteristics of the shares and the modality in which they

emissione e circolazione;

6) il valore attribuito ai crediti e beni conferiti in natura;

7) le norme secondo le quali gli utili devono essere ripartiti;

8) i benefici eventualmente accordati ai promotori o ai soci fondatori;

9) il sistema di amministrazione adottato, il numero degli amministratori e i loro poteri, indicando quali tra essi hanno la rappresentanza della società;

10) il numero dei componenti il collegio sindacale;

11) la nomina dei primi amministratori e sindaci ovvero dei componenti del consiglio di sorveglianza e, quando previsto, del soggetto incaricato di effettuare la revisione legale dei conti;

12) l'importo globale, almeno approssimativo, delle spese per la costituzione poste a carico della società;

13) la durata della società ovvero, se la società è costituita a tempo indeterminato, il periodo di tempo, comunque non superiore ad un anno, decorso il quale il socio potrà recedere.

[3] Lo statuto contenente le norme relative al funzionamento della società, anche se forma oggetto di atto separato, costituisce parte integrante dell'atto costitutivo. In caso di contrasto tra le clausole dell'atto costitutivo e quelle dello statuto prevalgono le seconde.

shall be issued and circulated;

6) the value attributed to the receivables and the property contributed in kind;

7) the rules regulating the distribution of the profits;

8) any benefits attributed to the promoters or to the founding shareholders;

9) the model of corporate governance adopted, the number of directors and their powers, and the indication of those who have been delegated powers of representation;

10) the numbers of those on the board of statutory auditors (2397);

11) the appointment of the initial directors and statutory auditors, or the members of the supervisory board (2409-*duodecies*), and when contemplated, the person entrusted with the statutory accounting audit (2409-*bis*);

12) the approximate amount of the incorporation costs to be borne by the company;

13) the duration of the company, or if the company has been established for an indefinite term, the period of time, not more than one year from the date of incorporation, which shall necessarily elapse before a shareholder shall be entitled to withdraw.

[3] The by-laws containing the rules for the functioning of the company, even if contained in a separate document, constitute an integral part of the Articles of Association. In the event of any inconsistencies between the provisions of the Articles of Association and those of the by-laws the latter shall prevail.

### **Art. 2329 – Condizioni per la costituzione**

[1] Per procedere alla costituzione della società è necessario:

1) che sia sottoscritto per intero il capitale sociale;

2) che siano rispettate le previsioni degli articoli 2342, 2343 e 2343-ter relative ai conferimenti;

3) che sussistano le autorizzazioni e le altre condizioni richieste dalle leggi speciali per la costituzione della società, in relazione al suo particolare oggetto.

### **Art. 2330 – Deposito dell'atto costitutivo e iscrizione della società**

[1] Il notaio che ha ricevuto l'atto costitutivo deve depositarlo entro venti giorni presso l'ufficio del registro delle imprese nella cui circoscrizione è stabilita la sede sociale, allegando i documenti comprovanti la sussistenza delle condizioni previste dall'articolo 2329.

[2] Se il notaio o gli amministratori non provvedono al deposito nel termine indicato nel comma precedente, ciascun socio può provvedervi a spese della società.

[3] L'iscrizione della società nel registro delle imprese è richiesta contestualmente al deposito dell'atto costitutivo. L'ufficio del registro delle imprese, verificata la regolarità formale della documentazione, iscrive la società nel registro.

[4] Se la società istituisce sedi secondarie, si applica l'articolo 2299 <sup>(1)</sup>.

### **Art. 2329 – Conditions for Incorporation**

[1] The following conditions must be fulfilled in order to incorporate a company:

1) the share capital shall be subscribed in its entirety;

2) the provisions of articles 2342, 2343 and 2343-ter regarding contributions in kind must be complied with;

3) the required authorizations must be obtained, and other conditions required by the specific laws for the setting up of the company in relation to its specific business purpose must be met.

### **Art. 2330 – Filing of the Articles of Association and registration of the Company**

[1] The notary who has received the deed containing the Articles of Association must file such deed within twenty days with the Business Register Office of the district in which the company has its registered office, including documents proving compliance with the conditions as set forth in article 2329.

[2] If the notary or the directors do not file the said documents within the term indicated in the previous paragraph, any shareholder may file the deed at the company's expense.

[3] The registration of the company with the Company Register is required simultaneously with the filing of the Articles of Association. The Company Register Office enrolls the company in the Register, after verifying the formal regularity of the documentation.

[4] If the company establishes secondary offices, article 2299 applies <sup>(1)</sup>.

**(1) Art. 2299 – Sedi secondarie**

[1] Un estratto dell'atto costitutivo deve essere depositato per l'iscrizione presso l'ufficio del registro delle imprese del luogo in cui la società istituisce sedi secondarie con una rappresentanza stabile, entro trenta giorni dall'istituzione delle medesime.

[2] L'estratto deve indicare l'ufficio del registro presso il quale è iscritta la società e la data dell'iscrizione.

[3] Abrogato

[4] L'istituzione di sedi secondarie deve essere denunciata per l'iscrizione nello stesso termine anche all'ufficio del registro del luogo dove è iscritta la società.

**Art. 2331 – Effetti dell'iscrizione**

[1] Con l'iscrizione nel registro la società acquista la personalità giuridica.

[2] Per le operazioni compiute in nome della società prima dell'iscrizione sono illimitatamente e solidalmente responsabili verso i terzi coloro che hanno agito. Sono altresì solidalmente e illimitatamente responsabili il socio unico fondatore e quelli tra i soci che nell'atto costitutivo o con atto separato hanno deciso, autorizzato o consentito il compimento dell'operazione.

[3] Qualora successivamente all'iscrizione la società abbia approvato un'operazione prevista dal precedente comma, è responsabile anche la società ed essa è tenuta a rilevare coloro che hanno agito.

