CONSOB

COMMISSIONE NAZIONALE
PER LE SOCIETA' E LA BORSA

ANNUAL REPORT
2003

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COMMISSIONE NAZIONALE PER LE SOCIETÀ E LA BORSA

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ANNUAL REPORT 2003

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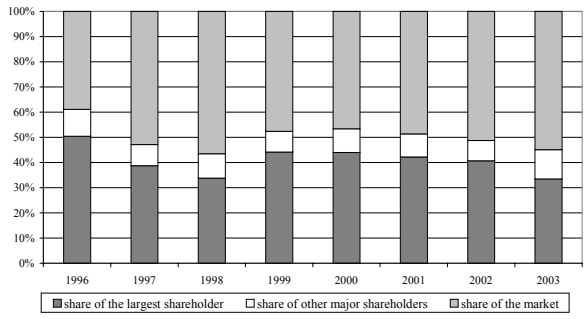
I. GOVERNANCE OF LISTED COMPANIES

The ownership structure and control of listed companies

In 2003 there was a considerable attenuation of several of the principal structural traits of the ownership and control structures of companies listed on the Stock Exchange – a high concentration of ownership and a limited contestability of control – that have traditionally distinguished the model of corporate governance of listed companies in Italy. Despite the fact that these traits continue to be present to a significant degree, the data for 2003 confirm the move towards a greater spread of ownership and less rigid control structures, a trend that had already emerged in the past four years (Figure I.1).

Figure I.1

The distribution of ownership in companies listed on the Stock Exchange



In 2003 various factors combined to confirm this trend. First, several major groups initiated operations to streamline internal corporate chains of control that, through the merger of companies at various levels of the chain, led to a dilution of ownership among major shareholders. A second element favouring more broad-based ownership was the changing composition of the companies listed on the Stock Exchange. On the one hand, numerous companies characterized by a high concentration of ownership were delisted and consequently exited the market, while on the other, there was a decline in the number of newly-listed companies, which generally have a higher than average concentration of ownership. Finally, some categories of major shareholders, primarily banking foundations and public bodies, reduced their majority holdings, the former motivated by the need to meet legislative requirements and the latter by the ongoing process of privatization.

The result of these developments was a return to the lowest levels of the indicators of ownership concentration recorded in the last decade, when the privatization process was at its height.

The average holding of the largest shareholder of companies listed on the Stock Exchange (MTA) decreased by roughly 7 percentage points, falling from 40.7 per cent in 2002 to 33.5 per cent in 2003 (Table aI.1). Although the share of other major shareholders (persons with holdings in excess of 2 per cent of voting rights) rose from 8 to 11.6 per cent, the share of the market (persons with holdings of less than 2 per cent) rose from 51.2 to 54.9 per cent. The figures match the levels recorded between 1997 and 1998 following privatizations and the sale of shareholdings by public bodies (in fact the sale of major public sector holdings accounted for 32.5 per cent of market capitalization in 1996 and just 8.8 per cent in 1998).

The scope for contesting control in listed companies increased in 2003, albeit to a lesser extent than the diffusion of ownership, demonstrating in particular a move towards models of coalition control.

In 2003, the number of companies listed on the Stock Exchange controlled by a single shareholder, with majority or working control according to whether the voting rights exercisable in ordinary shareholders' meetings are less or more than 50 per cent of the total, dropped by 24 units with respect to 2002. The two forms of control are equally represented and their share of market capitalization dropped by six percentage points

for companies with majority control, from 46 to 40.2 per cent, and by roughly 3 percentage points for companies with working control, from 28.4 to 25.5 per cent (Tables I.1 and aI.2). Meanwhile both the number and the share of companies controlled by a shareholders' agreement increased, from 20 to 28 and from 10.2 to 15.3 per cent respectively.

Table I.1

Ownership structure of companies listed on the Stock Exchange [1]
(at 31 December)

	2001		2002		2003	
	Number	Share[2]	Number	Share[2]	Number	Share[2]
Type of control						
Majority control	135	49.7	142	46.0	130	40.2
Working control	37	22.5	37	28.4	25	25.5
Shareholders' agreement	21	11.4	20	10.2	28	15.3
No control	39	16.4	32	15.4	36	19.0
Total	*232*	*100.0*	*231*	*100.0*	*219*	*100.0*
Concentration						
Largest shareholder		42.2		40.7		33.5
Other major shareholders		9.2		8.0		11.6
Market		48.6		51.2		54.9
Total		*100.0*		*100.0*		*100.0*

Source: Consob transparency archive. See the Methodological Notes.
[1] Rounding may cause discrepancies in the last figure. [2] Of the total market value of the ordinary share capital of all the companies listed on the Stock Exchange.

Shareholders' agreements play an important role in the ownership and control structures of listed companies. Approximately one fifth of listed companies have a shareholders' agreement, which in the majority of cases includes clauses relative to both the exercise of voting rights and share transfers (so-called global agreements).

At the end of last year, 34 companies listed on the Stock Exchange had global agreements while in 17 companies the agreements covered either the exercise of voting rights (so-called voting agreements, present in 9 companies) or share transfers (so-called block agreements, present in 8 companies) (Tables. aI.3 and aI.4). Moreover, for 21 listed companies there was a shareholders' agreement for the unlisted controlling company (Table. aI.5).

Current developments in ownership structures are reflected in the distribution of major shareholdings in companies listed on the Stock Exchange by type of shareholder. In 2003 there was a decline in the proportion held by other companies and public bodies and a rise in that of foreign companies (Table aI.6).

The holdings of other companies fell from 16.8 to 12.3 per cent primarily as a result of the simplification of the structure of some groups headed by shareholders of this category. Less pronounced but nonetheless significant was the reduction in the holdings of foundations, from 4.5 to 3.6 per cent, and of the public sector (State and local authorities), from 12.3 to 11.2 per cent. Meanwhile foreign residents' share of total market value increased, from 4.9 per cent to approximately 6.7 per cent.

Changes in ownership distribution among major shareholders assume particular significance if one considers the listed companies on a sector-by-sector basis (Table I.2).

For listed companies in the financial sector, the main changes included a reduction in holdings of foundations from 12.4 to 8.8 per cent, and an increase in the holdings of foreign residents from 7.9 to 11.1 per cent. There was a decline in the overall level of ownership concentration for listed companies in the industrial sector; it was especially significant for the State and local authorities, whose holdings dropped from 18.4 per cent in 2002 to 15.9 per cent in 2003. For listed companies in the services sector, where ownership concentration rose, the most salient change was the reduction in the holdings of other companies, from 32.7 to 24.8 per cent, while all the other categories of major shareholders reported a general increase in holdings.

Table I.2

Major holdings in companies listed on the Stock Exchange [1]

	2002			2003		
	Sector of the investee companies			Sector of the investee companies		
	Financial	Industrial	Services	Financial	Industrial	Services
Declarants						
Foreign residents	7.9	5.2	1.7	11.1	4.0	4.0
Insurance companies	2.7	0.3	--	2.8	0.1	0.2
Banks	9.1	0.5	--	9.1	0.2	0.2
Foundations	12.4	--	--	8,8	--	--
Institutional investors	0.8	0.8	0.5	--	--	--
Other companies	5.5	9.8	32.7	6.0	11.2	24.8
State and local authorities	0.9	18.4	19.0	0.9	15.9	23.5
Individuals	2.9	9.1	4.3	4.0	8.7	7.4
Total	*42.2*	*44.1*	*58.2*	*42.7*	*40.1*	*60.4*
Number of companies	83	101	47	78	97	44
Share of market capitalization [2]	38.9	25.4	35.7	42.4	30.2	27.4

Source: Consob transparency archive. See the Methodological Notes. [1] Holdings of more than 2 per cent of the voting capital. Percentage ratio of the market value of the ordinary share holdings controlled to the market value of the ordinary capital of all the companies listed on the Stock Exchange. Rounding may cause discrepancies in the last figure. [2] Percentage ratio of the market value of the ordinary share capital of the companies in each sector to the total market value of the ordinary shares listed on the Stock Exchange.

The trend towards a lower concentration of ownership and less stable control structures was also present in the Nuovo Mercato, where it was more pronounced than on the Stock Exchange (Tables I.3 and aI.2).

For companies listed on the Nuovo Mercato, the share of the market held increased by roughly 10 percentage points in the last two years, rising from 34.5 per cent in 2001 to 38.2 per cent in 2002, and 44.4 per cent in 2003. The decrease in the concentration of ownership affected both the largest shareholder and the other major shareholders, with a reduction of about five percentage points for both groups.

In 2003 the proportion of companies subject to majority control fell considerably, from 43.4 to 18.5 per cent. However, this was almost entirely due to the change in the control structure of a company that accounts for roughly one quarter of the overall value of the companies listed on the Nuovo Mercato. The number of companies controlled by shareholders' agreements also fell sharply, from 10 to 3, reducing their share of the total market value of the Nuovo Mercato from 13.3 per cent in 2002 to 2 per cent in 2003, while the share of total market value of companies with working control exercised by a single shareholder remained substantially unchanged (although the number of these companies increased). On the Nuovo Mercato the number of companies in which control is contestable is increasing: at the end of 2003 over 40 per cent of listed companies, with a similar share of market value, were not subject to any control.

As regards the distribution of ownership by category of major shareholder, the ownership structures of companies listed on the Nuovo Mercato continue to differ in some respects from those of companies listed on the Stock Exchange.

Table. I.3

Ownership structure of companies listed on the Nuovo Mercato [1]
(at 31 December)

	2001		2002		2003	
	Number	Share[2]	Number	Share[2]	Number	Share[2]
Type of control						
Majority control	15	42.0	12	43.4	10	18.5
Working control	7	36.3	9	33.2	11	35.0
Shareholders' agreement	9	12.7	10	13.3	3	2.0
No control	13	9.0	12	10.1	17	44.6
Total	*44*	*100.0*	*43*	*100.0*	*41*	*100.0*
Concentration						
Largest shareholder		41.8		41.0		36.2
Other major shareholders		23.7		21.8		19.4
Market		34.5		38.2		44.4
Total		*100.0*		*100.0*		*100.0*

Source: Consob transparency archive. See the Methodological Notes. [1] Rounding may cause discrepancies in the last figure. [2] Of the total market value of the ordinary share capital of all the companies listed on the Nuovo Mercato.

In particular, individuals continue to make up the largest category of major shareholders in companies listed on the Nuovo Mercato, with their holdings accounting for 41.7 per cent of total market value (Table aI.6). For companies listed on the Stock Exchange, instead, the holdings of individuals amount to just 6.2 per cent of total market value. In any event, the importance of individuals as major shareholders decreased significantly between 2000 and 2003 (in fact their share of total market value dropped from 50.4 to 41.7 per cent).

Shareholders' agreements concluded in companies listed on the Nuovo Mercato were predominantly of the blocking type, while the number of agreements covering the exercise of voting rights fell significantly with respect to previous years.

At the end of last year, 6 companies had a shareholders' blocking agreement and 4 had a global agreement (Table aI.3). In the three previous years 13 companies had had a global agreement.

The market for corporate control

Last year 26 tender offers were made for shares of listed companies, amounting to €13.7 billion (Tables aI.7 and aI.8). With the exception of the figure for 1999, this is the highest value registered in the last 11 years.

The voluntary tender offer by Olivetti for shares of Telecom Italia, amounting to €5.2 billion, accounted for roughly 38 per cent of the total value of tender offers concluded in 2003; the offer was part of a broader plan for the merger of Telecom Italia into Olivetti (Table aI.9).

There were 6 transfers of controlling holdings followed by mandatory bids, while another 4 transfers or consolidations of controlling interests were achieved through takeover bids.

Of these transactions, the most significant was the tender offer by Newco28 (wholly owned by Schemaventotto) for the entire share capital of Autostrade comprising the free float and worth around €6.5 billion, equal to roughly 50 per cent of the total value of the tender offers made in 2003. Prior to the bid the offeror (controlled by various shareholders among whom a primary role was played by the Benetton group) had already acquired a holding of just under the 30 per cent threshold (29.9 per cent).

Despite the high number of mandatory and residual-acquisition bids made in 2003 (6 and 8 respectively) the average value of each transaction was very small (roughly €500 million).

An analysis of the sales of controlling interests that gave rise to mandatory bids in the period between 2000 and 2003 shows that the average difference between the offer price and the market price on the date on which the controlling interest changed hands was equal to 5.6 per cent, while that between the price at which the controlling interests was acquired and the market

price on the same date was about 12 per cent (Table I.4). This data highlights how, in the period under examination, there was an average difference of 6 percentage points (8 in the period from 2000 to 2002) between the control premium paid to minority shareholders, calculated under the Consolidated Law on Finance, and the premium which would have been paid had Law 149/1992 on tender offers still been in force.

Table I.4

Control premiums in mandatory tender offers
(2000 – 2003)

Target company	Date of offer	Holding of the offeror before exceeding the 30% threshold [1]	Controlling interest acquired by offeror [1]	Difference between the price of the controlling interest and the market price [2]	Difference between the offer price and the market price [2]
Elios Holding Milano	07/02/2000	0.0	70.3	87.3	96.3
Acquedotto Nicolay	26/04/2000	23.9	25.7	21.4	5.2
Aeroporti di Roma	25/09/2000	0.0	51.2	20.5	1.8
Falck	02/10/2000	0.0	30.3	0.0	0.0
Banco di Napoli	08/11/2000	0.0	56.1	17.1	2.9
BAYERISCHE VITA	09/01/2001	0.0	70.0	66.0	30.9
Risanamento Napoli	21/02/2001	27.8	48.9	-2.9	-2.9
Safilo	02/07/2001	10.3	69.9	-5.4	0.2
Banca di Legnano	16/07/2001	0.0	55.0	56.6	1.5
Montedison	26/07/2001	0.0	52.1	-3.9	-5.7
Immobiliare Metanopoli	09/10/2001	0.0	90.2	-7.7	13.6
Cmi	18/04/2002	3.4	78.5	9.2	9.2
Iil	10/06/2002	19.9	30.2	14.9	0.7
Immsi	16/12/2002	0.0	45.3	-5.5	-1.0
Borgosesia	27/12/2002	0.0	71.0	9.7	15.7
Banco di Chiavari	17/03/2003	0.0	69.6	19.7	0.9
Alerion Industries	14/04/2003	0.0	59.6	1.5	0.3
Ipi	05/05/2003	0.0	56.0	9.6	0.6
Air Dolomiti	26/05/2003	20.7	31.2	4.3	-1.5
Seat Pagine Gialle	01/09/2003	0.0	62.5	-28.0	-28.0
Roncadin	13/10/2003	29.1	2.7	-26.1	-23.6
	Mean			*12.3*	*5.6*
	Median			*9.2*	*0.7*

[1] As a percentage of the share capital. [2] Percentages. The market price is that of the day the controlling interest was acquired.

It should be noted that in some exceptional circumstances, it was not possible to apply the rules governing the method of calculating the price of mandatory bids under Article 106.2 of the Consolidated Law on Finance in full. This was the case, for example, of the tender offer by Silver for Seat PG where the first parameter identified by the same law for calculating the offer price (the average market price in the twelve months prior to the offer) was not applicable, given that the company whose shares were being targeted had been established through a spin-off (and therefore did not have historical price data prior to the offer's launch). In the light of guidance provided by Consob in analogous cases, the offer price was fixed having sole regard to the second parameter identified by the Consolidated Law (the highest price paid by the bidder for the target company's shares). The offer price was thus determined as the price per share agreed by the offeror with Telecom Italia for the acquisition of a majority holding in Seat PG.

Participation in the shareholders' meetings of listed companies

As in previous years, the level of participation in ordinary shareholders' meetings was once more closely linked to the size of the company in question.

For companies listed on the Stock Exchange included in the Mib30 and Midex indexes (and as such classifiable as medium to large-sized), the average number of participants at meetings held to approve the annual accounts was 178 in 2002 (to approve the annual accounts for 2001) and 184 in 2003 (to approve the annual accounts for 2002). The distribution of companies by number of participants also remained substantially unchanged (Table I.5).

In particular, 38 per cent of the sample companies had less than 50 participants at their AGMs, while for around 40 per cent of companies the number of participants ranged from 100 to 500. Just 10 per cent of the sample companies had more than 500 participants.

Table I.5

Distribution of companies listed on the Stock Exchange by number of participants in the 2002 and 2003 AGMs

Number of participants	Mib30 and Midex		Star
	2002	2003	2003
Less than 50	18	19	36
From 50 to 100	5	6	1
From 100 to 500	21	20	--
More than 500	5	5	--
Total	*49*	*50*	*37*
Average number of participants [1]	178	184	16

Source: Minutes of annual general meetings for the approval of the 2001 and 2002 annual accounts for listed companies included in the Mib30 and Midex indexes and minutes of the annual general meetings for the approval of the 2002 annual accounts for companies listed in the Star segment. [1] Arithmetic mean.

For the companies belonging to the Star segment (and therefore medium to small-sized) the participation of shareholders was much lower. In fact, the average number of participants at their 2003 AGMs (called to approve the 2002 annual accounts) was 16 and, with only one exception, the number of participants never exceeded 50.

Further differences between the two groups of companies emerged with respect to the category of shareholders present at meetings and the share of voting rights held.

Table I.6

Share of voting rights held by major shareholders and institutional investors in AGMs of listed companies (Mib30 and Midex)
(percentages)

	Shareholders' meetings 2002		Shareholders' meetings 2003	
	As a percentage of the total voting capital	As a percentage of the total voting capital represented at the meeting	As a percentage of the total voting capital	As a percentage of the total voting capital represented at the meeting
Major shareholders [1]				
Arithmetic mean	49.7	89.2	52.4	90.7
Standard deviation	13.1	11.9	14.3	9.3
Minimum	17.5	50.6	24.1	58.6
Maximum	7.2	100.0	83.7	99.6
Institutional investors (other than major [1])				
Arithmetic mean	2.9	5.8	2.2	4.3
Standard deviation	2.6	6.2	1.7	3.8
Minimum	--	--	--	--
Maximum	9.7	26.7	8.0	16.1

Source: Minutes of annual general meetings for companies included in the Mib30 and Midex indexes. [1] Major shareholders means shareholders with a holding of more than 2 per cent of the voting capital (Article 120 of Legislative Decree 58/1998).

Major shareholders in the group of listed companies included in the Mib30 and Midex indexes that were considered (i.e. shareholders with more than a 2 per cent share of the voting capital) and who took part in the annual general meetings of 2003 (to approve the 2002 annual accounts) held on average roughly 52 per cent of the total ordinary share capital and roughly 91 per cent of the ordinary voting capital represented at the meetings (Table I.6). These figures, in line with those reported in 2002, were accompanied by a low level of participation by institutional investors (banks, insurance companies, pension funds and Italian asset management companies), which individually held a share of less than 2 per cent of the voting capital (and therefore did not qualify as major shareholders). Taken together, institutional investors present at AGMs held on average just over 2 per cent of the total voting capital and roughly 4 per cent of the voting capital represented at the meetings.

For listed companies admitted to the Star segment, the level of participation by major shareholders at meetings was similar to that reported in medium to large-sized businesses, institutional investors played an even smaller role (Table I.7).

Table I.7

Share of voting rights held by major shareholders and institutional investors in AGMs held in 2003 of companies listed in the Star segment
(percentages)

	As a percentage of the total voting capital	As a percentage of the total voting capital represented at the meeting
Major shareholders [1]		
Arithmetic mean	58.9	93.8
Standard deviation	11.5	7.7
Minimum	19.8	7.7
Maximum	76.5	100.0
Institutional investors (other than major [1])		
Arithmetic mean	1.1	1.9
Standard deviation	1.9	3.1
Min	--	--
Max	8.6	12.1

Source: Minutes of the 2003 annual general meetings of companies listed in the Star segment. [1] Major shareholders means shareholders with a holding of more than 2 per cent of the voting capital (Article 120 of Legislative Decree 58/1998).

The breakdown of the data on the participation of institutional investors by type of shareholder demonstrates that foreign funds (pension funds and investment funds included) were the most represented category at meetings, both for companies included in the Mib30 and the Midex indexes and for companies in the Star segment (Table I.8). In Italy, banks and insurance companies showed the highest levels of participation while Italian asset management companies and pension funds were marginally present.

As for foreign funds, the rate of participation in shareholders' meetings in 2003 was highest in those of industrial companies, followed by companies in the banking and service sectors; for Italian banks and insurance companies, instead, the level of participation was highest in the AGMs of banking and insurance issuers (Table I.9).

Table I.8

Share of voting rights held by non-major institutional investors in AGMs of listed companies in 2003[1]
(arithmetic means; percentages)

	Mib30 and Midex		Star	
	As a percentage of total share capital	As a percentage of the share capital represented at the meeting	As a percentage of total share capital	As a percentage of the share capital represented at the meeting
Italian asset management companies	0.2	0.4	0.1	0.1
Italian pension funds	0.2	0.4	--	--
Italian banks and insurance companies	0.5	1.0	0.1	0.2
Foreign funds	1.2	2.3	0.8	1.4
Foreign banks and insurance companies	0.1	0.2	0.1	0.2
Total	*2.2*	*4.3*	*1.1*	*1.9*

Source: Minutes of annual general meetings in 2002 for companies included in the Mib30 and Midex indexes and the Star segment. [1] Non-major shareholders means investors holding less than 2 per cent of the voting capital (Article 120 of Legislative Decree 58/1998).

Table I.9

Share of voting rights held by non-major institutional investors in shareholders' meetings of listed companies in 2003 by sector [1]
(arithmetic means; percentages)

Type	Sectors				
	Insurance	Banking	Financial	Industrial	Services
Italian asset management companies	0.2	0.1	0.4	0.2	0.2
Italian pension funds	0.2	--	--	0.4	0.2
Italian banks and insurance companies	0.8	0.9	--	0.3	0.4
Foreign funds	0.7	1.1	0.4	1.6	1.1
Foreign banks and insurance companies	0.3	0.3	--	--	0.1
Total	*2.2*	*2.4*	*0.8*	*2.5*	*2.0*

Source: Minutes of annual general meetings in 2002 for companies included in the Mib30 and Midex indexes, and the Star segment. [1] As a percentage of the voting capital. Non-major shareholders means institutional investors holding less than 2 per cent of the voting capital (Article 120 of Legislative Decree 58/1998).

The composition of boards of directors

The average number of members of boards of directors rose slightly in 2003, from 10.3 to 10.5, in line with the trend of previous years. This was true both of executive directors (from 3.5 to 3.6) and non-executive directors (from 6.8 to 6.9; Table aI.10).

Table I.10

Percentage distribution of companies listed on the Stock Exchange by number of members of the board of directors and sector [1]

Sectors	Number of directors				
	< 6	6 - 10	11 - 15	> 15	*Total*
Insurance	--	11.1	33.3	55.6	*100.0*
Banking	--	15.6	25.0	59.4	*100.0*
Financial	2.7	48.6	35.1	13.5	*100.0*
Industrial	2.1	66.0	26.8	5.2	*100.0*
Services	--	54.5	31.8	13.6	*100.0*

[1] As a percentage. Rounding may cause discrepancies in the last figure.

The breakdown of companies by sector shows that the number of directors in banks and insurance companies is greater on average: the boards in over half of the companies in this category had more than 15 members (Table I.10). Industrial companies, on the other hand, generally had from 6 to 10 members.

Board size was influenced both by the sector companies belong to, and their type of control. In fact, the average number of directors rose to 9.5 for companies with majority control and 10.9 for companies with working control. The figure was even higher for companies with no control and in those where control was exercised under a shareholders' agreement (equal respectively to 12.2 and 12.6; Table I.11). In all likelihood this is due to the need to ensure a board structure that reflects the various elements involved in determining corporate control structures.

Interlocking directorships continue to be commonplace in Italian listed companies. The phenomenon is only partially due to how group structures are organized.

Table I.11

Average number of directors by type of control of companies listed on the Stock Exchange (2003) [1]

Type of control	Executive	Non-executive	Total
Majority control	3.1	6.4	9.5
Working control	3.5	7.4	10.9
No control	4.5	7.7	12.2
Shareholders' agreement	4.8	7.8	12.6
Total	*3.6*	*6.9*	*10.5*

[1] Rounding may cause discrepancies in the last figure.

Last year, 191 out of 219 listed companies reported interlocking directorships (Table I.12).

Table I.12

Interlocking listed companies (2003)

Directors with more than one directorship	Number of companies
Less than 25 per cent	61
From 25 to 50 per cent	71
From 51 to 75 per cent	42
More than 75 per cent	17
Total	*191*

The proportion of directors with more than one directorship rose from 16 per cent in 2002 to 20 per cent in 2003 (Table aI.11), while the number of directorships held in other groups was higher than those held within the same group (582 and 259 respectively in 2003, and 499 and 278 in 2002).

In particular, the percentage of directors with 2 to 5 directorships increased with respect to 2002 (for those with 2 directorships from 11 to roughly 14 per cent of the total number of directors, and for those with between 3 and 5 directorships from 4 to roughly 5 per cent). The percentage of directors with more than 5 directorships remained substantially unchanged.

For directors with 2 positions, the number of directorships in companies outside the group (318 in 124 companies) also increased with respect to 2002 (292 in 128 companies). The same trend was registered for directors with between 3 to 5 directorships.

II. MARKETS AND FIRMS

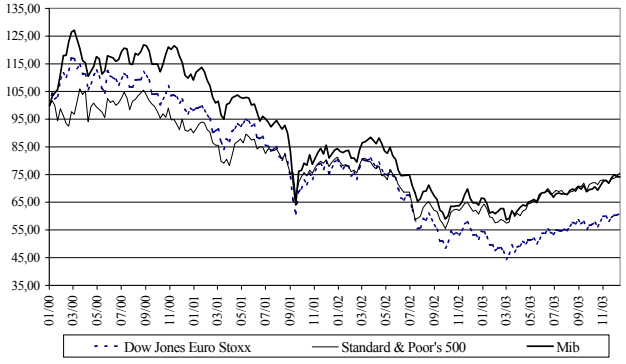
Equity and derivatives markets

In 2003 the prospects of a recovery in the world economy and of an improvement in international economic conditions contributed to a rise in equity prices on the leading markets and a reduction in uncertainty. In Italy, as in the other euro-area countries, after a period of stability, expectations of the twelve-month rate of change in corporate profits compiled by IBES show a rising trend from the last quarter of 2003 onwards; a similar pattern is found for the US economy.

However, the expectations of a recovery in corporate profits estimated for the companies included in the Mib30 index show a less pronounced rise than those estimated for the companies included in the Msci Europe index and only at the turn of 2004 returned to the values recorded at the beginning of 2002.

Figure II.1

Share prices
(weekly data; indices: 1 January 2000 = 100)



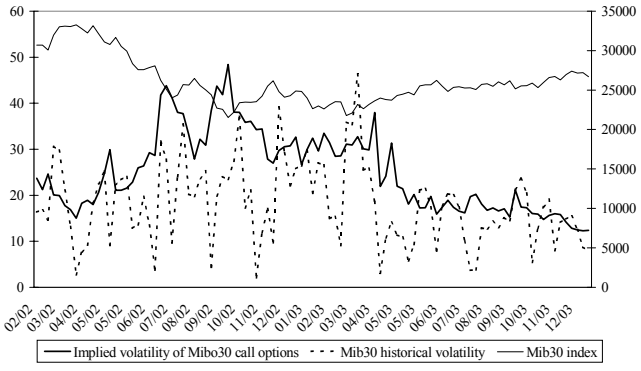
In the euro-area countries the rise in equity prices began during the first quarter of 2003. Over the year the Dow Jones Euro Stoxx index of the leading European companies in the euro area rose by about 12 per cent, after falling by 32 per cent in 2002 (Figure II.1). This is in line with the movement in leading US companies' share prices, as can be seen from the Standard and Poor's 500 index, which rose by just under 21 per cent over the year, after falling by 23 per cent in 2002.

In line with the trends observed abroad, Italian share prices also rose in 2003, bringing to an end the fall that had begun in the second quarter of 2000. The historical Mib index for the Stock Exchange (MTA) rose by about 15 per cent, after falling by 24 per cent in 2002, while the index of the Nuovo Mercato rose by just over 27 per cent, after falling by 50 per cent in 2002.

The recovery in equity prices was also driven by a reduction in uncertainty among market participants, as can be seen from the movement in both historical and implied price volatility (Figure II.2). In particular, the rise in the Mib30 index was accompanied by a fall in the volatility implied by the prices of Mibo30 option contracts, with the Fib30 index as the underlying index, traded on the Borsa Italiana's derivatives market (IDEM). More specifically, the volatility at the end of December 2003 was nearly half that at the end of December 2002.

Figure II.2

Indicators of volatility and the Mib30 index
(February 2002 – December 2003)



LH scale: Implied volatility of Mibo30 call options, Mib30 historical volatility. RH scale: Mib30 index.

Box 1: Trading halts involving shares in 2003

The trading halts called by Borsa Italiana can be divided into two main categories: discretionary (rare) and automatic (more frequent).

Discretionary suspensions interrupt trading in one or more securities for a period whose length is related to the cause of the halt and ranges from a few minutes to several days. The reasons for such suspensions can be of various kinds, such as the disclosure of material information, suspected fraud or market manipulation, serious cases of non-performance by the issuer and extraordinary corporate actions.

Automatic trading halts interrupt trading in a share immediately when given price thresholds are crossed. They are normally shorter than discretionary suspensions.

In 2003 Borsa Italiana imposed 100 discretionary suspensions unrelated to excessive price movements: in 81 cases the measure was adopted pending the announcement of important news for the shares for which the suspension was imposed; in 18 cases owing to the occurrence of price and/or quantity anomalies on the market; and in one case owing to the loss of all the issuer's capital. In all the cases in which the suspension was imposed pending the announcement of important news, Borsa Italiana suspended trading in all the listed financial instruments of the issuer in question and, where necessary, of other companies related to it. In the cases in which the suspension was imposed in response to price and/or quantity anomalies on the market involving a particular financial instrument, Borsa Italiana suspended trading only in that instrument. In 54 cases the suspension lasted only a few hours, while in the other 46 cases it lasted a day or more.

The trading halts called last year concerned 66 issuers. In three cases the halt was followed by the revocation of the share's listing (savings shares issued by Jolly Hotels s.p.a., savings shares issued by Arnoldo Mondadori Editore s.p.a. and ordinary shares issued by Opengate Group s.p.a.). At 31 December 2003 trading in the financial instruments issued by the following companies was still suspended indefinitely: Cirio Finanziaria s.p.a., Giacomelli Sport Group s.p.a., Gandalf s.p.a., Arquati s.p.a., Necchi s.p.a., CTO s.p.a. and Parmalat Finanziaria s.p.a.

In daytime trading in 2003 on the Stock Exchange (MTA), the Expandi Market and the Nuovo Mercato (previously the Ristretto Market) there were 7,858 automatic trading halts in connection with excessive price movements involving 247 of the 377 shares listed. The number of halts rises to 13,548 and the number of financial instruments involved to 321 if pre-emption rights, convertible bonds and warrants are included. In after-hours trading on the TAH Market 951 halts were called on trading in 71 shares.

The scale of the phenomenon reflects the size of the market on which it occurs. In fact most of the automatic halts involved shares listed on MTA, in terms of both the number of shares involved and the number of halts (respectively 81 and 70.9 per cent).

Despite the recovery in prices, the Italian equity market continues to suffer from some structural weaknesses. The number of Italian listed companies remains small: at the end of 2003 there were 271, down by 17 compared with the end of 2002. The reduction affected all the equity markets operated by Borsa Italiana (Table aII.1). New listings totaled 11, of which only 4 were the result of an OPA.: 9 on the Stock Exchange, 1 on the Nuovo Mercato and 1 on the Expandi Market. Delistings totaled 27, of which 21 involved the Stock Exchange, 3 the Nuovo Mercato and 3 the Expandi Market, of which 1 was the result of the company transferring to the Stock Exchange. In the other cases the delisting was due to a merger or an amalgamation or followed a takeover bid.

The market value of Italian listed companies continues to be lower than that of companies listed on the leading markets abroad. At the end of 2003 it amounted to about €488 billion (up by just over 6 per cent compared with the end of 2002), so that the Italian equity market ranks sixth in Europe.

In absolute terms the largest number of halts associated with excessive price movements occurred for shares in the Ordinary, class 1, segment (35.7 per cent of the total for ordinary shares and 7.8 per cent for savings and preference shares), followed by shares listed on the Nuovo Mercato (28.2 per cent) and those in the Blue-chip segment (8.6 per cent for ordinary shares and 5.6 per cent for savings and preference shares). However, if the number of halts is considered in relation to the number of contracts concluded for each subset of shares for which halts were called, the highest frequency is found for the savings and preference shares of the Star and Ordinary class 1, segments (respectively 16 and 9 halts per thousand contracts). Given the lower liquidity of savings and preference shares, this result indicates an inverse relationship between the ratio of the number of halts to the number of contracts and the liquidity of the shares involved. More generally, since the trading halts considered are caused by excessive price movements, the analysis confirms the existence of an inverse relationship between shares' liquidity and their price volatility.

For shares in the Ordinary, class 2, segment, which notoriously have a low liquidity, and for those traded on the Expandi Market the ratio of halts to contracts, although quite large, is lower (respectively 8 and 3 halts per thousand contracts). The reason for this is that these shares are not traded in continuous trading but only in opening and closing auctions. In fact until 2001, when the shares now in the Ordinary, class 2, segment were also traded using the continuous trading method, the number of halts was much higher.

The halts associated with excessive price movements have also been divided into the three following types in the trading phase, in the validation phase and technical suspensions. The first two are automatic trading halts as a consequence of excessive price variability in the continuous trading and auction phase respectively, while technical suspensions are the result of discretionary decisions taken by Borsa Italiana, albeit associated with excessive price movements. The most frequent type, accounting for nearly half the total, are halts in the trading phase, which can be caused by an excessive difference between two successive contracts (23.3 per cent of the cases) or between the price of a contract and the control price (21.3 per cent of the cases). Halts in the validation phase (36.7 per cent of the cases) can only be caused by an excessive difference between the auction price and the control price. It is worth noting that in the last two years the share of halts in the validation phase has grown at the expense of halts in the trading phase. This is because the auction phase has grown in importance with respect to the continuous trading phase, as a consequence both of the new market model, which also provides for a closing auction, and of the new segmentation of the market and related trading hours introduced in 2001. The reduction in halts in the trading phase is also due to the widening under the new market model of the difference permitted between the prices of contracts concluded on day (t) and the reference price of day (t-1). The remaining halts (18.7 per cent of the cases) are technical suspensions.

In 2003, as in 2002, the halts caused by excessive price rises outnumbered those caused by excessive price falls by more than two to one. This is because the bulk of the halts in the validation phase (77.8 per cent) involved excessive price rises as did the majority of halts in the trading phase (64.1 per cent).

The largest contribution to the increase in market value came from the Nuovo Mercato (up 30 per cent), followed by the Stock Exchange (up 6.1 per cent) and the Expandi Market (up 2.2 per cent). The overall market capitalization amounted to 37 per cent of GDP at the end of 2003, basically unchanged compared with the end of 2002.

Trading volumes in equities recorded a small rise of 1.3 per cent to total €581 billion. Trading turnover, defined as the ratio of the value of trades to the average market capitalization over the year, was above 1 for both the Stock Exchange and the Nuovo Mercato.

The lower volatility of the market indices led to a lower frequency of trading halts on the equity markets operated by Borsa Italiana. In 2003 there were 7,858 automatic halts for excessive price changes (involving 247 shares out of the 377 listed), compared with 14,184 (involving 295 shares of the 375 listed) in 2002 (Box 1)

Halts called in the trading of Italian shares [1]
(daytime sessions of the markets operated by Borsa Italiana, 2003)

Halts by market and market segment	Shares suspended		Shares suspended / Shares listed [3]	Halts		No. of halts / No. of contracts [4]
	Number	% of total [2]		Number	% of total [2]	
MTA	200	81.0	63.7	5,569	70.9	0.154
Blue-chip (ordinary)	39	15.8	46.4	679	8.6	0.022
Blue-chip (other [5])	25	10.1	67.6	438	5.6	0.255
Star (ordinary)	27	10.9	64.3	267	3.4	0.229
Star (other [5])	5	2.0	71.4	514	6.5	14.646
Ordinary, class 1 (ordinary)	79	32.0	74.5	2,808	35.7	0.959
Ordinary, class 1 (other [5])	15	6.1	55.6	610	7.8	8.602
Ordinary, class 2 (all)	10	4.0	90.9	253	3.2	7.836
Expandi Market	6	2.4	35.3	73	0.9	2.883
Nuovo Mercato	41	16.6	89.1	2,216	28.2	0.565
Total	*247*	*100.0*	*65.5*	*7,858*	*100.0*	*0.195*

Halts by type	Number	% of total [2]
In the trading phase	3,503	44.6
with respect to the last price	1,827	23.3
with respect to the control price	1,676	21.3
In the validation phase	2,887	36.7
Technical halts	1,468	18.7
Total	*7,858*	*100.0*

Halts caused by excessive price movements	Halts in the trading phase		Halts in the validation phase		Technical halts		Total	
	Number	% of total [2]	Number	% of total [2]	Number	% of total [2]	Number	% of total [2]
Upward	2,247	64.1	2,246	77.8	—	—	4,493	57.2
Downward	1,256	35.9	641	22.2	—	—	1,897	24.1
Discretionary [6]	--	--	--	--	1,468	100.0	1,468	18.7
Total	*3,503*	*100.0*	*2,887*	*100.0*	*1,468*	*100.0*	*7,858*	*100.0*

[1] Rounding may cause discrepancies in totals. [2] Percentages. [3] Percentage ratio of the number of shares suspended to the number of shares listed in each market/segment. [4] Ratio of the number of suspensions to the number of contracts concluded involving the subset of the shares suspended in each market/segment multiplied by 1,000. [5] Savings and preference shares. [6] Includes only halts caused by excessive price movements, does not include discretionary suspensions caused by events such as the disclosure of material information, suspected fraud or market manipulation, serious cases of non-performance by the issuer, and extraordinary corporate actions.

On the basis of data gathered by the European Central Bank, the rate of growth in issues of shares listed in the euro-area countries was low: in November the twelve-month rate was 1.1 per cent. With reference to listed shares issued by non-financial corporations the number of IPOs remained low while the level of activity in the placement of subsequent issues was higher.

In Italy there were 26 rights issues for cash, amounting to €9.7 billion, a substantial increase on 2002. In three cases the operation involved the placement of convertible bonds, in one case the issue of ordinary shares, savings shares and convertible bonds, in 4 cases the issue of shares with warrants and in the remaining 18 cases the issue only of shares. In addition, last year there were 4 IPOs, 1 offer of convertible bonds and 1 placement with institutional investors, for a total of €2.8 billion.

Table II.1

Net purchases of Italian listed shares [1]
(millions of euros)

Subscribers	2000	2001	2002	2003
Banca d'Italia – UIC	231	201	346	96
Mutual funds [2]	49	-1,787	-1,133	229
Banks	4,592	-8,270	8,947	-5,836
Insurance companies	3,328	-594	-4,847	….
Other investors [3]	2,663	17,153	7,735	….
Non-residents	-1,714	-532	-7,155	-2,864
Total	9,148	6,171	3,893	8,710

Source: Banca d'Italia. [1] Rounding may cause discrepancies in totals. [2] The figures refer to mutual funds set up under Italian law. [3] Households, firms, central and local government entities, Cassa Depositi e Prestiti, Italian investment firms, and social security institutions.