[4] Le somme depositate a norma del secondo comma dell'articolo 2342 non possono essere consegnate agli amministratori se non provano l'avvenuta iscrizione della società nel registro. Se entro novanta giorni dalla stipulazione dell'atto costitutivo o dal rilascio delle autorizzazioni previste dal numero 3) dell'articolo 2329 l'iscrizione non ha avuto luogo, esse sono restituite ai sottoscrittori e l'atto costitutivo perde efficacia.

**(1) Art. 2299 – Secondary Divisions**

[1] An abstract of the Articles of Association shall be filed for registration with the Company Register in each location in which the company establishes a secondary division with permanent representation, within thirty days from the establishment of such divisions.

[2] The abstract shall indicate the Company Register with which the company is registered and the date of registration.

[3] Repealed

[4] The establishment of secondary divisions must also be registered within the same term as stated above, in the Company Register in the location in which the company is registered.

**Art. 2331 – Effects of registration**

[1] Upon registration in the Company Register, the company acquires a legal personality.

[2] Those persons who have acted on behalf of the company before registration, are unlimitedly, jointly and severally liable as third parties, for the operations carried out. The sole founding shareholder and those shareholders who, in the Articles of Association or in a separate deed have decided, authorized or consented to the implementation of the operation, are also held unlimitedly, jointly and severally liable for such operations.

[3] If subsequent to the registration the company approves a transaction contemplated in the preceding paragraph, the company is also liable and it must indemnify those who have acted on its behalf.

[4] The sums deposited pursuant to paragraph 2 of article 2342 cannot be given to the directors if they do not provide evidence that the company has been registered in the Company Register. If, within ninety days of the execution of the Articles of Association, or the date of the granting of the authorizations indicated in paragraph 3) of article 2329 above, the registration has not taken place, such sums are to be returned to the

[5] Prima dell'iscrizione nel registro è vietata l'emissione delle azioni ed esse, salvo l'offerta pubblica di sottoscrizione ai sensi dell'articolo 2333, non possono costituire oggetto di una offerta al pubblico di prodotti finanziari.

#### **Art. 2332 – Nullità della società**

[1] Avvenuta l'iscrizione nel registro delle imprese, la nullità della società può essere pronunciata soltanto nei seguenti casi:

1) mancata stipulazione dell'atto costitutivo nella forma dell'atto pubblico;

2) illiceità dell'oggetto sociale;

3) mancanza nell'atto costitutivo di ogni indicazione riguardante la denominazione della società, o i conferimenti, o l'ammontare del capitale sociale o l'oggetto sociale.

[2] La dichiarazione di nullità non pregiudica l'efficacia degli atti compiuti in nome della società dopo l'iscrizione nel registro delle imprese.

[3] I soci non sono liberati dall'obbligo di conferimento fino a quando non sono soddisfatti i creditori sociali.

[4] La sentenza che dichiara la nullità nomina i liquidatori.

[5] La nullità non può essere dichiarata quando la causa di essa è stata eliminata e di tale eliminazione è stata data pubblicità con iscrizione nel registro delle imprese.

[6] Il dispositivo della sentenza che dichiara la nullità deve essere iscritto, a

subscribers and the Articles of Associations shall no longer be valid.

[5] Prior to the registration in the Business Register, the issuance of shares is forbidden, and the shares, save for the offer of public subscription in accordance with article 2333, cannot be the object of a public offering of financial products.

#### **Art. 2332 – Nullity of company**

[1] Once the registration in the Business Register is completed, a declaration of nullity of the company can be rendered only in the following cases:

1) failure to stipulate the Articles of Association in the form of a public deed;

2) illegality of the company's purpose;

3) the lack in the Articles of Association of any indication relating to the name of the company, or the contributions, or the amount of capital subscribed or the company's purpose.

[2] The declaration of nullity does not impair the effect of the transactions carried out in the name of the company after the registration in the Company Register.

[3] The shareholders are not discharged from their obligation to pay their contributions until the creditors of the company have been satisfied.

[4] The court decision which declares the nullity of the company, appoints the liquidators.

[5] Nullity cannot be declared if the cause of action of the same has been eliminated, and such elimination has been rendered public through the filing of the same with the Company Register.

[6] The final statements of the decision which declares the nullity, a



cura degli amministratori o dei liquidatori nominati ai sensi del quarto comma, nel registro delle imprese.

SEZIONE II  
DELLA COSTITUZIONE PER  
PUBBLICA SOTTOSCRIZIONE

**Art. 2333 – Programma e sottoscrizione delle azioni**

[1] La società può essere costituita anche per mezzo di pubblica sottoscrizione sulla base di un programma che ne indichi l'oggetto e il capitale, le principali disposizioni dell'atto costitutivo e dello statuto, l'eventuale partecipazione che i promotori si riservano agli utili e il termine entro il quale deve essere stipulato l'atto costitutivo.

[2] Il programma con le firme autenticate dei promotori, prima di essere reso pubblico, deve essere depositato presso un notaio.

[3] Le sottoscrizioni delle azioni devono risultare da atto pubblico o da scrittura privata autenticata. L'atto deve indicare il cognome e il nome o la denominazione, il domicilio o la sede del sottoscrittore, il numero delle azioni sottoscritte e la data della sottoscrizione.

**Art. 2334 – Versamenti e convocazione dell'assemblea dei sottoscrittori**

[1] Raccolte le sottoscrizioni, i promotori, con raccomandata o nella forma prevista nel programma, devono assegnare ai sottoscrittori un termine non superiore a trenta giorni per fare il versamento prescritto dal secondo comma dell'articolo 2342.

must be registered with the Business Register by the directors or the liquidators nominated pursuant to the provisions of paragraph 4.