Net purchases of Italian listed shares showed a positive balance in 2003 that was more than twice that recorded in 2002, reflecting the value of the net issues made during the year referred to above (Table II.1). In contrast with the earlier period banks made a negative contribution, as did non-residents, although smaller than in 2002. It is also worth noting that Italian mutual funds became net purchasers again after two years in which they had been net sellers.

In the last three years there has also been a shift in the exposure of Italian mutual funds to the Nuovo Mercato. The proportion of the latter's market capitalization held by this category of investors dropped from about 4 per cent in December 2000 to just over 1.5 per cent in September 2003. The contraction was due not only to the fall in prices but also to substantial sales (Box 2).

On the electronic covered warrants market issues and turnover continued on a downward trend (Table II.2).

Table II.2

Listed covered warrants
(amounts in billions of euros)

	Number of issues			Volume of trading
	outstanding [1]	new [2]	expired [3]	
1998	122	122	--	3
1999	1,565	1,660	217	14
2000	3,107	3,343	1,801	31
2001	5,866	8,194	5,435	21
2002	3,571	6,668	8,963	18
2003	2,594	4,749	5,726	11

Sources: Consob and Borsa Italiana s.p.a. [1] Year-end data. [2] Admitted to listing during the year. [3] Includes covered warrants revoked at the request of the issuer before their original maturity.

At the end of 2003 there were 2,594 covered warrants listed, a reduction of 27 per cent on the end of 2002. The number of issues fell by about 29 per cent and above all concerned call and benchmark covered warrants, with 1,721 fewer issues, and put covered warrants, with 359 fewer issues. By contrast there was an increase in issues of exotic covered warrants and certificates, with 163 more issues. The volume of trading fell by around 41 per cent from €18.3 billion to €10.8 billion

Box 2: Activity of Italian mutual funds involving shares listed on the Nuovo Mercato

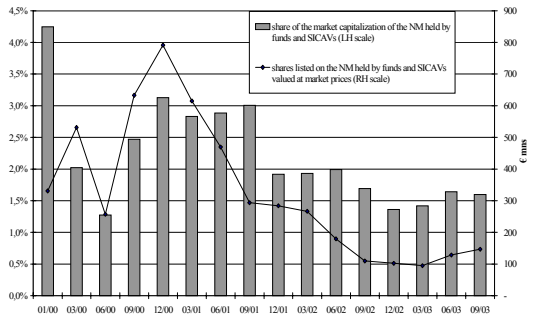
The exposure of Italian mutual funds to shares listed on the Nuovo Mercato has decreased substantially over the last three years. In particular the ratio of their holdings to total market capitalization fell from close to 3 per cent in December 2000 to just over 1.5 per cent in September 2003. In December 2000, when the technology stocks bubble had already burst, Italian mutual funds' holdings of Nuovo Mercato shares amounted to about €800 million, whereas in September 2003 they amounted to about €150 million. The contraction was due to both the fall in prices and substantial sales.

As regards the latter, funds were net sellers of Nuovo Mercato shares throughout the first half of 2000, i.e. in the period of sharply rising prices, whereas in the second half they made net purchases amounting to about €500 million. From the beginning of 2001 onwards, they were always net sellers (except in the quarter April-June 2003) for a total of about €200 million. Compared with their peak holding of €800 million in December 2000, the fall to about €150 million in September 2003 was due for about one quarter (the ratio of net sales of about €200 million and the stock of about €800 million held in December 2000) to a "net sales" effect and for the remaining three quarters to a "price reduction" effect.

There was also a drastic reduction in Italian mutual funds' involvement in trading. Until the first quarter of 2001 their purchases and sales fluctuated between €600 million and €700 million per quarter, whereas from the beginning of 2002 onwards they were regularly less than €100 million per quarter. Here again there is both a "price reduction" effect and a "quantity" effect. In fact, the average ratio of Italian mutual funds' trading to total trading fell from 15 per cent in the period up to June 2001 to about 5 per cent in the subsequent period. The number of asset management companies involved also decreased significantly: in December 2000 there were 50 with Nuovo Mercato shares in their portfolios, whereas in June 2003 the number had fallen to 41.

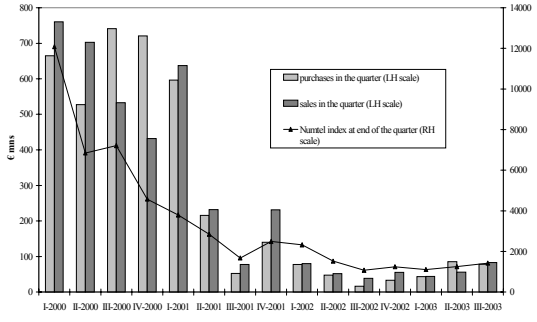
The turnover of the portfolio of Nuovo Mercato shares (defined as the ratio of the sum of purchases and sales to the average value of the portfolio in the period) for the whole mutual fund sector fell sharply from around 3 at the beginning of 2000 to less than 1 in the following years. At all events, there is a clear correlation between turnover and price movements: the recovery of prices in the second and third quarters of 2003 coincided with a marked rise in the turnover of the portfolio compared with the lows recorded in 2002.

Shares of companies listed on the Nuovo Mercato in the portfolio of Italian mutual funds
(January 2000 – September 2003)



Sources: Based on Banca d'Italia and Consob data.

Purchases and sales of shares listed on the Nuovo Mercato by Italian mutual funds
(Q1 2000 – Q3 2003)



Sources: Based on Banca d'Italia and Consob data.

As in preceding years, trading in covered warrants was concentrated with a handful of intermediaries. Some 50 per cent of sales were handled by three intermediaries, of which two had a market share of 41 per cent. Trading mostly involved call and benchmark covered warrants (both American and European), which accounted for about 66 per cent of the total, while put covered warrants (both American and European) accounted for about 21 per cent.

Turning to the TAH after-hours market operated by Borsa Italiana, the average number of contracts concluded daily continued on the downward trend that had begun in 2000, falling from just over 7,100 to 5,383. By contrast, the average daily value of trading rose further, from €28 million in 2002 to €31 million last year.

On the IDEM derivatives market there was a small increase of 4 per cent in the number of contracts concluded to around 17 million. The breakdown of trading by instrument nonetheless shifted, in some cases confirming and in others reversing the trends that had appeared in earlier periods (Table II.3).

Table II.3

Derivatives traded on IDEM in 2003

	Number of contracts concluded [1]	Daily average [1]	Percentage change [2]
Fib30	4,264	16.9	-12.6
Mibo30	2,505	9.9	-3.2
Stock options	7,924	31.4	4.4
Midex future	..	..	-53.7
Mini Fib	2,570	10.2	20.5
Stock futures	468	1.9	280.0

Sources: Based on Borsa Italiana s.p.a. and Cassa di Compensazione e Garanzia s.p.a. data. [1] Thousands of contracts. [2] Compared with 2002. In the case of stock futures the figure is calculated on the daily average.

Measured by the number of contracts concluded, trading in Mib30 index futures declined by 13 per cent compared with 2002. By contrast, there were increases in trading in Mini Fib contracts (20 per cent), stock option contracts (4 per cent) and stock futures. Trading in the contract based on the Midex index was on a very small scale. In view of the fall in trading to next to nothing, Borsa Italiana ordered that no new contracts should be concluded to replace those expiring. Trading accordingly came to an end with the September 2003 contract and the contract was subsequently delisted.

The volume of trading in stock futures, which began in July 2002, rose to around 468,000 contracts, with the average number of contracts concluded daily rising from just over 500 in 2002 to about 2,000 last year. Borsa Italiana also broadened the range of shares eligible as underlyings and there are now 12 stock option contracts available.

The bond market

The volume of trading on the regulated bond markets operated by Borsa Italiana (MOT and EuroMOT) contracted significantly by 9 per cent in 2003, falling from €161 billion to €146 billion. However, trading on EuroMOT, although it remained on a small scale, doubled compared with 2002 (Table aII.2). The volume of trading on the MTS wholesale market for government securities operated by MTS s.p.a. declined for the second successive year and contracted by 4 per cent. The volume of trading on the TLX regulated market, which opened for business on 2 October 2003, amounted to about €2 billion.

At December 2003 the outstanding bonds issued by Italian non-financial corporations amounted to about €86 billion, of which about €83 billion issued by listed groups and about €3 billion by unlisted groups (Table II.4). For the listed groups the bonds in issue were equal to about 25 per cent of their stock market value (on the basis of end-September prices).

Table II.4

Corporate bonds issued by Italian groups
(at 31 December 2003; amounts in billions of euros)

Type of bond	Value	Number of issues
Bonds issued by firms belonging to listed Italian groups		
Bonds listed on Italian regulated markets	15	22
of which:		
MOT	5	13
EuroMOT	10	9
Bonds distributed in Italy	..	9
Bonds listed on foreign regulated markets	61	142
of which:		
Luxembourg	58	139
Bonds not listed or distributed in Italy	7	43
Subtotal	*83*	*216*
Bonds issued by firms belonging to unlisted Italian groups		
Bonds listed on foreign regulated markets (Luxembourg)	3	21
Bonds not listed or distributed in Italy	..	2
Subtotal	*3*	*23*
Total	*86*	*239*

Source: Based on Bloomberg data. [1] Excludes bonds issued by companies for the securitization of receivables. Includes securities of companies in default in 2003. The value of loans denominated in currencies other than the euro has been converted into euros at the exchange rate obtaining at the reference date. Rounding may cause discrepancies in totals.

Of all Italian bonds only some 17 per cent are listed on Italian regulated markets in terms of value and no more than some 9 per cent in terms of number of issues. By contrast, about 72 per cent are listed on the Luxembourg Exchange in terms of value and about 67 per cent in terms of number of issues.

A sizable proportion of Italian corporate bonds is not rated: 40 per cent in terms of number of issues, but the figure falls to below 20 per cent in terms of value. A similar situation is found in other euro-area countries, such as France and Germany, which also have a large number of companies without a rating that have issued bonds. On the basis of an estimate of the total value of the European corporate bond market made at the end of 2002 (about €550 billion), Italy has a share of about 15 per cent and ranks third after France and Germany.

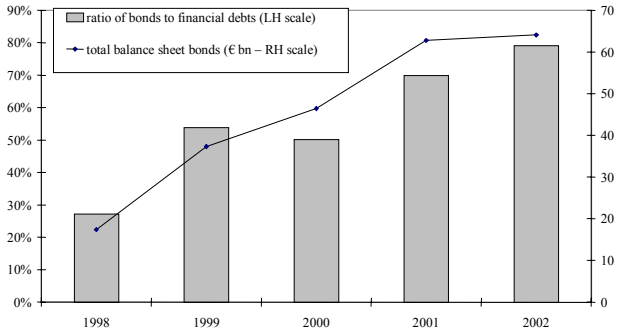
The growth of the Italian corporate bond market was concentrated mainly in the period between 1999 and 2002 and occurred in an international environment (at least from 2000 onwards) marked by a sharp fall in equity prices and economic stagnation.

In fact, from the end of the 1990s onwards, leading Italian non-financial corporations made major changes to the composition and structure of their financial debts, with a substantial increase in recourse to bond issues. The average ratio of the bonds of the leading Italian industrial groups to

their other financial debts increased from around 25 per cent in 1998 to nearly 70 per cent in 2002 (Figure II.3). In absolute terms the bonds stated in their balance sheets at face value rose from €18 billion in 1998 to €65 billion in 2002, at an average annual rate of about 38 per cent. At the same time their other financial debts (essentially short-term and medium and long-term bank borrowings) rose from €72 billion to €96 billion, at an average annual rate of about 8 per cent.

Figure II.3

Fund-raising on the bond market by the leading listed Italian industrial groups
(1998-2002)



Source: Based on R&S 2003 Mediobanca data. Financial debts are considered net of bonds. Obligations maturing within one year included in short-term financial debts have been added to bonds (and therefore deducted from the total of financial debts). The data for the Olivetti-Telecom group refer, for 1998, to the sum of the data of the consolidated balance sheets of Olivetti, Telecom and Seat, for 1999, to the sum of the consolidated balance sheets of Olivetti (which contained Telecom) and Seat, and as of 2000 to the consolidated balance sheet of Olivetti (which as of 2000 contained both Telecom and Seat). The Cirio group is excluded from the analysis. The data in US dollars of the balance sheet of ST Microelectronics have been converted into euros at year-end euro/US$ exchange rates.

The above figures show that, as of 1998, the main listed industrial groups preferred to issue bonds in order to raise debt capital rather than increase their bank borrowings. There therefore was not, at least at aggregate level, a replacement of bank debt with bonds but rather a tendency to issue more debt securities.

The growth of the corporate bond market was accompanied by the first, and at the same time very large, corporate failures. In the main European countries the failure of companies with bonds widely distributed among the public is much more common and dates back much further in time than in Italy. It is also highly concentrated in the Anglo-Saxon countries, which have traditionally had more market-oriented financial systems.

Research carried out by the rating agency Moody's shows that between 1985 and 2001 there were 69 failures of European companies that had issued corporate bonds for a total of about €22 billion. Of the companies that failed, no less than 29 were English (42 per cent of the total number) and their bonds in default amounted to about €13 billion (about 60 per cent of the total value). Next came the Netherlands with 4 failed companies and bonds in default for €1.9 billion; France had 4 failed companies and Germany 3, but in both cases the bonds in default amounted to less than €500 million. No Italian company defaulted on its bonds in this period. In 2002, again on the basis of research published by Moody's, there was a substantial increase in the total value of the bonds of European companies that failed, which rose to about €43 billion or twice as much as the total amount of the defaults of the 16 previous years. In 2002 some 32 European companies defaulted on their bonds, of which 15 were English, 8 Dutch and 3 German (while Sweden, Norway, Switzerland, France, Belgium and Italy recorded one case each). Of the €43 billion of bonds in default, about 65 per cent were issued by English companies and 25 per cent by Dutch companies, while the remaining 10 per cent or so were issued by companies of other European countries.

A special category of bonds (among other things in view of their technical features) consists of the securities issued by companies set up to securitize receivables. At 30 July 2003 there were about 360 such loans outstanding for a total value of more than €90 billion (Box 3).

Turning to bank bonds, the stock of such securities expanded further in 2003, confirming the trend of the last few years. In fact the value of outstanding bank bonds rose from €124.2 billion in 1995 to €336.5 billion at 30 September 2003 (Figure II.4).

Box 3: Asset backed securities

The securities placed in connection with securitizations of receivables (known as asset-backed securities or ABS) are bonds issued by companies established under Italian law entered in the special register of financial companies kept by the Bank of Italy (under Article 107 of the Consolidated Law on Banking and used as special purpose vehicles (SPVs) for such transactions. Such companies therefore issue bonds "collateralized" by assets consisting of receivables of various kinds (in the case of mortgage loans, the term mortgage-backed securities is used).

In some ways ABS are comparable to corporate bonds. In particular, from the regulatory standpoint Law 130/1999, which governs the securitization of receivables, requires the placement of such securities always to be accompanied by the preparation of a prospectus (even if the offering is restricted to professional investors) and the issue of a rating if the securities are to be offered to non-professional investors. The rules on the solicitation of investors in connection with ABS are thus more rigorous and prescriptive than those on "normal" corporate bonds contained in the Consolidated Law on Finance.

The companies used as SPVs for the securitization of receivables (which are normally the assignees) can usually be traced back to a bank or a company belonging to a banking group (leasing companies, financial companies, etc.) and less often to corporate issuers. In other cases, the SPVs are companies that have issued bonds in connection with securitizations of credits of bodies in the public sector (regions, INPS, the Ministry for the Economy and Finance).

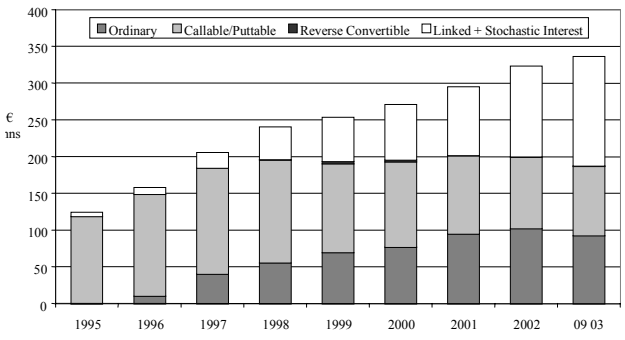
The table provides an indication of the size of the market for ABS at 31 July 2003, according to the type of originator (i.e. the company that assigns the credits and normally controls the assignee SPV). In total there were 360 bond loans for an issued value of more than €90 billion. The most important SPVs are those related to the banking industry, with nearly €50 billion of bonds placed), followed by those related to the public sector, with nearly €30 billion placed). By contrast, corporate issuers have issued ABS for about €5 billion.

About 96 per cent of issues of ABS have been rated even though no public offerings of such financial instruments have ever been made in Italy (as mentioned earlier, a rating is mandatory under Law 130/1999 only if the securities are offered to non-professional investors). About 92 per cent of issues are listed on the Luxembourg market (95 per cent in value terms) and virtually none on an Italian regulated market (the only exceptions in this respect are 3 issues by Società per la Cartolarizzazione dei Crediti Inps - Scci s.p.a. and 4 by Società per la Cartolarizzazione degli Immobili Pubblici - Scip s.p.a., which are listed on the Luxembourg Stock Exchange and the MTS government securities market.

Figure II.4

Ordinary and structured bank bonds

(outstanding amounts by type of bond; in millions of euros)



Source: Based on Kler's data.

In particular, the stock of structured bank bonds grew from about €124 billion in 1995 (including callable and puttable bonds) to about €244 billion at 30 September 2003, an increase of 97 per cent.

Among the different categories of structured bank bonds, there was substantial growth in linked and stochastic interest bonds, the stock of which rose from €5.4 billion in 1995 to €149 billion in September 2003, when they accounted for 61 per cent of the total value of outstanding structured bonds.

Issues of asset-backed securities by companies for the securitization of receivables [1]
(at 31 July 2003; amounts in millions of euros)

Type of originator (assignor)	Value	Number of issues	of which: with a rating
listed bank	35,783	167	164
unlisted bank	13,367	94	93
Total banks	*49,149*	*261*	*257*
public entity	28,763	36	30
unlisted financial company	5,674	39	38
listed financial company	2,323	9	9
Total financial companies	*7.997*	*48*	*47*
listed non-financial corporation	3,987	12	9
unlisted non-financial corporation	1,264	5	5
Total non-financial corporations	*5,252*	*17*	*13*
not identifiable	326	3	3
Total	*91,486*	*365*	*351*

Source: Based on Bondware data. [1] Rounding may cause discrepancies in totals.

By contrast, the stock of callable and puttable bonds steadily declined to a value of about €94 billion in September 2003 and a share of 39 per cent of the total value of outstanding structured bonds, compared with 75 per cent at the end of 1998.

Reverse convertibles deserve to be considered apart. They now play a marginal role, the value of those currently outstanding having fallen to 11 per cent of the stock at the end of 1999, when their value peaked at €3.4 billion.

A more general analysis of banks' bond fund-raising shows that there has been a major shift towards more complex structures in terms of the engineering of these financial products and hence greater difficulty in providing investors with a transparent indication of their risk/return profiles.

In particular, the simpler structures, such as callable and puttable bonds, which had made up almost the entire stock of bank bonds in 1995 amounted to just under 30 per cent of the total in September 2003. By contrast, the more complex structures, consisting of linked and stochastic interest bonds, amounted to 44.3 per cent of outstanding bank bonds in September 2003, compared with only 4 per cent in 1995.

The shift in the composition of the stock of bank bonds can be attributed primarily to the increased demand for instruments with returns linked to stock indices and the consequent difficulty of placing traditional fixed and variable rate bonds owing to the historically low levels of short and medium and long-term interest rates.

The share of structured bank bonds in households' financial portfolio is estimated to have risen from 53 per cent in 1995 to 90 per cent in September 2003.

As regards the concentration of the market for structured bonds in the period in question, the first five issuers had a market share of about 50 per cent, which was due in large part to the operations of the first four banking groups. Moreover, more detailed analysis of the top ten banking groups with structured bonds in issue at 30 September 2003 shows that more than 50 per cent of the stock of such instruments was issued in the last three years. Focusing attention on the data for the first nine months of 2003 showed that almost half the value of the issues consisted of pure indexed bonds.

The listing of structured bank bonds is becoming less common and is limited mainly to large issues, which presumably allow the fixed costs involved to be amortized. Listing is also more common for issues that combine the features of indexed and stochastic interest bonds than for those of the callable/puttable type.

Fund-raising operations and IPOs: an overview

Four IPOs were carried out in 2003, compared with six in 2002. The total amount involved fell by about a half, from €1,062 million to €550 million (Table II.5). This result is in line with the downward trend observed in the preceding years for transactions that are extremely sensitive to difficult conditions on financial markets. By contrast the number of capital increases and issues of convertible bonds rose from 22 to 27 and their value from €4.1 million to €9.8 million.

The admissions to listing of bonds rose from 24 in 2002 to 31 in 2003 and from €4.7 billion to €5.6 billion, an increase of 20 per cent. By contrast, there was a further decline in new listings of covered warrants after that recorded in 2002.

Other placements included 5 public offerings for a total value of €0.9 billion. Two of these offerings were made by companies that did not have securities listed on regulated markets, but their combined value was modest (€34 million). The other three offerings were made by foreign issuers and therefore involved the recognition of foreign prospectuses; the value of these offerings was much higher than in 2002 (€881 million, compared with €35 million).

The equity capital raised on the leading world stock markets showed a further fall in 2003.

In the United States, while the total number of offerings remained virtually unchanged (88 in 2003, compared with 90 in 2002), the fresh funds raised fell by about 38 per cent, from about €24 billion to about €15 billion. In Europe there were no IPOs on the Euronext Paris markets in 2003 or on the various segments of the Deutsche Börse. In the United Kingdom the number of IPOs and the funds they raised fell by about 60 per cent with respect to 2002.

Table II.5

IPOs on regulated markets and other public offerings
(amounts in millions of euros)

	Number of transactions				Value			
	2000	2001	2002	2003	2000	2001	2002	2003
Offerings for listing purposes [1]								
shares	44	18	6	4	6,903	3,935	1,062	550
bonds	....	21	24	31	....	4,038	4,733	5,558
covered warrants [2]	3,343	8,194	6,668	4,749	—	—	—	—
units of closed-end funds	--	--	1	--	--	--	189	--
Capital increases and issues of convertible bonds [3]	19	23	22	27	3,624	8,489	4,145	9,800
Other offerings of listed securities [4]	2	1	2	1	6,613	2,721	1,464	2,173
Offerings of unlisted securities by listed Italian issuers [5]	....	....	2	--	....	....	1,127	--
Offerings of unlisted securities by unlisted Italian issuers [6]	3	2	3	2	97	31	138	34
Offerings by foreign issuers								
recognition of foreign prospectuses	11	7	13	3	25	23	35	881
pan-European public offerings [7]	3	1	--	--	985	63	--	--

[1] The data refer to offerings for which the listing particulars were cleared during the year. The figures for shares and units of closed-end funds include only the admissions to listing by means of a public offering. [2] The figures refer to the number of new instruments admitted to listing during the year. No figure is given for their value since both the price and the number of securities included in the particulars are purely indicative. [3] Includes public offers for the subscription of securities other than IPOs, rights offerings and offers for the conversion of savings shares into ordinary shares with payment of a cash balance. [4] Public offers for the sale of securities and private placements other than for listing purposes. [5] The figures refer exclusively to offerings by companies having securities listed on regulated markets. [6] The figures refer to offerings by companies not having securities listed on regulated markets.. [5] The figure refers to the Italian part of the offerings.

Table II.6

Admissions to listing on the main European equity markets [1]
(amounts in billions of euros)

	France (Euronext Paris [2])		Germany (Deutsche Börse [3])		United Kingdom (London Stock Exchange [4])			
	Number of companies	Funds raised	Number of companies	Funds raised	Number of companies		Funds raised	
					Total	of which: investment companies and preference shares	Total	of which: investment companies and preference shares
1996	54	1	20	10	....	....	14	....
1997	63	7	25	3	....	....	11	....
1998	116	7	67	3	84	....	6	....
1999	66	7	134	13	74	42	9	3
2000	77	12	134	26	133	51	18	5
2001	20	13	21	3	85	69	11	5
2002	8	3	5	..	42	25	8	2
2003	--	--	--	--	17	13	3	..

Sources: National stock exchanges. The figures refer exclusively to IPOs by domestic companies (excluding spin-offs, mergers and transfers from one segment to another). [1] For France and Germany the data in local currency prior to 1999 have been converted into euros using the fixed euro/franc and euro/DM exchange rates. For the United Kingdom the data have been converted using the year-end euro/sterling exchange rate and for the years prior to 1999 the year-end euro/sterling exchange rate calculated by Thomson Financial Data. [2] Does not include the marché libre. [3] Does not include the Freiverkehr segment. [4] Does not include the AIM segment.

Initial public offerings

In 2003 four initial public offerings were made on the MTA electronic share market, while none were made on either the Expandi Market or the Nuovo Mercato (Table II.7). The number of IPOs thus continued on its downward trend and reached the lowest point since 1995; the funds raised were also less than in 2002. The above results provided further confirmation of the well-known correlation between market performance and IPOs.

The fresh funds raised in initial public offerings through the subscription of newly-issued shares amounted to €67 million or 12 per cent of the total value of the offerings. The combined value of the shares offered for subscription and sale was equal to 39 per cent of the post-offering market value of the newly-listed companies, a slight increase compared with the figure for 2002.

The ownership structures of the companies admitted to listing on the Stock Exchange in 2003 did not differ significantly from those observed in previous years (Table aII.3). On average the controlling shareholders held 87 per cent of the capital before the offering (just over 83 per cent in 2002); if all the shareholders with an interest of more than 2 per cent are considered, the figure rises to 91 per cent for 2003 and 99 per cent for 2002. After listing, the controlling shareholders held about 54 per cent of the capital (58 per cent in 2002); if all the shareholders with an interest of more than 2 per cent are considered, the figure rises slightly, to 58 per cent for 2003 and 67 per cent for 2002.

Table II.7

Initial public offerings
(amounts in millions of euros)

	Number of companies	Pre-offering market value [1]	Value of the offerings			Share of the post-offering market value [2]
			subscription	sale	total	
Stock Exchange (MTA) and Expandi Market						
1995	11	22,675	274	3,396	3,670	33.1
1996	12	5,550	721	945	1,666	26.6
1997	10	2,126	227	606	833	35.4
1998	16	3,844	614	1,231	1,845	41.7
1999	21	65,069	1,187	21,567	22,754	33.6
2000	13	14,296	1,130	1,379	2,509	16.3
2001	13	7,820	2,078	1,722	3,800	36.1
2002	6	2,504	638	424	1,062	33.8
2003	4	1,340	67	483	550	39.1
Nuovo Mercato						
1999	6	719	227	39	266	27.9
2000	31	14,012	3,840	554	4,394	24.6
2001	5	372	121	14	35	27.3
2002	--	--	--	--	--	--
2003	--	--	--	--	--	--

See the Methodological Notes. [1] Market value of the companies admitted to listing, calculated on the basis of the offering price and the pre-offering quantity of shares. [2] As a percentage of the post-offering market value, calculated on the basis of the offering price and weighted by the size of offerings. The figures for the Stock Exchange do not include ENI in 1995, Enel in 1999 or Snam Rete Gas in 2001.

In 2003 the results of IPOs continued to be adversely affected by the weak performance of the economy, in line with a tendency that first emerged in 2000 (Table aII.4). The ratio between demand supply rose slightly compared with the previous year to about 2 for both public offerings (1.8, as against 1.1 in 2002) and institutional placements (1.6, as against 1.1 in 2002).

Table II.8

Underpricing in IPOs

	Number of offerings [1]	Average underpricing [2]	Median underpricing [2]
Stock Exchange (MTA) and Expandi Market			
1995	10	9.3	8.3
1996	11	8.9	8.7
1997	9	5.3	8.8
1998	15	5.7	2.7
1999	17	13.2	-0.8
2000	9	0.9	4.9
2001	11	-1.3	-1.1
2002	4	2.3	4.8
2003	2	-4.1	-4.1
Nuovo Mercato			
1999	6	26.9	14.1
2000	31	15.6	8.8
2001	5	4.5	5.1
2002	--	--	--
2003	--	--	--

Source: Based on Datastream data. See the Methodological Notes. [1] Does not include offerings of privatized companies or those of companies controlled by foundations or public entities. [2] Percentage difference between the market price on the first day of trading and the offering price, adjusted for the movement in the market index (Mib storico, the Expandi Market index and, from 2000, the Nuovo Mercato index).

Compared with 2002 there was a shift in the distribution of the securities offered to the different types of investor. In fact the share reserved to institutional investors contracted from 50 to 45 per cent, while that reserved to the public increased significantly, from 28 to 40 per cent. There was a further decline in the share of foreign institutional investors, from just above 20 per cent to about 15 per cent.

For the two issuers that did not belong to the group of companies under public-sector control (Isagro and Trevisan), the market price on the first day of trading (adjusted for the movement in the market index) was below the offering price by about 4 per cent on average (reflected in a negative sign for the underpricing shown in Table II.8). However, it is not possible to draw conclusions about the behaviour of underpricing owing to the very small number of IPOs.

With reference to potential conflicts of interest facing placers, in 2003 all the companies admitted to listing were indebted towards their placers or other companies belonging to the same group (Table II.9). The loans granted in these credit relationships amounted on average to 14 per cent of the total financial debts of the companies concerned. Although this figure refers to a very small number of issuers, it is nonetheless much lower those recorded in the three previous years. In only one case did the sponsor, which was also the global coordinator and responsible for the offering, hold an equity interest before the offering, but it was tiny – about 0.02 per cent.

Among other things owing to the small number of admissions to listing, there was a sharp increase in the concentration of this segment of investment banking. The market share of the first three intermediaries that acted as global coordinators rose from 65 per cent to about 82 per cent (Table aII.5), while that of the first intermediary remained stable at about 30 per cent. In only one case, i.e. 25 per cent of the IPOs, was there a foreign intermediary, a reduction on the figure of 50 per cent recorded in the two previous years.

Table II.9

Credit and equity relationships between newly-listed companies and the intermediaries involved in the IPO [1]

	2000	2001	2002	2003
Companies with credit relationships with sponsors and/or placers				
number of companies	23	10	3	4
percentage of newly-listed companies [2]	52.3	55.6	50.0	100.0
average share of debt financing provided by sponsors and placers [3]	27.2	27.8	46.1	13.9
Companies with equity relationships with sponsors and/or placers				
number of companies	11	2	1	1
percentage of newly-listed companies [2]	25.0	11.1	16.7	25.0
average share of equity financing provided by sponsors and placers [4]	18.1	19.8	28.3	..

Sources: Consob and Borsa Italiana s.p.a. data. See the Methodological Notes. [1] Credit and equity relationships at the date of the offering between companies admitted to listing on the Stock Exchange (MTA), the Expandi Market and the Nuovo Mercato and the sponsor, specialist, global coordinator or lead manager of the offering and other intermediaries belonging to the same group as the above. [2] Percentages. [3] As a percentage of total financial debt. [4] As a percentage of the pre-offering share capital.

Table II.10

Institutional investors' equity holdings in newly-listed companies [1]

	Companies		Number of institutional investors [4]	Pre-offering share [5]	Post-offering share [6]
	Number [2]	% of total [3]			
Stock Exchange (MTA) and Expandi Market					
1995	6	54.5	2.3	27.7	8.5
1996	6	50.0	3.7	47.3	23.2
1997	2	20.0	1.5	40.9	7.1
1998	4	25.0	4.3	48.3	18.9
1999	6	28.6	1.7	20.1	5.4
2000	4	30.8	2.0	26.9	15.6
2001	5	38.5	1.6	32.6	15.0
2002	2	33.3	2.5	27.1	15.2
2003	3	75.0	2.0	22.0	10.1
Nuovo Mercato					
1999	3	50.0	2.7	42.3	19.9
2000	14	45.2	2.9	25.6	16.4
2001	1	20.0	1.0	5.0	3.6
2002	--	--	--	--	--
2003	--	--	--	--	--

See the Methodological Notes. [1] Institutional investors comprise closed-end investment funds, venture capital companies and commercial and investment banks, excluding foundations and savings banks. The data refer only to companies in which such investors were present. [2] Number of companies listed during the year in which institutional investors held an interest at the offering date. [3] Percentage of all the companies listed during the year on the reference market. [4] Average number of institutional investors holding an equity interest at the offering date. [5] Average percentage of the share capital held by institutional investors at the offering date. [6] Average percentage of the share capital held by institutional investors immediately after the offering.

As regards the presence of institutional investors (closed-end investment funds, venture capital companies and commercial and investment banks) in newly-listed companies, they held shareholdings in 3 of the 4 companies admitted to listing in 2003 (Table II.10). Compared with 2002, the average number present fell from 2.5 to 2, while the gap between their pre-offering share (22 per cent) and their post-offering share (10 per cent) remained unchanged.

Placement of securities of listed companies and extraordinary corporate actions

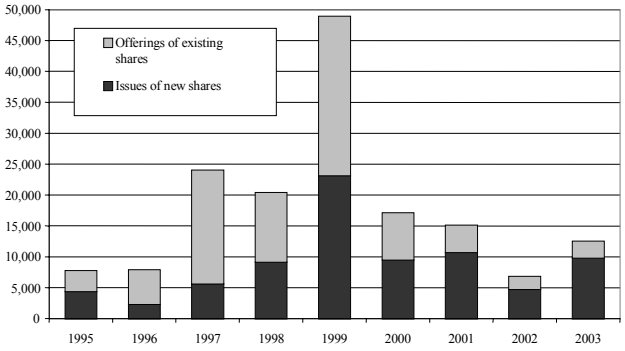
Offerings of shares and convertible bonds (including IPOs), increases in capital and sales of shares by listed companies amounted to about €12.5 billion (Figure II.5), an increase of more than 80 per cent compared with 2002 that was attributable almost entirely to capital increases.

Some 80 per cent of the total amount offered consisted of newly-issued shares. Most of the offerings were aimed at existing shareholders in rights issues to increase the capital. More specifically, new shares and convertible bonds were allotted for a total of €9 billion (corresponding to 91 per cent of the total of such offerings; Table aII.6). As mentioned above, this reflects

the fact that new issues were linked almost exclusively to increases in capital. The second most important category of shareholders consisted of institutional investors, which were allotted shares and convertible bonds for a total of €2.5 billion or 20 per cent of the total amount offered. The public played a marginal role, with the allotment of about 8 per cent of the total.

Figure II.5

Placement of shares and convertible bonds of listed companies [1]
(millions of euros)



Sources: Consob archive of prospectuses and Borsa Italiana s.p.a. notices. See the Methodological Notes. [1] The figures refer to companies listed on the Stock Exchange (MTA), the Expandi Market and, from 1999 onwards, the Nuovo Mercato. [1] The figure for 2002 includes a public offering for listing purposes of units of a closed-end real-estate fund.

The transactions with institutional investors included the sale by public-sector entities of equity interests in two newly-listed companies (Meta and Hera); the shares allotted were equal to respectively 14.9 and 25.1 per cent of the share capital (Table aII.7). In the second half of the year the Ministry for the Economy and Finance sold a 6.6 per cent interest in Enel for about €2.2 billion (Table aII.8); the Ministry first transferred the holding to an intermediary, which then placed the shares with institutional investors.

Among the most significant extraordinary corporate actions, which in some cases served to simplify the structure of the group, it is worth noting those concerning the Pirelli group, the Olivetti and Telecom groups, the Seat Pagine Gialle group, the Snia group, the Autostrade group, the Banca Popolare di Bergamo Credito Varesino and Banca Popolare Commercio e Industria groups, and the Banca Popolare di Lodi group.

The Pirelli group carried out a series of transactions in 2003 aimed at simplifying and strengthening the group's capital base. More specifically, in May Pirelli & C. s.a.p.a. resolved to change its corporate purpose and to transform the business from a limited partnership into a limited company called Pirelli & C. s.p.a. This triggered the right of withdrawal for shareholders who disagreed with the plan. In June Pirelli & C. s.p.a. increased its capital by means of a rights offering on the basis of 3 new shares for each share held. To each share a free warrant was attached exercisable between 2003 and 2006 and giving the right to subscribe at the par value for one new ordinary share of Pirelli & C. s.p.a. for every 4 warrants held. The warrants were listed on the MTA electronic share market in November 2003. In August Pirelli & C. Luxembourg s.p.a. and Pirelli s.p.a. were merged into Pirelli & C. s.p.a. After the merger the latter came to hold the interests in the group's main operating directly. For the purposes of the merger the issuer prepared the document referred to in Article 70.4 of Consob Regulation 11971/1999 on issuers.

In 2003 Telecom Italia s.p.a. was merged into Olivetti s.p.a.; one of the main objectives of the transaction, part of a broader financial and industrial reorganization, was to simplify the chain of control linking the two groups. Olivetti s.p.a. changed its name into Telecom Italia s.p.a. and took over the corporate purpose of the absorbed company, thus triggering the right of withdrawal for Olivetti shareholders who disagreed with the plan. Olivetti settled the claims of those of its shareholders who exercised the right of withdrawal and also made a partial-acquisition tender offer for Telecom Italia ordinary and savings shares.

The extraordinary corporate actions involving the Seat Pagine Gialle group were highly complex. Seat Pagine Gialle s.p.a. first spun off the directories part of its business to a newco with the same name and changed its own name to Telecom Italia Media s.p.a. Telecom Italia s.p.a. signed a contract whereby it would sell ordinary shares amounting to about 61.5 per cent of the entire share capital of the post-spin-off Seat Pagine Gialle to a newco called Silver s.p.a. set up (through

two other vehicle companies: Spyglass s.p.a. and SubSilver SA) by institutional investors. Following the purchase, Seat Pagine Gialle was merged into Silver s.p.a., which was merged into Spyglss s.p.a. immediately afterwards. The latter then changed its name into Seat Pagine Gialle s.p.a. and was admitted to listing on the MTA electronic share market. The two mergers did not affect the operations of the listed merged company, since the activity of both Silver and Spyglass consisted exclusively in managing the controlling interest held (directly by the former and indirectly by the latter) in the same merged company. Thus, after the merger Seat Pagine Gialle s.p.a. continued to operate in the fields of telephone directories, the supply of information over the phone and business information. Before proceeding with the two mergers, fresh capital was injected into Silver and Spyglass in order to repay the debts they had incurred for the purchase of Seat Pagine Gialle. Following the increase in capital of Spyglass, the purchase debt was transferred to SubSilver SA, the company that now controls Seat Pagine Gialle s.p.a. When the two mergers were announced, the boards of directors of the two companies concerned nonetheless indicated that, upon completion of the operation, the new listed company might make an extraordinary distribution of reserves and raise finance to do so. The share of the dividends accruing to the controlling company, SubSilver SA, would be used to repay the purchase debt it had taken over. If this occurs, the operation will amount to a leveraged buyout since to all effects and purposes the debt incurred to make the purchase would be transferred to the listed company.