SECTION II  
INCORPORATION THROUGH  
PUBLIC SUBSCRIPTION

**Art. 2333 – Prospectus and subscription of shares**

[1] The company may also be founded through public subscription on the basis of a program indicating the company's purpose and the capital, the main provisions of the articles of Association and the by-laws, and any participation which promoters reserve for themselves in the profits and the time limit within which the Articles of Association are to be executed.

[2] The prospectus, with the authenticated signatures of the promoter(s), must be deposited with a notary prior to being made public.

[3] The subscription of shares must be evidenced by a public act or by authenticated private deed. Such documents shall contain the name and surname or the company name, domicile or legal address of the subscriber, the number of shares subscribed and the date of subscription.

**Art. 2334 – Payments and calling of meeting of subscribers**

[1] Upon completion of the collection of the subscriptions, the promoters shall, by registered post or in the manner set out in the prospectus, assign to the subscribers a term not exceeding one month within which the payments prescribed in paragraph 2 of article 2342 must be made.

[2] Decorso inutilmente questo termine, è in facoltà dei promotori di agire contro i sottoscrittori morosi o di scioglierli dall'obbligazione assunta. Qualora i promotori si avvalgano di quest'ultima facoltà, non può procedersi alla costituzione della società prima che siano collocate le azioni che quelli avevano sottoscritte.

[3] Salvo che il programma stabilisca un termine diverso, i promotori, nei venti giorni successivi al termine fissato per il versamento prescritto dal primo comma del presente articolo, devono convocare l'assemblea dei sottoscrittori mediante raccomandata, da inviarsi a ciascuno di essi almeno dieci giorni prima di quello fissato per l'assemblea, con l'indicazione delle materie da trattare.

#### **Art. 2335 – Assemblea dei sottoscrittori**

[1] L'assemblea dei sottoscrittori:

1) accerta l'esistenza delle condizioni richieste per la costituzione della società;

2) delibera sul contenuto dell'atto costitutivo e dello statuto;

3) delibera sulla riserva di partecipazione agli utili fatta a proprio favore dai promotori;

4) nomina gli amministratori ed i sindaci ovvero i componenti del consiglio di sorveglianza e, quando previsto, il soggetto incaricato di effettuare la revisione legale dei conti.

[2] L'assemblea è validamente costituita con la presenza della metà dei sottoscrittori.

[3] Ciascun sottoscrittore ha diritto a un voto, qualunque sia il numero delle azioni sottoscritte, e per la validità delle deliberazioni si richiede il voto

[2] In the event that such payments are not made within the term specified, the promoters are authorized to take action against the subscribers who are in default, or to release them from their obligation(s). If the promoters avail themselves of the latter power, the company may not be formed prior to the shares subscribed being disposed of.

[3] Unless the prospectus provides for a different time limit, the promoters, within twenty days following the expiration of the time limit established in the first paragraph of this article, shall call a meeting of the subscribers by means of a letter sent to each subscriber by registered post at least ten days before the date set for the meeting, stating the matters to be dealt with.

#### **Art. 2335 – Meeting of the subscribers**

[1] The meeting of subscribers shall:

1) ascertain the existence of the conditions required for the formation of the company;

2) resolve on the contents of the Articles of Association and the by-laws;

3) resolve on the share in the profits reserved by the promoters for their own benefit;

4) appoint the directors and the statutory auditors (2397) or the members of the supervisory board (2409-*duodevies*) and, if provided, the person entrusted with the statutory accounting audit (2409-*bis*).

[2] The meeting is validly convened and quorate with the presence of at least half of the subscribers.

[3] Each subscriber is entitled to one vote, regardless of the number of shares subscribed, and the favorable vote of the majority of those present is

favorevole della maggioranza dei presenti.

[4] Tuttavia per modificare le condizioni stabilite nel programma è necessario il consenso di tutti i sottoscrittori.

#### **Art. 2336 – Stipulazione e deposito dell’atto costitutivo**

[1] Eseguito quanto è prescritto nell’articolo precedente, gli intervenuti all’assemblea, in rappresentanza anche dei sottoscrittori assenti, stipulano l’atto costitutivo, che deve essere depositato per l’iscrizione nel registro delle imprese a norma dell’articolo 2330.

### SEZIONE III DEI PROMOTORI E DEI SOCI FONDATORI

#### **Art. 2337 – Promotori**

[1] Sono promotori coloro che nella costituzione per pubblica sottoscrizione hanno firmato il programma a norma del secondo comma dell’articolo 2333.

#### **Art. 2338 – Obbligazioni dei promotori**

[1] I promotori sono solidalmente responsabili verso i terzi per le obbligazioni assunte per costituire la società.

[2] La società è tenuta a rilevare i promotori dalle obbligazioni assunte e a rimborsare loro le spese sostenute, sempre che siano state necessarie per la costituzione della società o siano state approvate dall’assemblea.

[3] Se per qualsiasi ragione la società non si costituisce, i promotori non possono rivalersi verso i sottoscrittori delle azioni.

required for the resolution to be valid.

[4] However in order to amend the terms of the prospectus, the unanimous consent of all subscribers is required.

#### **Art. 2336 – Execution and filing of the Articles of Association**

[1] Upon compliance with the requirements of the preceding article, those present at the meeting, also on behalf of the absent subscribers, execute the Articles of Association, which shall be filed with the Business Register in accordance with article 2330.

### SECTION III PROMOTERS AND FOUNDING SHAREHOLDERS

#### **Art. 2337 – Promoters**

[1] The promoters are those who, in the incorporation of the company by public subscription, have signed the prospectus in accordance with the second paragraph of article 2333.

#### **Art. 2338 – Obligations of promoters**

[1] The promoters are jointly and severally liable vis-à-vis third parties for the assumed obligations in the incorporation of the company.

[2] The company must take over from the promoters their assumed obligations and reimburse them for expenses incurred, always provided that such expenses were necessary for the setting up of the company or were approved by the meeting.

[3] If, for any reason, the formation of the company is not set up, the promoters are not entitled to any recourse against the subscribers of the shares.

### **Art. 2339 – Responsabilità dei promotori**

[1] I promotori sono solidalmente responsabili verso la società e verso i terzi:

1) per l'integrale sottoscrizione del capitale sociale e per i versamenti richiesti per la costituzione della società;

2) per l'esistenza dei conferimenti in natura in conformità della relazione giurata indicata nell'articolo 2343;

3) per la veridicità delle comunicazioni da essi fatte al pubblico per la costituzione della società.

[2] Sono del pari solidalmente responsabili verso la società e verso i terzi coloro per conto dei quali i promotori hanno agito.

### **Art. 2340 – Limiti dei benefici riservati ai promotori**

[1] I promotori possono riservarsi nell'atto costitutivo, indipendentemente dalla loro qualità di soci, una partecipazione non superiore complessivamente a un decimo degli utili netti risultanti dal bilancio e per un periodo massimo di cinque anni.

[2] Essi non possono stipulare a proprio vantaggio altro beneficio.

### **Art. 2341 – Soci fondatori**

[1] La disposizione del primo comma dell'articolo 2340 si applica anche ai soci che nella costituzione simultanea o in quella per pubblica sottoscrizione stipulano l'atto costitutivo.

### **Art. 2339 – Liability of promoters**

[1] The promoters are jointly and severally liable vis-a-vis the company and third parties:

1) for the complete subscription of the capital of the company and for necessary payments required for the setting up of the company;

2) for the existence of the contributions in kind in conformity with the sworn report indicated in article 2343;

3) for the truthfulness of the information they have disclosed to the public in connection with the formation of the company.

[2] Those persons on whose behalf the promoters have acted, are also jointly and severally liable vis-a-vis the company and third parties.

### **Art. 2340 – Limitations on benefits reserved for promoters**

[1] The promoters may reserve for themselves in the articles of Association, independently from their status as shareholders, a participation not exceeding in the aggregate of one-tenth of the net profits shown in the balance sheet for a maximum period of five years.

[2] They cannot stipulate any other benefit to their own advantage.

### **Art. 2341 – Founding shareholders**

[1] The provisions of the first paragraph of article 2340 also apply to the shareholders who have executed the articles of Association, whether the company was formed simultaneously therewith or by public subscription.

SEZIONE III-bis  
DEI PATTI PARASOCIALI

**Art. 2341-bis – Patti parasociali**

[1] I patti, in qualunque forma stipulati, che al fine di stabilizzare gli assetti proprietari o il governo della società:

a) hanno per oggetto l'esercizio del diritto di voto nelle società per azioni o nelle società che le controllano;

b) pongono limiti al trasferimento delle relative azioni o delle partecipazioni in società che le controllano;

c) hanno per oggetto o per effetto l'esercizio anche congiunto di un'influenza dominante su tali società, non possono avere durata superiore a cinque anni e si intendono stipulati per questa durata anche se le parti hanno previsto un termine maggiore; i patti sono rinnovabili alla scadenza.

[2] Qualora il patto non preveda un termine di durata, ciascun contraente ha diritto di recedere con un preavviso di centottanta giorni.

[3] Le disposizioni di questo articolo non si applicano ai patti strumentali ad accordi di collaborazione nella produzione o nello scambio di beni o servizi e relativi a società interamente possedute dai partecipanti all'accordo.

**Art. 2341-ter – Pubblicità dei patti parasociali**

[1] Nelle società che fanno ricorso al mercato del capitale di rischio i patti parasociali devono essere comunicati

SECTION III-bis  
SHAREHOLDERS AGREEMENTS

**Art. 2341-bis – Shareholders agreements**

[1] Agreements, in whatsoever form executed, which have the purpose of regularizing the ownership structures amongst the shareholders or the management of the company which:

a) have as their object the exercise of voting rights in company limited by shares or the companies that control them;

b) set limits on the transfer of the related shares or the interest held in the companies that control them;

c) have as their object or effect, the exercise jointly or otherwise, of a dominant influence on such companies, cannot have a duration of more than five years, and shall be deemed to have been agreed for such duration even if the parties anticipate a longer term; such agreements shall be renewable upon expiration.

[2] In the event that the agreement does not provide a specific term of duration, each party may withdraw on giving one hundred and eighty days' advance notice.

[3] The provisions of this article do not apply to agreements instrumental to cooperation agreements for the production or exchange of goods and services relating to companies wholly owned by the participants of the agreement.

**Art. 2341-ter – Publicity of shareholders agreements**

[1] Shareholders agreements relating to companies that resort to the risk capital market (2325-bis) must be

alla società e dichiarati in apertura di ogni assemblea. La dichiarazione deve essere trascritta nel verbale e questo deve essere depositato presso l'ufficio del registro delle imprese.

[2] In caso di mancanza della dichiarazione prevista dal comma precedente i possessori delle azioni cui si riferisce il patto parasociale non possono esercitare il diritto di voto e le deliberazioni assembleari adottate con il loro voto determinante sono impugnabili a norma dell'articolo 2377.

#### SEZIONE IV DEI CONFERIMENTI

##### **Art. 2342 – Conferimenti**

[1] Se nell'atto costitutivo non è stabilito diversamente, il conferimento deve farsi in danaro.

[2] Alla sottoscrizione dell'atto costitutivo deve essere versato presso una banca almeno il venticinque per cento dei conferimenti in danaro o, nel caso di costituzione con atto unilaterale, il loro intero ammontare.