Snia entered the medical technology sector in 1986 by buying control of Sorin Biomedica s.p.a., which was subsequently merged into Snia. The activities of the former company were then organized in business units headed by a subsidiary. In 2003 Snia s.p.a. spun off this sector to a newco called Sorin s.p.a., while keeping its traditional operations in chemicals and synthetic fibres. The effects of the spin-off were subject to the admission to listing on the MTA electronic share market of the beneficiary company, which took place at the end of 2003. The spin-off thus led to the existence of two independent listed companies each of which focusing on its core business. The operation, which involved the preparation of the document referred to in Article 70.4 of Consob Regulation 11971/1999 on issuers, was structured in such a way that it did not trigger the right of withdrawal referred to in the Civil Code and the Consolidated Law on Finance.

*In January and February 2003 Autostrade s.p.a. was the subject of a complete-acquisition tender offer by Newco28 s.p.a., which led to the latter owning 54 per cent of Autostrade's capital. Newco28 was controlled by Schemaventotto s.p.a., which already owned a direct interest of about 29.7 per cent in the target company. In order to pay the consideration for the shares tendered and all the expenses connected with the offer, Newco28 relied almost exclusively on bank financing. With a view to rationalizing the group's operations and the structure of control, in May 2003 the shareholders' meetings of Newco28 and Autostrade approved an overall plan for the reorganization of the group and the merger of Autostrade into Newco28. An information document was drawn up pursuant to Articles 70, 71 and 71-*bis *of Consob Regulation 11971/1999 on issuers, together with a listing prospectus. The merger became effective as of the start of trading on 22 September 2003, when the absorbing company changed its name to that of the absorbed company, Autostrade s.p.a.*

The amalgamation of Banca Popolare di Bergamo - Credito Varesino s.c.r.l., Banca Popolare Commercio e Industria s.c.r.l. and Banca Popolare di Luino e di Varese s.p.a. led to the creation on 1 July 2003 of Banche Popolari Unite s.c.r.l, which is the new parent company of the group while, in view of the preliminary spinning-off of the companies' banking businesses, the original brand names continue to exist in the banking networks controlled by the new listed company. The approval of the merger plan triggered the right of withdrawal under Article 2437 of the Civil Code for the members of Banca Popolare di Luino e di Varese as a consequence of the change in the company's legal form. The shareholders' meetings that approved the merger plan also drew up the information document referred to in Article 70.4 of Consob Regulation 11971/1999 on issuers.

In 2003 Banca Popolare di Lodi undertook, together with some companies belonging to the banking group of the same name, a series of extraordinary corporate actions, including a substantial increase in

capital at the beginning of the year through the issue of shares and subordinated convertible bonds and aimed at shareholders and institutional investors. Towards the end of the year a major reorganization of the group's structure was implemented that led to the interests in banking networks acquired over the years being brought together under a listed sub-holding company, Reti Bancarie Holding s.p.a., and the companies engaging in banking-related activities under another, Bipielle Investimenti s.p.a. Reti Bancarie Holding was created through the merger of Bipielle Retail (the former unlisted sub-holding of the group) into Banco di Chiavari e della Riviera Ligure.

Lastly, it is worth mentioning the merger of Banca Toscana s.p.a. and Banca Agricola Mantovana s.p.a. into Monte dei Paschi di Siena s.p.a.

Offerings by unlisted companies and by foreign issuers

In 2003 the Commission cleared the prospectuses for 2 public offerings by companies that did not have securities listed on Italian regulated markets. The funds raised, in both cases through the issue of new securities, amounted to €35 million, a substantial decrease on the previous year (Table II.11).

The first of the two transactions was a public offering for the sale of 4.5 million ordinary shares of Aspes Multiservizi at a price of €5.25 each. The funds raised amounted to €23.6 million.

The second transaction was a public offering for the subscription of 4.1 million bonds issued by Banca Popolare di Puglia e Basilicata at a price of €2.58 each. The funds raised amounted to €10.6 million.

Offerings by foreign issuers in 2003 involved Consob's recognition of three foreign prospectuses for a total amount equal to about €880.7 million. The offerings were aimed at the employees of Italian companies controlled by the offeror.

Table II.11

Public offerings of unlisted securities [1]
(amounts in millions of euros)

Type of offering	Number of offerings						Value					
	1998	1999	2000	2001	2002	2003	1998	1999	2000	2001	2002	2003
Sale	2	--	--	1	--	1	90	--	--	4	--	24
Subscription	4	4	3	1	3	1	19	62	97	28	138	11
Total	*6*	*4*	*3*	*2*	*3*	*2*	*109*	*62*	*97*	*32*	*138*	*35*

[1] With reference to companies not having securities listed on regulated markets..

III. SECURITIES INTERMEDIATION

Industry structure

During the first half of 2003 the assets of individually and collectively managed portfolios increased slightly, by just over 1 per cent with respect to the end of 2002, while the ratio of assets under management to households' total financial assets remained virtually unchanged at about 29 per cent (Table III.1 and Figure III.1).

Table III.1

Individual and collective portfolio management[1]

	Percentage composition				
	Italian funds	Foreign funds[2]	Other foreign collective investment under-takings	Individually managed portfolios[3]	Total
1996	42.7	2.9	....	54.4	100.0
1997	52.6	3.5	....	43.9	100.0
1998	63.9	3.9	....	32.2	100.0
1999	65.1	8.5	....	26.4	100.0
2000	59.6	12.4	3.6	24.4	100.0
2001	54.0	13.7	3.7	28.6	100.0
2002	50.6	13.3	3.4	32.7	100.0
2003[4]	50.8	12.1	2.8	34.2	100.0

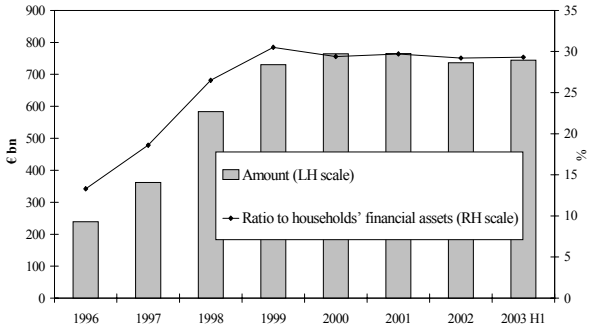
Sources: Based on Assogestioni and Bank of Italy data. See the Methodological Notes. [1] Rounding may cause discrepancies in the last figure. [2] Funds controlled by Italian groups. [3] Net of investments in mutual funds. [4] The figure refers to the end of June.

The composition of assets under management in collective and individual portfolios by type and nationality of investment product remained basically unchanged compared with the end of 2002. In particular, the share entrusted to Italian mutual funds was again just over 50 per cent, while those attributable to foreign funds controlled by Italian groups and other foreign collective investment undertakings fell slightly. Individually managed portfolios continued to gain share.

Insurance companies' sales of policies having a prevalently financial content (unit and index-linked) grew again in 2003. Insurance technical reserves in respect of contracts of this kind increased by 14 per cent between December 2002 and June 2003, from €84 billion to €96 billion. They also rose in relation to the assets of mutual funds and individually managed portfolios, from 11 per cent (€84 billion against €736 billion) to 13 per cent (€96 billion against €744 billion). As a proportion of households' financial assets, the sum of mutual fund assets, individually managed portfolios and insurance technical reserves in respect of policies having a prevalently financial content was basically unchanged at mid-2003 compared with a year earlier, amounting to around 33 per cent.

Figure III.1

Assets of individual and collective asset management products distributed in Italy

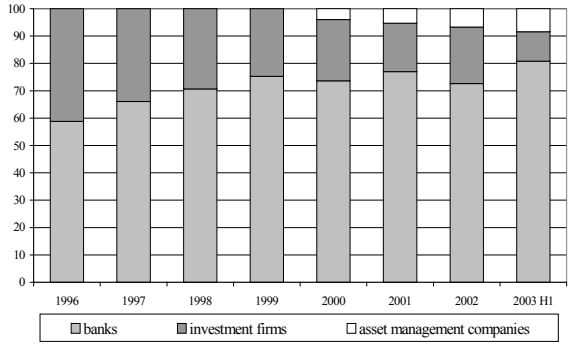


The contraction in revenues from investment services under way since 2001 persisted in the first half of 2003. Fee income fell by 13 per cent with respect to the first half of 2002, from €4.6 billion to €4 billion (Table III.2). A breakdown by type of intermediary shows a sharp drop of 42 per cent for investment firms. Banks' revenues from investment services fell by around 10 per cent and this item's contribution to their gross income decreased further to 9.7 per cent, compared with 10 per cent in the first half of 2002. Asset

management companies' revenues from managing individual investment portfolios rose by around 26 per cent.

Figure III.2

Fee income from investment services: banks, investment firms and asset management companies
(percentage distribution)



Banks' share of total revenues from investment services rose slightly with respect to the first half of 2002, from 78 to around 81 per cent (Figure III.2). Asset management companies' share also rose, from 6 to a little more than 8 per cent, while that of investment firms fell from 16 to around 11 per cent.

Collective asset management

In the first nine months of 2003 there was a divergence in the trend in mutual fund assets in the European Union vis-à-vis that in the United States. During the period funds' assets grew by around 13 per cent in the EU countries, while they declined by around 8 per cent in the United States (Table aIII.1). The result for EU funds' was the consequence of net subscriptions and the rise in share prices in the second quarter.

France and Luxembourg are the leading countries in Europe in the field of asset management, with respectively 25 and 24 per cent of the European market. Italy ranks third with 11 per cent, broadly unchanged from the previous year, followed by the United Kingdom.

The data on the composition of mutual funds' assets by type of fund at 30 September 2003 show a stable situation for the European market (Figure III.3). By contrast, in the United States the share of assets managed by equity funds rose from 42 to 47 per cent, with a corresponding decline from 36 to 30 per cent in that managed by money-market funds. This reallocation has accentuated the difference between Europe and the United States in the share of assets managed by equity funds.

Table III.2

Fee income of banks, investment firms and asset management companies from investment services [1]
(millions of euros)

	1996	1997	1998	1999	2000	2001	2002	2002 H1	2003 H1 [2]
Banks	1,697	3,094	5,878	7,677	9,919	7,570	7,143	3,593	3,246
as a percentage of gross income	*3.7*	*6.7*	*10.6*	*13.3*	*15.0*	*10.9*	*10.5*	*10.0*	*9.7*
Investment firms	1,190	1,590	2,434	2,513	3,021	1,740	2,033	752	433
Asset management companies [3]	—	—	,,,,	,,,,	536	519	662	269	338
Total	2,887	4,684	8,312	10,190	13,476	9,828	9,839	4,613	4,017

Source: Based on Bank of Italy data. [1] Rounding may cause discrepancies in the last figure. [2] Provisional data. [3] The figures refer only to fees from individual portfolio management.

Figure III.3

Percentage composition of the assets of mutual funds by type of fund in Europe

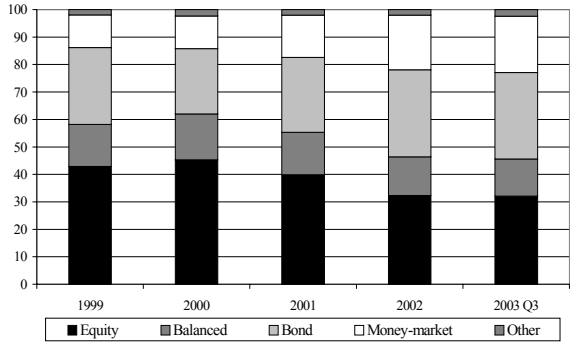
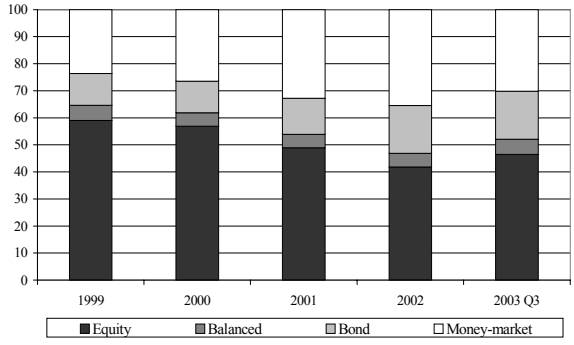


Figure III.4

Percentage composition of the assets of mutual funds by type of fund in the United States



As regards the Italian market and Italian fund managers in particular, in 2003 the number of asset management companies declined from 57 to 55 and the number of funds in operation from 1,072 to 1,012 (Table aIII.2). Funds recorded an overall net inflow of €6.6 billion, the first since 2000, thanks to net subscriptions of liquidity funds, whose fund-raising has been positive since 2001, and of bond funds and flexible funds, whose fund-raising turned positive last year. Redemptions exceeded subscriptions for both equity and balanced funds; the deficit was smaller than in the previous years, presumably because of the recovery of the stock markets. The assets under management by Italian fund managers rose during the year to €379 billion, compared with €361 billion at the end of 2002.

The number of foreign intermediaries operating in Italy continued to grow (Table aIII.3). The number of foreign companies offering units of collective investment undertakings to the public increased from 186 to 201, of which around 80 per cent have their registered office in Luxembourg. The number of funds and sub-funds they marketed in Italy rose more moderately, by 2 per cent.

The composition of the portfolio held by Italian mutual funds at the end of 2003 showed significant changes with respect to the end of 2002 (Table III.3). The portion invested in Italian government securities rose from 36 to 54 per cent, while that invested in foreign securities fell from 42 to 27 per cent. The latter development is explained by the decline in the share invested in foreign bonds from 25 to 9 per cent, which was not offset by the marginal rise in holdings of foreign equities. The portion consisting of Italian shares and bonds remained limited (7 per cent, compared with 9 per cent at the end of 2002).

The ownership structures of asset management companies were broadly stable with respect to the previous years (Table III.4). The companies controlled by banking groups again accounted for the preponderant share of Italian mutual funds' total assets (92.6 per cent). The market share attributable to insurance groups fell to 4.4 per cent, close to its 2001 level; that attributable to non-bank financial intermediaries and individuals remains marginal.

Table III.3

Asset allocation of Italian mutual funds
(end-of-period data)

	Assets (billions of euros)	Percentage composition						
		Government securities	Italian bonds	Italian shares	Foreign bonds [1]	Foreign shares	Total foreign assets	Other assets
1990	25	49.3	7.9	22.8	3.3	8.2	11.5	8.5
1995	66	50.2	3.2	14.9	8.9	14.1	23.0	8.7
1996	102	62.2	2.4	10.4	7.4	8.0	15.4	9.6
1997	190	52.0	2.1	10.6	13.6	10.7	24.3	11.0
1998	372	51.9	1.4	10.6	17.2	11.7	28.9	7.2
1999	475	34.2	2.7	10.1	21.5	25.8	47.3	5.7
2000	450	28.1	2.3	10.7	22.6	29.1	51.7	7.2
2001	404	30.3	3.5	7.1	25.8	24.7	50.5	8.6
2002	361	36.0	3.8	5.3	24.9	17.4	42.3	12.6
2003	379	54.3	2.9	4.5	8.8	18.3	27.1	11.1

Source: Assogestioni. See the Methodological Notes.. [1] Includes government securities.

Table III.4

Ownership structure of mutual fund management companies[1]
(percentages of total assets)

Type of controller	1997	1998	1999	2000	2001	2002	2003
Banking group	83.9	93.9	94.0	91.6	93.9	92.0	92.6
Insurance group	7.9	5.1	4.9	3.9	4.3	5.5	4.4
Joint venture	6.0	0.1	0.2	--	--	--	--
Non-bank financial intermediary	1.2	0.2	0.2	4.3	1.1	1.7	2.7
Individual	1.0	0.7	0.7	0.2	0.7	0.8	0.2
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Sources: Consob archive of prospectuses and *Il Sole 24 Ore*. See the Methodological Notes. [1] At 31 December with reference to mutual funds established under Italian law. Rounding may cause discrepancies in the last figure.

The popularity of insurance products having a prevalent or exclusive financial content continues to be a significant feature of the Italian market. Unit-linked and index-linked policies compete with traditional forms of medium and long-term investment, such as mutual funds. This is confirmed by the figures on insurance savings' share in households' financial wealth, which almost doubled between 1999 and 2002, while the share of mutual funds declined by around 3 percentage points (Box 4).

Investment services

In the first half of 2003 the fee income investment firms and banks earned from the provision of investment services contracted with respect to the same period of 2002, while that of asset management companies grew (Table III.5).

Box 4: Assets under management by insurance companies

The life insurance sector has undergone a remarkable transformation since the 1960s. Around 50 per cent of the premium income of the life sector comes from the sale of products having a prevalent or exclusive financial content. These products compete directly with such traditional asset management products as mutual funds, individually managed portfolios and pension funds, with which they have a high degree of substitutability.

As a consequence of the "financialization" of the insurance products of the life sector, the latter's technical reserves are now usually included in the statistics on managed savings, since they provide an approximate indication of the amount of savings managed by insurance companies.

Between 1999 and 2002 the savings element of life insurance policies rose from 4.9 to 7.6 per cent as a share of households' financial wealth, while the share invested in mutual funds declined from 22 to 19.7 per cent. Over the same period, insurance savings' share of the aggregate assets under management by institutional investors (net of duplications), rose from 15.5 to 22.5 per cent, while that of mutual funds fell from 59.5 to 42.6 per cent.

Assets under management as a percentage of households' financial assets [1]

	1999	2000	2001	2002
Mutual funds [2]	22.0	21.3	20.8	19.7
Insurance policies [3]	4.9	5.2	6.1	7.6
Pension funds	....	2.8	2.2	2.2
Individually managed portfolios [4]	8.0	6.8	8.3	9.5
Total	34.9	36.1	37.4	39.0

Source: Assogestioni. [1] Rounding may cause discrepancies in the last figure. [2] Includes foreign funds and closed-end funds. [3] Technical reserves of the life sector net of investments in mutual funds. [4] The figure refers to individually managed portfolios net of investments in mutual funds.

Within the life sector, "unit-linked" and "index-linked" policies are the insurance products with the highest financial content. The yields of the former are linked to funds managed within insurance companies (98 per cent of the cases) or, more rarely, to outside funds. Between 1999 and 2002 the number of unit-linked policies marketed in Italy (and thus the number of internal funds managed by insurance companies) increased from 291 to 1,175, overtaking the number of Italian open-end investment funds (which numbered 1,072 at the end of 2002). In parallel with the sales of unit-linked policies, the assets under management by insurance companies rose from €21 billion at the end of 1999 to around €45 billion at the end of March 2003. At the same date the assets of the insurance companies' internal funds amounted to 12.5 per cent of those of mutual funds, which totaled €360 billion.

For investment firms, the sharpest falls in revenues were in those from trading (57 per cent) and door-to-door selling (60 per cent), followed by income from reception of orders (36 per cent) and individual portfolio management (24 per cent).

For banks, the decline was greatest in income from door-to-door selling (18 per cent) and individual portfolio management (15 per cent); income from placement services fell by 8 per cent and from reception of orders by around 6 per cent.

Insurance companies are considerably more "aggressive" in their asset allocation than are mutual funds. In March 2003 the companies' internal funds were more than 45 per cent invested in shares; the corresponding figure for mutual funds was only 19 per cent.

Unit-linked policies offer returns pegged to indices (often equity indices) or baskets of financial instruments and are therefore similar to products such as structured bonds. Between 1999 and 2002 the technical reserves in respect of these contracts grew from €13 billion to €35.9 billion and rose as a ratio to structured bank bonds from 9 per cent to around 16 per cent.

At 31 December 2002 the total assets attributable to the aggregate of unit-linked and index-linked policies amounted to €80.3 billion; 35.5 per cent of this total referred to insurance companies controlled by Italian banking groups (i.e. groups in which banking is the prevalent activity), 30.6 per cent to Italian insurance groups (groups where insurance activity is prevalent) and 19.7 per cent to foreign insurance or banking groups. The remaining share was basically attributable to insurance companies controlled by Italian industrial groups or conglomerates or by the State. Italian banking groups thus have a significant presence in the linked-policy sector, larger than that of Italian insurance groups; in particular, the top five banking groups control about 23 per cent of the market.

The banking system dominates the distribution of insurance products having a prevalent financial content (linked policies and endowment policies). In 2002 bank branches accounted for 65 per cent of the premium income deriving from these products and financial salesmen for around 20 per cent. Insurance agents and brokers play a more limited role, accounting for around 13 per cent of the premium income.

Unit-linked policies and mutual funds: asset allocation compared [1]
(percentages at 31/03/2003)

Type of fund	Unit-linked policies				Mutual funds			
	debt securities	shares	other	total	debt securities	shares	other	total
Equity	10.9	81.9	7.2	100.0	0.8	84.1	15.1	100.0
Balanced	50.5	44.1	5.4	100.0	49.3	39.9	10.8	100.0
Bond	83.6	7.7	8.7	100.0	91.1	1.1	7.8	100.0
Money-market	64.2	0.4	35.5	100.0	76.9	0.0	23.1	100.0
Flexible	43.5	29.0	26.5	100.0	37.6	44.8	17.6	100.0
Total	*44.9*	*45.1*	*10.0*	*100.0*	*68.0*	*19.0*	*13.0*	*100.0*

Sources: Based on ANIA and Assogestioni data.. [1] Rounding may cause discrepancies in the last figure.

The fall in banks' fee income from portfolio management is consistent with a pattern observed in previous years in connection with the increase in the share of individual investment portfolios under management by asset management companies (usually belonging to the same group). At the end of the first half of 2003 more than 53 per cent of the total assets of individually managed portfolios were in those attributable to asset management companies, up from 50 per cent a year earlier (Figure III.5). The total assets of individually managed portfolios amounted to €423 billion, an increase of around 5 per cent with respect to the first half of 2002.

Table III.5

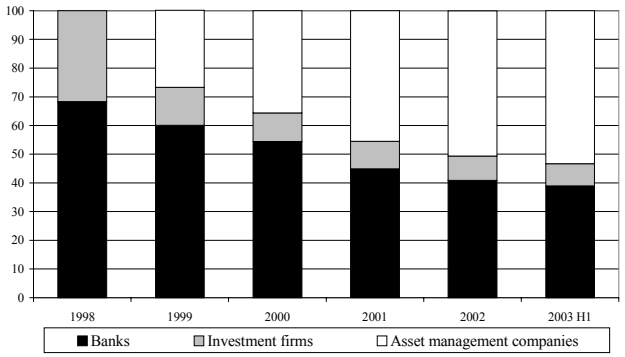
Fee income from investment services[1]
(millions of euros)

	1996	1997	1998	1999	2000	2001	2002	2002 H1	2003 H1[2]
Banks									
Trading	201	363	915	807	1,068	736	517	199	205
Placement	646	1,389	2,682	4,157	5,344	4,123	3,965	2,017	1,856
Portfolio management	358	559	851	1,236	1,189	1,093	1,041	521	441
Reception of orders	314	510	967	948	1,563	809	766	352	330
Door-to-door selling	178	273	463	529	755	809	853	504	414
Total	1,697	3,094	5,878	7,677	9,919	7,570	7,143	3,593	3,246
Investment firms									
Trading	283	407	654	581	925	551	640	318	137
Placement	107	86	149	229	409	258	372	92	93
Portfolio management	189	253	451	328	301	275	494	136	103
Reception of orders	29	40	67	395	253	196	216	73	47
Door-to-door selling	582	804	1,113	980	1,133	460	310	133	53
Total	1,190	1,590	2,434	2,513	3,021	1,740	2,033	752	433
Asset management companies									
Portfolio management [3]	—	—	,,,,	,,,,	536	519	662	269	338
Banks, investment firms and asset management companies									
Trading	484	770	1,569	1,388	1,993	1,287	1,158	517	342
Placement	753	1,475	2,831	4,386	5,753	4,380	4,338	2,109	1,949
Portfolio management	547	812	1,302	1,564	2,026	1,887	2,198	925	882
Reception of orders	343	550	1,034	1,343	1,816	1,005	982	425	377
Door-to-door selling	760	1,077	1,576	1,509	1,888	1,269	1,163	637	467
Total	2,887	4,684	8,312	10,190	13,476	9,828	9,839	4,613	4,017

Source: Based on Bank of Italy data. [1] Rounding may cause discrepancies in the last figure. [2] Provisional data. [3] The figures refer only to fees from individual portfolio management.

Figure III.5

Individual portfolio management: percentage composition of assets under management by type of manager



The asset allocation of individually managed portfolios at the end of the first half of 2003 did not show significant changes by comparison with the end of 2002 (Table III.6). The portion invested in government securities remained basically stable at around 35 per cent, while that invested in Italian bonds rose from 9.6 to 11.5 per cent. The portion invested in Italian equities also remained stable, as did that consisting of foreign securities (7.9 per cent). By contrast, the share invested in collective investment undertakings fell to 38 per cent, compared with 40 per cent at the end of 2002 and 41 per cent at the end of 2001.

Table III.6

Asset allocation of individual portfolio management by banks, asset management companies and investment firms [1]
(percentages of total assets)

	1997	1998	1999	2000	2001	2002	2003 H1
Government securities	55.1	42.5	30.2	25.0	30.2	35.9	35.2
Italian bonds	5.9	3.6	3.9	5.4	8.2	9.6	11.5
Foreign bonds	7.2	6.8	5.9	4.8	4.4	5.8	6.6
Italian shares	5.5	4.9	5.7	5.6	5.1	3.2	3.3
Foreign shares	1.6	1.6	2.7	2.5	1.9	1.5	1.3
Investment fund units/shares	17.9	35.3	46.8	52.4	46.6	40.2	38.4
Liquidity and other securities	6.8	5.3	4.8	4.3	3.7	3.8	3.6
Total	*100.0*	*100.0*	*100.0*	*100.0*	*100.0*	*100.0*	*100.0*

Source: Based on Bank of Italy data. See the Methodological Notes. [1] Rounding may cause discrepancies in the last figure.

A breakdown of assets under management by type of manager and financial instrument confirms the differences already seen in previous years between the investment choices of investment firms and banks (Table aIII.4). In particular, government securities make up 13 per cent of the portfolios managed by investment firms and around 27 per cent of those managed by banks; by contrast, a larger proportion of the portfolios managed by investment firms is invested in foreign securities and units of collective investment undertakings (19 and 58 per cent respectively, compared with 13 and 50 per cent in the portfolios managed by banks). Individually managed portfolios entrusted to asset management companies contain a higher share of government securities (45 per cent) and a lower share of units of collective investment undertakings (27 per cent).

Table III.7

Financial intermediaries by authorized investment services

	1998	1999	2000	2001	2002	2003
Investment firms						
Number of authorized intermediaries	191	183	171	162	158	131
Dealing for own account	69	60	55	51	45	38
Dealing for customer account	72	65	60	62	60	49
Placement with firm commitment underwriting [1]	38	37	36	34	32	23
Placement without firm commitment underwriting [1]	106	111	109	109	112	87
Individual portfolio management	102	99	91	85	80	70
Reception/transmission of orders and bringing together investors	80	75	79	93	89	74
Average number of services per intermediary	2.4	2.3	2.5	2.7	2.6	2.6
Banks						
Number of authorized intermediaries	806	813	781	753	725	710
Dealing for own account	569	607	587	576	558	544
Dealing for customer account	547	544	532	519	492	434
Placement with firm commitment underwriting [1]	240	276	276	276	266	264
Placement without firm commitment underwriting [1]	585	737	726	712	691	679
Individual portfolio management	220	256	253	250	240	241
Reception/transmission of orders and bring together investors	805	798	766	738	710	692
Average number of services per intermediary	3.7	4.0	4.0	4.1	4.1	4.0

Sources: Consob and Bank of Italy. [1] Includes placement, with or without firm commitment underwriting or stand-by commitments to issuers.

The number of intermediaries authorized to provide investment services continued to decline in 2003 (Table III.7). The number of registered investment firms and trust companies diminished by around 17 per cent last year, owing mainly to the negative situation in the markets, which led some intermediaries to conclude mergers (21 deletions from the register due to mergers) or to exit the sector voluntarily (6 deletions due to voluntary liquidation; Table aIII.5).

The number of banks authorized to provide investment services also fell further, although the decline of 2 per cent was less marked than that for authorized investment firms and trust companies. There was a significant reduction of 12 per cent in the number of banks authorized to deal for customer account, as many marginal, non-operational institutions decided to surrender their authorization.

Consob's activity

IV. SUPERVISION OF LISTED COMPANIES

Supervision of corporate disclosures

Last year saw a particularly high level of activity in the supervision of corporate disclosures. The Commission sent some 500 requests for data and information to directors of listed companies, members of boards of auditors and auditing firms (Table IV.1). Most of this supervisory activity concerned a small number of issuers, notably Cirio Finanziaria, Parmalat and Giacomelli. The Commission also challenged the company and consolidated accounts of these issuers, as well as those of Gandalf (see the next section on "Financial reports").

In one of the above-mentioned cases, the Commission also sent two written reprimands to the auditing firm.

Table IV.1

Supervision of corporate disclosures, ownership structures and research reports

	2002	2003
Requests for information under Articles 115.1 and 115.2 of Legislative Decree 58/1998		
information acquired from directors, members of the board of auditors, external auditors, general managers, parent and subsidiary companies	36	82
requests for data and information	100	317
requests for confirmation of major holdings	23	49
requests for information to identify the person responsible for fulfilling disclosure requirements in the event of charges of non-compliance [1]	52[1]	31
Total	*211*	*489*
Requests for information made to shareholders under Article 115.3 of Legislative Decree 58/1998	31	33
Inspections	2	4
Requests to publish data and information made under Article 114.3 of Legislative Decree 58/1998		
supplements to information to be provided in shareholders' meetings	69	18
supplements to periodic financial reports	1	--
information to be provided to the market (press releases)	25	46
monthly periodic disclosures	9	6
supplements to merger documents	2	1
supplements to tender offer documents	3	4
Total	*109*	*75*
Waivers of disclosure requirements under Article 114.4 of Legislative Decree 58/1998	5	10
Requests to publish research reports immediately in connection with rumours	3	10
Reports to the courts under Article 2409 of the Civil Code	1	--
Written reprimands	3	3
Annual accounts challenged	--	4

[1] Of which 7 additions to earlier requests.

In the case of Parmalat the examination of the annual accounts for 2002 and the half-yearly report to June 2003 revealed a lack of clarity with regard to some financial items that required action by the Commission aimed at supplementing the information disclosed to the market. In view of the primary importance of the items in question for the situation of the group company and the uncertainty surrounding them, the auditing firms engaged to audit the company's annual accounts and group accounts were invited to be especially careful in auditing the financial statements of the company and its subsidiaries, inter alia *by collaborating constantly with the board of auditors*

In another case an auditing firm was called upon to comply with Article 156.4 of the Consolidated Law on Finance, which requires the auditors to inform Consob immediately if they issue an adverse opinion. The firm was invited to adopt procedures that would ensure compliance with this provision.

As regards "companies in crisis", in 2003 Consob ordered 6 listed issuers to publish a monthly bulletin with updated information on aspects of their performance that were defined on a case-by-case basis according to the problems found. Including the companies that had received similar orders in 2002, at the end of 2003 the companies required to publish monthly bulletins numbered 15, chosen from among those that had reported losses exceeding one third of their share capital or with respect to which the auditing firm had expressed an adverse opinion or a disclaimer.

The requests to publish information supplementing that provided to the market numbered 75, compared with 109 in 2002. In this part of its activity Consob also considered companies with financial instruments widely distributed among the public.

During the year the Commission carried out the six-monthly updating of the list of issuers of financial instruments widely distributed among the public on the basis of the notifications received at 31 July 2003. The updated list included a total of 160 issuers, of which 117 required to comply in full with the disclosure obligations laid down in the Consolidated Law on Finance and 43 dispensed from complying (Table IV.2).

Table IV.2

Issuers with widely distributed financial instruments
(at 31 July 2003)

Type of issuer	Number of issuers
Issuers required to provide the market with information	117
of which:	
issuers of shares [1]	114
issuers of bonds	1
issuers of shares and bonds [1]	2
Issuers exonerated from providing the market with information on the basis of a reasoned request	43
Issuers listed on foreign regulated markets	--
Total	*160*

Source: Consob. [1] Includes issuers of convertible bonds.

During the year the Commission decided on 10 requests by listed companies to postpone the disclosure of information. Two of the companies ordered by Consob to issue a monthly bulletin on the implementation of their restructuring plans and the correction of their financial imbalances applied for deferment of the deadline for compliance (the end of every month). In another two cases, instead, the Commission decided on applications to be exonerated from the obligation to publish data and information.

In the first case the listed company (Cirio Finanziaria), which had been placed in liquidation and declared insolvent, pending its admission to the special administration procedure for large firms in crisis, requested that some information be excluded from one of the monthly bulletins it was required to publish at Consob's request since it was deemed to be no longer important or difficult to obtain in view of the company's situation at the time. The Commission ruled that the bulletin should explain the reasons for the absence of the information in question.

In the second case a company called La Doria signed an agreement to buy a major holding in the

capital of a company that in turn owned all the capital of another company, so that the listed issuer acquired a significant position in one of the sectors in which it operated. The company requested to be exonerated from the requirement to publish an information document pursuant to Article 71 of Consob Regulation 11971/1999 on issuers since it was of the opinion that, although one of the parameters specified in Consob Communication DIS/98081334 of 19 October 1998 for the purpose of establishing whether a transaction called for the preparation of an information document undoubtedly exceeded the 25 per cent threshold, taken together the parameters suggested the transaction in question did not require an information document to be prepared. The Commission nonetheless concluded that the obligation existed, especially in view of the size of the transaction and its importance for the company's future activity.

Consob also maintained a high level of supervision on the dissemination of research reports and statistics on listed issuers.

On 10 occasions in 2003 the Commission called on companies to release research reports immediately because rumours were circulating in the market and there were anomalous movements in the prices of the securities of the companies covered by the reports (Table aIV.1). The Commission also launched a general inquiry to verify intermediaries' compliance with the time limits for the release of research reports and their transmission to Borsa Italiana (and Consob).

The figures for the research reports on listed companies disseminated in 2003 show an increase in the proportion of "buy" recommendations and an equally large rise in that of "hold" recommendations. By contrast, the share of "sell" recommendations declined from 12.4 to 8.8 per cent (Table aIV.2). The data on the coverage of research reports show an increase in the number of companies covered in 2003 but also that those covered by four or less reports were about 35 per cent of the total, which was a significant increase on the figure for 2002.

On 1 January 2003 the first paragraph of Article 71-*bis* of Consob Regulation 11971/1999 on issuers came into force. It requires listed issuers to make an information document drawn up in the manner specified by Consob available to the public (and contemporaneously transmit a copy to Consob) on the occasion of transactions with related parties, including those concluded via subsidiaries, that, in view of the subject, the consideration or the manner or time of their conclusion, were likely to affect the security of the company's assets or the completeness and correctness of information on the issuer, including that of an accounting nature. The obligation may also be fulfilled by including the information in a press release or in an information document drawn up for an extraordinary corporate action such as a merger, spin-off, increase in capital through the contribution of tangible assets, or sale or purchase of assets.

The introduction of ad hoc disclosure rules for material transactions with related parties is intended to provide the market with information needed in determining the value of shares of listed issuers and arriving at an opinion on the quality of the work of directors.

Ten information documents were prepared under the new rules in 2003 and 6 press releases (Table IV.3). Most of the 10 information documents, concerning 9 listed companies, referred to intragroup transactions, such as the contribution or disposal of divisions, the provision of finance, the assignment of receivables and the transfer of equity interests. The transactions announced in press releases concerned intragroup dealings between listed companies and other subsidiaries (except in one case in which one of the counterparties was a company wholly owned by the majority shareholder of the listed company).

In enforcing the rules on the disclosure of major holdings, in 2003 Consob made 49 requests for confirmation of such holdings, compared with 33 in 2002, and 33 requests for the names of shareholders of companies with direct or indirect equity interests in listed companies (Article 115.3 of Legislative Decree 58/1998).

Announcements concerning major holdings totaled 1,030 in 2003, in line with the average of the three preceding years. About one third of the cases involved holdings that rose above the 2 per cent threshold and another third holdings that fell below this level (Table aIV.4). The largest number of announcements was made by "other companies", followed by banks and individuals (Table aIV.5).

Last year a total of 205 shareholders' agreements were announced with reference to 163 listed companies. In 154 cases the announcements referred to changes in previously announced agreements and in 51 cases to new agreements.

Table IV.3

Transactions with related parties disclosed to the market by listed companies in 2003

Company	Transaction	Counterparty/Counterparties
	Information documents	
Unicredito	spin-off of divisions	subsidiaries and a listed company
Credito Valtellinese	sale of the entire branch network	companies belonging to the same banking group and controlled by the same parent company
Alerion Industries	purchase of an equity interest in another company	listed company and chairman of the board of the listed company
Unicredito	contribution of divisions and partial spin-off	listed parent company and a subsidiary
Autostrade	contribution of assets (and merger of the listed company into the parent company)	parent company and subsidiaries
Gruppo Coin	contribution of a division	listed parent company and a wholly-owned subsidiary
Schiapparelli 1824	sale of an equity interest	listed company and a company almost wholly-owned by the parent company of the listed company
Lottomatica	sale for a consideration of a division	listed parent company and a subsidiary
Roma A.S.	relationship of a financial nature based on a current account	parent company and a listed subsidiary company
Credito Artigiano e Credito Valtellinese	assignment of bad debts	company belonging to the same banking group
	Press releases	
Banca Antonveneta	spin-off of real-estate division	listed company and a subsidiary of the listed company
Autostrada Torino-Milano	purchase of a minority interest	listed company and the parent company of the listed company
Acqua Pia Antica Marcia	purchase of buildings	subsidiary of the listed company and a company wholly-owned by the majority shareholder of the listed company
Banca Profilo	granting of a line of credit	listed company and a subsidiary
Ipi	purchase of an asset and an equity interest in a property company	company controlled by the listed company (buyer) and parent company of the listed company (seller)
Gruppo banca popolare di Verona e Novara	transfer of a branch network	companies controlled by the same listed company

Disclosure in public offerings and extraordinary corporate actions

The Commission cleared some 422 offering prospectuses in 2003, of which 268 were for the placement of collective investment undertakings and pension funds (Table IV.4). Most of the reduction with respect to 2002 was due to the fall in the number of transactions involving collective investment undertakings and pensions funds, which had numbered 520 in 2002. By contrast, the number of prospectuses for offerings of shares and bonds was essentially stable.

Table IV.4

Consob's enforcement activity in connection with offerings, admissions to listing and extraordinary corporate actions

	2002	2003
Number of prospectuses for:		
Admission to listing of shares,[1] of which:	14	14
- IPOs	6	4
Bond loans, of which:	21[2]	28
- only admission to listing [3]	16[3]	24
Issues of covered warrants [4]	102	26
Admission to listing of warrants	6	8
Other offerings of listed securities [5]	1	1
Offerings of unlisted securities of Italian issuers [6]	3	2
Offerings reserved to employees [7]	39	35
Rights offerings [8]	23	10
Offerings by foreign issuers, of which:	13	3
- recognition of foreign prospectuses	13	3
- pan-European public offerings	--	--
Collective investment undertakings and pension funds [9]	520	268
Total	*742*	*422*
Number of reports on extraordinary corporate actions:		
Mergers	43	44
Spin-offs	6	10
Increases in share capital [10]	58	66
Purchases/sales of Treasury shares	78	93
Changes to bylaws	81	85
Share conversions	1	3
Bond issues	5	9
Reductions in share capital	8	13
Total [11]	*254*	*323*

[1] The figures refer to transactions for which Consob cleared the listing prospectus during the year. [2] In one case the public offering was contemporaneous with admission to listing. [3] In addition to this figure one public offering was contemporaneous with admission to listing of a bond loan. [4] The number of prospectuses cleared during the year, each of which normally referred to the issue of more than one series of covered warrants. [5] Public and private offerings not for listing purposes. [6] Excludes offerings reserved to employees. [7] Includes stock option plans reserved to employees but excludes offerings that involved the recognition of foreign prospectuses. [8] Refers to companies that are listed. [9] Includes public offerings of units of mutual funds and shares of Sicavs, admissions to listing of units of Italian closed-end funds and financial instruments issued by foreign management companies and offerings of pension funds. [10] Includes increases in capital approved but not yet implemented (or implemented subsequently). [11] The total number of reports does not coincide with the sum of the different kinds since some reports had more than one subject.