[3] Per i conferimenti di beni in natura e di crediti si osservano le disposizioni degli articoli 2254 <sup>(1)</sup> e 2255 <sup>(2)</sup>. Le azioni corrispondenti a tali conferimenti devono essere integralmente liberate al momento della sottoscrizione.

[4] Se viene meno la pluralità dei soci, i versamenti ancora dovuti devono essere effettuati entro novanta giorni.

[5] Non possono formare oggetto di conferimento le prestazioni di opera o di servizi.

**(1) Art. 2254 – Garanzia e rischi dei conferimenti**

[1] Per le cose conferite in proprietà la garanzia dovuta dal socio e il passaggio dei rischi

communicated to the company and a statement must be made at the opening of each shareholders' meeting. The statement must be recorded in the minutes of the shareholders' meeting and must be filed with the Business Register Office.

[2] In the absence of the statement referred to in the preceding paragraph, the owners of shares to which the shareholder agreement refers, cannot exercise their right to vote and any resolutions adopted with their decisive vote are contestable pursuant to the provisions of article 2377.

#### SECTION IV CONTRIBUTIONS

##### **Art. 2342 – Contributions**

[1] Unless otherwise provided for in the Articles of Association, contributions shall be made in cash.

[2] At the time of the execution of the articles of association at least twenty five per cent of the contribution in cash, or, in the event of incorporation by virtue of a unilateral deed, the full amount must be deposited with a bank.

[3] In respect of contributions consisting of property in kind or assignment of receivables, the provisions of article 2254<sup>(1)</sup> and 2255<sup>(2)</sup> are applicable. The shares corresponding to such contributions must be paid in full upon subscription.

[4] If the plurality of shareholders no longer exists, outstanding payments must be made within ninety days.

[5] The performance of work or services cannot be provided as a contribution.

**(1) Art. 2254 – Warranties and risks of contributions**

[1] With regard to items where ownership is contributed, the warranty of the contributing

sono regolati dalle norme sulla vendita.

[2] Il rischio delle cose conferite in godimento resta a carico del socio che le ha conferite. La garanzia per il godimento è regolata dalle norme sulla locazione.

**[2] Art. 2255 – Conferimento di crediti**

[1] Il socio che ha conferito un credito risponde dell'insolvenza del debitore, nei limiti indicati dall'articolo 1267 per il caso di assunzione convenzionale della garanzia.

**Art. 2343 – Stima dei conferimenti di beni in natura e di crediti**

[1] Chi conferisce beni in natura o crediti deve presentare la relazione giurata di un esperto designato dal tribunale nel cui circondario ha sede la società, contenente la descrizione dei beni o dei crediti conferiti, l'attestazione che il loro valore è almeno pari a quello ad essi attribuito ai fini della determinazione del capitale sociale e dell'eventuale soprapprezzo e i criteri di valutazione seguiti. La relazione deve essere allegata all'atto costitutivo.

[2] L'esperto risponde dei danni causati alla società, ai soci e ai terzi. Si applicano le disposizioni dell'articolo 64 del codice di procedura civile.

[3] Gli amministratori devono, nel termine di centottanta giorni dalla iscrizione della società, controllare le valutazioni contenute nella relazione indicata nel primo comma e, se sussistano fondati motivi, devono procedere alla revisione della stima. Fino a quando le valutazioni non sono state controllate, le azioni corrispondenti ai conferimenti sono inalienabili e devono restare depositate presso la società.

partner and the allocation of risks are regulated by the provisions concerning sales.

[2] The risk relating to items whose enjoyment is contributed remains with the contributing partner. The warranty as regards enjoyment is regulated by the rules concerning leases.

**[2] Art. 2255 –Contribution of receivables**

[1] A member who has contributed a receivable is liable in respect of the insolvency of the debtor as per the limits set out in Article 1267 in the case of agreed assumption of guarantee.

**Art. 2343 – Appraisal of contributions in kind and receivables**

[1] Those who contribute property in kind or receivables shall submit a sworn report of an expert, appointed by the court of the district in which the company has its registered office, which contains: a description of the property or the receivable(s) contributed; a statement attesting that the value assigned to each item of property or receivable contributed is not lower than the nominal value, increased by the share premium, if any, of the shares issued against the contribution, and the criteria of evaluation used. The report shall be attached to the Articles of Association.

[2] The expert is liable for any damages caused to the company, the shareholders or to third parties. The provisions of article 64 of the Code of Civil Procedure shall apply.

[3] Within one hundred and eighty days from the registration of the company, the directors must verify the evaluations contained in the sworn report indicated in the first paragraph, and, if well founded reasons exist, they must revise the appraisal. Until the evaluations have been verified, the shares corresponding to the contributions in kind are not transferable and shall remain deposited with the company.

[4] Se risulta che il valore dei beni o dei crediti conferiti era inferiore di oltre un quinto a quello per cui avvenne il conferimento, la società deve proporzionalmente ridurre il capitale sociale, annullando le azioni che risultano scoperte. Tuttavia il socio conferente può versare la differenza in danaro o recedere dalla società; il socio recedente ha diritto alla restituzione del conferimento, qualora sia possibile in tutto o in parte in natura. L'atto costitutivo può prevedere, salvo in ogni caso quanto disposto dal quinto comma dell'articolo 2346, che per effetto dell'annullamento delle azioni disposto nel presente comma si determini una loro diversa ripartizione tra i soci.

#### **Art. 2343-bis – Acquisto della società da promotori, fondatori, soci e amministratori**

[1] L'acquisto da parte della società, per un corrispettivo pari o superiore al decimo del capitale sociale, di beni o di crediti dei promotori, dei fondatori, dei soci o degli amministratori, nei due anni dalla iscrizione della società nel registro delle imprese, deve essere autorizzato dall'assemblea ordinaria.