The number of prospectuses for issues of covered warrants also fell substantially, from 102 in 2002 to 26 in 2003. The explanation lies in the greater use made by issuers of the possibility, introduced in Consob's regulations in 2001, of preparing prospectuses limited to the specification of the basic features of products and then exploiting the same prospectus for the subsequent issue of more than one series of covered warrants having the same basic features as those specified in the prospectus (so-called offering programmes).

In 2003 Consob cleared prospectuses for four IPOs on the MTA share market operated by Borsa Italiana. The examinations that led to the clearing of the prospectuses for the Isagro and Trevisan IPOs revealed some shortcomings.

Isagro heads a group of companies engaged primarily in research and development, marketing and distribution of its own and third parties' agricultural pharmaceuticals and in acting as a formulator for third parties. The structure of the group that came to the market was the result of a series of acquisitions made over the years that had involved a high level of bank borrowings. Consob intervened above all to ensure the prospectus made the level of group debt sufficiently clear and provided a detailed indication of how the proceeds of the IPO would be used. It also called on the company to: add information on its working capital; highlight the accounting risks connected with the possible failure to sell products for which the company had capitalized costs; draw attention to the importance of "non-recurring income" (which included the capital gain on the sale of an equity interest) in the result for 2002; describe the costs deriving from the need to enter into strategic alliances in order to face fierce competitive; spell out the risks associated with the expiration of its main patents and the revision by the competent Community authorities of the authorizations granted for trading in agricultural pharmaceuticals.

In the case of the prospectus for the Trevisan IPO, Consob focused above all on the unconventional mechanism adopted to encourage acceptance of the global offering. Nearly all the pre-IPO shareholders proposed that new shareholders be offered new shares, on the basis of one new share for every ten held, if given operating results were not achieved from 1 July 2003 to 30 June 2004. For the purposes of this protection mechanism an issue of bonus shares was approved that differed in some respects from the normal practice for bonus issues, in that it would not be carried out at once but be deferred and be subject to conditions. The shares deriving from the increase in capital were not to be allotted pro rata according to those held by the pre-IPO shareholders (who renounced almost all their allotment rights) as provided for in Article 2442 of the Civil Code.

Consob intervened to ensure that the prospectus contained sufficient information both on the triggering of the mechanism and the implementation of the increase in capital and on the evaluation of the company and the proposing shareholders with regard to the conformity of the bonus issue with the principles of Italian company law. According to the analysis put forward in the prospectus, the ban on making bonus issues subject to conditions was not an absolute principle that could not be waived but rather served exclusively to protect a subjective right of the shareholders, so that it could be waived with their agreement (given in the case in question with the unanimous approval, including by those who were not proposers, of the resolution to increase the capital). As for the non-proportional allotment of new shares to nearly all the pre-IPO shareholders, the argument put forward in the prospectus was again that the right protected was a subjective right of each shareholder and could therefore be waived.

In any case, in view of the unconventional aspects of the operation and the existence of disparate opinions in legal scholarship and divergent court decisions concerning the admissibility of conditional and deferred bonus increases in capital, the cautions section of the prospectus highlighted the risk of the resolution approving the increase in capital being declared null and void if it were challenged.

In 2003 Consob was also required to clear the prospectus for an offering of Cirio Finanziaria shares deriving from an increase in capital for the purposes of the plan for the restructuring of the group's debt.

Following the default on one of the 7 notes issued between 2000 and 2002 by Cirio group companies under English law (specifically, the issue maturing in November 2002), the company's board of directors, appointed in January 2003, drew up a plan for the restructuring of the group's debt and the reorganization of its activities to enable it to overcome the crisis under way. The key points of the plan were as follows: 1) the assumption by the listed issuer of part of the debts in relation to the issue of notes and a part of the bank debts of the parent company; 2) the subscription by the noteholders and creditor banks of an increase in the listed company's capital with exclusion of pre-emption rights to be paid for by canceling a part of their claims on the issuer; 3) the renouncement by the noteholders, vis-à-vis the listed issuer, the issuers and the guarantors of the notes, of the remaining part of their claims in relation to the notes not extinguished as specified above; 4) the renouncement by the creditor banks, vis-à-vis the listed issuer, the original borrowers and the guarantors of the remaining part of their claims in relation to the debt of the issuer and its parent company not extinguished as specified above.

The changes to the notes needed to implement the plan were to be approved by special meetings of the noteholders convened pursuant to the rules of each series.

In response to a query as to whether the case in question fell within the scope of the rules contained in Article 94 et seq. *of the Consolidated Law on Finance, the Commission ruled that the proposal to be made to the noteholders had all the characteristics of a public offering as defined in Article 1.1v) of the Consolidated Law on Finance since it was to be made to an indeterminate number of persons (the noteholders), was to be made known to the interested parties in a standardized way and its content was also standardized and could only be approved or rejected by the noteholders in specially convened meetings. Moreover, upon completion of the operation, noteholders who accepted would renounce their claims and receive a consideration in the form of newly-issued shares. The Commission accordingly concluded that the prospectus for the operation in question had to be published before the debt restructuring plan was submitted to the meetings of the noteholders for their approval.*

In its intervention Consob accordingly focused on the need to add a long series of cautions to the prospectus, which, among other things, would cover the issuer's financial situation, the debt restructuring plan, dealings with related parties and the shift in the composition of shareholders in the event of the plan being approved.

In the second half of 2003 an issuer listed on the Mercato Ristretto (now the Mercato Expandi) applied to the Commission under Article 57.3 of Consob Regulation 11971/1999 on issuers to be entirely exempted from the requirement to prepare a listing prospectus for its ordinary shares on the occasion of their transfer to the MTA share market. The grounds for the request were that the issuer intended to lists its ordinary shares on MTA and contemporaneously delist them from the Mercato Ristretto. This was the first application of the new version of Article 57 of the regulation on issuers, which governs the transfer of shares from one regulated market to another.

The Commission considered that, even though the shares were listed on a regulated market operated by the same company (Borsa Italiana), their transfer to a more highly regulated market such as MTA would entail both more extensive disclosure obligations for the issuer and greater protection for investors. The Commission also noted that even though the shares had been traded on a regulated market for more than two years the last prospectus submitted to Consob and made available to the public had been drawn up more than two years before the application for exemption was made. Accordingly, the Commission accepted the application only in part and required the issuer to prepare a prospectus providing the market with updated information on the more recent material events concerning the company.

In the first half of 2003 the Commission cleared the prospectus for a rights offering of ordinary shares by a company in the paper industry (Reno de Medici).

The offering in question was a rights offering of financial instruments to shareholders of a company with listed shares, which, under Article 33.2a) of Consob Regulation 11971/1999 on issuers, did not require Consob's clearance of the prospectus. However, since the company's ordinary shares were listed not only on MTA but also on a regulated market in another EU country and the rights offering was being made at the same time to the shareholders of both countries, the issuer had applied for clearance of the prospectus under Article 94.4 of Legislative Decree 58/1998, so as to have it recognized by the other country's regulatory authority. At the end of its examination, Consob cleared the prospectus and sent the competent foreign regulatory authority a declaration to that effect.

In 2003 the Commission examined more than 300 reports on extraordinary corporate actions undertaken by listed issuers. Apart from bylaw amendments, the most frequent actions were purchases and sales of treasury shares, increases in capital and mergers and spin-offs.

In performing this activity the Commission intervened three times with a formal request for the inclusion of supplementary information under Article 114.3 of the Consolidated Law on Finance. In two of these cases, concerning companies affected by serious financial difficulties, the Commission deemed it necessary to call for additional information to be provided to the shareholders' meeting and the market.

In one case the Commission invited the company to supplement the report: 1) by including an analysis of its financial position and that of the group at a recent date; 2) by indicating the key components of the development plan and the point reached in its preparation; and 3) describing the measures planned to meet the financing needs of the company and the group and the point reached in renegotiating the loans received from banks. The Commission also requested that this information should be transmitted to the forthcoming shareholders' meeting and that this should open with an announcement to the effect that it had been called under Article 2446 of the Civil Code, information that was lacking in the notice convening the meeting.

In another case of a meeting called under Article 2446 of the Civil Code, a football club (S.S. Lazio) was required to supplement its report with: 1) information on the use made of the cash increases in capital made in the last two years; 2) the grounds for excluding the more serious situation governed by Article 2447 of the Civil Code (reduction of the share capital below the legal limit); 3) the net income reasonably to be expected for the current year; 4) the steps the company intended to take to meet its financing needs; 5) the total credit lines available and the amounts drawn; 6) the steps planned to integrate the business plan and the latter's timetable; 7) the qualification contained in the auditor's report regarding the ability of the company to continue in business; 8) the steps taken, if any, to maintain the framework agreements with players if the capital increase reserved to them was not approved; and 9) the existence of any commitments or declarations of intent by shareholders regarding the increase in capital to be proposed in the meeting and the steps taken by the company to ensure approval of the increase.

Turning to tender offers, in 2003 the Commission cleared 33 offer documents involving 42 financial instruments: 33 listed shares, 6 bonds and 3 unlisted shares (Table IV.5).

Two of the tender offers involving bonds, of which one was a cash offer and the other a cash and exchange offer, were made by Argentine companies for bonds that they had issued. In both cases the offer was part of a larger global offer aimed at restructuring the company's debt.

Table IV.5

Financial instruments that were the subject of cash and/or exchange tender offers cleared by Consob in 2003

	Listed shares			Bonds	Unlisted shares	Total
	ordinary	savings	preference			
Voluntary offers	9	4	--	6	3	22
Takeover bids [1]	5	--	--	--	--	5
Mandatory offers	6	--	--	—	—	6
Residual-acquisition offers	8	—	1	—	—	9
For treasury shares	--	--	--	—	--	--
Total	*28*	*4*	*1*	*6*	*3*	*42*

Source: Consob archive of offer documents. [1] The number includes competing offers.

*The first of these offers was a public cash tender offer made by Telecom Argentina Stet - France Telecom whose subject consisted of 8 bond loans. The offer price was to be the same for all acceptors of the global offer (which included bank debt) and to be established by the company on the basis of the quantity of financial instruments tendered at different prices (within a given range) by means of a modified Dutch auction, taking account of the maximum total consideration made available for the global offer. This mechanism tends to allow the offeror to buy the largest quantity of securities at the lowest price possible by allowing individual creditors to select, within the range, the price at which they are willing to sell their debt instruments. The offer closed with the tendering of a nominal amount corresponding to respectively 11 and 4 per cent of the outstanding bonds and bank debt and the price was fixed at 55 per cent of the nominal value of the instruments tendered. Early in 2004 the company launched a procedure aimed at obtaining approval of an out-of-court settlement (*Acuerdo Preventivo Extrajudicial*) permitting the remaining debt to be restructured.*

The second offer was a cash and exchange tender offer made by Banco Hipotecario for all its bonds in issue and was part of a restructuring plan approved by the Central Bank of Argentina. The offer consideration consisted of new bonds maturing in 2013, contemporaneously exchangeable for new guaranteed bonds denominated in dollars maturing in 2010 with a value equal to 70 per cent of the par value of the new bonds (convertible, as of a date not prior to 1 January 2004 into debt securities issued by the Republic of Argentina) or, alternatively, for an amount in cash equal to 45 per cent of the par value of the new bonds.

Last year the Commission re-examined the question of the status of the shareholding links between Pirelli, Olimpia and Olivetti, with account also taken of the complex extraordinary corporate actions that led, during the spring and summer of 2003, to a change in the ownership structure of Olimpia and to a shortening of the Olivetti-Telecom Italia chain of control. The question was of importance for the parent company's obligation to prepare consolidated accounts and, more generally, for the disclosure requirements to which it was subject.

In this respect the Commission ruled that Pirelli had exercised control, as defined in Article 93 of the Consolidated Law on Finance, over Olimpia until 9 May 2003, i.e. until the day Holy, a wholly-owned subsidiary of Hopa, was merged into Olimpia. From then on, by contrast, it no longer exercised control as a result of new clauses in Olimpia's bylaws that weakened the effects of Pirelli's majority interest in that company. In particular, as a consequence of a new bylaw

concerning the election of directors by a slate system, Pirelli, although it maintained the majority of votes in the ordinary shareholders' meeting (50.4 per cent), could not appoint more than 5 of the 10 members of Olimpia's board of directors and could not exercise a dominant influence over it.

The Commission also re-examined the question of the status of the shareholding links between Olimpia and Olivetti and confirmed its earlier assessment whereby Olimpia had exercised working control, as defined in Article 93 of the Consolidated Law on Finance, over Olivetti until 4 August 2003, the date on which the merger of Telecom Italia into Olivetti became effective. It remains to be verified, instead, whether as of that date Olimpia still exercises working control over Olivetti (in the meantime renamed Telecom Italia). For the purposes of the verification it is essential to examine the behaviour of the shareholders at least on the occasion of the next ordinary shareholders' meeting, in which the accounts for 2003 will be approved and the entire board of directors of the listed company will have to be renewed.

Disclosure to shareholders' meetings

The Commission acted on several occasions in 2003 to require listed companies to supplement the information disclosed to shareholders in ordinary and extraordinary shareholders' meetings. In 6 cases requests were made to listed issuers to supplement the information to be provided to the shareholders' meeting convened to approve the 2002 annual accounts.

In four of these cases the need to provide the shareholders' meeting with additional information arose from the critical state of the companies' profitability and financial position.

One of these companies was asked, among other things, to produce information on: the evaluations of the individual qualifications in the auditor's report on the 2002 annual accounts; the progress actually made in implementing the plan for the reorganization and strengthening of the group; and the possibility of recovering the claims on the parent company.

Another company was asked to provide the directors' comments on the qualifications in the auditor's report on the 2002 annual accounts, first in a press release, so as to inform the market in timely fashion, and then, in updated form, to the shareholders' meeting called to approve the accounts in question.

For the other two companies, the additional information mainly concerned the directors' evaluation of the ability of the company to continue in business despite the substantial losses incurred during the year, the persistently difficult financial situation and the auditor's issue of a disclaimer in its report on the 2002 financial statements. Other information requested concerned the state of progress in implementing the strategic plan and the measures to restore the finances of the groups headed by the two companies to a sound footing, the business and financial reasons for the acquisition of an equity interest made by one of the companies, considering the critical situation of the investee company.

In another case, in responding to a request for an interpretative ruling on the inclusion in the annual accounts, among other things, of the deficit that arose from the merger of a subsidiary, the Commission asked the company to supplement its draft annual report with a description of the events and circumstances that had led the directors to recognize the need to writedown the deficit in question and the assumptions made in order to determine its recoverable value. Knowledge of the reasons underlying the directors' decisions was deemed particularly important for the purpose of evaluating the reliability of the amounts stated in the accounts, especially in the situation under consideration, in which capital gains had arisen on transactions with related parties.

In the last case the request for additional data was intended to meet the need to bring the information provided to the shareholders' meeting convened to approve the 2002 annual accounts into line with that contained in an earlier document produced for a tender offer as regards the possible effects on the company's profitability, balance sheet and financial position of an adverse decision in a case before an appeal court.

Financial reporting

The Commission's normal supervision of the correctness of the financial reports of listed issuers led to its taking action in four cases under the authority to challenge companies' accounts granted by Article 157.2 of the Consolidated Law on Finance.

Consob challenged the company annual accounts and consolidated accounts for the year ended 31 December 2001 of Cirio Finanziaria, which is now under extraordinary administration. The critical aspects that emerged in the accounts concerned the net financial position with respect to related parties, with special reference to the valuation of the claims thereon, and the indication of the risks and commitments connected with the issue of bond loans.

*The company's financial reporting appeared to violate a number of applicable provisions of the Civil Code and, in particular: as regards the valuation of claims on related parties in the consolidated accounts, point 1 of the first paragraph of Article 2423-*bis *(the prudence principle) and point 8 of Article 2426 (valuation of receivables at their expected realizable value); as regards the valuation of the equity interest in Bombril Holding SA, point 1 of the first paragraph of Article 2423-*bis *(the prudence principle) and point 3 of Article 2426 (writedowns for permanent diminution in value); as regards the failure to show the covenants in respect of the bonds issued, the second and third paragraphs of Article 2423 and point 9 of Article 2427, which require the inclusion in the annual report of all the information needed to provide a true and fair view of the assets and liabilities, profits and losses and financial position of the company.*

Consob also deemed the conditions existed for it to challenge the Giacomelli accounts under Article 157 of the Consolidated Law on Finance.

In this case the Commission observed that there were problems in the 2002 financial statements as regards the valuation of equity interests, the inclusion of deferred tax assets in the company accounts and the valuation of inventories in the consolidated accounts and the inclusion of deferred tax assets in the latter. Moreover, information was insufficient or totally lacking on critical matters such as: 1) the risks inherent in the possible triggering of the cross-default clauses of a bond issue made by a foreign subsidiary and guaranteed by Giacomelli; 2) the requests to repay bank loans; and 3) disputes with suppliers and the general state of economic and financial strain.

*With reference to the consolidated accounts, the following provisions had been violated according to the Commission: 1) the combined effect of Article 29.2 of Legislative Decree 127/1991 and the second paragraph of Article 2423 of the Civil Code (obligation to present a true and fair view); 2) point 1 of the first paragraph of Article 2423-*bis *of the Civil Code (the prudence principle); 3) as regards the valuation of inventories, point 9 of the first paragraph of Article 2426 of the Civil Code (valuation methods) as referred to in the rules on consolidated accounts contained in Legislative Decree 127/1991; 4) as regards the inclusion of deferred tax assets in the absence of reliable financial plans, the combined effect of Article 29.2 of Legislative Decree 127/1991 and the second paragraph of Article 2423 of the Civil Code (obligation to present a true and fair view) and points 1)-4) of the first paragraph of Article 2423-*bis *of the Civil Code (the prudence principle, the principle of the actual realization of profits and the accrual principle) as referred to in the rules on consolidated accounts contained in Legislative Decree 127/1991; 5) as regards the failure to provide information in the notes to the accounts on the critical matters referred to above, Articles 29.2 and 29.3 of Legislative Decree 127/1991 (the clarity principle and the obligation to provide a true and fair view and supplementary information, in accordance with Article 2423 of the Civil Code).*

*With reference to the company annual accounts, the provisions alleged to have been violated were: the combined effect of Article 29.2 of Legislative Decree 127/1991 and the second paragraph of Article 2423 of the Civil Code (obligation to present a true and fair view); 2) point 1 of the first paragraph of Article 2423-*bis *of the Civil Code (the prudence principle); 3) as regards the incorrect valuation of the equity interests in*

subsidiaries, points 1 and 3 of the first paragraph of Article 2426 of the Civil Code (valuation of fixed assets); 4) as regards the inclusion of deferred tax assets in the absence of reliable financial plans, the combined effect of the second paragraph of Article 2423 of the Civil Code (obligation to present a true and fair view) and points 1, 2, 3 and 4 of Article 2423-bis *of the Civil Code (the prudence principle, the principle of the actual realization of profits and the accrual principle); and 5) as regards the failure to provide information in the notes to the accounts on the critical matters referred to above, the second and third paragraphs of Article 2423 of the Civil Code (the clarity principle and the obligation to provide a true and fair view and supplementary information).*

Consob also challenged the annual accounts and the consolidated accounts of Gandalf under Article 157.2 of the Consolidated Law on Finance, considering that they had not been drawn up in accordance with the law.

In particular, it found violations of the following Civil Code provisions: the second paragraph of Article 2423, (obligation to present a true and fair view of the assets and liabilities, profits and losses and financial position), the third paragraph of the same article (obligation to provide supplementary information), point 1 of the first paragraph of Article 2423-bis *of the Civil Code (the prudence principle) and Articles 29 and 35 of Legislative Decree 127/1991 on the drawing up of the consolidated accounts, which refer to the above-mentioned provisions of the Civil Code.*

The last challenge concerned the Parmalat consolidated accounts for 2002, which showed non-existent assets and omitted liabilities, and the annual accounts of Parmalat Finanziaria, since, in valuing the holding in Parmalat (the controller of Bonlat), account was not taken of the non-existence of assets, fraudulently hidden, belonging to Bonlat.

The annual accounts violated the second paragraph of Article 2423 of the Civil Code while the consolidated accounts violated the analogous provision contained in Article 29.2 of Legislative Decree 127/1991.

In fact both provisions require the directors to draw up accounts in a way that shows clearly and reliably the assets and liabilities, profits and losses and financial position of the company and/or the group.

As regards the transparency of financial reporting, Consob continued to require distressed listed issuers to make updated information available to the public on how the situation of the company and the group was developing. As part of its supervision of companies the Commission intervened on several occasions by requesting data and information from companies' governing and control bodies. The interventions consisted in requests made to the directors, the external auditors and the boards of auditors for clarifications with regard to items in the accounts.

In 2003 the Commission requested 6 listed companies (Stayer, Fin.part, Giacomelli, A.S. Roma, CTO and Tecnodiffusione) to issue monthly bulletins updating the variables considered of critical importance in each case.

The aim of such requests is to ensure the market is informed at short intervals of the development of critical aspects of the companies in question such as: the detailed composition of the net financial position, with special reference to the short, medium and long-term nature of borrowings and any dealings with related parties; the business strategy the issuer intends to pursue and the state of relations with suppliers and employees; the steps taken to raise the funds needed to overcome the economic and financial crisis; and the factors having a significant influence on the improvement or worsening of the outlook for profitability and the strength of the balance sheet.

The Commission also intervened twice during the year to ask companies producing monthly bulletins to supplement the information disclosed, so as to adapt the instrument to fit the

events affecting the companies and the actual developments in their economic and financial situations.

In the case of Stayer, on the occasion of the shareholders' meeting called in August to approve an increase in capital to provide support for the previously approved business plan, the Commission invited the company to release the figures for July early, so that shareholders would be in possession of the most up-to-date data on the company's situation. Subsequently, in view of the deterioration in the situation, as also shown by the failure to reach the quorum in the shareholders' meeting at the first and second calls, the Commission made a series of requests to the directors and the board of auditors. Among other things, it requested the disclosure to the public of the same data and those contained in the 2003 half-yearly report on the occasion of the shareholders' meeting at the third call, and if the quorum was not reached, in a press release. Consob's supervision took the form of further interventions aimed at monitoring developments in the company's financial position, balance sheet and operations, especially in view of the difficulties that emerged in approving and implementing the above-mentioned rights issue, which was finally approved by the shareholders' meeting in October.

In the case of Fin.part, the request to supplement the monthly bulletin was made necessary by the worsening of the company's economic and financial situation and the consequent uncertainty regarding its balance sheet and financing and aimed at providing the market with a clearer picture of the company's affairs, with special reference to a bond loan guaranteed by the company and redeemable in 2004. On the same occasion the Commission called on the company to provide additional information on the financial commitments entered into by the company in connection with certain investments that were under way.

Consob also continued to monitor the football clubs listed on the stock exchange.

Already in 2002 Consob had intervened at one of the companies subject to supervision (S.S. Lazio), following the approval of the draft half-yearly report to June 2002, with respect to which the auditor (Deloitte & Touche) had issued a disclaimer in view of the doubts about the company's ability to continue in business owing in part to the financial crisis of the controlling shareholders (Cirio Holding and Cirio Finanziaria).

The Commission had accordingly decided to require the company to issue monthly bulletins on its operations. In 2003 the Commission also required the company, under Article 114.3 of the Consolidated Law on Finance, to supplement the information prepared for the extraordinary shareholders' meeting to be held on 24 March 2003 to approve an increase in capital totaling €110 million. In particular, the Commission called for an update of the information on the proposed adoption of a business and debt restructuring plan and details on the state of progress of the negotiations with financial institutions and shareholders to have the increase in capital guaranteed. The company was also asked to provide the public with the expert's opinion it had used to apply Article 18-bis *of Law 23/2003 (known as the "football rescue decree").*

Subsequently, the Commission intervened again under Article 114.3 of the Consolidated Law on Finance to require the company to supplement the information contained in the prospectus for the above-mentioned increase in capital to be effected by means of a rights issue, so that, pursuant to Article 33.2a) of Consob Regulation 11971/1999 on issuers, the prospectus did not have to be cleared in advance by Consob. The request referred specifically to the company's economic interest in transactions with related parties, above all Cirio group companies, the composition of the credit and debt positions with these companies, and the recoverability of claims against them. On the occasion of the extraordinary shareholders' meeting called on 18/19 December 2003, under Article 2446 of the Civil Code, to resolve on covering the losses incurred by the company and a new increase in capital to meet its current financing needs, the Commission again asked for additional information to be provided at the shareholders' meeting and in the subsequent press release, inter alia *with regard to: 1) the use made of the increases in capital carried out in the two preceding years to cover losses; 2) the grounds for excluding the situation of a loss exceeding one third of the share capital, governed by Article 2447 of the Civil Code; 3)*

the net income reasonably to be expected for the current year; 4) the qualification in the auditor's report on the half-yearly report to June 2003 with respect to the ability of the company to continue as a going concern; 5) the steps the company intended to take to meet its operational financing needs; 6) the amount of bank credit available and the amounts drawn; 7) the period in which the completion of the supplement of the business plan approved under the new management was expected and the amount of cost savings estimated on the basis of the proposed measures; 8) the steps the company intended to take to ensure the success of the above-mentioned increase in capital. Since the quorum was not reached at the extraordinary shareholders' meeting in question at the first two calls, pending the third call fixed for 17 January 2004, the Commission asked the company to make the information requested available in advance, which it did in a press release dated 9 January 2004.

The Commission also took action with regard to another football club, A.S. Roma.

The company was required to issue monthly bulletins on its operational results as of the approval of its draft half-yearly report to June 2003, with respect to which the auditor (Grant Thornton) had issued a disclaimer in view of the doubts about the company's ability to continue as a going concern. Subsequently, the company was forced to revise the figures of its first quarterly report and half-yearly report to take account of the larger fines imposed by the tax authorities in connection with prior-year tax liabilities, with the result that they showed a situation falling within the scope of Article 2446 of the Civil Code. The company nonetheless decided to postpone the planned increase in capital by means of a rights issue until after the approval of the half-yearly report to 31 December 2003. Consob also required the controlling shareholder to provide information, with special reference to the type of financial measures it planned in order to reduce the listed company's debts and pay the amounts it owed to A.S. Roma.

Lastly, the Commission also examined the financial statements for the year ended 30 June 2003 of Juventus F.C. to check the correctness of the accounting treatment of the sale of a minority interest in a company that gave rise to a large capital gain.

The Commission concluded that there were no grounds for objecting to the accounting treatment adopted but asked the company to inform the public on the occasion of the approval of the half-yearly report to 31 December 2003 with respect to the contractual clauses governing certain aspects of the transaction and provide an assessment of any consequent risks to the company's balance sheet.

Auditing firms

In 2003 the auditing firms entered in the register kept by Consob examined 285 company accounts and 258 consolidated accounts of issuers listed on Italian regulated markets in the course of verifying that the accounts were kept regularly and that the financial statements corresponded with the accounting records and conformed with the applicable legislation.

The opinions expressed on companies' 2002 accounts showed a large increase in qualified and adverse opinions compared with those on companies' 2001 accounts. There were 14 qualified opinions (in four cases – Pagnossin, Richard Ginori, Necchi and Tecnodiffusione – the auditor expressed more than one qualification) and 10 adverse opinions, compared with 5 the previous year (Table aIV.6). In four of these cases, as well as issuing a disclaimer of opinion, the auditor also expressed qualifications (CTO, Gandalf, Necchi and Tecnodiffusione); in particular. for Necchi and Tecnodiffusione, in addition to issuing a disclaimer in view of the uncertainty about the ability of the company to continue in business, the auditor expressed a qualification on the uncertain valuation of some items of the accounts as well as disagreeing with the accounting policies applied (Tecnodiffusione) and limitations on the scope of the audit (Necchi).

The opinions expressed with qualifications bearing on the accounting standards applied concerned, in the case of Tiscali (consolidated accounts), the inclusion among "Other reserves" of an increase in the consolidation difference having the nature of goodwill. According to the accounting standards adopted by the company, this amount should have been taken to the income statement.

In the case of the Lazio football club, the qualification concerned the failure in the year in question and in previous years to include unpaid fines and tax liabilities under "Provisions for liabilities and charges" on an accrual basis.

In the case of Digital Bros, the auditor took the view that the amounts transferred by the company to cover the loss of a subsidiary did not increase the value of the holding but restored it to its original value. Accordingly, the amounts should have been accounted for as operating costs and classified as a writedown of the holding.

In the case of Tecnodiffusione, the auditor disagreed with a series of accounting treatments in the preparation of the accounts such as: 1) the insufficient writedown of a receivable to take account of losses that were foreseeable on the basis of the information available, consisting in the estimates made by the judicial commissioners with regard to the cover of the liabilities of the group headed by the company with the debt towards Tecnodiffusione; and 2) the failure to include under "Provisions for liabilities and charges" of the accrued amount of the total charges known at the date the financial statements were prepared in connection with a group restructuring plan drawn up in the second half of the year.

In the case of Gandalf, the auditor expressed a qualified opinion with respect to a provision for the writedown of receivables, deemed to be less than necessary in order to show working capital receivables at their estimated realizable value, and a cost and the related debt, deemed to have been underestimated.

In the case of CTO, the qualifications expressed by the auditor concerned the failure of the accounts to show the loss accrued on some foreign exchange derivative contracts not covered by specific provisions. Even though the directors had challenged the legitimacy of the contracts, the auditor noted that the trial expected to lead to the annulment of their effects had not begun. Furthermore, the provision for the writedown of receivables was not sufficient to cover all the foreseeable losses.

In another case the auditor expressed a qualification as a consequence of the inclusion in non-recurring income of the effects of the renouncement of its claim on the company by a shareholder (Inferentia DNM). According to the accounting standards applied by the company, the amount renounced should have been included in shareholders' equity.

A qualified report was also issued on the accounts of Richard Ginori, since, on the basis of the analysis of the company's inventories and the turnover rate of the same, the auditor deemed the provision for the writedown of inventories to be insufficient. It also disagreed with the valuation of an investee company since the latter's shareholders' equity included a capital gain realized in the absence of the conditions necessary for its inclusion in the financial statements.

The following qualifications were expressed in the auditor's report on the accounts of Pagnossin: 1) the estimated realizable value of a receivable was found to be less than the amount shown in the financial statements; 2) it was considered necessary to increase the provision for the writedown of inventories in the absence of reasonable prospects of using or selling part of the inventories consisting of semi-finished goods and finished products.

The qualifications due to limitations on the scope of the audit concerned, in the case of Richard Ginori, the insufficient and inadequate information obtained by the auditor on a receivable, owing essentially to the size of the company in terms of its assets and liabilities, profits and losses, and financial position and the absence of appropriate guarantees for the claim, taking account of the latter's nature and origin and its importance for the accounts, inter alia *in the light of the payments on account received in 2003.*

In the case of Necchi, the qualification was due to the auditor having failed to obtain sufficient evidence to demonstrate that the company had a possibility of

recovering the cost incurred as a consequence of the enforcement of a guarantee granted in favour of an investee company following legal action by one of the latter's creditor banks. In addition, the auditor received no reply from the bank in question to its request for confirmation of data and information.

In the case of Banca Carige, the qualification due to limitations on the scope of the audit was due to the lack of time to complete the analyses deemed necessary to determine the effects on the valuation of an investee company of problems that emerged there in the course of an inspection by the competent regulatory authority.

The qualifications due to uncertainty concerned, in the case of Pagnossin, the existence of circumstances that might lead to additional losses in the future, including the fact that there was no clear evidence as to the strength of the balance sheet or financial position of the counterparty of a claim and that the value of the shares provided as collateral was at risk owing to the economic and financial difficulties of the issuer. The auditor noted, moreover, that the circumstances in question had not been disclosed in the notes to the financial statements.

In the case of Tecnodiffusione, the auditor expressed uncertainty with regard to: 1) the assessment of the recoverability of an equity investment considering the heavy losses the investee company had incurred in prior years and the fact that its results in the future depended on its ability to fully exploit the opportunities offered by the sector it belonged to. Moreover there was not sufficient evidence of the recoverability of a claim arising from the disposal of the majority of the shares of the investee company in question; 2) the assessment of the recoverability of another equity investment in view of the uncertainty surrounding the realization of the income forecasts contained in the company's business plans.

In the case of Necchi, the uncertainty concerned: 1) the lack of sufficient evidence in the update of the short and medium-term business plan to justify maintaining the higher book value of an equity interest with respect to the shareholders' equity of the group it headed and the value attributed to brand names, patents and goodwill; 2) the lack of sufficient information to assess the recoverability of a claim.

In the case of Spoleto Credito e Servizi, the uncertainty concerned an adjustment made by an issuer to the value of the shares of an investee company included among securities not held as financial fixed assets in order to bring them into line with their estimated realizable value. The auditor, who had already stated in the previous year's report that it was impossible to determine the correct value of the holding, was therefore unable to determine the part of the writedown to be allocated to the last financial year.

The cases in which the auditor expressed a disclaimer of opinion were basically in connection with uncertainty about the ability of the company to continue as a going concern, including: 1) non-acceptance by some noteholders of the debt restructuring plan drawn up by the company, which envisaged, among other things, the injection of fresh capital by means of a debt-equity swap (Cirio Finanziaria); 2) failure to finalize a business plan with an indication of future actions capable of generating positive income and financial flows that would ensure the company could continue in business, together with insufficient and inappropriate matter provided to the auditor for the assessment of the company's ability to raise adequate financial resources in the short term to permit the foreseeable outlays and ensure the company and the group could continue in business (Necchi); 3) failure to draw up and approve plans for raising fresh equity capital and bank refinancing as envisaged in the business plan prepared by the company (Stayer, Arquati, Tecnodiffusione, A.S. Roma); 5) absence of reasonable prerequisites for the implementation of extraordinary corporate actions and actions of a financial nature launched by the company's board of directors (Fin.part); 6) insufficient level of acceptances of the offering to increase the share capital and lack of evidence regarding the willingness of banks to participate in the proposed debt restructuring and the finalization of a business plan (Gandalf); and 7) absence of confirmation by the shareholders at the closing date of the undertaking to support the company financially in a context of losses and serious financial strain within the company and the group.

At 31 December there were 21 auditing firms entered in the register kept by Consob, three lees than at the end of 2002. The reduction in the number of firms was due to corporate actions during the year.

In July 2003 the "new" Deloitte & Touche s.p.a. was entered in the register; the new firm was the outcome of the amalgamation of Deloitte & Touche s.p.a. and Deloitte & Touche Italia s.p.a. (formerly Arthur Andersen s.p.a.), which were contemporaneously deleted from the register. In September PKF Italia s.r.l. was deleted following its merger into Neutra s.p.a., which contemporaneously changed its name into PKF Italia s.p.a. Lastly, in October Horwath Italia Società di Revisione s.r.l. was deleted following the sale of its auditing and accounting organization business to another registered auditing firm (Consulaudit s.p.a.).

The Commission carried out inspections at 7 auditing firms and sent four written reprimands, of which three in relation to specific corporate events (Table IV.1) and one for technical matters more closely related to the performance of audits (Table aIV.7). The Commission also suspended one partner of an auditing firm (see Chapter VII, "Sanctions and preventive measures").

During the year the Commission received the documentation on audit engagements conferred under the Consolidated Law on Finance. This showed a further small rise in the number of companies subject to statutory auditing, from 1,725 for the audit of the 2001 financial statements to 1,790 for the audit of the 2002 financial statements, while the distribution of engagements among registered auditing firms remained basically unchanged.

V. MARKET SUPERVISION

Market abuses

In 2003 Consob transmitted reports to the judicial authorities on 26 investigations of anomalies it had detected in the course of market supervision (Table V.1). In 16 cases (the same number as in 2002) the reports concluded that a crime might have been committed, 13 involving insider trading (of which 2 in the form of front running) and 3 market manipulation. The remaining 10 reports to the judicial authorities, 6 concerning insider trading (of which 2 in the form of front running) and 4 market manipulation, ruled out that a crime had been committed.

The majority of the reports to the judicial authorities on insider trading only furnished a list of the final customers who had ordered anomalous trades, accompanied by a detailed description of the transactions and an analysis of the anomalous features. As a rule such reports do not contain indications concerning the possession of inside information on the part of final customers, except for a reconstruction of the potential links between the latter and sources of inside information. Investigation of these aspects is left to the public prosecutor, who has more effective instruments of investigation in this field than those available to Consob.

By contrast, reports on cases of market manipulation are generally transmitted to the public prosecutor with all the evidence necessary to establish whether a crime has been committed, since Consob is in a better position to discover offences of this kind following technically complex investigations.

The reports were based on intense investigative activity. Consob sent a total of 285 requests for data and information to intermediaries, listed companies, governmental bodies and foreign supervisory authorities (Table aV.1). Among the investigative instruments available, the Commission again had frequent recourse to hearings, which numbered 29, compared with 19 in 2002 and 7 in 2001.

The inside information involved in the suspected cases of insider trading related most frequently to tender offers (5 cases out of 13; Table V.2). In the remaining cases the inside information concerned a merger with a company listed on a foreign market, the early redemption of two bond issues, the extension of the expiry of a call warrant on listed shares, the contents of research reports and recommendations intended for public distribution, the economic and financial difficulties of a listed company (2 cases), and price-sensitive orders on which front running was based (2 cases).

Table V.1

Outcome of investigations of suspected cases of insider trading and market manipulation

	1997	1998	1999	2000	2001	2002	2003
Report submitted indicated a suspected crime [1]	19	21	30	21	18	16	16
Report submitted at the end of an investigation without indicating a suspected crime [2]	33	15[3]	8	5	10	9	10
Total	*52*	*36*	*38*	*26*	*28*	*25*	*26*

[1] In 1997 and in 10 cases in 1998 the reports were transmitted under Article 8.3 of Law 157/1991, which was repealed by the Consolidated Law on Finance. [2] The figures for 1997, 1998 and 1999 include the outcomes of respectively 18 investigations, 3 investigations and 1 investigation that were concluded without the transmission of a report to the judicial authorities. Following the entry into force of the Consolidated Law, under Article 186 Consob is required to transmit a report to the public prosecutor on every investigation it carries out. [3] Of which 9 cases in which the investigation was closed before the entry into force of the Consolidated Law.

Table V.2

Types of inside information in the reports transmitted to the judiciary authorities on suspected cases of insider trading

	1997	1998	1999	2000	2001	2002	2003
Change of control - Tender offer	7	13	13	6	9	1	5
Profitability - Assets and liabilities or financial position	4	1	4	1	--	1	2
Corporate events - Mergers - Spin-offs	2	3	3	3	2	2	1
Other	3	--	2	7	3	3	5
of which suspected cases of front running	--	--	--	1	2	1	2
Total	*16*	*17*	*22*	*17*	*14*	*7*	*13*

Three cases of suspected market manipulation were reported to the judicial authorities, all of which concerned forms of operational manipulation. One involved the entering of orders to sell a share in the closing pre-auction phase and their subsequent cancellation before the end of that phase. The second concerned schemes, repeated daily over a span of two months on a single share, consisting of purchases in swift succession, with the consequent elimination from the book of orders placed at lower prices, and of immediate "matches" (i.e. sham transactions) of large quantities at higher prices. The third involved the systematic, almost daily purchase over a span of one year of sizable quantities of three shares in the closing auction, with the closing price and the reference price consequently set at a higher level than the last price in continuous trading.

A total of 69 market participants were reported to the judicial authorities on suspicion of insider trading and 7 on suspicion of market manipulation (Table aV.2).

The investigation of market abuses was aided by a procedure, refined during the year, that picks up the signals of potential anomalies by means of a reference model constructed on some key financial variables and analysis of its behaviour over time (Box 5).

In 2003 Consob was notified of 16 requests for dismissal at the conclusion of the judicial authorities' preliminary investigations into cases of suspected insider trading reported by Consob (Table V.3).

Table V.3

Outcome of reports submitted to the judicial authorities

	1991-1998	1999	2000	2001	2002	2003
Dismissal	11	10	6	12	10	16
Partial dismissal	--	1	4	1	--	--
Indictment	6	2	2	3[1]	2	--
Plea bargain	3	1	3	2	--	--
Conviction	2	--	--	1[1]	2[2]	--
Acquittal	--	1	--	--	--	--
Ruling of no grounds	--	1	--	--	--	--
Ruling of limitation of actions	--	--	1	--	2	1
Total	*22*	*16*	*16*	*19*	*16*	*17*

[1] The decision of the first-level court was appealed. [2] Some of the accused were acquitted. One of the decisions was appealed.

Box 5: The Integrated Automatic System of Market Supervision

A market-abuse detection procedure identifies on a daily basis listed securities that are involved in market manipulation or insider trading. The possible occurrence of market abuse is detected by examining the behaviour over time of financial variables that constitute the elementary data flows available to Consob on securities trading on the financial markets (i.e. prices, quantities and the identity of the traders).

Analysis of the behaviour of the financial variables requires the construction of a reference model for each of them; the model is designed to identify dynamic thresholds the crossing of which triggers an alert. Once the alerts are defined, the market-abuse detection procedure calibrates the reference models by specifying their parameters for predictive purposes and defines an algorithm that permits different alerts to be interpreted jointly.

The financial literature and supervisory experience provide some methodological indications for the analysis of the prices of trades, the quantities traded and the agents that carried out the transactions. To begin with, the prices of trades are analyzed in terms of returns by studying the dynamics of the logarithm of the price; the returns of the securities generally undergo abrupt changes (for example, when inside information is divulged) or else display behaviour contrasting with reversion to the mean (for example, in the presence of manipulation). The presence of anomalous returns is identified through an estimate of returns that can be performed using diffusion processes. Autoregression models are able to capture separately both the mean-reversion component and the momentum-effect components of the returns. Furthermore, the quantities traded by individual agents are examined in terms of daily trading volumes using an autocorrelation technique. Agents' names are studied in relation to the quantities they have traded in a day, with an examination of the market's depth, the presence of dominant agents and the composition of the different trading intermediaries. Lastly, the composition of the market is evaluated in a two-stage analysis focusing first on the degree of concentration of intermediaries, i.e. the number of intermediaries and their respective shares of the volumes traded (so-called static concentration), then on the evolution of the concentration of intermediaries, i.e. the trend of each intermediary's share in the volume of trading in a specific security (so-called dynamic concentration).

On the basis of these indications, four financial variables were constructed: the evolution over time in the volume of trades in the security, the return of the security, static market concentration and dynamic concentration. In particular, the construction of alerts, calibrated through a set of stochastic differential equations, enables the procedure to identify securities involved in potential cases of market abuse in real time.

Table V.4

Consob interventions in criminal trials concerning insider trading and market manipulation

	Number of cases	Offence [1]	Outcome at 31 December 2003
1996	1	Insider trading	Plea bargain
1997	1	Insider trading	Dismissal for limitation of actions [3]
	1	Insider trading	Acquittal
	1	Insider trading	Plea bargain
	1[2]	Insider trading and market manipulation	Pending; Plea bargain for 1 defendant
1998	1	Insider trading and market manipulation	Dismissal for limitation of actions
1999	1	Insider trading and market manipulation	Plea bargain for 4 defendant; conviction for 2 defendants
2000	1	Insider trading and market manipulation	Dismissal for limitation of actions [4]
	1	Market manipulation	Pending [5]
2001	3	Market manipulation	1 conviction; Plea bargains in the other 2 cases
	2	Insider trading	1 conviction; 1 dismissal for limitation of actions
2002	2	Insider trading	1 pending; 1 dismissal for limitation of actions
2003	1	Insider trading	Pending [6]

[1] Insider trading: Article 2 of Law 157/1991, now Article 180 of Legislative Decree 58/1998; market manipulation: Article 5 of Law 157/1991, now Article 2637 of the Civil Code. [2] Proceedings were also initiated for the offence of obstructing Consob in the exercise of its supervisory function in matters concerning insider trading (Article 8.2 of Law 157/1991). [3] Proceedings are still pending for other suspected offences. [4] The proceedings had already begun in 1998, but following the re-opening of the preliminary investigation phase it was necessary to initiate them again in 2000. [5] In 2001 Consob applied to recover damages as an injured party. [6] The proceedings are currently suspended for an interlocutory judgement of constitutionality.

In 2003 Consob intervened in a penal proceeding still under way at the end of the year Table V.4).

The operation of regulated markets and alternative trading systems

The examination and approval of amendments to market rules was a field of intense activity for the Commission last year.

In March 2003 Consob, in agreement with the Bank of Italy, revoked Borsa Italiana's authorization to operate the MIF market in futures on government securities following its closure on 31 December 2002. The same Consob resolution also deleted MIF from the register of regulated markets referred to in Article 63.2 of the Consolidated Law on Finance. In addition, the Commission approved the amendments to the rules of the markets organized and operated by Borsa Italiana s.p.a. necessary for the closure of the traditional options market, on the basis of the company's decision to end trading in traditional options contracts in April 2003.

On various occasions during the year the Commission approved amendments to the rules of the markets organized and operated by Borsa Italiana and the rules of the Nuovo Mercato, pursuant to Articles 63.2 and 63.2 of the Consolidated Law on Finance.

In March several amendments concerning the requirements for admission to official listing on the Stock Exchange were approved that raised the minimum foreseeable market value requirement from €5 million

to €20 million for shares and made it mandatory for some types of issuers to distribute press releases in English. For the Star segment, the governance requirements were brought into line with those of the new Self-Regulatory Code and provision was made for companies listed for less than a year to be included in the segment if they satisfied all the requirements at the time of their admission to listing.

As regards the Nuovo Mercato, some listing requirements were modified and new governance requirements introduced. In more detail: minimum shareholders' equity was raised to €3 million; institutional investors must be among the shareholders of recently established companies; boards must include non-executive and independent directors, and companies must appoint an internal control committee and a remuneration committee. In addition, an increase in the free float was introduced and provision was made for waiving the lock-up requirement and the obligations of specialists.

Subsequently, Consob approved other amendments to the rules of the markets organized and operated by Borsa Italiana and to the rules of the Nuovo Mercato concerning: the attestation of the sponsor regarding the forecasts of the business plan; listing requirements as regards the rules on pro forma statements; requirements for the admission of participants to trading, so that where an EU investment company or bank does not provide investment services in Italy it is sufficient for it be authorized to engage in dealing in its home country; and the admission of bonds, so that the requirement of sufficient distribution among the public can now be satisfied even after listing by means of the activity of a specialist.

The Commission also notified its consent to the amendments to the instructions to the rules of the markets organized and operated by Borsa Italiana concerning the exclusion from trading of Midex index futures.

Further changes to the rules of the markets organized and operated by Borsa Italiana concerned anonymity in trades on the MTA electronic share market and details of the rules on structured bonds.

In November Consob approved the amendments to the rules of the markets organized and operated by Borsa Italiana concerning the Mercato Ristretto, which was renamed "Mercato Expandi". Apart from the name change, the most important modifications regard the conditions for listing on the market, including the setting of quantitative requirements for profitability and financial structure, the reduction of the minimum proportion of a security that must be distributed among the public to 10 per cent, and the identification of a single reference entity for placement and listing procedures (listing partner).

Borsa Italiana's project for the revitalization of the Mercato Ristretto aims primarily at flanking the existing regulated markets with one tailored to the financing requirements of non-complex, non-ramified organizational structures. The project responds to the need, expressed by Italian and foreign issuers, intermediaries and investors, to allow listing of firms that are well-established in their respective reference markets and have turned in a series of positive economic and financial results but do not qualify for listing on the other regulated markets operated by Borsa Italiana. Drawing on the international examples of "regulated second markets" (including the Second Marché in France, Aim in the UK and the Geregelter in Germany), Borsa Italiana launched the project by configuring a market that small and medium-sized issuers can access on the basis of technical requisites and requirements as to profitability and financial position that are known to the issuer in advance, with positive effects on the time it takes to achieve listing. Among the key features it is worth recalling: the identification of a single reference entity for the placement/listing procedure (listing partner); the greater weight attributed by Borsa Italiana to historical data with respect to projections; the establishment of quantitative profitability requirements (positive net result for the year) and financial structure (ratio of consolidated net financial position to consolidated gross operating profit of not more than 4); and the reduction of the minimum proportion of the issue that must be distributed among the public from 20 to 10 per cent.

For the covered warrants market, the most important innovations concern: the introduction of spread obligations for specialists' quotations and the specification of the technical means for satisfying the obligation (double quotation); interruption of the procedure for the issue of the opinion of admissibility where the issuer does not provide the information required before the time limit; elimination of the obligation to designate a sponsor for the listing of covered warrants and certificates (this also applies to other financial instruments, such as open-end indexed collective investment undertakings); and the introduction of the obligation for the issuer of covered warrants to notify the termination of a sponsor' appointment or the appointment of a new sponsor.

As regards the IDEM derivatives market, Consob transmitted its consent to the amendments to the instructions to the rules of the markets organized and operated by Borsa Italiana that moved up the time of day for the start of trading on the IDEM market, the time for the start of operations by market makers and the cut-off time for trading in derivative contracts on their expiry day. The changes in IDEM's trading hours are a consequence of the modification of the working hours of the MTA electronic share market and the Nuovo Mercato, on which the shares underlying the derivative contracts are traded, which was in turn necessary in order to align the trading hours of the Italian markets with those of the main European markets.

The innovation involves setting the conclusion of the opening auction and, consequently, the start of the continuous trading phase 20 minutes earlier with respect to the current schedule of operations on MTA and the Nuovo Mercato (at 9.10 instead of 9.30 a.m.). Accordingly, the cut-off time for trading of derivatives on their expiry day was changed in order to keep it in line with the start of the phase of continuous trading in the underlying shares. Similarly, Borsa Italiana also made the start of operations by market makers consistent with the new trading hours by moving up the time at which they are required to quote prices.

In May Borsa Italiana introduced a central counterparty system for contracts involving shares, convertible bonds, warrants and units or shares of collective investment undertakings concluded on MTA, the Nuovo Mercato and the Tah and TahNM markets. The new system replaces the contract guarantee fund.

In 2003 Consob, in agreement with the Bank of Italy, approved some amendments to the rules of the wholesale market operated by MTS s.p.a. in non-governmental bonds and securities issued by international organizations with national memberships. Consob also delivered its opinion to the Ministry for the Economy and Finance regarding amendments to the rules of the wholesale market in government securities and the BondVision market in government securities operated by MTS s.p.a.

A noteworthy new development was the authorization of Tlx s.p.a. to operate the "Tlx" regulated market. In August Consob adopted the resolution authorizing the company and approving the entry of the Tlx market in the register of regulated markets under Article 63.2 of the Consolidated Law on Finance. The market model is based on two key principles: the mutualistic nature of the initiative and the identity between shareholders and market makers.

The Tlx market, which is open from 9 a.m. to 8.30 p.m., provides for the continuous trading phase to be preceded by a 15-minute pre-trading phase during which the trading orders entered are validated and shown on the book without being matched for the conclusion of contracts. Discretionary orders cannot be entered during this phase. In contrast with the arrangements on the share markets of Borsa Italiana, there is no opening or closing auction. The market rules allow admission to listing and trading of bonds, including structured bonds, euro-area government securities and atypical securities, covered warrants and

certificates, units and shares of collective investment undertakings and asset-backed securities.

In December Consob approved some amendments of a formal nature to the rules of the markets organized and operated by Tlx s.p.a. The amendments were made necessary by the start-up of the Express II settlement system.

Tlx's actual operations began on 20 October 2003 with the admission to trading of around 180 financial instruments that had previously been dealt in on alternative trading systems. Simultaneously with the launch of the regulated market, Tlx s.p.a. changed the name of its own alternative trading system to Eurotlx.

During 2003 new organizers launched alternative trading systems and many systems increased the types of financial instruments offered to customers for trading.

Following the Commission's regulatory intervention with regard to trading transparency requirements (see Chapter VIII), supervision of alternative trading systems proceeded with the implementation of a procedure for the reception of special quarterly reports on transactions actually concluded.

In view of the short time between the entry into force of the new reporting system and the first reporting deadline (30 September 2003), and considering the trial period allotted for the data transmission procedures, Consob did not adopt specific supervisory initiatives in 2003, so as to permit all the organizers of alternative trading systems to prepare IT applications able to satisfy the new trading transparency obligations.

Clearing, settlement and central depository services

The transformation of the organization and structure of the companies that provide post-trading services was basically completed in 2003. With the transfer of the securities settlement service from the Bank of Italy to a private entity, the infrastructures providing support for Italian regulated markets (with the partial exception of the markets operated by MTS s.p.a.) are now in the hands of a single entity, Monte Titoli s.p.a., which vertically integrates the function of securities clearing and settlement with that of central securities depository. In some regulated markets there is a central counterparty, Cassa di Compensazione e Garanzia (CC&G), whose netting of positions facilitates and simplifies the securities settlement process performed by Monte Titoli.

As both Monte Titoli and CC&G are controlled by Borsa Italiana, the company that operates regulated markets, the resulting structure ensures total vertical integration of trading and post-trading services based on what is commonly called the "silo" model.

However, in the case of instruments traded on the EuroMOT market operated by Borsa Italiana s.p.a. (essentially Eurobonds, bonds of foreign issuers and asset-backed securities) and covered warrants, it is explicitly envisaged that trades may also be settled through the services provided by foreign entities (Euroclear, a subsidiary of Euroclear plc, itself controlled by a group of institutional investors with holdings of less than 5 per cent, or Clearstream, formerly Cedel, in which Deutsche Börse now holds a 50 per cent interest and other intermediaries and international investors the other 50 per cent). In general, therefore, an issuer of covered warrants or bonds listed on a market operated by Borsa Italiana has the choice of centralizing its securities at one of the two international central securities depositories, which provide both clearing and settlement and central depository services, as well as at Monte Titoli s.p.a.

Furthermore, CC&G is the central counterparty for contracts concluded on the screen-

based market for government securities operated by MTS s.p.a., but the rules of that market also allow traders to settle through Clearnet (a company 80 per cent owned by the Euronext group in which the stock exchanges of France, Belgium, the Netherlands and Portugal are partners); in addition, utilization of the central counterparty is optional. By contrast, in the regulated markets operated by Borsa Italiana where instruments other than bonds and covered warrants are traded it is compulsory to use the central counterparty (the only exception being shares traded on the Expandi market).

The transformation of post-trading structures was formally begun in September 2003 with the start-up of the Express II settlement system operated by Monte Titoli s.p.a. On that occasion Consob notified the Bank of Italy of its agreement, in accordance with Legislative Decree 210/2001, to changes in the list of systems to which the provisions of Legislative Decree 210/2001 on the finality of payments apply.

In September Consob also notified the Bank of Italy of its agreement to the approval of the Express II settlement service's operating rules.

Express II's operating rules introduce a fail procedure that dynamically handles the settlement of transactions that have not been settled because of technical problems. The procedure avoids the immediate market default of the non-performing counterparty, permitting the settlement of transactions not settled in a timely manner to be postponed to subsequent settlement cycles. However, such positions may not remain open indefinitely; if the failure persists even after a certain number of subsequent settlement cycles, the market service operators close the transactions still pending by resorting to executive procedures and inform Consob thereof so that it can declare the market default.

In October the Commission approved the amendments to the rules of Borsa Italiana regarding the measures to be adopted following the start-up of the Express II settlement system and in case of failure to settle contracts within the time limit specified in the market rules owing to failure to deliver the securities (buy-in procedure) or cash (sell-out procedure).

For markets supported by a central counterparty, the rules of Cassa di Compensazione e Garanzia establish that CC&G is to activate the buy-in and sell-out procedures automatically. Since it is CC&G itself that determines the manner and timetable of executive procedures, Borsa Italiana's instructions for market rules refer the matter to CC&G's rules. In the case of a buy-in, where the transaction is not settled by the third day following the original settlement date, CC&G activates the executive procedure by sending a buy-in notice to the non-performing counterparty. A further period then begins in which the transactions not settled are re-entered into the settlement system. The buy-in is executed only if the transaction is not settled by the third day following the buy-in notice. In the case of a sell-out, CC&G can activate the procedure the day following the original settlement date, when the failure to settle is no longer deemed to be temporary. The procedure is activated immediately, ruling out the possibility of re-entering the transaction into the system in subsequent days.

For markets not supported by a central counterparty system with settlement at Monte Titoli (the Expandi market, the covered warrants market and MOT), Borsa Italiana provides for a buy-in/sell-out procedure without CC&G's intervention but whose timetable is patterned on that in force in markets where a central counterparty operates; the only difference, obviously, is in the identity of the party assigned the power to initiate the procedure. In markets without a central counterparty, it is the direct counterparty that can initiate the buy-in procedure at the end of the third day following the original contract settlement date by sending the non-performing counterparty a buy-in notice whereby the latter is warned that the buy-in agent will execute the buy-in procedure by the fifth day following the buy-in notice if the transaction is not settled before then. An analogous action is envisaged for the sell-out procedure.

For markets not supported by a central counterparty with settlement performed at foreign

settlement systems (EuroMOT), Borsa Italiana has adopted procedures in line with the rules established by the International Securities Markets Association. The latter establish that the buy-in/sell-out procedure is to be initiated by the performing counterparty. The distinctive feature is the timetable: the buy-in is to be executed in the case of failure to settle within the sixth day following that on which the buy-in notice is sent; the buy-in notice is to be sent from the sixth day following the original settlement date.

VI. SUPERVISION OF FINANCIAL INTERMEDIARIES

Banks, investment firms and stockbrokers

In 2003 the Commission carried out intense supervisory activity to verify financial intermediaries' compliance with the rules governing the provision of investment services.

In particular, following numerous complaints, Consob examined the features of some complex financial products whose risk-return characteristics appeared to be insufficiently clear or potentially unsuitable for non-professional investors. These products explain the sharp increase in investor complaints that Consob received: 3,177 last year, compared with 1,030 in 2002 (Table VI.1). Most of the complaints were about the inadequacy of the prior information provided on the characteristics of the financial products offered.

The Commission's interventions concerned products that in some cases had a derivative component associated with the purchase of securities and in others involved a plan for financing the purchase of securities (notably securities of the group to which the bank placing the product belonged), which were then pledged as collateral for the loan. Given the complexity of the transaction, the supervisory controls initiated had not been completed at the end of 2003. The Commission also cooperated with the judicial authorities in criminal investigations begun following complaints lodged by investors.

Consob devoted much work to the Cirio case in 2003. Inspections were carried out at a number of intermediaries in order to evaluate the way in which bonds issued by companies of the Cirio group were transferred to the banks' customers and the compliance of these transactions with the relevant rules of conduct.

Table VI.1

Complaints lodged by investors concerning investment services

Subject of complaint	2000	2001	2002	2003
Trading and reception of orders				
Failure to provide prior information on financial instruments	46	38	322	2,195
Fees	5	1	5	3
Unsuitable transactions without customers' prior consent	26	65	53	66
Execution of orders	93	109	194	434
Other	68	29	72	111
Portfolio management				
Failure to provide prior information on the service	17	27	27	44
Failure to comply with the contract/management rules	57	152	99	110
Unsatisfactory rates of return	11	19	40	30
Other[1]	27	238	114	22
Placement/Door-to-door selling				
Allotment of quantity ordered	7	1	17	2
Description of products/services	22	47	40	145
Execution of instructions	4	38	39	9
Suspected unauthorized activity	1	25	1	2
Other	13	28	7	4
Total	*397*	*817*	*1,030*	*3,177*

[1] Includes a large number of complaints regarding a single intermediary that cannot be classified elsewhere in the table.

In the area of investment services, Consob launched its supervisory action on the Cirio case by sending a request for data and information to more than 100 intermediaries, in order to obtain a more detailed and precise picture of the types of transactions undertaken involving Cirio bonds. In the light of the responses received and on the basis of qualitative and quantitative indicators, a list of ten intermediaries with the most questionable profiles was drawn up and supervisory action then focused on them with targeted inspections (some carried out by Consob directly, others by the Bank of Italy at Consob's request pursuant to Article 10.2 of the Consolidated Law on Finance).

The intermediaries were selected by identifying the largest net sellers of Cirio bonds to retail customers and considering a "qualitative" element consisting essentially in whether the intermediary had participated in the bond placements directly or through a group company. In parallel, data and information was acquired from lead managers of the private placements of Cirio bonds in the three years 2000-2002.

The Cirio bonds were offered according to the standard practices of the Euromarket. Since Eurobond offerings are addressed to professional investors, an offering prospectus is not prepared; the issuer draws up an offering circular, which also serves as the listing prospectus for admission to the Luxembourg stock exchange. It is also customary for there to be a grey market (from the issue date until the first settlement date), during which the offering circular often is not yet available. In the specific case of the Cirio bonds, the interval between the issue date and the settlement date ranged from a minimum of 10 days to a maximum of 54.

The characteristics of the Cirio bonds were typical of many Italian corporate bonds: they were unrated and the average issue size was almost always below the threshold that would ensure their effective liquidity and elicit the interest of institutional investors.

The investigations also found that the intermediaries that engaged in transactions with non-professional customers (where the intermediaries were not part of the placement syndicate) often bought the securities from institutional counterparties and sold them to customers from the very first days of the grey market. In general, these transactions were concentrated in the grey-market phase and remained significant in the first 120 days following the first settlement date, after which they petered out.

The investigation found a *modus operandi* that was in part common to the intermediaries inspected. To begin with, the transactions with customers were normally defined as trades for own account, but they actually consisted in interposition between customers and the markets that often involved limited position risks: in fact the banks did not invest their own capital in the Cirio bonds, or a very modest amount at most. Moreover, the banks took a basically one-sided position vis-à-vis retail customers: they normally acted as sellers to non-professional investors, while their purchases from the latter were marginal. Banks' trades for own account were sometimes routed through alternative trading systems.

This behaviour was evaluated on the basis of the provisions in force concerning investment services. The identification of possible cases of conflict of interest with customers, deriving from banks' pre-existing loans to the group issuing the securities they traded, required further investigations that were conducted with the assistance of the Bank of Italy.

Procedural shortcomings lie at the root of other critical cases that involved large numbers of savers and also required intense work on the part of the Commission.

As regards Argentinean bonds in particular, the investigations concentrated on some intermediaries that both quantitative indicators and the number and importance of investor complaints to Consob suggested might have played an especially prominent role.

The investigations proved to be complex, partly because they concerned large intermediaries, some of which were involved in corporate restructuring in the period under scrutiny. Some of the investigations that were initiated have been completed.

Among other important cases, there was that of the handling of the market insolvency of a stockbroker that led to supervisory measures vis-à-vis some of the other intermediaries involved.

Consob looked into investment products featuring the protection of the capital invested, in some cases associated with the offer of a minimum guaranteed return. Investment products of this kind have become highly popular among small savers in recent years, owing to the high volatility of the equity markets.

In particular, Consob examined some guaranteed individual portfolio management products which a bank offered to some customers who held managed portfolios consisting of investment fund units and which were designed to transfer the portfolio risk from the customers to the bank. These arrangements were not the subject of regular procedures and were marked by practices that were neither formal nor uniform. Moreover, the bank in question did not adopt measures to monitor and manage the risks it assumed by providing the guarantees; the taking of risks that were not subject to adequate control led to losses for the bank. These irregularities occurred and persisted in part because of the weaknesses of the operating arrangements designed by the bank's governing bodies, which were characterized by unsatisfactory definition and assignment of tasks within the company and by an internal control system that did not enable the governing bodies to monitor the way in which delegated powers were implemented.

In 2003 Consob transmitted 6 opinions to the Bank of Italy for matters falling within its sphere of competence regarding the outsourcing of investment firms' internal control function.

With its Regulation of 4 August 2000, the Bank of Italy reserved the right to evaluate the possible outsourcing of investment firms' internal control function according to standards of timely action, reliability and efficiency, after consulting Consob for the matters within its competence. In most of the cases examined the internal control function was entrusted to the parent company's control structure.

The Commission also cooperated closely with the Ministry for the Economy and Finance, to which it transmitted 9 opinions for matters falling within its sphere of competence regarding entry in or deletion from the special roll of stockbrokers kept by the Ministry.

Consob continued the supervisory action that it had initiated in 2002 on the matter of transaction-based fees, with a view to receiving confirmation of the actual elimination of such fees and information on any changes by intermediaries to their fee structure. All the intermediaries concerned confirmed that they had conformed with Consob's instructions.

During the year the Commission carried on its customary activity of keeping the register of investment firms and trust companies.

The number of intermediaries authorized to provide investment services continued to fall in 2003. In particular, the number of registered investment firms and trust companies fell by 17 per cent (Table aVI.2).

Last year Consob for the first time authorized an EU investment firm to provide services in Italy not subject to mutual recognition. The firm in question was authorized, under the freedom to provide services, to engage in trading for own account and for customer account and in the reception and transmission of orders involving commodity derivatives.

As commodity derivatives do not appear on the list of financial instruments annexed to the Investment Services Directive (93/22/EC), an EU investment firm intending to provide services involving such derivatives cannot do so under the "European passport" (Articles 17 and 18 of the ISD), but must present a specific application for authorization pursuant to Article 23 of the Regulation on intermediaries.

During 2003 Consob sent the Ministry for the Economy and Finance its opinion for matters falling within its sphere of competence on a draft amendment to the bylaws of the National Investor Compensation Fund (Italy's system for indemnifying claims arising from the provision of investment services and from the custody and administration of financial instruments), which the Fund's management committee had approved on 15 July 2003. Consob also rendered an opinion on the annual update of the financing plan for the Compensation Fund's special operations concerning insolvencies initiated before 1 February 1998.

The Compensation Fund continued its operations under Article 59 of the Consolidated Law on Finance with regard to insolvencies in which the statement of liabilities was filed on or after 1 February 1998 (Table aVI.3). In particular, the Fund intervened in 19 insolvencies (11 investment firms and 8 stockbrokers). The Fund's special operations, financed in part by the Ministry for the Economy and Finance and governed by the rules predating the Consolidated Law, concern 25 insolvencies in which the statement of liabilities was filed before 1 February 1998.

Asset management companies

In 2003 the supervision of this type of intermediary concentrated mainly on large and medium-sized companies, measured in terms of both the volume of assets under management and the number of collective investment undertakings marketed.

In more detail, the Commission deemed it advisable to carry out multifaceted controls with a view to checking such intermediaries' compliance with the principles of transparency and proper conduct in transactions connected with their management activity. The investigations, carried out using the typical instruments of off-site supervision, brought to light problems in the procedures for executing purchases and sales of securities listed on regulated markets.

As specifically regards cross-trading between funds managed by the same company, in a few cases it was found that the operating procedures adopted and the changes in the price of the financial instruments traded could potentially be considered price manipulation techniques. However, in the majority of cases cross-trading was found to be consistent with the investment policies pursued by the funds examined and the price changes observed were not such as to prejudice the returns of some funds to the benefit of others.

As regards day trading, Consob determined that the transactions of this kind of some funds were basically not consistent with the investment strategies approved by the management company's governing bodies and the investment objectives set out in the offer prospectus. Apart from this aspect, the management activity in question did not raise problems from the standpoint of proper conduct, as no mechanisms were found that encouraged an increase in the number of transactions with a view to increasing the brokers' fee income (churning). Nonetheless, supervisory action did find some shortcomings in the procedures for the control of cross-trades and the recording of some essential data on the transactions carried out on behalf of the funds managed. Deficiencies were also found in the formalization of investment decision-making and the explanation of the management approach adopted given in the funds' prospectus and annual report.

Consob issued a recommendation on these matters in order to induce the governing bodies of the asset management companies concerned to examine the problems detected and identify the organizational and procedural resources with which to overcome them. In one specific case, the Commission also decided to initiate an inspection aimed at ascertaining the adequacy of the intermediary's procedures in the areas covered by the recommendation.

The Commission also monitored some recent market developments for conformity with statutory and regulatory provisions. These checks focused on the procedures for recording and executing orders for the subscription and redemption of investment fund units within a short interval of time (so-called market timing).

Market timing is a trading strategy whereby investors buy investment fund units and then sell them after a short interval of time in order to realize gains from the fluctuations of financial markets. Although market timing is not illegal per se, it involves an indirect violation of the principal of equal treatment of investors, giving market timers an advantage at the expense of long-term investors.

Consob performed its first investigation into the matter by selecting a sample of 8 asset management companies, which were requested under Article 8.1 of the Consolidated Law to provide descriptions of the procedures they adopted for the preventive allocation of orders, the entry of orders in the register, the handling of entry errors and the control and management of any departures from procedural standards.

The principal shortcomings that were found concerned the entry of orders in the register, the procedures for recording and keeping a register of orders transmitted by traders by telephone, fax or e-mail, and the absence in the registers of data needed to ensure their informational reliability. Consob made use of its powers of recommendation and urged the asset management companies concerned to bring their procedures into line with the market's best practices.

The investigation of market timing was based on a preliminary examination of the aggregated monthly supervisory data on all Italian open-end funds for the period from January 2002 to June 2003. For the universe of Italian open-end funds (1,339 funds of 92 asset management companies), Consob calculated two indicators — the ratios of available net liquidity and the sum of subscriptions and redemptions to total fund assets — that could be a first signal of the presence of market timing. The analysis produced an initial selection that, despite its high signaling value, did not permit Consob to reach a well-founded opinion as to the existence of abuses of short-term subscriptions and redemptions of fund units. Accordingly, Consob decided to pursue monitoring further by requesting 7 asset management companies to produce data and information on their daily flows of subscriptions and redemptions and their procedures for recording these transactions.

The Commission also paid special attention to asset management companies' investment policies as regards corporate bonds.

The results of the investigations carried out showed that corporate bonds issued by Italian groups constitute a marginal percentage of the assets of collectively and individually managed portfolios (including, for the latter, those managed by banks and investment firms; Table VI.2).

In fact, at 30 June 2003 the individual and collective portfolios managed by banks, investment firms and asset management companies held Italian corporate bonds worth around €7 billion, or about 8 per cent of the total amount of such bonds outstanding. The percentage of total assets under management consisting of Italian corporate bonds was modest in individually managed portfolios (around 1.1 per cent for banks and investment firms and 1.3 per cent for asset management companies) and even smaller in investment funds (0.6 per cent). The ratios were still lower for the portfolios that were under management by asset management companies belonging to the six largest banking groups.

Table VI.2

Italian corporate bonds in individual and collective portfolios managed by banks, investment firms and asset management companies[1]
(at 30 June 2003; amounts in millions of euros)

	Individual portfolios		Open-end collective investment undertakings (Asset management companies and SICAVs)	*Total*
	Banks and investment firms	Asset manage-ment companies		
Top 6 banking groups				
amount	656	527	1,288	*2,470*
as a % of assets under management	0.9	0.7	0.4	*0.5*
Total system				
amount[2]	1,803	2,713	2,825	*7,341*
as a % of assets under management	0.9	1.3	0.6	*0.8*

Sources: Based on Consob and Bank of Italy supervisory statistical reports. Excludes bonds issued by securitization vehicles. [1] Rounding may cause discrepancies in the last figure. [2] The figure for individual portfolios managed by banks and investment firms is estimated.

Asset management companies' holdings of corporate bonds were also very small in relation to the total financial debts of the leading Italian industrial groups (Table VI.3). In the case of the Telecom-Olivetti group, the share of the group's bonds held by asset management companies was equal to about 8 per cent of the group's total financial debts at the end of 2002; in the case of the Parmalat group, the bondholdings

amounted to around 7 per cent of the consolidated financial debts reported in the 2002 financial statements (on the basis of the reclassifications published in R&S Mediobanca 2003).

Analysis and supervision also focused on matters concerning the structure of the boards of directors of asset management companies and the requirements of director independence, with special reference to asset management companies controlled by banks.

As in other countries, legislation in Italy has recognized the central importance and current significance of the problem of board independence. Article 9.50 of Legislative Decree No. 37 of 6 February 2004 (the so-called "corrective decree") has amended Article 13 of the Consolidated Law on Finance by introducing the criterion of the "independence" of corporate officers alongside the traditional requirements of experience and integrity. The decree establishes that the new requirement is to be specified by the Ministry for the Economy and Finance after consulting Consob and the Bank of Italy. Equally important is the new paragraph 3-bis added to Article 13, which extends the application of the sanction of disqualification from office, up to now limited to the case of failure to satisfy the requirements established at regulatory level, to the case of inability to satisfy the independence requirements established by statutory provision.

While cooperation between the authorities will be necessary in the future to flesh out the recently introduced formula of independence, the legislative intervention has undoubtedly accentuated the self-regulatory role of intermediaries. The approach is the same as that already followed in the Consob Regulation on intermediaries, which leaves it to intermediaries to adopt and comply with an internal code of conduct — possibly by way of reference to the self-regulatory codes adopted by trade associations — which, as required by the Consolidated Law, must establish the "rules of conduct applicable to members of boards of directors". In this regard, although the "Protocol of Autonomy for Asset Management Companies" drawn up by Assogestioni at the start of 2001 defines requirements for independent directors and the powers they are to have, up until now asset management companies have not been receptive and their boards therefore still tend to reflect the dominance of banks in their ownership structures.

Table VI.3

Corporate bonds of the main Italian listed groups held by asset management companies in collectively and individually managed portfolios
(at 30 June 2003; amounts in millions of euros)

Listed groups	Amounts held		Total (A + B)	Total as a % of 2002 consolidated financial debts
	Open-end investment funds (A)	Individually managed portfolios (B)		
Telecom - Olivetti	2,025	1,232	3,257	8.0
Enel	187	707	894	3.5
Parmalat	353	62	415	7.2
Fiat	117	278	395	1.2
Eni	39	198	237	1.5
Italenergia - Edison	22	99	121	1.7
Cir (Cofide)	54	49	103	6.0
Pirelli	2	67	69	2.3
Finmeccanica	11	7	18	0.8
Benetton	5	4	9	0.3
Alitalia	5	4	9	0.5
Autostrada To-Mi	..	8	8	1.3
Impresilo	2	6	8	0.5
Dal mine	5	3	8	2.4
St Microelectronics	1	--	1	..
Bulgari	1	--	1	0.5

Sources: Based on data derived from Consob and Bank of Italy statistical supervisory reports and *R&S 2003 Mediobanca*. Excludes bonds issued by securitization vehicles.

Analyzing the composition of the boards of the 17 largest bank-controlled asset management companies (with assets under management amounting to around €300 billion, or 79 per cent of the total assets of harmonized Italian funds), one finds that many of their directors also held office in the parent bank or other companies of the banking group (Table VI.4). Of 143 directors (an average of 8.4 members per board), only 39, or around 27 per cent, did not hold a position in other companies of the group to which the asset management company belonged; 43 directors, or 30 per cent, held office in the parent bank (in 7 cases as managing director or general manager; in 20 cases a non-executive director was a manager in the parent

bank). A total of 61 directors of asset management companies held positions in other group companies.

By contrast, the figure of independent director is well-established in other legal systems. In the United States, for example, both statutory and regulatory provisions, namely the Investment Company Act and the rules issued by the SEC, contribute to establishing the notion of "independence" and the minimum number of independent directors that must sit on a fund's board. Moreover, on the basis of its recent enforcement actions against illegal practices in fund management, the SEC has proposed requiring a "supermajority" (75 per cent) of independent directors, which it contends could make board decision-making more consistent with the interest of investors.

Table VI.4

Positions held by directors of asset management companies in other companies belonging to the same group

Position on the board of the asset management company	Positions held in the parent bank					Positions held in other companies belonging to the same group	Without positions in companies belonging to the same group	Total
	Chairman	Managing director	Director	General manager	Manager			
Managing director					2	8	2	12
Director		2	7	4	20	37	16	86
Executive director						8	4	12
Independent director						2	14	16
Chairman		1	2		2	5	2	12
Chairman, executive director	1		1			1	1	4
Chairman, independent director			1					1
Total	*1*	*3*	*11*	*4*	*24*	*61*	*39*	*143*

Source: Prospectuses. Data for the 17 largest bank-controlled asset management companies in terms of assets under management (at January 2004.).

Financial salesmen

Supervisory action in respect of financial salesmen originated from complaints filed by investors, the outcome of inspections carried out at intermediaries, communications received from the judicial authorities or the police, and reports transmitted by intermediaries themselves.

In many cases the reports from intermediaries, which are mandatory and normally provide important support to the Commission in performing supervisory activity, were aimed at obtaining the imposition of sanctions by Consob in order to legitimate the termination of contracts with salesmen rather than at reporting situations that effectively warranted supervisory intervention.

In 2003 there was an appreciable increase in the number of communications reporting alleged irregularities by financial salesmen. The Commission received and examined a total of 462 complaints, compared with 332 in 2002 and 360 in 2001. After only an initial examination, Consob found that 73 of the 461 complaints did not involve irregularities attributable to financial salesmen. Many of them were anonymous and concerned matters not pertaining to the Commission's sphere of authority, or were completely generic, or concerned cases that could not be considered owing to the limitation of actions.

The increase in the number of complaints and reports is presumably a reflection of the

persistent weakness of the financial markets and the negative economic situation, which tends to make investors more disputatious and tempts intermediaries to behave in ways that are not always in line with the legislative and regulatory provisions governing the sector.

The number of registered financial salesmen fell slightly last year. At 31 December 2003 there were 66,554, compared with 66,743 at 31 December 2002. It was the first annual decline in the total number of registered financial salesmen since the single national register was established (Table aVI.5).

The number of deletions rose very substantially with respect to 2002, from 2,201 to 4,735, and comprised 3,119 for failure to pay the supervisory fee, 1,494 at the registrant's request, 59 following the registrant's death, 56 following an expulsion order, 4 because the person ceased to satisfy the requirements and 3 following measures revoking entry. The large increase in certain types of deletion, especially for failure to pay the registration fee, and the decline in the number of new entries (from 9,300 to 4,530) were the main factors responsible for the reduction in number of registered financial salesmen. The decrease was proportionally greater in the Centre and South than in the rest of Italy.