[2] L'alienante deve presentare la relazione giurata di un esperto designato dal tribunale nel cui circondario ha sede la società contenente la descrizione dei beni o dei crediti, il valore a ciascuno di essi attribuito, i criteri di valutazione seguiti, nonché l'attestazione che tale valore non è inferiore al corrispettivo, che

[4] If it should result that the value of property or of the receivables contributed is lower by more than one fifth of the value for which the contribution was made, the company shall reduce its capital proportionately, cancelling the shares in relation to which such value is unsubscribed. The contributing shareholder, however, may deposit the difference in cash or withdraw from the company; the exiting shareholder is entitled to the restitution of the contribution in kind, should it be possible in whole or in part. The articles of association may contemplate, subject in any case to the provisions of the fifth paragraph of article 2346, that as a consequence of the cancellation of the shares as provided in the previous paragraph, a different distribution of the shares among the shareholders may be determined.

#### **2343-bis – Purchase by the company from promoters, founders, shareholders and directors**

[1] The purchase by the company, of property or receivables from promoters, founders, shareholders or directors, for a consideration equal to or higher than one tenth of the capital of the company, within two years from the registration of the company in the Business Register, must be authorized by the ordinary shareholders' meeting (2364, 2364 *bis*).

[2] The seller shall submit a sworn report of an expert appointed by the court of the district in which the company has its registered office, containing a description of the property in kind or the receivables, the value ascribed to each item of property or receivable, the criteria of evaluation applied, as well as an attestation that



deve comunque essere indicato.

[3] La relazione deve essere depositata nella sede della società durante i quindici giorni che precedono l'assemblea. I soci possono prenderne visione. Entro trenta giorni dall'autorizzazione il verbale dell'assemblea, corredato dalla relazione dell'esperto designato dal tribunale, deve essere depositato a cura degli amministratori presso l'ufficio del registro delle imprese.

[4] Le disposizioni del presente articolo non si applicano agli acquisti che siano effettuati a condizioni normali nell'ambito delle operazioni correnti della società né a quelli che avvengono nei mercati regolamentati o sotto il controllo dell'autorità giudiziaria o amministrativa.

[5] In caso di violazione delle disposizioni del presente articolo gli amministratori e l'alienante sono solidalmente responsabili per i danni causati alla società, ai soci ed ai terzi.

#### **Art. 2343-ter – Conferimento di beni in natura o crediti senza relazione di stima**

[1] Nel caso di conferimento di valori mobiliari ovvero di strumenti del mercato monetario non è richiesta la relazione di cui all'articolo 2343, primo comma, se il valore ad essi attribuito ai fini della determinazione del capitale sociale e dell'eventuale sovrapprezzo è pari o inferiore al prezzo medio ponderato al quale sono stati negoziati su uno o più mercati regolamentati nei sei mesi precedenti il conferimento.

[2] Fuori dai casi in cui è applicabile il primo comma, non è altresì richiesta

such value is not lower than the consideration itself, which must in any event be specified.

[3] The report shall be deposited at the registered office of the company during the fifteen days preceding the shareholders' meeting. The shareholders are entitled to examine the report. Within thirty days from the authorization, the minutes of the meeting, together with the report of the expert appointed by the court, shall be filed by the directors with the Business Register Office.

[4] The provisions of this article do not apply to purchases which are effected under normal conditions in the context of the day-to-day business operations of the company or those that occur in regulated markets or under the control of judicial or administrative authorities.

[5] In the event of any breaches of the provisions of this article, the directors and the transferor shall be jointly and severally liable for any damages caused to the company, the shareholders or third parties.

#### **Art. 2343-ter – Contributions of assets in kind or receivables without an appraisal**

[1] For contributions of securities or money market instruments, the appraisal described in paragraph one of article 2343 is not required if the value set for the purposes of determining the share capital and the premium, if any, is equal to or less than the weighted average price at which such securities/instruments have been traded at on one or more regulated markets in the six months preceding to the contribution.

[2] In circumstances falling outside the application of the first paragraph,

la relazione di cui all'articolo 2343, primo comma, qualora il valore attribuito, ai fini della determinazione del capitale sociale e dell'eventuale sovrapprezzo, ai beni in natura o crediti conferiti sia pari o inferiore:

a) al fair value iscritto nel bilancio dell'esercizio precedente quello nel quale è effettuato il conferimento a condizione che il bilancio sia sottoposto a revisione legale e la relazione del revisore non esprima rilievi in ordine alla valutazione dei beni oggetto del conferimento, ovvero;

b) al valore risultante da una valutazione riferita ad una data precedente di non oltre sei mesi il conferimento e conforme ai principi e criteri generalmente riconosciuti per la valutazione dei beni oggetto del conferimento, a condizione che essa provenga da un esperto indipendente da chi effettua il conferimento, dalla società e dai soci che esercitano individualmente o congiuntamente il controllo sul soggetto conferente o sulla società medesima, dotato di adeguata e comprovata professionalità

[3] Chi conferisce beni o crediti ai sensi del primo e secondo comma presenta la documentazione dalla quale risulta il valore attribuito ai conferimenti e la sussistenza, per i conferimenti di cui al secondo comma, delle condizioni ivi indicate. La documentazione è allegata all'atto costitutivo.

[4] L'esperto di cui al secondo comma, lettera b), risponde dei danni causati alla società, ai soci e ai terzi.

[5] Ai fini dell'applicazione del secondo comma, lettera a), per la definizione di "fair value" si fa riferimento ai principi contabili

the appraisal described in the first paragraph of article 2343 is furthermore not required when the value set, for the purposes of determining the share capital and the premium, if any, to the assets or receivables contributed in kind, is equal or inferior to:

a) the fair value entered in the financial statements of the financial year preceding the financial year during which the contribution is carried out, provided that it has undergone statutory audit and that the auditor's report does not contain any exception on the evaluation of the assets being contributed, or;

b) the value resulting from an appraisal carried out as of a date preceding the contribution of no more than six months and in compliance with the generally accepted principles and criteria for the appraisal of assets to be contributed, provided that it has been drafted by an expert independent from the contributing person, the company, and the shareholders who individually or jointly control the contributing person or the company, and who is of proven and adequate professionalism.

[3] Those who contribute assets or receivables pursuant to paragraphs one and two shall submit documentation evidencing the value attributed to the contribution, and for the contributions described in paragraph two, that the conditions described therein have been met. Such documentation has to be attached to the Articles of Association.

[4] The expert referred to in paragraph 2 of letter b) is liable for any damages caused to the company, to the shareholders or to any third parties.

[5] For the purpose of the application of the second paragraph, letter a), for the definition of "fair value", reference is made to the

internazionali adottati dall'Unione Europea.

**Art. 2343-quater – Fatti eccezionali o rilevanti che incidono sulla valutazione**

[1] Gli amministratori verificano, nel termine di trenta giorni dalla iscrizione della società, se, nel periodo successivo a quello di cui all'articolo 2343-ter, primo comma, sono intervenuti fatti eccezionali che hanno inciso sul prezzo dei valori mobiliari o degli strumenti del mercato monetario conferiti in modo tale da modificare sensibilmente il valore di tali beni alla data di iscrizione della società nel registro delle imprese, comprese le situazioni in cui il mercato dei valori o strumenti non è più liquido. Gli amministratori verificano altresì nel medesimo termine se, successivamente al termine dell'esercizio cui si riferisce il bilancio di cui alla lettera a) del secondo comma dell'articolo 2343-ter, o alla data della valutazione di cui alla lettera b) del medesimo comma, si sono verificati fatti nuovi rilevanti tali da modificare sensibilmente il valore dei beni o dei crediti conferiti alla data di iscrizione della società nel registro delle imprese, nonché i requisiti di professionalità ed indipendenza dell'esperto che ha reso la valutazione di cui all'articolo 2343-ter, secondo comma, lettera b).

[2] Qualora gli amministratori ritengano che siano intervenuti i fatti di cui al primo comma ovvero ritengano non idonei i requisiti di professionalità e indipendenza dell'esperto che ha reso la valutazione di cui all'articolo 2343-ter, secondo comma, lettera b), si procede, su iniziativa degli

international accounting principles adopted by the European Union.

**Art. 2343-quater – Exceptional or relevant facts influencing the appraisal**

[1] Within thirty days of the registration of the company, the directors must verify whether - in the period following the one outlined in paragraph 1 of article 2343-ter - any exceptional events have occurred which affected the prices of the conferred securities or money market instruments to the extent that the value of these assets was significantly altered at the date of registration of the company in the Business Register, including situations in which the securities or instrument markets are no longer liquid. The directors shall also verify within the said term whether, following the end of the financial year of the financial statements referred to under letter a) of the second paragraph of article 2343-ter, or at the cut-off date of the appraisal referred to under letter b) of the same paragraph, any new significant events have occurred, considerably altering the value of the contributed assets or receivables at the date of registration of the company with the register of Companies, as well as the requirements of professionalism and independence of the expert who drafted the appraisal pursuant to the second paragraph, letter b), of article 2343-ter.

[2] Should the directors determine that the facts described in the first paragraph have occurred, or that the expert who drafted the appraisal pursuant to the second paragraph, letter b) of article 2343-ter) does not possess the required professionalism and independence, upon initiative of the

amministratori, ad una nuova valutazione ai sensi e per gli effetti dell'articolo 2343.

[3] Fuori dai casi di cui al secondo comma, è depositata per l'iscrizione nel registro delle imprese, nel medesimo termine di cui al primo comma, una dichiarazione degli amministratori contenente le seguenti informazioni:

a) la descrizione dei beni o dei crediti conferiti per i quali non si è fatto luogo alla relazione di cui all'articolo 2343, primo comma;

b) il valore ad essi attribuito, la fonte di tale valutazione e, se del caso, il metodo di valutazione;

c) la dichiarazione che tale valore è almeno pari a quello loro attribuito ai fini della determinazione del capitale sociale e dell'eventuale sovrapprezzo;

d) la dichiarazione che non sono intervenuti fatti eccezionali o rilevanti che incidono sulla valutazione di cui alla lettera b);

e) la dichiarazione di idoneità dei requisiti di professionalità e indipendenza dell'esperto di cui all'articolo 2343-ter, secondo comma, lettera b).

[4] Fino all'iscrizione della dichiarazione le azioni sono inalienabili e devono restare depositate presso la società.

#### **Art. 2344 – Mancato pagamento delle quote**

[1] Se il socio non esegue i pagamenti dovuti, decorsi quindici giorni dalla pubblicazione di una diffida nella *Gazzetta Ufficiale* della Repubblica, gli amministratori, se non ritengono utile promuovere azione per l'esecuzione del conferimento, offrono

directors, a new appraisal shall be carried out pursuant to article 2343.

[3] For any case not covered by paragraph 2, the directors shall file a declaration with the Business Register, within the same period as outlined in paragraph 1, containing the following information:

a) a description of the contributed goods or receivables in relation to which the report pursuant to the provisions of article 2343, paragraph 1, was not submitted;

b) the value set for these items, the source of the appraisal and, if necessary, the method used for the appraisal;

c) a statement that this value is at least equal to that attributed to such items in the determination of the share capital and, of the share premium, if any;

d) a statement that no extraordinary or major events that might have an impact on the appraisal described in letter b) have occurred;

e) a statement that the expert has the required professionalism and independence pursuant to paragraph 2, letter b) of article 2343-ter.