VII. SANCTIONS AND PREVENTIVE MEASURES

Measures regarding intermediaries and financial salesmen

Last year the Commission concluded 17 proceedings for violations of the law on securities business and the provision of investment services (Table VII.1). The Commission proposed sanctions concerning 215 persons (of whom 3 stockbrokers) and totaling €2.4 million, compared with €3.2 million in 2002. The great majority of the infractions and the bulk of the fines referred to banks and asset management companies.

Table VII.1

Proposed fines on intermediaries [1]
(amounts in thousands of euros)

	1999	2000	2001	2002	2003
Number of cases					
Banks	23	13	5	5	7
Investment firms	25	21	10	12	3
Stockbrokers	3	14	1	5	1
Asset management companies	--	--	--	5	6
Total	*51*	*48*	*16*	*27*	*17*
Number of persons for whom fines were proposed working for:					
Banks	71	71	31	90	114
Investment firms	71	88	52	161	25
Stockbrokers	3	14	1	6	3
Asset management companies	--	--	--	61	73
Total	*145*	*173*	*84*	*318*	*215*
Amount of proposed fines					
Banks	647	986	252	557	1.847
Investment firms	566	901	860	1.319	172
Stockbrokers	120	100	39	136	54
Asset management companies	--	--	--	1,147	369
Total	*1,333*	*1,987*	*1,151*	*3,159*	*2,441*

[1] Rounding may cause discrepancies in the last figure.

Nearly all of the alleged violations by investment firms concerned shortcomings in procedures and organizational structures. Behavioural violations were more frequent among banks and asset management firms, although here again the largest number of violations concerned procedural aspects (Table VII.2). As regards banks, most of the violations involved individual portfolio management, followed by the reception of orders and trading for customer account, while among investment firms the most frequent infractions concerned the reception of orders and placement services. Lastly, for asset management companies, violations in the field of collective portfolio management were far more numerous than those involving individual portfolio management.

Around 19 per cent of the violations ascertained (in terms of the amount of the proposed fines) concerned failure to comply with the principle that intermediaries must have resources and procedures, including internal control mechanisms, likely to ensure the orderly and correct performance of services (and serving to reconstruct the times and types of actions and the manner in which they were taken) and adequate supervision of the activity of employees and financial salesmen (Table VII.3). Another 15 per cent concerned non-compliance with the principle that intermediaries must act diligently, correctly and transparently in the interest of customers and the integrity of the markets.

Table VII.2

Proposed fines on persons working for intermediaries in 2003[1]
(amounts in thousands of euros)

	Investment firms		Banks		Stockbrokers		Asset management companies	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Executive directors	4	68	25	817	1	35	22	175
Non-executive directors	9	27	55	590	--	--	26	92
Chairman of the board of auditors	2	15	6	117	--	--	6	34
Other auditors	5	24	12	110	--	--	11	43
General manager	--	--	4	70	--	--	2	15
Controller	2	11	3	46	2	19	3	7
Employee	3	28	9	97	--	--	3	4
Total	*25*	*172*	*114*	*1,847*	*3*	*54*	*73*	*369*
Sanctions proposed and imposed in 2003[2, 3]								
Proposed	62	172	135	427	--	--	66	144
Imposed	62	172	135	427	--	--	66	144
Type of violation[3]								
Procedural	54	69	301	1,515	3	16	169	275
Behavioural	8	103	89	332	3	37	56	114
Investment service[4]								
Placement	30	117	84	317	—	—	—	—
Reception of orders	33	112	210	783	6	54	—	—
Trading for customer account	16	118	104	339	6	54	—	—
Trading for own account	15	93	91	353	—	—	—	—
Collective portfolio management	—	—	—	—	—	—	188	303
Individual and collective portfolio management	—	—	—	—	—	—	26	49
Individual portfolio management	28	102	281	1,403	3	16	11	37

[1] Rounding may cause discrepancies in the last figure. [2] The figures refer only to sanctions that were actually imposed by the Ministry for the Economy and Finance as of the end of 2003. [3] The total differs from those shown earlier owing to the application of legal cumulation and the number refers to the number of violations committed. [4] The figures differ from those shown earlier as the same violation may involve more than one service.

Analysis of the violations by category of intermediary shows that 70 per cent of those found in the case of stockbrokers concerned failure to comply with the principle of separation of customers' assets (Table VII.4). This violation was also the most frequent type in the case of investment firms (33 per cent of the total). Among asset management companies, the commonest violation was lack of internal procedures likely to minimize the risk of conflicts of interest in group and other transactions and to guarantee fair treatment of the different collective investment undertakings under management.

Turning to financial salesmen, last year the Commission adopted 109 disciplinary measures and 26 preventive suspensions; in another 107 cases the proceedings were dropped. Consob also transmitted 77 reports of suspected crimes to the judicial authorities in connection with the activity of financial salesmen (Table aVII.1).

Table VII.3

Main violations found in the course of supervision of intermediaries in 2003[1]
(amounts in thousands of euros)

Violation	Relevant provisions	Share [2]	Amount of fines	Number of violations
Non-compliance with principles requiring intermediaries to have resources and procedures, including internal control mechanisms, likely to ensure the efficient, orderly and correct performance of services, to permit the reconstruction of the times and types of actions taken and the manner in which they were taken, and to ensure adequate supervision of the activity of employees and financial salesmen	Art. 21.1d) of the Consolidated Law on Finance and Art. 56.2 of Regulation 11522/1998	19.1	462	126
Non-compliance with the principles requiring intermediaries to act diligently, correctly and transparently in the interest of customers and the integrity of the markets	Art. 21.1a) of the Consolidated Law on Finance	14.8	364	44
Non-compliance with the principles requiring intermediaries to conduct independent, sound and prudent management and to make appropriate arrangements for safeguarding the rights of customers in respect of the assets entrusted to them	Art. 21.1e) of the Consolidated Law on Finance	9.5	233	28
Non-compliance with the principles requiring intermediaries to have resources and procedures for internal controls likely to ensure the efficient performance of services, owing to failure on the part of the internal control function to carry out continuous checks on the ability of internal procedures to ensure compliance with the provisions of the Consolidated Law on Finance and the related implementing provisions	Art. 21.1d) of the Consolidated Law on Finance and Art. 57.3a) of Regulation 11522/1998	8.7	209	29
Non-compliance with the principles and regulatory provisions requiring intermediaries to have resources and procedures, including internal control mechanisms, likely to ensure the efficient performance of services	Art. 21.1d) of the Consolidated Law on Finance and Art. 56 of Regulation 11522/1998	8.5	205	39
Total		*60.5*	*1473*	*266*

[1] Rounding may cause discrepancies in the final figure. [2] Percentage of the total amount of sanctions proposed

Table VII.4

Main violations found in the course of supervision in 2003 by category of intermediary
(amounts in thousands of euros)

Category of intermediary	Violation	Relevant provisions	Share [1]	Amount of fines	Number of violations
Asset management companies	Non-compliance with the rules of conduct requiring asset management companies to have an organizational structure and internal procedures likely to minimize the risk of conflicts of interest in transactions, including any such interest arising from intragroup dealings or other business dealings of their own or of group companies, and in any case to ensure, in connection with such transactions, equal treatment of the collective investment undertakings they manage	Art. 40.1b) of the Consolidated Laws on Finance and Arts. 49.1 and 56.1 of Regulation 11522/1998	13.5	52	31
Stockbrokers	Failure to maintain separation of assets	Art. 22 of the Consolidated Law on Finance	69.6	37	3
Investment firms	Failure to maintain separation of assets	Art. 22 of the Consolidated Law on Finance	33.3	57	6
Banks	Non-compliance with principles requiring intermediaries to have resources and procedures, including internal control mechanisms, likely to ensure the efficient, orderly and correct performance of services, to permit the reconstruction of the times and types of actions taken and the manner in which they were taken, and to ensure adequate supervision of the activity of employees and financial salesmen	Art. 21.1d) of the Consolidated Law on Finance and Art. 56.2 of Regulation 11522/1998	22.4	413	92

[1] Percentage of the total amount of sanctions proposed for the category of intermediary.

As regards more serious disciplinary measures, there was little change with respect to the previous year either in their number of (56 persons were struck from the register of financial salesmen, compared with 58 in 2002) or in the number of fines (6, compared with 5 in 2002). By contrast, disciplinary suspensions increased from 37 to 47 while the number of reprimands fell drastically, from 33 to 1. The decline in preventive suspensions from 31 to 26 was in line with that recorded in 2002 and came mainly from the reduction in suspensions for up to one year.

In the mutual cooperation between the Commission and the judicial authorities, the powers and investigative instruments that Consob currently commands do not always permit it to adopt preventive measures or sanctions before the judiciary investigates suspected crimes committed by financial salesmen.

In some cases, suspected crimes such as forgery of an investor's signature or money-laundering require judicial investigations, in the absence of which it is extremely hard for the Commission to intervene and adopt sanctions. Thus, without detriment to the mutual independence of administrative and criminal proceedings or to the rights and interests of the parties involved, ever-closer forms of cooperation have been established between the Commission and the judicial authorities, permitting Consob to acquire otherwise unobtainable material documentation and information. By the same token, Consob's reports of suspected crimes have often served as the basis for the judicial police to launch important investigations.

Measures regarding issuers and auditing firms

In 2003 Consob submitted 31 proposals to the Ministry for the Economy and Finance for the application of fines for violations of the rules on the solicitation of investors and corporate disclosure (Table VII.5). The proposed fines amounted to €1.7 million, compared with €2.1 million in 2002. In addition, the Commission initiated 32 proceedings that were concluded in 2003 with the payment of reduced fines (Table VII.6).

Table VII.5

Administrative sanctions proposed by Consob to the Ministry for the Economy and Finance concerning the solicitation of investors, corporate disclosure and proxies
(amounts in thousands of euros)

	2001	2002	2003
Number of cases			
Public offerings	27	14	3
Tender offers	--	--	1
Corporate disclosure	6	12	5
Major holdings and shareholders' agreements	3	11	22
Proxies	--	--	--
Total	*36*	*37*	*31*
Number of persons fined			
Public offerings	35	24	7
Tender offers	--	--	5
Corporate disclosure	5	18	7
Major holdings and shareholders' agreements	4	43	13
Proxies	--	--	--
Total	*44*	*85*	*32*
Amount of the proposed fines			
Public offerings	545	1,404	702
Tender offers	--	--	464
Corporate disclosure	160	400	216
Major holdings and shareholders' agreements	238	300	359
Proxies	--	--	--
Total	*943*	*2,104*	*1,741*

Table VII.6

Reduced payments to settle charges of violations of the rules on the solicitation of investors, corporate disclosure and proxies
(amounts in thousands of euros)

	2001	2002	2003
Number of cases			
Public offerings	13	6	1
Tender offers	2	1	3
Corporate disclosure	11	6	6
Major holdings and shareholders' agreements	51	78	22
Proxies	--	--	--
Total	*77*	*91*	*32*
Number of persons fined			
Public offerings	19	6	8
Tender offers	3	1	4
Corporate disclosure	20	6	6
Major holdings and shareholders' agreements	53	77	29
Proxies	--	--	--
Total	*95*	*90*	*47*
Amount of the fines			
Public offerings	344	207	83
Tender offers	31	103	41
Corporate disclosure	258	392	155
Major holdings and shareholders' agreements	537	845	300
Proxies	--	--	--
Total	*1,170*	*1,547*	*579*

The irregularities regarding the solicitation of investors for which fines were imposed concerned unauthorized offerings. In these cases Consob also adopted preventive measures prohibiting or suspending the offering (Table VII.7).

Table VII.7

Preventive measures concerning public offerings

	2001	2002	2003
Preventive suspension	3	2	9
Prohibition	3	6	2
Annulment	--	--	2
Total	*6*	*8*	*13*

Specifically, the Commission suspended 4 exchange tender offers involving bonds of foreign issuers that were communicated to Italian custodians by means of the Luxembourg central securities depository Clearstream. The information gathered suggested that the activities carried out violated the rules in force. In particular, although the transactions in question constituted exchange tender offers under Article 1.1v) of the Consolidated Law on Finance, they had not been notified in advance to Consob, nor had the document intended for publication been transmitted as prescribed by Article 102.1 of the same law.

As regards the rules on major holdings, all the sanction proceedings (i.e. those that ended with Consob proposing a fine to the Ministry for the Economy and Finance and those that were settled with the payment of reduced fines) concerned late notification of changes in percentages and amounts of shareholdings. Nonetheless, the total number of sanction proceedings of this kind concluded in 2003 was smaller than in the two previous years. In the case of the rules on tender offers, the violations concerned failure to make mandatory offers for listed companies.

In the area of corporate disclosure, 10 sanction proceedings concerned violations of the rules on continuing and periodic disclosure. One violation concerned the members of the board of auditors of a listed company, who failed to inform Consob promptly of an irregularity in the drawing up of the report for the half year ended 30 June 2002.

Turning to auditing firms, pursuant to Article 163.1a) of the Consolidated Law on Finance, in 2003 Consob instructed KPMG s.p.a. not to avail itself of the services of a partner in its auditing activity for a period of two years. The measure was adopted following controls on the audits of the 2000 annual accounts and 2001 half-yearly report of Bipop-Carire s.p.a. and the 2000 annual accounts of the latter's subsidiary Fineco-Banca ICQ s.p.a.

Supervisory checks turned up serious shortcomings in the audit process that involved failure to evaluate the internal audit function and the associated effects on the assessment of the control risk of the audit for the unit responsible for managing individual portfolios consisting of units of investment funds, failure to examine the procedures by which a large credit line was granted to a director of the bank and the procedures for renewing the guarantee granted to the same person, and failure to acquire sufficient facts to corroborate the valuation of some loans.

The above-mentioned shortcomings prevented the auditing firm from promptly discovering the anomalies in the process whereby important decisions were made within the bank, such as the renewal of credit exposures to related parties, and hence from promptly detecting the existence of censurable facts. They also prevented it from identifying the existence of significant risks borne by the bank in respect of substantial positions vis-à-vis related parties.

Internet enforcement

In the four years 2000-04 that the Commission has supervised compliance with market rules on the Internet it has examined more than 250 websites and taken more than 100 enforcement actions. The fact that irregularities were found in such a large percentage of the sites examined indicates the need for the utmost attention in supervisory action to combat widespread illegality in financial websites.

The Commission's four-year experience of Internet supervision shows the impossibility of identifying a priori the types of irregularities characteristic of activity carried out on websites. Supervisory action, performed using specific innovative instruments of investigation, benefits from a statistical refinement of web spidering.

Consob has presented its supervisory procedure to the Committee of European Securities Regulators along with the results of some of its investigations of websites disseminating cross-border information, thereby making a significant contribution to supervisory interaction between EU authorities.

Last year the Commission adopted 12 enforcement measures (Table aVII.2), consisting mainly of orders suspending or prohibiting offerings of financial instruments and letters of reprimand to the interested parties.

The unauthorized offerings targeted by these measures generally took the form of Ponzi schemes. Typically, the owner of the website promotes an activity, based on investment in financial instruments, that promises each investor a chance to make money depending on the number of other investors he or she is able to bring in. Obviously, this type of pyramidal remuneration scheme works as long as the rate of growth of new investors ensures the inflow of cash needed to pay the first investors and, above all, the person who began the activity (the site owner). When the inflow of fresh cash from new investors is no longer sufficient, the mechanism collapses, leading to a loss of all the capital invested by the last persons enrolled in the scheme. Some of these schemes, whose nature is such that they can involve a large number of savers, entailed suspected criminal offences or violations of the law on money-laundering and were duly reported to the judicial authorities or the Italian Foreign Exchange Office.

Another scheme commonly used on the Internet consists in presenting what appears to be a consulting service but actually involves unauthorized asset management and placement of financial instruments. These cases were also reported to the judicial authorities.

Over and above the above-mentioned cases, the reports to the judicial authorities regarded alleged cases of unauthorized activities punishable under the Consolidated Law on Banking, which were also reported to the Bank of Italy for the matters falling within the scope of its authority. Furthermore, the Commission provided support to the judicial authorities in a criminal trial that arose

from a report by Consob in the preceding years in connection with its Internet supervision. In addition, Consob cooperated with the Finance Police in a number of instances. Lastly, the Commission found what it suspected were irregularities in the provision of insurance services and reported them to Isvap, the supervisory authority for the insurance industry, for the matters falling within the scope of its authority.

The reports the Commission made to foreign supervisory authorities pursuant to the respective memoranda of understanding concerned illicit activities on the Internet aimed at Italian investors that potentially or actually also involved investors not resident in Italy.

Lastly, Consob began the technical and juridical review of Legislative Decree 70/2003 implementing Directive 2003/31/EC on electronic commerce. Among its other provisions, the decree empowers Consob to order Internet service providers to shut down websites in order to prevent the protraction of violations. Some of the provisions of the decree were already applied in the first few months of 2004.

VIII. REGULATORY AND INTERPRETATIVE ACTIVITY AND INTERNATIONAL DEVELOPMENTS

Regulation of the solicitation of investors

The most important innovation concerning the solicitation of investors was the entry into force on 31 December 2003 of the Prospectus Directive (2003/71/EC), which gave member states a period of 18 months, expiring on 1 July 2005, in which to adopt the legislative, regulatory and administrative provisions needed to comply with the new law.

The key principles established by the directive with a view to harmonizing the rules on offering/listing prospectuses are the introduction of a common notion of public offering, the definition, by means of the comitology procedure, of the minimum content of prospectuses to be complied with in all the member states, the specification of the cases of exemption from the obligation to draw up a prospectus and, above all, the possibility for issuers to make use of a single European passport in the event of cross-border offerings/listings.

In order to comply with the directive, legislation will have to be passed with respect to the notion of public offering, the cases of exemption from the obligation to draw up a prospectus, the rules on inapplicability and the time limits for clearance by the competent authorities, the requirement that prospectuses should include a summary, and recognition of the possibility for prospectuses to be deemed to include information by reference to other previously or simultaneously published documents approved by or filed with the competent authority (incorporation by reference).

In addition to the traditional model of the prospectus as a single document, the directive confirms the possibility of using a prospectus made up of more than one document (a registration document for the issuer and a securities note for the financial instruments) and the need for a summary drawn up in non-technical language and serving to set out the risks associated with and the essential characteristics of the issuer, any guarantor and the financial instruments.

Again with reference to the format of the prospectus, the directive also confirms the possibility of drawing up a base prospectus, not only for the programmes of bank issuers but also for issues made in a continuous or repeated manner of non-equity securities (including warrants) by corporate issuers. It is worth noting that this format makes it easier to fulfill the information obligations connected with the operation by permitting a single (base) prospectus to be used for several issues since the information on the terms and conditions of each operation is given in separate securities notes. Updates are to be published in supplements to the prospectus and the final terms of the offering may also be published in special supplements.

As regards the clearance of prospectuses (for which a time limit of 15 days is set), while the general principle of identifying the competent authority as the home-country authority applies, considerable freedom of choice is granted as regards the competent authority for operations involving non-equity securities with a face value of at least €1,000 or derivative instruments not issued by the issuer of the underlying (or by an entity belonging to the same group as the issuer). For the purpose of the working of the European passport, as already envisaged in the proposed directive, provision has been made for a simplified language regime whereby only the summary note has to be translated into the languages of the various member states in which the operation is to be carried out.

Turning to the matters for which the directive lays down general principles, it should be noted that the implementing measures will be adopted by means of the comitology procedure hinging on the work carried out by the Committee of European Securities Regulators (CESR). This

Committee has so far provided technical advice in three separate documents (CESR/03-208, CESR/03-300 and CESR/03-399) on the minimum content and format of prospectuses, incorporation by reference and advertisements.

The first two documents with CESR's advice were largely adopted by the European Commission, which published a draft version of the regulatory provisions on prospectuses to be submitted for examination by the European Securities Committee. As regards the third document, which includes regulatory proposals aimed in part at harmonizing the standards for presenting financial information in prospectuses in the initial period of the application of Regulation (EC) no. 1606/2002 (on the adoption by European issuers of the IAS/IFRS international accounting standards), further progress in the application of the comitology procedure is awaited.

In particular, for issuers of shares (or other equity securities) with their registered office in a member state (domestic issuers), CESR hopes that in the initial period of application of IAS/IFRS prospectuses will also show the annual accounts of the last two financial years prepared in conformity with the above-mentioned accounting standards.

For other domestic issuers (i.e. for the offering/ listing of bonds, derivatives, asset-backed securities and certificates representing shares), CESR, taking account of the results of consultation, deemed it sufficient for the annual accounts of just the last financial year to be drawn up on the basis of the IAS/IFRS standards. In fact CESR did not deem it desirable to impose additional obligations on such issuers with respect to those already contained in IFRS no. 1 (First-Time Adoption of IFRS), which requires the first financial statements prepared on the basis of IAS/IFRS to contain comparative information covering at least the previous financial year.

Nonetheless, in view of the substantial costs potentially involved in the transition to IAS, CESR was of the opinion that the disclosure regime described should not be applied to the annual accounts for any period earlier than 1 January 2004. Moreover, in the case of national provisions set in accordance with Article 9 of Regulation (EC) no. 1606/2002, the obligation to produce IAS/IFRS numbers in the prospectus should not apply before 1 January 2006.

Where the annual accounts of non-EU issuers have not been prepared on the basis of IAS/IFRS, CESR nonetheless deemed that the financial information to be included in prospectuses should at least be prepared on the basis of accounting standards equivalent to IAS.

For issuers whose securities are already traded in a non-EU country and which, for that purpose, have applied internationally accepted accounting standards in drawing up their annual accounts, pending completion of the process of recognizing internationally accepted accounting standards as equivalent to IAS/IFRS, CESR recommended a transitional regime that could last until 2007, compatibly with the way in which member states have exercised the options granted them by Article 9 of Regulation (EC) no. 1606/2002.

As regards the notion of "internationally accepted accounting standards", CESR, in the light of Article 26 of the proposed directive on the transparency of financial information of 26 March 2003, specified that for the moment it was to be taken as referring exclusively to the US accounting standards known as US GAAP.

In March 2003 Consob made important amendments to Regulation 11971/1999 on issuers concerning the admission to trading of financial instruments already traded on other Italian regulated markets in the absence of an application by the issuer.

In this respect it should be noted that the Consolidated Law on Finance does not distinguish between "admission to trading" and "admission to listing", but in principle this does not exclude the possibility of financial instruments that are already listed and traded on another Italian regulated market being admitted to trading without the issuer being involved, provided this new admission to trading does not expose the issuer to additional disclosure requirements. In fact the issuer will have fulfilled these requirements when it was admitted

to trading at its own initiative on an Italian regulated market since it will have had to publish a listing prospectus in accordance with the EU directive and then to fulfill all the disclosure requirements deriving from its status of a listed issuer.

The Community legislation excludes instead the possibility of admission to trading without an application by the issuer on regulated markets that fall within the scope of the Community definition of a stock exchange. For financial instruments listed on other EU markets, on the one hand, there must be the inevitably consensual procedure for the recognition of the prospectus in Italy and, on the other, the issuer is not subject to any disclosure obligations in Italy or to the powers granted to Consob under Articles 114 and 115 of the Consolidated Law on Finance.

The regulatory amendments introduced in 2003 therefore make it possible, in view of the compatibility with the law in force, for financial instruments already listed on an Italian regulated market (and only an Italian regulated market) to be admitted to trading on a regulated market other than the stock exchange without the consent of the issuer.

*To this end, a new provision (Article 64-*bis*) was added to Consob Regulation 11971/1999 on issuers that explicitly excludes the need to publish a prospectus when financial instruments already traded on an Italian regulated market are admitted to trading without an application by the issuer, provided the issuer published a prospectus at the time of the earlier admission. The same principle was also affirmed in the amended version of Article 57, which specifies a number of cases of exemption from the requirement to publish a prospectus in the event of an application for admission to listing. The newly-added paragraph 3 of that article makes a distinction, however, between admission to trading on a regulated market other than a stock exchange and admission to trading on a stock exchange. In the first case a prospectus does not have to be published if the issuer already published one at the time of the earlier admission; in the case of admission to trading on a stock exchange, instead, Consob may,* inter alia *by reference to Community law, wholly or partly exempt issuers from publishing a prospectus that have already published a prospectus containing information equivalent to that specified in Annex 1B of the regulation in question.*

Other amendments were intended to ensure that a listed issuer already subject to a whole series of disclosure obligations as a result of its initial listing would not find itself subject, following the subsequent involuntary admission of its securities to trading, to additional obligations, vis-à-vis the company operating the market for instance. To this end, the amendments introduced narrow the definition of market operating company for the purpose of applying the regulation on issuers, with special reference to the requirement for issuers to disclose information to such companies, by specifying that market operating company is to be taken to mean the company that operates the market on which securities were admitted to trading at the request of the issuer.

It was also deemed necessary to amend the text of the regulation to allow the company operating the market on which financial instruments are admitted to trading without an application by the issuer to perform some supervision of the market (in connection, for instance, with decisions regarding admission to trading and exclusion and suspension therefrom). On the one hand this activity means that such companies must take steps to acquire in other ways the information they do not receive directly from issuers and on the other that it must be possible for them to do so on the same terms as the other recipients of that information.

*Article 116-*ter *was therefore added regarding the tasks of the company operating the market on which securities are admitted to trading in the absence of an application by the issuer. The new article requires the company in question to: inform the issuers and the operating company of the market on which the securities have been admitted at the issuers' request of the day on which trading will begin on its own market; take steps to acquire all the corporate information transmitted by issuers in accordance with Title II of the*

regulation on issuers; and inform the public of the release by issuers of the documentation concerning extraordinary corporate actions and the periodic disclosures referred to in Articles 70-83 of the same regulation. Provision was also made, where the operating company of the market on which the securities were admitted at the issuers' request decides to introduce electronic or other systems for the dissemination of information in ways different from those laid down in the regulation on issuers, for the operating company of the market on which the securities were admitted to trading without an application by the issuer to be guaranteed access thereto.

Amendments of less significance were made to bring the regulatory provisions into line with Article 2 of the regulation on issuers, which now defines stock exchange as meaning the regulated markets or segments thereof where admission to listing complies with the conditions laid down in Directive 2001/34/EC (which codifies a number of earlier directives concerning the requirements for listing and listing particulars). Accordingly, references in the regulation on issuers to stock exchange listing and the related disclosure obligations for covered warrants and certificates were eliminated. In fact, in the light of Community law these instruments cannot be listed on regulated markets classifiable as stock exchanges. It was therefore necessary to insert the content of the earlier provisions concerning covered warrants and certificates listed on a stock exchange in Chapter V of the regulation on issuers, which covers financial instruments listed on regulated markets other than stock exchanges.

At European level the political agreement reached on the proposed takeover bid directive is of particular importance. Under the new text a takeover bid for all the outstanding voting shares will be mandatory when holdings exceed a given threshold, to be set by the individual member states. The price is to be the highest paid by the offeror for the same securities in a period of not less than 6 months and not more than 12 months preceding the bid.

The proposed directive envisages a series of disclosure obligations. In the first place, bids must be made public without delay and the supervisory authorities must be informed immediately. In addition, bidders are required to prepare and make public an offer document containing all the necessary information to enable the persons to whom the bid is addressed to reach a properly informed decision.

The proposed directive also requires measures and operations aimed at frustrating a bid to be authorized in advance by the shareholders' meeting. Such authorization is to be mandatory at least from the time the board of the target company is informed of the bid and to remain so until the result of the bid has been made public or the bid lapses. In addition, when a bid has been made public, the restrictions on the transfer of shares and on voting rights established in the bylaws of the target company or in contractual agreements will cease to apply.

As regards defensive measures and the break-through rule (the ineffectiveness of measures aimed at defending control of the company such as shareholders' agreements and unequal voting shares), it is important to note the right given to member states not to apply the relevant provisions to companies set up within their territory. Moreover, member states may allow target companies not to apply the provisions of domestic legislation that limit the use of defensive measures when the bidder is not subject in its home country to analogous provisions (that prevent target companies from adopting defensive measures without the consent of the shareholders' meeting).

Member states will also be allowed to derogate in national legislation from the provisions of the proposed directive, provided certain general principles it establishes are complied with: i.e. equal treatment of shareholders; the need for the holders of the securities of the target company to be given sufficient time and information to reach a properly informed decision on the bid; and the need for target companies not to be hindered in the conduct of their affairs for longer than is reasonable by a bid for their securities.

By making the application of the key aspects of the directive optional, these provisions do not appear to produce an effective harmonization of the member states' rules on takeover bids. The likely outcome is not very different from the present situation, in which each

country or company can choose the regime it deems to be most advantageous. Moreover, the directive provides for mandatory bids to be on more onerous terms than those currently envisaged in Italy.

Turning to the Italian legal framework for public offerings and tender offers, the Commission intervened on numerous occasions to provide clarifications and interpretations.

As regards public offerings, Consob stated that the rules applied to a financial restructuring operation (carried out on the basis of English law) involving a series of overdue notes issued by companies belonging to a group headed by an Italian listed company.

The debt restructuring plan was to be approved by meetings of the noteholders convened by means of notices published in the press and preceded by the distribution of an Information Memorandum containing information on the operation and the companies involved. The plan submitted to the noteholders for their evaluation consisted in a complex operation divided into several stages leading, among other things, to the extinction of the notes and the allotment to the noteholders of shares of the Italian company deriving from an increase, still to be approved, in the latter's capital with the exclusion of pre-emption rights.

The Commission deemed that the action to be taken showed all the characteristic features of a public offering: the offer was to be made to a number - indeterminate, but certainly more than 200 - of persons, albeit all belonging to the category of noteholders; the restructuring plan, which, if approved, would have led to the allotment of financial products (shares of the Italian listed company), was to be made known to the interested parties in a standardized way; and, lastly, the content of the offer was also standardized and not alterable by the noteholders in the meetings that were to be called.

Consob also deemed that the above conclusion did not call into question the fact that the decisions taken by the meetings of noteholders would be binding on those who were absent or voted against them since this did not rule out, with reference either to the individual votes or the outcome of the ballot, that each interested party would express an "acceptance" or a "rejection" of the proposal.

In response to a query Consob excluded the applicability of the rules on the solicitation of investors to sales of buildings on a time-sharing basis provided the financial aspects of the transaction were not predominant with respect to the enjoyment of the building acquired on a time-sharing basis.

Consob reached this conclusion after examining an advertising campaign for the sale of buildings on a time-sharing basis in which the company proposing the operation guaranteed buyers an "annual income" from renting the properties to third parties. In the case in question the Commission took the view that the presence of the guaranteed income was not an essential part of the offer compared with the use of the property acquired and that the financial aspects of the transaction were not an integral part of the contract for the purchase of shares of the property.

In another case the Commission took the view that the rules based on the Consolidated Law on Finance concerning public offerings and tender offers could apply, if Italian residents were involved, to a debt restructuring carried out by a group of companies set up under English law.

In the case in question it was envisaged that under a scheme of arrangement authorized by an English court and approved by creditors representing at least 75 per cent of the claims covered by the proposed restructuring the issuing company would be able to cancel the bonds and extinguish the claims by offering a consideration consisting of new shares, new bonds and cash. The Commission noted that sending the information documentation on the operation to more than 200 Italian creditors or bondholders would amount to a solicitation of investors and therefore cause the operation to be subject to the rules provided for in the Consolidated Law on Finance.

In response to a query the Commission ruled that the provisions of Articles 109.1a) and 122 of the Consolidated Law on Finance on mandatory

tender offers and shareholders' agreements did not apply to the agreements between a football club and some of its professional players employed under fixed-term contracts, which included an undertaking by the players to participate in an increase in the company's capital reserved to them and a lock-up agreement covering the shares they acquired.

As to whether Article 122 of the Consolidated Law applied to the above-mentioned agreements, the Commission took the view that, although they had structural features typical of shareholders' agreements, i.e. "agreements ... that ... provide for the purchase of shares" (Article 122.5c) and "agreements ... that ... set limits on the transfer of the shares" (Article 122.5b), they did not fall within the scope of Article 122 since the purpose was different from that typically pursued by shareholders' agreements.

In particular, the Commission concluded that, although the object and effect of the agreements corresponded literally to what was provided for respectively in Article 122.5c) and Article 122.5b) of the Consolidated Law, they could not be considered shareholders' agreements because they did not pursue the aims typical of such agreements defined as "stabilizing the ownership structures or governance of the company" (Article 2341-bis of the Civil Code). Accordingly, the Commission concluded that since the subscription and lock-up undertakings did not constitute shareholders' agreements falling within the scope of Article 122 of the Consolidated Law, they did not result in either the players or any other shareholders of the football club having to make a tender offer under Article 109.1a) of the Consolidated Law.

Regulation of ongoing corporate disclosure

As regards the rules governing transactions with related parties, Consob responded to the first question on the application of Article 71-*bis* of the regulation on issuers, which entered into force on 1 January 2003, and of Communication DEM/2064231 of 30 September 2002.

More specifically, a listed bank submitted the following queries to the Commission: 1) in the case of "indirect parties" to shareholders' agreements referred to in paragraph 2.b) of the 2002 Communication, whether, for the purposes of identifying related parties, consideration was to be given exclusively to the "party to the agreement and any direct and indirect controllers with the exclusion of the subsidiary and affiliated companies of the controllers of the party to the agreement"; 2) whether the transactions falling within the scope of Article 71-bis of the regulation on issuers included "transactions carried out at other than market conditions between fully consolidated companies"; and 3) whether the thresholds that the board of directors was required to specify for the purpose of identifying transactions with related parties subject to Article 71-bis could "also be applied to the information to be disclosed in the annual report, so as to avoid a duplication of thresholds and systems for monitoring transactions".

In response to the first query, the Commission specified that paragraph 2.b) of the Communication should be read together with paragraph 2.f), which referred to "entities controlled by natural persons specified in points b)-e), or on which natural persons specified in points a)-e) exercise a significant influence". According to the Commission, this relationship suggested that where the party to the shareholders' agreement was a natural person, the related parties should include entities controlled by such natural person or on which such natural person exercised a significant influence.

In response to the second query, the Commission stated that a priori it was not possible to rule out that transactions with fully consolidated subsidiaries could – in view of their subject, consideration or timing – have effects on the security of the company's assets or on the completeness and correctness of the information on the issuer (including that of an accounting nature), as provided for by Article 71-bis of the regulation on issuers. The Commission therefore concluded that such transactions needed to be assessed on a case-by-case basis to decide whether they fell within the scope of the rule in question.

As for the third query, the Commission clarified that the information to be disclosed in the information document or press release pursuant to Article 71-bis referred to transactions with related parties that were individually significant. In the annual report, instead, the information on transactions with related parties could be given in aggregate form provided this was sufficient to allow readers to understand their effects on the accounts. The Commission therefore concluded that while it was safe to assume that transactions falling within the scope of Article 71-bis would also be significant for the purposes of the annual report, it was not possible to rule out the possibility of information on other transactions with related parties having to be provided, possibly in aggregate form, in the annual report, for example if individually such transactions were not significant but produced significant effects when considered together.

In responding to specific queries Consob provided guidance on two aspects of the rules on cross-holdings established in Article 121 of the Consolidated Law on Finance.

In the first place the Commission stated that for cross-holdings falling within the scope of the rules referred to above agreements involving commitments to transfer packets of shares did not count for the purpose of determining which company exceeded the 2 per cent threshold first, what counted instead was the conclusion of an outright purchase in accordance with civil law.

More specifically, in the case examined the Commission deemed the existence of an agreement for the subsequent transfer of the ownership of a packet of shares not to be relevant for the purpose of establishing the time priority of the acquisition. The Commission argued that this conclusion was consistent with the rationale of the rules on cross-holdings, which was to prevent them from causing detrimental situations, such as distorted voting in shareholders' meetings or the watering down of capital, since such situations could arise only with the actual ownership of shares and the attached voting rights.

In response to another query the Commission deemed that the way in which a cross-holding arose was irrelevant and pointed out that the rules laid down in Article 121 of the Consolidated Law on Finance did not restrict their application to when the prescribed limits were exceeded following the voluntary acquisition of the excess holding and therefore also applied when the limit was exceeded as a consequence of developments such as the merger of the investee company into a listed company.

The Commission argued that this conclusion was consistent with the rationale of the provisions in question, which was to maintain a suitably rigorous regime whereby the need to implement the forms of protection offered by the law was triggered by the objective emergence of a significant cross-holding. The Commission further stated that the rules were binding and allowed exceptions only in the cases expressly referred to in Article 121 itself, and that examination of the text did not reveal any grounds for taking the way in which a cross-holding arose into consideration.

Another important issue Consob addressed was concerns the treatment of widely-distributed securities. With the entry into force, starting on 1 January 2004, of the reform of company law provided for in Legislative Decree 6/2003, the status of issuer of widely-distributed shares will now have significance for civil law purposes. In fact the first paragraph of Article 2325-*bis* of the new Civil Code introduces the new category of companies that have recourse to the equity capital market (companies with shares listed on regulated markets and those with widely-distributed shares) and makes them subject to different rules from those applying to companies that do not.

Companies with widely-distributed shares are defined in the first paragraph of Article 111-*bis* of the implementing provisions of the Civil Code, which establishes that "The measure referred to in Article 2325-*bis* of the Code shall be that established under Article 116 of the Consolidated Law on Finance and in force on 1 January 2004". Prior to that date issuers of financial instruments widely distributed among the public were defined in Article 2.1f) of the regulation on issuers as "Italian issuers with shareholders' equity of not

less than €5 million and more than 200 shareholders or bondholders". The new version of the Civil Code called for a revision of this definition, adopted in Consob Resolution no. 14372 of 23 December 2003, which was published in the *Gazzetta Ufficiale* of 30 December 2003 and entered immediately into force.

*The new definition of issuers of widely-distributed shares, contained in Article 2-*bis *of the regulation on issuers, is based on both quantitative and qualitative criteria. As regards the former, companies must contemporaneously meet the following conditions: 1) the shareholders other than the controlling shareholders must be more than 200; 2) these shareholders must hold at least 5 per cent of the share capital; 3) the company must not be eligible to draw up simplified annual accounts under the first paragraph of Article 2435-bis of the Civil Code.*

As regards the qualitative criteria, which refer explicitly to companies' recourse to the equity capital market, Consob laid down that, in addition to the foregoing conditions, companies' shares must either: 1) have been the subject of a public offering or the consideration of an exchange tender offer; or 2) have been the subject of a placement, in whatever form, including one reserved to professional investors; or 3) be traded on an alternative trading system with the agreement of the issuer or the controlling shareholder; or 4) be issued by banks and bought or subscribed for in their head or branch offices.

*In order to limit the number of companies qualifying as issuers of widely-distributed shares, paragraph 3 of Article 2-*bis *of the regulation on issuers provides for companies to be excluded in special circumstances (issuers whose shares are subject to legal limitations concerning their circulation, including the exercise of property rights, or whose corporate purpose is exclusively to engage in non-profit social activities or the enjoyment of a good or service by the shareholders).*

*The new rules apply only to companies that have recourse to the equity capital market and not to issuers that have issued only widely-distributed bonds, for which paragraph 4 of Article 2-*bis *of the regulation on issuers reintroduced the definition contained in the repealed Article 2.1f) of the same regulation.*

As regards Articles 87 and 101 of the regulation on issuers ("Disclosures by group parent undertakings"), changes were made to Annex 3F containing "Instructions for parent undertakings concerning the notification of information to Consob and its disclosure to the public" At the same time changes were also made to the technical procedures for transmitting the information to Consob and making it available to the public.