[4] The shares cannot be transferred and must remain deposited with the company until such statement is registered.

#### **Art. 2344 – Failure to pay quota**

[1] If a member fails to pay his or her quota, upon the elapse of fifteen days from the publication of the warning in the *Gazzetta Ufficiale*, the directors, if they do not consider it to be useful to commence action for the enforcement of the execution of the

le azioni agli altri soci, in proporzione alla loro partecipazione, per un corrispettivo non inferiore ai conferimenti ancora dovuti. In mancanza di offerte possono far vendere le azioni a rischio e per conto del socio, a mezzo di una banca o di un intermediario autorizzato alla negoziazione in mercati regolamentati.

[2] Qualora la vendita non possa aver luogo per mancanza di compratori, gli amministratori possono dichiarare decaduto il socio, trattenendo le somme riscosse, salvo il risarcimento dei maggiori danni.

[3] Le azioni non vendute, se non possono essere rimesse in circolazione entro l'esercizio in cui fu pronunciata la decadenza del socio moroso, devono essere estinte con la corrispondente riduzione del capitale.

[4] Il socio in mora nei versamenti non può esercitare il diritto di voto.

#### **Art. 2345 – Prestazioni accessorie**

[1] Oltre l'obbligo dei conferimenti, l'atto costitutivo può stabilire l'obbligo dei soci di eseguire prestazioni accessorie non consistenti in danaro, determinandone il contenuto, la durata, le modalità e il compenso, e stabilendo particolari sanzioni per il caso di inadempimento. Nella determinazione del compenso devono essere osservate le norme applicabili ai rapporti aventi per oggetto le stesse prestazioni.

[2] Le azioni alle quali è connesso l'obbligo delle prestazioni anzidette devono essere nominative e non sono trasferibili senza il consenso degli amministratori.

contribution, can offer the shares to the other shareholders in proportion with their shareholding, for a price not lower than the contributions still due. In the absence of offers, they are entitled to have the shares sold at the risk and for the account of the member, through a bank or intermediary authorized to operate on regulated markets.

[2] If the sale cannot take place due to lack of buyers, the directors can declare the dismissal of the member, and retain the sums collected from him, without prejudice to compensation for additional damages.

[3] If the unsold shares cannot be circulated within the financial year during which the dismissal of the defaulting member is pronounced, they shall be cancelled by a corresponding reduction of the capital of the company.

[4] I The member having defaulted in the payment of his quota cannot exercise his right to vote.

#### **Art. 2345 – Accessory services**

[1] In addition to the obligation to contribute, the articles of association may provide for the obligation of the members to perform non monetary accessory services, by specifying the content, duration, modality and compensation of such services, and providing for special sanctions in the event of non performance. In determining the remuneration for such services, the standards applicable to relationships requiring the performance of similar services shall be observed.

[2] The shares to which the duty of such performance is connected shall be nominative and are not transferable without the consent of the directors.

[3] Se non è diversamente disposto dall'atto costitutivo, gli obblighi previsti in questo articolo non possono essere modificati senza il consenso di tutti i soci.

SEZIONE V  
**DELLE AZIONI E DI ALTRI  
STRUMENTI FINANZIARI  
PARTECIPATIVI**

**Art. 2346 – Emissione delle azioni**

[1] La partecipazione sociale è rappresentata da azioni; salvo diversa disposizione di leggi speciali lo statuto può escludere l'emissione dei relativi titoli o prevedere l'utilizzazione di diverse tecniche di legittimazione e circolazione.

[2] Se determinato nello statuto, il valore nominale di ciascuna azione corrisponde ad una frazione del capitale sociale; tale determinazione deve riferirsi senza eccezioni a tutte le azioni emesse dalla società.

[3] In mancanza di indicazione del valore nominale delle azioni, le disposizioni che ad esso si riferiscono si applicano con riguardo al loro numero in rapporto al totale delle azioni emesse.

[4] A ciascun socio è assegnato un numero di azioni proporzionale alla parte del capitale sociale sottoscritta e per un valore non superiore a quello del suo conferimento. Lo statuto può prevedere una diversa assegnazione delle azioni.

[5] In nessun caso il valore dei conferimenti può essere complessivamente inferiore all'ammontare globale del capitale sociale.

[6] Resta salva la possibilità che la società, a seguito dell'apporto da parte dei soci o di terzi anche di opera o servizi, emetta strumenti finanziari forniti di diritti patrimoniali o anche di

[3] Unless otherwise provided in the articles of association the duties contemplated in this article cannot be modified without the consent of all the shareholders.

SECTION V  
**SHARES AND OTHER  
PARTECIPATORY FINANCIAL  
INSTRUMENTS**

**Art. 2346 – Issue of shares**

[1] The corporate participation is represented by the shares; save otherwise provided by special law provisions, the by-laws may exclude the issue of the relevant shares or provide for the use of different techniques for entitlement and transfer purposes.

[2] If determined in the by-laws, the nominal value of each share is equal to a fraction of the share capital; such determination shall refer without exception to all shares issued.

[3] In the absence of a determination of the nominal value of the shares, the provisions related to it shall apply in respect to the amount of shares in relation with the total amount of shares issued.

[4] Shares are assigned to each shareholder in a number which is proportional to the fraction of share capital subscribed and for a value which cannot be greater than the value of its contribution. The by-laws may establish different shares allocation criteria.

[5] In no event can the value of total contributions be lower than the global amount of the share capital.

[6] The company retains the option, even following contribution by shareholders or third parties consisting of work or services, to issue financial instruments including economic or