With reference to the release of research reports, the Commission expressed its opinion on the applicability of the obligations of Article 69 of the regulation on issuers to analyses and information cards concerning listed companies disseminated on a weekly or monthly basis.

Regulation of financial reporting and auditing firms

On the accounting front, in response to a query Consob clarified its position with regard to the treatment in consolidated financial statements of the goodwill shown in the accounts of subsidiaries.

In particular, a company asked the Commission to indicate the method to apply in its consolidated financial statements to value the goodwill of an indirectly held American subsidiary, considering that the subsidiary had written down the value of the goodwill in its financial statements following the adoption of a new American accounting standard and had consequently recorded a loss for the year.

The Commission deemed that in principle it was possible within a group for the goodwill of a subsidiary controlled indirectly by the parent company to be written down in the accounts of the company that controlled the subsidiary directly and kept unchanged in the accounts of the parent company only if the two companies included the holding in a different Cash-Generating Unit (CGU - IAS 36); from the standpoint of

the parent company, the holding to which the goodwill referred could be aggregated operationally with other holdings engaged in the same activity and managed on a unitary basis with the holding to be written down.

The Commission stated that a CGU normally corresponded to a branch of a business or, in the consolidated financial statements, to a holding. It noted, however, that it was not possible to exclude the possibility of a parent company managing several holdings in the same sector on a unitary basis to the point that the cash flows formally generated by each holding could not be considered as independent from those generated by the others.

In conclusion the Commission took the view that in the case in question the directors had to evaluate whether the synergies produced among the companies belonging to the Business Unit and the complete indivisibility of the management of the same made it arbitrary to allocate the goodwill in question to a part of the Unit. It also stressed that in order to consider several holdings as belonging to a single CGU it was not sufficient that they be managed in accordance with common group policies and that it was necessary for their results to be pervasively influenced by a management on a unitary basis that made the profitability of the individual legal entities immaterial.

On the international front, as part of the cooperation between CESR and the European Commission, work continued during the whole of 2003 on improving and harmonizing financial reporting in the EU. In particular, on 21 March 2003 CESR approved the first financial reporting standard "Enforcement of standards on financial information in Europe").

The standard was prepared by CESR-Fin, a permanent group of CESR concerned with financial information, and more specifically by its Subcommittee on Enforcement (SCE). It is a significant contribution to the task of developing and implementing a common approach to the enforcement of International Financial Reporting Standards (IFRS) in Europe.

The Subcommittee on Enforcement also prepared a document proposing more extensive cooperation in the enforcement of accounting standards by the competent authorities. The document will be submitted to CESR for final approval once the subcommittee has completed its examination of the comments received from interested parties during the consultation period, which terminated on 7 January 2004.

The other sub-group reporting to CESR-Fin, the Subcommittee on International Standard Endorsement (SISE), addressed the issues arising in connection with the transition from national accounting standards to the IAS/IFRS, which must be in place throughout the Community by 2005 pursuant to Regulation (EC) no 1606/2002. In particular, the SISE prepared a draft recommendation addressed to European regulatory authorities and intended to make sure that listed companies are encouraged to provide investors and the market with all the accounting information needed to ensure a smooth transition. CESR issued the recommendation on 31 December 2003.

In the international arena Consob also participated in a working group of the Council of the European Union, set up to examine the so-called "Transparency" Directive, the aim of which is to redesign the periodic and ongoing disclosure obligations of companies whose shares are traded on regulated markets in EU countries.

In the auditing field, three measures of a general nature deserve to be mentioned.

In Communication no. 3047871 of 18 July 2003 the Commission introduced, pursuant to Article 162.2a) of the Consolidated Law on Finance, new rules on the periodic disclosure requirements for auditing firms entered in the special register and repealed its communication of April 1991. The revision of the rules on periodic disclosure is part of a broader project aimed at fully implementing the recommendation issued by the EU Commission on 15 November 2000 on quality assurance for audits.

The communication redefines the disclosure requirements applicable to auditing firms and will contribute to the production of a flow of periodic

information that will enable Consob to build up a store of data on the basis of which to carry out systematic controls on their activity. In particular, the new communication calls for compliance with International Standard on Auditing 220 "Quality Control for Audit Work", included among the new auditing standards recommended by Consob in Resolution no. 13809 of 30 October 2002.

Subsequently, in Resolution no. 14186 of 30 July 2003, the Commission recommended that auditing firms entered in the special register should adopt a new standard on the auditing of groups issued by the Consiglio Nazionale dei Dottori Commercialisti and the Consiglio Nazionale dei Ragionieri e dei Periti Commerciali. At the same time it repealed the earlier communications on the same subject issued on 22 December 1986 and 15 February 1995.

The new auditing standard, based on ISA 600 with the necessary adaptations to the situation in Italy, concerns the procedures for auditing company and consolidated accounts where the audit involves the principal auditor using the work of other auditors.

The most important innovation introduced by the new standard is the clearer definition of the scope of the responsibility of the principal auditor and that of the other auditors. The principal auditor is responsible for the opinion expressed on the financial statements as a whole and this responsibility extends to the basic assessments underlying the overall approach to the audit of the company and consolidated accounts. In other words, the new standard provides for the principal auditor to make an overall assessment of the audit risks associated with all the components of the group and of the professional competence of all the other auditors involved and, since its status as principal auditor is based on both quantitative and qualitative conditions, for it to assume responsibility for the audit (either by carrying it out directly or by thoroughly checking the work done by others) of the high-risk components of the financial statements and of those for which it has doubts about the professional competence of the other auditor.

As regards reference to the work of other auditors in the principal auditor's report, the new standard requires mention to be made of the fact that other auditors have taken an active part in the performance of the audit and that they are directly responsible for their work, although this does not relieve the principal auditor of its overall responsibility for the audit of the financial statements.

In December 2003 the Commission recommended adoption of the auditing standard concerning the "Notification to the persons responsible for the governance of the company of facts and circumstances pertaining to the audit", based on ISA 260 with the necessary adaptations to the situation in Italy. The new auditing standard provides guidance on the communications between the auditor and the persons responsible for the governance of the audited company concerning facts and circumstances that emerge during the audit of the accounts and of interest for governance activities.

Regulation of markets and alternative trading systems

Last year the Commission approved three resolutions that introduced amendments to Consob Regulation 11768/1998 on markets.

The first, which coincided with the approval of the corresponding amendments to the regulation on issuers, concerned the introduction of the possibility for regulated markets to admit financial instruments to trading in the absence of an application by their respective issuers, provided the instruments in question were already admitted to trading on other Italian regulated markets.

The amendments consequent on the introduction of this possibility concerned: (a) the adoption of a general definition of "regulated markets" to replace the earlier one, which made explicit reference to the markets operated by Borsa Italiana s.p.a.; (b) a criterion for orders to qualify as block orders designed

to ensure that in the case of financial instruments traded on more than one Italian regulated market the calculation of the average daily volume of trading serving to establish the threshold would take account of the contracts concluded on all the markets; (c) the requirement for each market operating company to send the data needed to calculate the volume of trading directly to Consob for aggregation and dissemination; (d) the introduction of "operating hours of regulated markets" (the period in which at least one of the regulated markets on which a financial instrument is traded is open) and "official working hours" (the time during which market intermediaries can establish a connection with the trading system of a regulated market). As regards reporting requirements for off-market transactions, on the one hand, intermediaries admitted to trading on a regulated market are required to report off-market transactions to the operating company of the market to which they are admitted, even when this means postponing the report until such market is open, and, on the other, intermediaries not admitted to a regulated market are required to report such transactions to one of the regulated markets on which the financial instrument is traded

The second Consob resolution introduced amendments concerning market insolvencies.

The aim of these changes was: to speed up the repeat execution on the market of uncleared positions by making it possible for some tasks that were previously the exclusive competence of the liquidator to be carried out earlier; to bring the regulations into line with the new guarantee systems, especially as regards the possibility for cash markets to introduce a central counterparty system; and to make explicit provision for the possibility of financial instruments being covered by more than one guarantee system.

The introduction of a central counterparty in the markets operated by Borsa Italiana provided the opportunity for a sweeping revision of the whole set of rules on market insolvency. In particular, definitions were added of: central counterparty, daily trade-checking (RRG) services, guarantee systems and final transactions. In addition, the definition of settlement services was amended to include gross settlement services, so that transactions settled using the Express service will be subject to the market insolvency procedure.

The changes served to generalize the causes of market insolvency for members of central counterparty systems by adding the case of failure to pay contributions to the default fund to that of failure to pay margins.

As regards the ascertainment of insolvency, among other things reference was made to "members' failure to settle contractual positions". In fact the settlement of positions in central counterparty systems is carried out as part of the clearing and settlement service. It includes the differential settlements typical of derivatives and settlements with the delivery of securities following the exercise of options and cash transactions guaranteed by the central counterparty. Failure to settle contractual positions thus implies the failure to cover debit positions in the above-mentioned clearing and settlement system, which is a cause of market insolvency. Moreover, it is a cause of default for members of the central counterparty system under the rules on guarantee systems. The reference to "members' failure to settle contractual positions" thus allows the rules on market insolvency to recognize this type of failure as a cause of market insolvency as well as that provided for in Article 15.2b) of the regulation on markets.

As regards the procedure for liquidating market insolvencies, the number of cases to which the liquidation procedure applies only in part was increased. In addition, some cases were specified that, while not part of the liquidation itself (reserved to liquidators), were to be considered preparatory to the "immediate settlement of the insolvent's contracts". In this context providers of settlement services were charged with the task of excluding transactions concluded by the insolvent that, although final, cannot be settled for lack of the necessary cash or financial instruments. In addition, the operators of trade checking systems were charged with the task of excluding non-final transactions concluded by the insolvent and the counterparties of the insolvent were given the right to exercise traditional options and repeat the execution of positions in uncleared financial instruments. The rationale of this provision was to speed up the

liquidation of market insolvencies. In fact, the slower the process, the greater the market risk, i.e. the potential loss of the counterparties of the insolvent due to their having to buy (sell) at a higher (lower) price in the case of a net credit (debit) position.

In order to limit the impact on the market of repeat executions, the counterparties of the insolvent were given the right, to be exercised within given time limits, to opt for complete or partial differential settlement based on a settlement price calculated as the weighted average of the prices of transactions concluded on the regulated markets or, at the discretion of the liquidator, of the official prices recorded by the operating companies of those markets on the expiration day of the above-mentioned time limits. If a counterparty decides to exercise this right, it does not have to repeat the transaction but is assigned, for the differences in its favour, a credit certificate equal to the difference between the average trading price and the settlement price, multiplied by the net position or the part thereof for which the counterparty has opted for differential settlement.

Lastly, in the third resolution Consob harmonized the rules on the liquidation of market insolvencies with the executive procedures established by the providers of market services for the Express II settlement system run by Monte Titoli s.p.a.

In Article 14 of the regulation on markets the definition of "settlement guarantee systems" was replaced by that of "execution procedures". The former definition had been rendered obsolete by the fact that, with the start of Express II, the Settlement Guarantee Fund had been eliminated. At the same time it had become necessary to introduce the definition of "executive procedures" in order to include the procedures used by service providers in the event of a fail to close unsettled transactions by having recourse to their mandatory execution. In market operators' rules these procedures are called "buy-in" when the fail concerns the seller (the procedure consists in the mandatory purchase of the financial instruments not delivered in the settlement) and "sell-out" when the fail concerns the buyer (the procedure consists in the mandatory sale of the financial instruments delivered as the consideration for the price not paid). The definition of executive procedures introduced also covers such procedures not laid down in market rules but agreed by market intermediaries.

Consob also made it possible to handle temporary non-performance due to technical reasons dynamically within the context of fails. This implies dropping the link between the failure to cover debit balances and the immediate declaration of market insolvency. For such non-performance to entail market insolvency, it is necessary for it to persist over a number of settlement cycles, for the position to have been closed by recourse to the buy-in or sell-out executive procedures and for the defaulter not to have settled the debt, if any, consisting in the difference between what was originally due and the consideration of the executive procedure. In such cases the non-performance is clearly not due to technical factors but caused by the intermediary's inability to fulfil its market obligations, so that market insolvency can be presumed.

The rapid growth of the markets, the uninterrupted development of the international legal framework and the experience gained in the financial sector made it necessary to evaluate and revise the Italian rules on alternative trading systems (ATSs).

The first problem addressed in this connection was the disparity between the Italian definition of ATSs and that adopted at European level (which refers exclusively to multilateral trading systems). It appeared desirable to formulate the definition in a way that would clearly exclude all the systems in which participants only make contact with each other and then proceed to negotiate and conclude contracts outside the system. At the same time it was decided to introduce a distinction in the definition between "multilateral systems" and "bilateral systems".

Accordingly, it was decided that multilateral systems, both order driven and quote driven, were systems in which multiple competing traders operate and bilateral systems were those in which a single

market maker provides a book that other participants can hit. The distinction serves to distinguish more clearly ATSs run by intermediaries subject to mutual recognition, which meet the CESR requirements and therefore have a European passport (multilateral systems run by authorized intermediaries in Italy) from those that, although they are not covered by the standards, are nonetheless important from the point of view of transparency requirements.

These requirements correspond, in fact, to the increasingly clear need to provide the general run of investors with information on the prices and quantities traded on every kind of trading system (thus including those of a bilateral nature). On the one hand this is a necessary condition for greater transparency as regards the formation of prices and on the other it is an intermediate step towards the concentration of information on trading as a form of protection of investors as an alternative to the concentration of trading on regulated markets.

In parallel with the increased attention paid to bilateral systems, Consob decided to maintain all the transparency obligations previously in force and to supplement them by those deriving from the revision of the rules. The desirability of this approach is a clear consequence of the fact that ATSs frequently offer the possibility to trade in atypical financial instruments, with regard to which, as is well known, the market does not provide sufficient information for investors to make a properly informed evaluation of the issuer or the financial instruments offered.

Of particular importance in this respect is the rule requiring the quarterly transmission to Consob of detailed data on the number of contracts concluded, the total quantities traded, the minimum, maximum and mean prices, and the price, quantity and date of the last contract concluded.

The aim pursued in this way was not only to aggregate the data on trading so as to make prices and quantities comparable but above all to make it possible to know and monitor the activity of ATSs both individually and taken together. This reflects Consob's awareness of the important contribution that such systems can make to improving transparency and liquidity, especially as regards bonds.

To bring the regulation of alternative trading systems closer into line with the CESR standards, the Commission decided to increase the quantity and detail of the information of a structural nature to be supplied in alternative trading system's initial report to Consob. To this end, additional information requirements were introduced concerning: the control of compliance with system rules; the action to be taken in the event of violations; and the procedures and time limits for the settlement of contracts. The above measures were strengthened, moreover, by the requirement to transmit copies of the "framework" contracts governing the relationships established with intermediaries and issuers.

As regards the international developments in connection with the regulation of market abuse, the issue of the detailed Level 2 measures of the Lamfalussy procedure is about to be completed, following the approval of Directive 2003/6/EC early in 2003.

The first group of implementing measures proposed by CESR in December 2002 was adopted by the European Commission in December 2003 in two directives (2003/124/EC and 2003/125/EC) and a regulation (2273/2003). Compared with CESR's original proposals (for more details, see the box "The directive on market abuse: preparatory work and the implementing procedures proposed by CESR" in Consob's 2002 Annual Report), the texts approved by the European Commission are modified as regards both the interpretation of the definition of inside information, the "precise nature" of which is expressed in a more flexible way, and the rules on the production and dissemination of research or other information recommending or suggesting investment strategies (which no longer apply to rating agencies or to journalists if the latter are already subject to equivalent regulation).

The second group of implementing measures was presented by the European Commission in November 2003 ("Working Document" ESC

38/2003) on the basis of the advice that CESR provided in August 2003 and revised on 27 January 2004 to take account of the views of the European Securities Committee (ESC) and the comments received during the public consultation (Box 6).

Regulation of intermediaries

In 2003 a start was made on an extensive revision of Consob Regulation 11522/1998 on intermediaries and consultations with associations of intermediaries and consumers.

For the most part the proposed amendments serve to incorporate the standards drawn up by CESR concerning conduct of business rules for intermediaries and to strengthen the provisions aimed at protecting investors on the disclosure of information in their dealings with intermediaries.

The aim of the CESR standards is to achieve significant harmonization of the rules in force in this field in the different member states of the European Union. The harmonization of implementing provisions, following that of the general principles brought about by Article 11 of the Investment Services Directive (93/22/EEC), is in fact considered indispensable for the creation of a single European market in financial services characterized by the protection of investors and the encouragement of competition.

The harmonized principles and standards often coincide with provisions already present in Italian legislation, but there remain some areas in which the complete transposition of the standards drawn up by CESR requires amendments to the regulation on intermediaries in order to incorporate the international provisions, which are sometimes more detailed. At the same time, supervisory experience has shown the desirability of updating the rules intended to ensure intermediaries respect the substance of the interests underlying the rules of conduct (that of investors and the integrity of the market) and prevent merely formal compliance with the rules. One way of pursuing this result has been to stress those concerning the "procedural" aspects of intermediaries' activity and make them more specific.

The current version of the regulation on intermediaries contains a variety of rules of conduct (information to be provided to investors, know your customer, suitability) accompanied by a single provision of a general nature regarding procedures (Article 56).

While the results intermediaries must guarantee are basically unchanged, it was deemed useful to lay down more detailed rules regarding the ways they are to be achieved. To this end, the amendments indicate the purpose and minimum content of the internal procedures intermediaries must have (leaving it up to each intermediary to decide how and when to introduce them in relation to competition in terms of quality of service). The experience gained in performing supervision not only led to the "procedural" approach described above but also indicated the need to pay particular attention to: the effectiveness of the rules on conflicts of interest, in the sense that transparency with regard to conflicts must not exclude the duty of the intermediary not to prejudice the interest of investors; the comprehensibility and clarity of information of the information to be provided to investors, especially as concerns combined or linked products and services; the effectiveness of the obligation to obtain information from investors (the know your customer rule) and keep it updated.

These amendments tend to enhance the effectiveness of the control on the suitability, with respect to investors' profiles, of individual transactions. At the same time the information content of customer contracts was enhanced and the scope of the best execution rule extended. Lastly, confirmation, recording and reporting requirements were set out in more detail and made more timely.

Box 6. The market abuse directive and the implementing measures being prepared

The implementing measures presented by the European Commission in November 2003 concern: a) the guidelines that the competent authority must follow in the identification and acceptance of market practices; b) the definition of inside information in relation to derivatives on commodities; c) the criteria that issuers and the persons who work for them must adopt in establishing and updating the list of persons who have access to inside information; d) the requirement that persons with responsibility for the direction of an issuer and the persons closely linked to them inform the competent authority of the transactions they carry out involving financial instruments issued by the company in question (so-called insider dealing); and e) the requirement that any person who carries out transactions in financial instruments on a professional basis inform the competent authority of transactions with regard to which there are reasonable grounds for suspecting that they constitute market abuse (so-called suspect transactions).

As regards accepted market practices, the provisions of a general nature contained in the directive allow persons who enter into transactions that produce the effects typical of operational manipulation are exempt from sanctions if they show that their reasons for doing so are legitimate and that these transactions or orders to trade conform to accepted market practices on the regulated market concerned. The directive defines accepted market practices as those that are reasonably expected in one or more financial markets and are accepted by the competent authority in accordance with guidelines adopted at Level 2.

Another issue addressed in the Level 2 provisions concerns the introduction (by issuers and their advisors) of the list of persons having access to inside information. The European Commission's proposals require the list to indicate the persons who have access to inside information on both a regular and an occasional basis. Entries in the list must contain at least the following information: the identity of the person, the reason for the entry in the list and the dates on which the list was started and updated. Listed persons must be informed of the legal and regulatory obligations consequent on having access to inside information and the possible sanctions in the event of abuse or unauthorized disclosure of the information to which they have access.

The Level 2 provisions also specify that competent authorities must not reject new and emerging market practices simply because they have not already accepted them and must control the practices that have been accepted continuously in the light of the structural and regulatory development of the markets. Competent authorities are also required to put in place procedures for consultation with the various categories of market participants and foreign competent authorities. Lastly, the reasons for accepting practices must be transparent, especially where the decisions differ from those adopted by other EU authorities.

Turning to commodity derivatives, the directive adopts a different definition of inside information from

In 2003, once the consultation with trade associations had been completed, the Commission adopted Resolution 14015, which revised the rules on disclosures and the transmission to Consob of information, data and documents by intermediaries and stockbrokers. The new rules lightened the administrative burden on intermediaries, in part by introducing an electronic transmission procedure that will eventually permit the complete elimination of paper-based documents for the flow of mandatory information.

As regards the asset management industry, it is worth noting the amendments made to the Consolidated Law on Finance in transposing Directive 2001/107/EC. They introduced the so-called European passport or, in other words, the possibility for companies managing harmonized collective investment undertakings to do business

the general one: instead of price sensitive, the directive defines it as information that "users of markets on which such derivatives are traded would expect to receive in accordance with accepted market practices on those markets". What was set out above regarding market practices applies, but the Level 2 provisions add that the information in question is that which is usually made available to market participants and that which is disclosed under statutory, regulatory or contractual provisions or in accordance with the practices of the market in question or the relevant underlying markets.

As regards insider dealing, the Level 2 provisions specify in detail the persons required to disclose transactions (indicated only in a general way in the directive) and define a person discharging managerial responsibilities within an issuer as a member of the administrative, management or supervisory bodies of the issuer or a senior executive who is not a member of these bodies having regular access to inside information relating, directly or indirectly, to the issuer, and the power to make managerial decisions on the company's future development and business strategies. A person associated with a person discharging managerial responsibilities within an issuer is to be understood as meaning: the spouse or any partner considered by national law as equivalent to the spouse, dependent children, relations who have cohabited for at least one year, and any legal person that is controlled by or whose managerial responsibilities are discharged by a person referred to above. In contrast with CESR's proposals, the European Commission introduced a threshold of €5,000 for the value of transactions to be disclosed; it also lengthened the time limit for disclosure to within five working days of the transaction date.

Lastly, the Level 2 provisions specify in detail the obligations of persons carrying out transactions involving financial instruments to notify suspect transactions to the competent authority. In view of the complexity of the matters to be regulated and the possibility of divergent interpretations among both intermediaries and jurisdictions (with the consequent risk of losses of market share for those who engage in virtuous behaviour), the European Commission, as well as adopting Level 2 provisions, has considered it desirable to provide additional indications at Level 3 for the identification of suspect transactions in guidelines for the persons subject to the notification obligations on the implementation of organizational procedures sufficient to prevent the application of sanctions in the event of omitted notifications.

The Level 2 provisions nonetheless specify that the notification obligation arises when a person professionally arranging transactions becomes aware of a fact or information that gives reasonable ground for suspecting a transactions to be a market abuse. Notifications to the competent authority may be made by mail, e-mail, fax or phone. In the latter case, the competent authority may request written confirmation. After the consultation phase, the European Commission introduced a new provision stating that a notification does not make the notifier liable in any way to the persons who ordered the transactions notified (the competent authorities are in any case under an obligation not to reveal the identity of a notifier to such persons).

in every EU country on the basis of the authorization issued in their home country.

Following this innovation, analogous to that introduced for investment firms in implementing the ISD, Italian management companies are now flanked by so-called harmonized management companies, which may operate in Italy through branches or under the freedom to provide services. Conversely, the single licence can also be used on the same conditions by Italian management companies that wish to operate in foreign markets.

Although the recognition of home-country authorizations is a necessary step for the integration of markets, by itself it is not sufficient to ensure the Community-wide uniformity needed to neutralize regulatory arbitrage. This objective can be achieved only by taking the further step of harmonizing rules of conduct. In fact this is the aim of the standards drawn up by CESR for investment services (including

individual portfolio management) and incorporated in the proposed amendments to the regulation on intermediaries, currently the subject of consultation.

The harmonization of conduct of business rules for the provision of asset management on a collective basis has still to come, although CESR has stated that this issue is among those it intends to tackle shortly. There is therefore still the risk that the single licence may lead to the concentration of intermediaries in the countries with the lowest regulatory and supervisory standards, at the expense of countries in which the authorities pay more attention to enforcing conduct of business rules. In this respect it should be noted that the Italian parliament has opted for complete equality between Italian and Community management companies: the latter, both when they establish branches in Italy and when they operate under the freedom to provide services, are in fact required to comply with the rules of conduct laid down in Article 40 of the Consolidated Law on Finance. By contrast, it remains to be seen how other EU countries will decide with regard to the application to foreign intermediaries of their, as yet unharmonized, national rules.

The disparity in disclosure standards caused by the differences in the rules on the preparation of prospectuses will soon be overcome with e transposition of the EU Prospectus Directive. It is worth noting in this respect that the Community legislator has taken account of the variegated nature of demand, made up of investors with different degrees of technical competence, and of the adverse effects of information overkill. In fact provision has been made for both a simplified and a full prospectus in order to align the quality, quantity and manner of transmitting information with the type of investor it is aimed at.

The limited information of the simplified prospectus is specified in detail in Annex C of the directive and for this document harmonization is complete. No information in addition to or different from that laid down in the directive is permitted. The opposite is true for the full prospectus: this may contain information established by national legislators in addition to that provided for by the directive. Another important difference is that investors must be given a copy of the simplified prospectus, unaccompanied by any other documentation, while the full prospectus is to be given only at the request of investors and must be accompanied by the rules or the constituent instrument of the UCITS.

To conclude, the simplified prospectus, cleared by the competent national authority, will be a single tool for the marketing of products throughout the European Union and will thus eliminate the possibility, which has already occurred, of supply being concentrated in countries with less rigorous disclosure requirements.

Turning to Italian secondary legislation, it is worth noting a number of innovations regarding asset management contained in the proposed amendment of Consob Regulation 11522/1998 on intermediaries.

In particular, the amendments introduce a more detailed definition of what managers are required to do, with provision made for the contract with the investor to indicate: the investment objectives; the benchmark; the management style that will be adopted; and the degree of risk related to the management service. The aim is to establish the limits within which managers must allocate the assets under management, on the assumption that the discretion they have under their mandates must be constrained by the undertakings entered into in the contract with investors and the prospectus. The key "phases" of asset management activity have been spelled out: ranging from the search for and processing of micro- and macro-economic information, the drawing up of general investment strategies and their translation into operational choices. In short, the aim is make it clear that every investment choice must be made within the context of a strategy that has been approved by the competent governing bodies of the management company and in accordance with a previously agreed decision-making procedure. Management companies are now also required to monitor investments ex post using a procedure that will continuously determine the risk attaching to individual positions and the consistency of these risks with the overall risk/return profile of the assets under management, so as to ensure this responds to the needs

of single investors in the case of individual portfolio management and to the objectives of the UCITS in the case of collective portfolio management.

As regards conflicts of interest, under the amended rules managers are required handle conflicts that have been identified in a way that does not harm investors. Special attention has been paid to the fees payable to managers, considered a particularly important source of conflicts of interest. In this respect a distinction has been made between mechanisms that may bring an advantage for investors (so-called soft commissions) and those that benefit exclusively the manager (so-called hard commissions). While the former are generally acceptable, provided the relevant disclosure obligations are complied with, the latter require a more rigorous approach capable of fostering correct behaviour directly and consisting in a ban on commission rebates that are of absolutely no benefit to investors.

IX. INTERNATIONAL AFFAIRS

International cooperation

In 2003 the Commission continued to cooperate closely with foreign regulatory authorities; Consob sent 51 requests for cooperation and received requests in relation to 94 inquiries (Table IX.I). As regards international activity in suspected cases of insider trading, there was a decrease in the number of requests sent by the Institute, which fell from 24 to 11, and a slight increase in the number of requests received from foreign authorities, which rose from 13 to 17. The 6 requests for cooperation made by Consob with regard to corporate information were linked to the Cirio and Parmalat cases, in which Consob was heavily involved towards the end of 2003. The number of requests for the sharing of information between Consob and foreign regulatory authorities with regard to the compliance of managers of investment firms with the applicable integrity and experience requirements remained high (21 requests made and 70 received).

Analysis of the regional distribution of requests for cooperation sent by Consob to foreign authorities reveals a predominance of requests made to countries belonging to the European Union (40 out of a total of 51; Table aIX.1). A similar trend is discernable for the requests for cooperation received by the Commission, in 81 out of 94 cases they originated in European Union countries.

Table IX.1

International cooperation
(requests for cooperation)

Subject of the request	1998	1999	2000	2001	2002	2003
From Consob to foreign authorities						
Insider trading	17	43	32	24	24	11
Market manipulation	2	--	1	4	--	4
Unauthorized solicitation and investment services activity	7	4	3	10	9	5
Transparency and disclosure	--	--	1	--	--	6
Major holdings in listed companies and authorized intermediaries	--	--	--	1	1	3
Integrity and experience requirements	12	10	19	14	34	21
Violation of rules of conduct	--	--	2	--	--	1
Total	*38*	*57*	*58*	*53*	*68*	*51*
From foreign authorities to Consob						
Insider trading	2	3	5	20	13	17
Market manipulation	1	3	--	1	1	2
Unauthorized solicitation and investment services activity	3	3	1	2	7	4
Transparency and disclosure	1	--	2	--	--	--
Major holdings in listed companies and authorized intermediaries	--	--	--	--	2	1
Integrity and experience requirements	30	44	53	49	80	70
Violation of rules of conduct	--	--	--	--	--	--
Total	*37*	*53*	*61*	*72*	*103*	*94*

In the second half of last year, Consob's international activity coincided with the Italian Presidency of the Council of the European Union. As regards the financial services sector, the programme of activities included a series of particularly important initiatives concerning takeover bids, the transparency of listed issuers, investment services and regulated markets. Significant progress was made in all these areas.

In particular, on 25 November 2003 the Council agreed on a general approach for the proposal for a directive on transparency requirements for listed issuers; on 8 December 2003 it reached a common position on a proposal for a directive on markets in financial instruments; and, on 22 December 2003, political agreement was reached on a proposal for a directive concerning takeover bids.

The legislative initiatives described above are part of the programme for completing the EU Action Plan for Financial Services as outlined in the Communication of the European Commission.

The Action Plan aims to create a fully integrated single market founded on the principle of home country supervision; one of the underlying premises is the existence of a regulatory authority capable of ensuring full compliance with the law by supervised entities and of providing assistance to counterparts in other Member States.

The directives drawn up in accordance with the Lamfalussy procedure, and especially the legislative initiatives completed under the Italian Presidency, accorded particular emphasis to the question of the powers of the competent authorities.

Directive 2003/6/EC on market abuse, already in force and to be implemented by October 2004, contains a list of minimum powers with which Member States must endow their regulatory authorities.

The common position on the proposal for a directive on markets in financial instruments follows the course set by Directive 2003/6/EC and also contains a list of minimum powers to be granted to administrative authorities.

In particular, as regards abuses in the provision of investment services, the proposed directive envisages the granting of wide-ranging investigative powers to the competent authorities as well as the power to adopt preventive measures with respect to entities subject to supervision and others not subject to supervision. The new directive grants Consob significantly broader powers than those assigned to it under current national legislation. Reference should be made in particular to the power to request access to any document, in any form whatsoever, and to receive a copy of it; to demand information from any person, and if necessary, to summon and hear any such person; to carry out on-site inspections; and to require telephone and data traffic records. Enforcement, precautionary and injunctive powers are also defined, with special regard to the power to require the cessation of any practice that is contrary to the implementing provisions of the directive, to request the freezing and/or sequestration of assets and finally, to request the temporary prohibition of professional activity.

The matter of the powers assigned to the competent authorities was also examined in the wider context of multilateral relations. In this respect, the IOSCO Multilateral Memorandum of Understanding was an important step forward, above all as regards the provisions detailing the supervisory and investigative powers that may be activated in the event of a request for cooperation by regulatory authorities, as well as the ways in which information is used and the confidentiality requirements governing such use.

In terms of its content, the MOU marks a departure from normal bilateral agreements in as much as it provides for an evaluation of authorities' powers of cooperation and emphasizes the information needed to identify the final beneficiary of financial transactions or of holdings in companies or other entities. Recourse was made to this agreement on the occasion of the investigations in relation to the Parmalat affair.

The agreement covers enforcement measures concerning insider dealing, market manipulation, failure to provide or misrepresentation of material information and other fraudulent or manipulative practices relating to securities and derivatives, the registration, issuance, offer, or sale of securities and derivatives, and reporting requirements related thereto, market intermediaries, collective investment schemes, brokers, dealers, markets, exchanges, and clearing and settlement entities.

The MOU establishes the minimum cooperation requirements that the signatories must adhere to and introduces, for the first time, a mechanism that monitors their ability to fulfil these obligations. In essence, mere declarations of intent have been replaced by a genuine commitment to real cooperation. This aspect assumes particular importance when it is considered that if Consob is to comply in full with the provisions of the agreement, its powers under national law will have to be broadened.

Consob can achieve enhanced investigatory powers not only through the implementation of the Market Abuse Directive, which endows the competent authorities with wide-ranging investigatory powers and sets out stringent cooperation obligations, but also through the implementation of other Community laws sanctioning minimum powers of intervention by the competent authorities.

In 2003 Consob continued to expand its bilateral cooperation with foreign regulatory authorities by concluding memorandums of understanding with the Commissions of San Marino, Slovakia, Jersey, Malaysia, Romania and Monaco.

To date the Commission has entered into 30 bilateral agreements on cooperation and one understanding providing for the confidentiality of the information shared. Consob is also a signatory of the multilateral memorandum of understanding drawn up by the CESR countries belonging to the European Economic Area and the IOSCO Multilateral MOU. Moreover, negotiations are under way with the authorities of other countries with a view to reaching similar agreements.

Consob continued to cooperate on twinning projects under the EU PHARE programme. In particular, on 25 November 2003 it completed a twinning project with the Romanian National Securities Commission (CNVM).

The project, in which the Bank of Italy, Borsa Italiana s.p.a. and Monte Titoli s.p.a. also participated, was one of several European Union programmes aimed at providing assistance to the candidate countries. The purpose of the project was to promote the transposition of the acquis communautaire *into Romanian securities law, to strengthen the administrative capabilities of the Romanian Commission, to draw up a medium-term action plan for the development of Romanian financial markets and to provide for their real-time supervision. A Consob official was seconded to the Romanian Commission for one year while a large number of officials participated in the organization of numerous seminars and training sessions, held both in Romania and in Italy.*

The twinning project achieved its pre-set goals: the proposed reform of Romanian legislation on financial markets to bring it into line with current European legislation is now being examined by the Romanian Parliament and a system permitting the computerized monitoring of transactions concluded on regulated Romanian markets has been introduced.

In September 2003 an analogous twinning project was initiated between the Ministry of the Economy and Finance and the Czech Securities Commission, with which Consob is actively cooperating.

Once again the project aims to achieve the full transposition of current community legislation on capital markets into Czech law and to strengthen the administrative capabilities of the competent Czech authorities (the Czech Securities Commission and the Ministry of Finance). Consob is cooperating by sending several officials to the Czech Republic to run seminars and training sessions and by inviting Czech officials to

complete brief periods of work experience at the Institute.

Activity within the European Union

Last year saw the continuation of activity by the European Commission, the Council and the Parliament aimed at achieving the objectives set out in the Action Plan for Financial Services with a view to creating the single market by 2005.

Among the various legislative initiatives of the European Union, special mention should be made of the Prospectus Directive, which introduces a single European passport for issuers. The directive establishes a mechanism whereby once an offering prospectus has been approved by the issuer's competent home country authority, it is valid throughout the European Union for public offerings and/or for admission to trading on regulated markets.

The European passport for issuers will almost certainly increase the delocalization of non-equity securities with a nominal value of over 1,000 euros to countries where control mechanisms are less stringent. This is because the directive allows issuers to designate as their home country either the Member State where they have their registered office or the Member State where the security is being offered and/or admitted to trading on regulated markets. Once the prospectus has been approved by the issuer's home country authority, the securities can be placed throughout the EU, without host country authorities being entitled to request further information or impose any specific conditions. In contrast with the past, the new directive requires credit institutions involved in raising capital to publish a prospectus. The prospectus obligation extends to all equity and/or debt securities offered to the public with the exception of those issued by sovereign states and central banks. The placement of securities with institutional or qualified investors is not subject to the requirement to publish a prospectus. However, in the event of any resale of securities to investors other than qualified investors (notably clients of intermediaries), the obligation to publish a prospectus applies.

Last year CESR submitted its advice to the European Commission on the schedules to be used (simplified for issues by credit institutions of non-equity financial instruments) and on the mechanisms for publicizing prospectuses. On the basis of this advice, the Commission drew up a draft regulation that is currently at the consultation stage; once this has been adopted, it will become effective immediately, substituting the Consob regulations that are currently in force and without requiring any implementing measures.

The Prospectus Directive needs to be considered together with that on transparency, which envisages ongoing disclosure requirements. The aim of the proposed directive on transparency requirements for listed companies is to update the legislation currently governing companies listed on stock exchanges. The directive is primarily concerned with setting out periodic disclosure requirements for issuers in the course of the financial year.

According to the text of the general approach endorsed by the Council, these requirements consist in the publication of an annual financial report, with the inclusion of statements made by the persons responsible within the issuer to the effect that the information contained therein gives a true and fair view of the financial position and profits and losses of the issuer; the publication of a half-yearly financial report prepared in accordance with the criteria laid down in IAS 34; and finally the publication of an interim management statement, in a period between ten weeks after the beginning and six weeks before the end of the relevant six-month period. In particular, this statement must provide an explanation of material events and transactions that have taken place during the relevant period and their impact on the financial position of the issuer and its subsidiaries, and a general description of the financial position and performance of the issuer and its subsidiaries during the relevant period.

A substantial part of the proposed directive concerns the means for the dissemination of information. Member States are required to ensure that there is at least one officially appointed mechanism for the central storage of regulated information. The dissemination of information throughout the European Union must also be guaranteed.

Other provisions regard the transparency of major holdings, updating some of the legislation in force pursuant to Directive 2001/34/EC.

First, in respect of notification requirements for major holdings, the proportion of voting rights held triggering the obligation has been lowered from 10 to 5 per cent; secondly, the notification obligation arises in respect of all potential holdings, i.e. holdings that result in an entitlement to acquire shares, and when the threshold is exceeded for reasons unrelated to the wishes of the holders of the securities.

One of the changes in the proposed directive concerns the control that the competent authorities (which may differ from the authorities that approve the prospectus) must exercise over periodic accounting information.

To this end, said authorities must be granted wide-ranging powers that will allow them to: require auditors, issuers and holders of shares and other financial instruments to provide information and documents; require the issuer to disclose information to the public; require managers of issuers to notify the information required under the directive; suspend the trading of securities if there are reasonable grounds for suspecting that the provisions of the directive have been infringed by the issuer; prohibit trading if it is found that the provisions of the directive have been infringed; and carry out on-site inspections in their territory. Most of these provisions had already been implemented at national level but had not previously been harmonized at Community level.

The proposal for a directive on markets in financial instruments, as outlined in the Council Common Position, introduces significant changes with respect to the legislation currently in force in Italy.

First, the directive abolishes the principle that trading should be concentrated on regulated markets in order to foster competition between different trading systems (regulated markets, multilateral alternative trading systems and systematic internalizers). Secondly, it introduces a harmonized system of rules of conduct (best execution and rules governing conflicts of interest), to enable the responsibility for supervision to be transferred to the home country of the intermediary. Advisory services (now included among non-core services) and services in respect of derivative financial instruments on commodities are subject to a specific set of rules and may benefit from the European passport. Finally, the role of tied agents operating in an exclusive mandate regime has been institutionalized and a special regime established for execution only services.

Turning to the proposal for a directive on takeover bids, it is envisaged that the obligation to launch a bid will arise when the total holding of securities with voting rights attached exceeds a fixed threshold, to be determined by the individual Member States.

The proposed directive establishes specific disclosure provisions. Bids must be made public without delay and the supervisory authorities must be informed immediately. Offerors must draw up and make public an offer document containing the information necessary to enable the holders of the offeree company's securities to reach a properly informed decision on the bid. As soon as the board of the issuing company receives information on the offer and until such time as the outcome of the bid has been made public or the offer itself has lapsed, prior authorization for any acts or operations that oppose the bid must be obtained by shareholders, (see the "Regulation of the solicitation of investors" section in Chapter VIII).

Turning to other proposals for legislation submitted recently, it is worth noting the proposal for a European Commission regulation on cooperation between administrative authorities, aimed at protecting consumers. The proposal

requires the competent authorities (including those responsible for regulating the distance marketing of financial products and services) to cooperate in cases where a consumer has made a complaint in another Member State.

The authorities must cooperate on the basis of their own powers (identified at the minimum level in the Council text), which largely correspond to those envisaged in the Market Abuse Directive (including the possibility of adopting precautionary measures in respect of assets).

It was decided to establish Committees of Supervisory Authorities for the banking and insurance sectors (counterparts of CESR) and Committees of Representatives of Finance Ministers (entrusted with similar tasks to those carried out by the Securities Committee). Under a European Commission proposal for a directive, the powers that were previously attributed to the banking and insurance Contact Committees and the UCITS Contact Committee will be transferred to the new committees. These will become fully operational once the proposed directive has been adopted.

In 2004, activity at EU level will have to continue at a high level in order to conclude the proposals that are currently at the common position or political agreement stage, and on which the Parliament must make its view known before the expiration of its mandate. Were it to prove impossible to complete the common decision procedure, the dissolution of the Parliament will result in the obligation to restart the entire process *ex novo*, with new Commission proposals for all the legislative initiatives outlined above.

In the wake of the Parmalat affair, the European Commission announced its intention to accelerate the presentation of harmonization measures aimed at ensuring similar cases do not arise in the future on the European market and to redefine the priorities it had already established.

In 2003, the European Commission published an "Action Plan for Company Law". The plan comprises a series of initiatives to be achieved in the short-term (between 2003 and 2005), the medium term (between 2006 and 2008) and the long term (from 2009 onwards).

Together with the previously announced proposal for a directive on the auditing of accounts, the Commission announced its desire to adopt measures in the corporate governance field as soon as possible (concerning in particular independent directors and the responsibilities of directors) and on the use of off-shore special purpose vehicles.

The Commission also announced that it intended to adopt measures without delay governing the conflicts of interest of financial analysts and confirmed that it wished to reconsider the approach previously adopted in respect of rating agencies. Finally, a proposal will be made for a third anti-money-laundering directive containing special rules for off-shore financial centres.

In 2004 a proposal for a directive amending the second company law directive should be presented, together with a proposed directive on cross-border transfers of registered offices and another amending the eighth directive on the approval of persons responsible for carrying out the statutory audits of accounting documents. A proposal for a directive on clearing and settlement may also be presented.

Activity of the International Organization of Securities Commissions (IOSCO)

Last year Consob was particularly active within IOSCO's Implementation Task Force, which worked during the year on the preparation of a document entitled "Assessment Methodology", to be used in assessing the compliance of each

country with the IOSCO Objectives and Principles for Securities Supervision, adopted in 1998. These principles constitute a benchmark utilized by the International Monetary Fund and the World Bank for the securities sector. They will be employed in the International Monetary Fund's Programme Financial Sector Assessment Program (FSAP), to which Italy will also be subject, following the assessment of the other leading European countries (the United Kingdom, France and Germany). The role of the FSAP will be particularly important in light of the events that took place on the securities market in 2003. Consob also responded to the six self-assessment questionnaires approved by IOSCO in order to assess the level of adherence of Italian legislation to the above-mentioned principles.

During the Annual Conference held in Seoul in October 2003, the Presidents' Committee approved the documents on the assessment methodology for evaluating the level of compliance of national legislation to the Principles and Objectives for the supervision of securities markets and the principles governing auditor oversight and auditor independence, which had already been approved by the Technical Committee in October 2002 and been drawn up by a working group in which Consob participated.

Through its Technical Committee, IOSCO has already begun to investigate ways of implementing the above-mentioned principles and is actively involved in the establishment, by the International Federation of Accountants (IFAC), of the Public Interest Oversight Board (PIOB). The new Board will be charged with overseeing the work of IFAC regarding the emanation of auditing standards and the formulation of ethical rules and rules on the independence of auditors.

The Presidents' Committee approved the documents related to obligations to disclose material events by listed companies (Principles for Ongoing Disclosure and Material Development Reporting by Listed Entities), that were drawn up by a specially appointed task force and approved by the Technical Committee in October 2002.

The Technical Committee also approved two important documents containing principles for financial analysts and rating agencies. As regards financial analysts, conflicts of interest were attributed particular importance since the majority of analysts operate as sell-side analysts in financial groups. Conflicts of interest aside, IOSCO identified two other major areas for intervention: on the one hand the integrity, professionalism and proper conduct of analysts, and on the other investor education activities aimed at increasing awareness among investors of the risks and the potential for conflicts of interest.

Turning to rating agencies, IOSCO laid special emphasis on the need to guarantee investors the possibility of accessing the indications contained in their judgments and opinions. To this end, great stress was laid on the importance of ensuring the soundness of their analyses, as well as the transparency of the methodologies adopted and the procedures for disclosing information to the market. The principles give consideration (albeit to a lesser extent than those for analysts) to potential conflicts of interest that could influence the independence of rating agencies' judgment.

In the wake of the Parmalat affair, the Technical Committee of IOSCO recently set up a special Task Force, co-chaired by Consob and the SEC, to study measures to be adopted in order to prevent similar cases from arising in the future.

X. JUDICIAL CONTROL

Disputes concerning sanctions and other supervisory measures

The number of appeals made to administrative courts against measures adopted by the Commission in the exercise of its supervisory and enforcement powers fell from 40 in 2002 to 33 last year; by contrast, the number of appeals to the ordinary courts rose, from 40 to 61 (Table X.1). Nearly all the latter were made (under Article 195 of the Consolidated Law on Finance) to the competent courts of appeal and concerned fines imposed by the Ministry for the Economy and Finance acting on a proposal from the Commission (Table aX.1).

One of the most important decisions last year was adopted by the First Section of the Court of Cassation (no. 16608 published on 2 July 2003). The court returned to the question of the time limit for notifying charges to the accused, fixed by Article 14 of Law 689/1981 in ninety days from the ascertainment of the violation. It also stressed the liability of the board of auditors in the event of organizational and procedural irregularities on the part of securities intermediaries.

The Court of Cassation reaffirmed that "the activity of ascertaining violations must be deemed to include the time needed to assess the evidence in order to establish whether it indicated behaviour punishable as administrative offences against the rules governing the activity of intermediaries". Accordingly, it followed that the time limit referred to in Article 14 could not begin before the Commission, acting as a collegial body, had received the results of the investigations and decided whether grounds existed for bringing charges.

Table X.1

Outcome of appeals against measures adopted or proposed by Consob [1]
(at 31 December 2003)

	Administrative courts [2]			Ordinary courts [3]		
	2001	2002	2003	2001	2002	2003
Granted [4]	7	1	--	13	10	35
Rejected	3	5	--	26	25	12
Pending	24	34	33	1	5	14
of which [5]:						
Suspension granted	2	1	1	--	--	--
Suspension rejected	12	14	13	--	--	--
Total	*34*	*40*	*33*	*40*	*40*	*61*

[1] The appeals are shown according to the year they were presented. [2] Regional Administrative Tribunals, the Council of State and, for extraordinary appeals, the President of the Republic. [3] Magistrate's courts and courts of appeal. [4] In full or in part. [5] Includes only appeals in which an application for suspension was made.

The decision in question is also commendable for having specified that, in the event of shortcomings of a general nature in the organizational and procedural arrangements of securities intermediaries, the members of their boards of auditors may also be held responsible. According to the Court of Cassation, the board of auditors, "as the body institutionally required to monitor (in the interest of third parties as well)

observance of the law in the direction of the company and the performance of its activities ... "is necessarily liable for such irregularities "when they impinge ... on the strict observance of the rules aimed at regulating the activity of intermediation".

In Decree no. 15 of 23 October 2003 the Milan Court of Appeal referred to the board of auditors as the "internal body required to monitor – mainly on the basis of the procedural parameters laid down in the regulations issued by Consob to protect investors – the operation of the investment firm as a financial intermediary".

In rejecting the arguments of the members of an investment firm's board of auditors in their appeal against a ministerial decree imposing sanctions for violation of the rules on alternative trading systems (Article 78 of the Consolidated Law on Finance), the Milanese court stated that the transparency obligations with respect to the quantities and prices of the financial instruments traded on the system, insofar as they were necessary to evaluate the correct formation of prices, were "indispensable for the protection of investors", so that the members of the control body could also be liable for their inobservance.

The directors of investment firms are also subject to a general obligation to monitor the activity of their companies, as prescribed by the Milan Court of Appeal in another decree.

In particular, the court ruled that it was not possible to accept the view that only the managing director responsible for the organizational structure charged with the provision of investment services could be deemed liable for inobservance of the legislation governing the sector, since the liability of the directors arose in connection "not only with specific offences committed but also with the violation of a duty to monitor the general activity of the company, regardless of the existence of specific delegated powers".

In another pronouncement the Court of Cassation gave its opinion on the debated question of the conformity of the notion of individual portfolio management in the Consolidated Law on Finance with the provisions of Community law. The European Court of Justice had earlier ruled on this matter in its decision of 21 November 2002.

The Court of Cassation, although it denied that the financial salesmen had actually engaged in portfolio management in the case in question, nonetheless ruled that there was absolutely no disparity between the "national" notion of individual portfolio management ("management on a client-by-client basis of investment portfolios") and the Community notion ("'Managing portfolios of investments in accordance with mandates given by investors on a discretionary,. client-by-client basis") because "there can be no doubt about the concept of portfolio management containing the idea of a mandate and discretion, since both are of the essence of such management".

As for issuers, in June 2003 the Milan Court of Appeal made an important pronouncement concerning Consob's control of the work of the board of auditors in connection with the appeals made by the members of the board of auditors of a listed company against the fines imposed by the Ministry for the Economy and Finance for the violation of Article 149.3 of the Consolidated Law on Finance (which requires boards of auditors to notify Consob "without delay of irregularities found in the performance of their oversight activity" and to transmit "the minutes of the meetings and investigations conducted with all other relevant documentation").

The interpretative question brought before the court concerned the scope of the obligation to notify irregularities found by the board of auditors. The Commission had deemed "irregularities found" to include not only those that the board of auditors actually found but also those that, applying the required diligence, they should have found in performing their institutional duties.

This interpretation was rejected by the court, which – on the basis of general principles of punitive law contained in various provisions of Italian law – declared that "from the point of view of both the conduct and the event, the omission of oversight was

completely different from the omission of notification of irregularities found in the performance of such oversight". Furthermore, although the court recognized that the provision could also be used against "elusive" conduct (whereby the members of the board of auditors, "although they know about the irregularities - which they have learnt about and recognized as such - attempt to appear not to know to the outside world so that in this way they can justify the omission of their notification), it declared that the burden of proving bad faith on the part of the auditors lay with Consob.

Consob decided to appeal to the Court of Cassation against the decision of the Milan judges.

Last year brought an end to the case initiated in 2002 with an appeal to the Lazio Administrative Tribunal by a foreign investment fund owning a holding in a listed company for the annulment of Consob's ruling in May 2002 to the effect that the shareholders' agreement found in August 2002 no longer existed (with the consequent lapsing of the joint and several obligation for the two parties to the agreement to make a tender offer) and for indemnification of the loss incurred by the fund as a result of the Commission's pronouncement (Table aX.2).

In May 2003 the Council of State ruled on the Lazio Administrative Tribunal's 2002 decision (which, although it had deemed there were no grounds for an indemnity, had annulled Consob's decision) rejecting the foreign investment firm's appeal and confirming the lack of grounds for an indemnity. It also declared that the intervening lack of cause made it impossible to proceed with the other appeals against the decision of the Lazio Tribunal (including that made by Consob itself), inter alia *in view of the outcome of the Commission's meeting on 18 December 2002, when, on the basis of new evidence, it reversed the decisions it had adopted in May and concluded among other things that the shareholders' agreement found in August 2001 still existed.*

In a number of cases initiated pursuant to Article 195 of the Consolidated Law on Finance, measures imposing sanctions were declared to be illegitimate for having failed to observe the time limit for the preparation of the proposed sanction. In accordance with Consob Regulation 12697/2000 (implementing Law 241/1990) the limit is 180 days from the date of the notification of charges. The decisions of the various courts of appeal on this matter differed.

The most rigorous position was that adopted by the Milan Court of Appeal, which in seven cases in 2003 ruled that an equal number of ministerial decrees imposing fines were illegitimate because the time limit in question had been exceeded. The Milanese court argued in fact that "the lateness ... led to the lack of a requirement of legitimacy provided for by law ... this implies that the measure issued late is not inexistent but illegitimate, insofar as affected by a violation of the law, and therefore invalid and capable of being annulled" (decree 25.6/2.7.2003).

The Milan court adopted this position even when the time limit of 180 days had been exceeded by only a few days and in cases in which the charges had been notified before the entry into force of Consob Regulation 12697/2000. The court argued in fact that "if a legal innovation is introduced while administrative proceedings are under way, it must be applied to such proceedings".

Consob decided to appeal to the Court of Cassation against the decisions of the Milan judges.

Other courts of appeal faced with the same question took a different line from that of the Milan court and rejected the alleged illegitimacy of sanction decrees adopted acting on a proposal from Consob later than the 180th day following the notification of the charges. In two decisions the Rome Court of Appeal declared that exceeding the time lime limit did not have the power to invalidate the sanction measure, noting that "the non-binding nature of such time limits was based on the need for proper and prompt performance of administrative activity: otherwise the expiration of the time limit would automatically nullify (on purely formal grounds) the substantially legitimate action of the public administration" (decree 17.3/15.4.2003).

Analogously, in decree 2.7/26.9.2003 the Genoa Court of Appeal declared, on the basis of decisions adopted by the Court of Cassation and administrative courts recognizing time limits for the completion of administrative acts as being an accelerator, that "no lapse of administrative power or illegitimacy of the sanction measure can follow from the ... violation" of the time limit of 180 days in question.

Equally, in decree 21/27.2.2003 the Turin Court of Appeal specified that the time limits in question "are to be considered ... of a purely regulative nature since exceeding them does not imply the lapsing of the power to impose sanctions nor does it affect the validity of the measure adopted".

In other cases, the Lecce, Rome and L'Aquila Courts of Appeal all accepted, in contrast with the Milan Court of Appeal, the objection of corporate officers' lack of legitimation made by Consob in appeals against measures imposing fines on issuers or their officers adopted by the Ministry for the Economy and Finance acting on a proposal from Consob.

In all three decisions (respectively decree 6.12/22.2.2003, 11.9.2003 and 14/28.2.2003), the courts observed that, as formulated, the Ministry's sanction measure did not order the corporate officers to pay but only the corporate body or the other companies to which they belonged, under the latter's joint and several obligation to pay. For example, the Lecce Court of Appeal observed that "the Court of Cassation has constantly ruled that the legitimation to appeal against an order imposing an administrative sanction does not derive from the de facto interest that the appellant may have in the removal of the measure (such as that of avoiding an action of recourse) but from the legal interest in the removal of a measure addressed to the appellant. Nor does the joint and several obligation involving the corporate body and its representative imply that the latter can be considered as "having an interest" in appealing against the order issued exclusively in respect of the corporate body ... : this is so in view of the autonomous positions of the persons under the joint and several obligation in light of their different responsibilities and the fact that joinder of parties does not apply to them".

Legal proceedings involving Consob

Of special note last year was order no. 6719 of 16 January 2003, published on 1 May 2003, in which the full bench of the Court of Cassation decided on the preliminary question of jurisdiction with respect to a case brought before a Regional Administrative Tribunal in which Consob was one of the defendants. The case had been brought by a group of investors who had sought damages as a consequence of alleged negligence by Consob in the supervision of a stockbroker and an investment firm (Table aX.3). The court based its decision on Articles 33 and 35 of Legislative Decree 80/198 as amended by Article 7 of Law 205/2000, which gave exclusive jurisdiction to the administrative courts for "all disputes concerning public services, including those in connection with the supervision of banking, insurance and the securities market" and for petitions for damages.

The court deemed the functions entrusted to Consob and the Bank of Italy for the supervision of the securities and credit markets to fall within the scope of public services but noted that the disputes expressly excluded from the jurisdiction of the administrative courts by Article 33.2e) included those "concerned merely with compensation for damage to persons or property". It therefore ruled that, under this provision, the actions for damages brought by the investors against Consob for its alleged omission and/or negligence in performing its supervision remained within the jurisdiction of the ordinary courts.

In decision no. 2841 of 24 September, published on 21 October 2003, the Milan Court of Appeal ordered Consob, jointly and severally with the Ministry for the Economy and Finance and some former members of the Commission, to pay damages to the plaintiffs.

The judgement came at the end of the appeal made, following the well-known Court of Cassation decision no. 3132/2002, by a group of investors who

alleged that Consob had failed to control the prospectus for a public offering of securities in 1983. Consob intends to appeal against the decision because it believes the appeal court judge misapplied some of the legal principles enunciated by the Court of Cassation in its decision.

XI. CONSOB'S INTERNAL MANAGEMENT AND EXTERNAL RELATIONS

The organizational structure

Instruments for the planning of activities and control of operations were further refined in 2003. The increasing importance of these instruments is partly a reflection of the rapid evolution of the external frame of reference.

As regards the logistics of the new offices in Milan, work on the restoration of Palazzo Carmagnola, at 7 Via Broletto, fell behind schedule towards the end of last year, following the notice from the Milan Superintendent of Archeology announcing that archeological excavations will have to be carried out on part of the site.

As regards information technology, work continued on the adaptation of the totality of the Institute's applications (both developed internally and acquired externally) to the new hardware/software platform introduced in 2002. Work also began on the strengthening of the Institute's hardware systems.

The hardware necessary for the Institute's Intranet was upgraded through the acquisition of a new computer ten times more powerful than the one it replaced and equipped with main hardware components that ensure a greater degree of fault tolerance.

Turning to telecommunications, the internal connection between Consob's Rome and Milan offices was restructured under the agreement between Consip and Telecom Italia on landline telephony for government entities. The agreement provided for the establishment of a new link between the two offices, dedicated to data transmission (at roughly 8 Mbit/second), so that telephone and videoconferencing traffic (which remained on the government network at 2 Mbit/second) is now entirely separate.

Moreover, last year the Internet began to be used as a data transmission vehicle for information that entities subject to supervision are required to send to Consob.

In this context, a special new software programme named "Nuova Teleraccolta" was developed, using the Java Two Platform Enterprise Edition (J2EE).

The applications introduced in 2003 include a system dedicated to signalling instances of market abuse; the Integrated System for the Supervision of Markets (SAIVIM) identifies, on a daily basis, securities that could be the subject of illicit buying or selling (see Chapter V "Supervision of Markets").

Updated software was developed for the management of declarations made under Article 120 of the Consolidated Law on Finance (shareholdings in listed companies). The new system produces all the documents in XML format, enabling the data processing results to be published immediately on the Institute's website.

Finally, the usability of models for the supervisory analysis of financial intermediaries was enhanced and a prototype model for the analysis of collective investment undertakings was completed.

Financial management

Consob's total income in 2003 amounted to roughly €79.7 million (Table XI.1), of which €40.8 million came from fees (equal to 51.2 per cent of the total). The largest share of own revenue came from fees paid by issuers, intermediaries and financial salesmen (Table aXI.1).

Turning to expenditure, there was an increase in that on current account, attributable primarily to staff costs and the purchase of goods and services. Capital expenditure totaled €4.3 million, which was more than in 2002, mainly owing to the allocations for the creation of a new library at the Institute's Head Office in Rome and the costs incurred for the restoration of the building made available by the Milan City Council in 1999 for Consob's offices in Milan.

Table XI.1

Summary table of income and expenditure
(millions of euros)

	1997[1]	1998[1]	1999[1]	2000[1]	2001[1]	2002[1]	2003[2]
Income							
Prior-year surplus [3]	4.4	16.7	18.9	50.7	74.0	12.3	11.6
State funding	30.2	25.8	28.4	31.0	31.0	23.7	23.3
Own revenue:							
- application fees	1.3	2.5	3.7	3.0	1.5	0.0	—
- exam fees	0.6	1.4	2.1	3.0	1.5	0.0	—
- supervision fees	21.7	20.3	39.8	31.8	27.4	39.9	40.8
- trading fees	—	—	3.9	5.2	3.6	0.0	—
- sundry revenues	2.4	2.0	2.6	4.2	11.6	3.8	4.0
Total income	*60.6*	*68.7*	*99.4*	*128.9*	*150.6*	*79.7*	*79.7*
Expenditure							
Current expenditure:							
- members of the Commission	1.2	1.2	1.2	1.2	1.4	1.4	1.4
- staff	33.4	32.6	31.1	33.7	45.8	42.2	45.9
- goods and services	10.9	12.5	12.1	14.2	16.4	18.7	22.2
- renovation and expansion of fixed assets	1.0	1.2	1.8	2.4	3.8	4.7	5.0
- unclassified	1.5	0.2	0.8	0.1	4.9	1.1	0.9
Total current expenditure	*48.0*	*47.7*	*47.0*	*51.6*	*72.3*	*68.1*	*75.4*
Capital expenditure	0.5	2.4	2.4	3.6	66.8	2.8	4.3
Total expenditure	*48.5*	*50.1*	*49.4*	*55.2*	*139.1*	*70.9*	*79.7*

[1] Annual accounts. [2] Budget. [3] The 2002 surplus is the difference between total income and total expenditure plus the difference in respect of expenditure carryovers and value adjustments of investments; the last two items are not shown in the table. The 2002 surplus is included in 2003 income.

The 2004 budget was approved in December 2003. Total income is expected to amount to €76.4 million, of which €27.7 million is to derive from State funding, €46 million from fees and €2.7 million from sundry revenues. A further €10.2 million represents the expected total operating surplus in 2003; this comprises available operating surplus for planned expenditure in 2004 (€9.2 million), and 2003 commitments carried over to 2004 under Article 19 of the Accountancy Rules (€1 million). The latter amount refers exclusively to the postponement of the creation of the above-mentioned new library in the Rome Head Office.

Total expenditure in 2004 (net of the prior-year commitments carried over from 2003 and included in capital account expenditure) is expected to amount to €85.6 million, of which €81.8 on current account and €3.8 on capital account. Budgeted current expenditure shows an increase of €6.04 million on last year's budget figure, mainly owing to a forecast increase in staff costs. Capital expenditure for 2004 essentially reflects

the continuation of the programme to strengthen the information system, the creation of a new library at the Head Office in Rome, mentioned above, and the allocation for the purchase of furniture and furnishings for the new offices in Via Broletto in Milan.

In December 2003 Consob established the fee schedule for 2004, identifying, on the basis of Article 40 of Law 724/1993, the categories of entities subject to supervision required to pay fees and the fee amounts.

The measures adopted to this end reflect the absence of change in the legislative framework. They therefore provide for the same categories of entities to be charged an annual supervision fee as in the 2003 schedule and contain only one amendment: namely, the imposition of fees on Tlx s.p.a., a company authorized in 2003 to manage regulated markets.

Personnel management

Last year 19 permanent positions were created at the Institute (of which two were filled by employees who successfully completed public competitive examinations) and 3 positions with fixed-term contracts, so that a total of 20 new employees joined the Institute in 2003. On the other hand, 19 permanent staff members left (17 voluntarily, 1 on reaching retirement age, and 1 due to death) and 1 following the termination of the fixed-term contract. The total number of employees at the Institute therefore remained unchanged at 408 (Tables XI.2 and aXI.2)

Several public competitive examinations were held last year.

In particular, Consob held a competitive examination to recruit an officer for the Personnel Administration Office at the Rome Head Office, and one internal exam for five officers, enabling 5 employees with the rank of coadjutors to rise to managerial level.

Table XI.2

The staff [1]

	Permanent employees				Fixed-term employees	*Total*
	Managerial	Officers	Other	Total		
1990	91	63	16	170	67	*237*
1993	134	72	16	222	96	*318*
1996	128	152	16	296	108	*404*
1997	125	161	21	307	96	*403*
1998	122	156	17	295	88	*383*
1999	116	205	19	340	24	*364*
2000	110	246	20	376	13	*389*
2001	110	241	19	370	15	*385*
2002	126	250	15	391	17	*408*
2003	129	245	15	389	19	*408*

See the Methodological Notes. [1] End-of-year data.

In 2003 Consob used the rankings of competitive examinations held in 2002 to recruit new permanent employees.

Last year, 1 grade 1 officer was recruited for the Rome Head Office (Administration Office), 8 coadjutors for the Milan office, 3 coadjutors for the Rome Head Office, 5 deputy assistants for the Milan office and 2 deputy assistants for the Rome Head Office.

Personnel were also hired for the Rome Head Office on fixed-term employment contracts in accordance with the provisions of Article 3.2 of the Rules on Fixed-Term Contracts, approved under Resolution 11412/1998.

In particular, 3 persons were recruited with the equivalent rank of coadjutor, assistant, and operator respectively.

Last year Consob's new Staff Rules came into effect. They were adopted by the Commission in Resolution 13859 of 4 December 2002, and came into force following the issue of a Prime Ministerial Decree on 30 December 2002. Contractual agreements were concluded relative to the coverage of personnel health costs, as was a framework agreement aimed at setting up a

supplementary fund for staff members recruited since 28 April 1993.

Turning to training, a total of 16,775 hours were devoted to this activity in 2003 (27,407 in 2002), corresponding to a per capita average of about 41 hours (67 in 2002).

Programmes focused to a greater extent on technical courses, which accounted for 24% of the hours allocated for training per capita. Furthermore, training continued in the use of word processors and electronic spreadsheets with the general aim of enhancing individual productivity levels through the mastering of new technology.

External relations and investor education

Last year Consob's ongoing commitment to external communication activities, aimed in particular at investors and market operators, was given fresh impetus.

As in previous years the Institute paid special attention to themes related to investor education; the development of this activity has been among Consob's strategic objectives for some time now. This reflects the Institute's belief that the aim of safeguarding investors can be effectively pursued not only through traditional supervision, but also through the development of activities designed to enhance the ability of individual investors to protect themselves, both by acquiring new knowledge and by being provided with indications as to how to exploit what they have learnt to the full.

In particular, the initiative begun in 2002 involving the publication of a guide to investment funds, both on the Institute's website and in the form of pamphlets, was further developed last year. Two other guides, dealing with information prospectuses and funds' accounting documents, have now been added to the first. The aim of the guides is twofold: to attract the attention of investors to the existence of these documents and at the same time to provide a series of "interpretative keys" for a more profitable reading of the information they contain. A careful perusal of these documents will undoubtedly provide investors with elements of vital importance when it comes to making investments that are compatible with their individual risk/return profiles.

Another initiative of note was the publication in full on Consob's website of documents (prospectuses, supplements and notices) relating to the admission to listing of companies and public offerings (in the case of the latter, documents relating to offers that come under the so-called "partial exemption" rule, or those relating to shareholdings in collective investment undertakings, were not published). In this way investors can easily and continuously access all the information they need in order to make investment decisions.

Intermediaries can also derive benefits from the availability of information on public offerings and shares listed on financial markets, thereby enhancing their overall knowledge of the market. In fact, Consob has always aimed to make reliable working instruments available in a timely manner to market intermediaries and thus provide the data and regulatory frame of reference they need in order to operate in full compliance with legal principles and regulations.

In this context, work continued on the project for reorganizing all Consob's non-regulatory documents (communications, recommendations and responses to queries), the majority of which are issued at the request of market participants. These acts are published for the purpose of interpreting primary and secondary legislation or indicating the criteria that will be followed in supervisory activity, or recommending certain forms of conduct or self-regulatory initiatives. As part of this project, in 2003, a selection of collections summarizing the contents of these documents regarding some of the topics of most interest to visitors were published on the Internet ("Entities authorized to provide investment services", "Investment services" and "Financial salesmen"); visitors can nonetheless continue to consult individual documents should they require more detailed information. The aim of the initiative, which will be gradually extended to include

all the documents regarding matters falling within the scope of Consob's authority, is to provide a rapid means of becoming acquainted with and consulting the guidelines released by Consob in carrying out its institutional duties.

The addition of a new dedicated section on Consob's website provided further proof of its commitment to market operators. The section's purpose is to facilitate interaction with Consob by disseminating information and setting up on-line channels of communication, enabling operators to fulfil their disclosure obligations vis-à-vis the Institute.

In view of the central role that the website has increasingly come to play as an instrument for dialogue and communication with Consob, last year a new project was launched which will be completed in 2004. The project aims to redefine the structure and graphic layout of the website in order to increase user-friendliness, taking account not only of the needs of professional operators but also of private investors. Table XI.3 contains data on the number of visitors to the site in 2003 and confirms its growing popularity.

Naturally, Consob's activities in the communication field also involved the use of more traditional instruments, such as the Institute's official periodic and weekly newsletters.

Among the many initiatives taken in 2003, mention should be made of Consob's participation in the Public Administration Forum. As in earlier years this provided an opportunity to make direct contact with investors, and served to publicize the functions Consob performs and the instruments it uses, as well as to gain indications on the information expectations and needs of the public.

Table XI.3

Visitors to Consob's website

Sections	2002	2003
Home Page (What's new)	829.385	953.900
Investors corner	102.159	144.333
Operators corner [1]	—	70.573
About Consob	121.688	118.407
Companies	1.014.943	2.214.855
Intermediaries and markets	262.218	189.417
Consob decisions	416.423	387.879
Legal framework	555.583	430.937
Publications and press releases	438.993	451.318
Links	30.148	27.122
General search engine	242.315	223.459
Help and site map	63.927	64.543
English version	200.237	132.605

[1] Section created in 2003.

Last year Consob continued to respond to the requests for information it receives on a daily basis (Table aXI.3).

While the level of requests for information was in line with earlier years, there was a large drop in the number of requests for documents (laws, regulations, resolutions, communications, etc,). This trend should be interpreted in relation to the increasing number of visitors to the institutional web site, where the quantity of data and documents that can be accessed and downloaded has proved this instrument's ever greater ability to satisfy the information needs of users.

Finally Consob continued to report a high level of activity by the telephone help desk, where operators respond to the needs of investors and market operators on a daily basis.

Statistical appendix

LIST OF STATISTICAL TABLES

Table aI.1

Concentration of ownership of companies listed on the Stock Exchange and the Nuovo Mercato [1]
(at 31 December)

	Concentration		
	Largest shareholder	Other major shareholders	Market
	Stock Exchange		
1996	50.4	10.7	38.9
1997	38.7	8.4	52.9
1998	33.8	9.7	56.5
1999	44.2	8.2	47.6
2000	44.0	9.4	46.6
2001	42.2	9.2	48.6
2002	40.7	8.0	51.2
2003	33.5	11.6	54.9
	Nuovo Mercato		
2000	44.8	25.9	29.3
2001	41.8	23.7	34.5
2002	41.0	21.8	38.2
2003	36.2	19.4	44.4

Source: Consob's ownership transparency database. See the Methodological notes. [1] As a percentage of the market value of the ordinary share capital of all the companies listed on the Italian Stock Exchange and the Nuovo Mercato. Rounding may cause discrepancies in the last figure.

Table aI.2

Types of control of companies listed on the Stock Exchange and the Nuovo Mercato [1]
(at 31 December)

	Majority control		Working control		Under shareholders' agreements		No controlling shareholder(s)		*Total*	
	number	% [2]	number	% [2]	number	% [2]	number	% [2]	*Number*	*% [2]*
					Stock Exchange					
1996	130	66.8	26	12.2	26	4.8	26	16.2	*208*	*100.0*
1997	122	48.1	28	12.4	27	6.3	28	33.2	*205*	*100.0*
1998	128	32.3	31	21.7	24	7.4	35	38.6	*218*	*100.0*
1999	148	55.0	31	16.7	29	10.8	32	17.5	*240*	*100.0*
2000	141	51.4	34	18.5	24	9.6	38	20.5	*237*	*100.0*
2001	135	49.7	37	22.5	21	11.4	39	16.4	*232*	*100.0*
2002	142	46.0	37	28.4	20	10.2	32	15.4	*231*	*100.0*
2003	130	40.2	25	25.5	28	15.3	36	19.0	*219*	*100.0*
					Nuovo Mercato					
2000	14	51.1	8	32.4	13	14.6	4	1.9	*39*	*100.0*
2001	15	42.0	7	36.3	9	12.7	13	9.0	*44*	*100.0*
2002	12	43.4	9	33.2	10	13.3	12	10.1	*43*	*100.0*
2003	10	18.5	10	33.3	3	2.0	18	46.3	*41*	*100.0*

Source: Consob's ownership transparency database. See the Methodological notes. [1] Rounding may cause discrepancies in the last figure. [2] Percentage ratio of the market value of the ordinary share capital of the companies subject to each type of control to the market value of the ordinary share capital of all the companies listed on the Stock Exchange and the Nuovo Mercato.

Table aI.3

Types of shareholders' agreements involving listed companies
(at 31 December 2003)

Type of agreement	Nuovo Mercato			Stock Exchange		
	Number of agreements	Voting rights [1]	Number of companies [2]	Number of agreements	Voting rights [1]	Number of companies [2]
Blocking	6	30.7	6	8	39.0	8
Voting	--	--	--	11	41.9	9
Global [3]	4	44.8	4	36	46.9	34
Total	*10*	*36.3*	*9*	*55*	*44.8*	*47*

Source: Disclosures pursuant to Article 122 of the Consolidated Law on Finance. See the Methodological notes. [1] As a percentage of the total ordinary share capital. Averages. [2] The total does not coincide with the sum of the individual figures because in some cases more than one shareholders' agreement concerned the same company. [3] Agreements containing both blocking and voting clauses.

Table aI.4

Listed companies with shareholders' agreements
(at 31 December 2003)

Company	Type of agreement	Expiration	Voting rights [1]	Number of participants
Acegas - aps	global	22.12.2006	67.9	2
Actelios	blocking	17.09.2006	75.9	2
Alerion industries	global	19.03.2006	57.3	22
Art'e'[2]	blocking	30.10.2004	14.7	2
Assicurazioni generali	voting	13.09.2004	8.4	3
Astaldi	voting	14.05.2005	69.1	5
Banca antoniana popolare veneta	voting	15.04.2005	30.8	60
	blocking	15.04.2004	30.8	60
Banca carige	global	30.06.2004	5.5	2
Banca intesa	global	15.04.2005	38.9	26
Banca lombarda e piemontese	global	31.12.2004	45.0	319
Banca nazionale del lavoro	global	24.12.2005	7.8	2
Banca popolare di spoleto	global	09.07.2004	78.1	2
Banco di sardegna	global	30.03.2004	100.0	2
Bipielle investimenti	voting	indeterminate	71.8	4
	voting	31.07.2005	74.6	2
Bulgari	global	17.07.2004	54.1	3
Buongiorno vitaminic	blocking	16.07.2004	36.2	6
Capitalia	blocking	07.03.2006	6.6	3
	global	22.10.2006	29.6	18
Cassa di risparmio di firenze	global	13.01.2005	43.0	3
Chl – centro hl distribuzione	blocking	13.06.2004	11.8	2
Cit	global	indeterminate	58.0	3
	global	06.09.2005	43.0	3
Csp[3]	global	15.06.2007	50.2	7

- Cont. -

- Table aI.4 cont. -

Company	Type of agreement	Expiration	Voting rights [1]	Number of participants
Dada	global	05.02.2005	28.1	3
	blocking	indeterminate	15.4	2
Davide campari – Milan	voting	expiration board of directors	51.0	2
Digital bros	global	17.10.2005	58.1	3
El.en.	global	10.12.2006	52.0	8
Eplanet	blocking	31.07.2005	55.8	27
Esprinet	blocking	25.07.2004	50.4	6
Euphon	global	07.06.2006	40.9	3
Fiat	voting	18.06.2005	16.9	4
Filatura di pollone	global	2003 AGM	50.2	16
Gabetti holding	blocking	25.07.2006	21.5	2
Gemina	global	2003 AGM	43.4	11
Gim	global	31.12.2006	48.1	22
Hera	voting	26.06.2006	55.4	131
	blocking	26.06.2006	51.1	131
	voting	06.11.2006	5.9	4
I.m.a.	blocking	indeterminate	61.0	3
Interpump group	global	2004 AGM	14.8	9
Ipi	global	15.03.2006	10.0	2
La doria	global	30.06.2004	70.0	7
La gaiana	global	2005 AGM	75.6	4
Linificio e canapificio nazionale	global	01.11.2006	67.8	2
Manuli rubber industries	global	2003 AGM	44.1	6
	global	10.06.2006	91.9	8
Marcolin	global	24.07.2005	63.7	6
	global	31.07.2005	12.7	7
Marzotto	global	31.05.2006	27.1	18
Mediobanca	global	01.07.2004	56.7	44
Mediolanum	global	14.09.2004	51.1	7
Permasteelisa	global	30.08.2005	29.9	5
Pirelli & c.	global	15.04.2004	42.0	10
Premuda	global	31.12.2004	45.0	3
Rcs mediagroup	global	01.07.2004	44.9	12
Saes getters	global	15.12.2005	57.3	35
Sanpaolo imi	global	2003 AGM	16.2	5
	voting	indeterminate	15.0	3
Seat pagine gialle	voting	20.09.2006	62.6	3
Smi	blocking	31.12.2004	50.1	2
Socotherm	global	11.12.2005	75.0	4
Targetti sankey	blocking	27.09.2004	15.3	2
Trevisan	global	05.11.2006	42.6	6
Zignago	global	31.12.2004	32.3	8

See the Methodological notes. [1] As a percentage of the ordinary share capital. [2] As of 30 April 2004 the voting rights covered by the agreement will fall to 9.8 per cent. [3] At 31 December 2003 Consob had nor been notified of the parties' intention to withdraw; accordingly the agreement has already been renewed for a further three years.

Table aI.5

Shareholders' agreements involving companies controlling listed companies
(at 31 December 2003)

Listed company	Controlling company covered by agreement	Type of agreement	Expiration	Voting rights [1]	Number of participants
Autostrade	Schemaventotto	global	31.01.2005	100.0	6
Credito Emiliano[2]	Credito Emiliano Holding	blocking	20.07.2007	72.3	226
Datalogic	Hydra	global	14.02.2004	100.0	4
Ducati Motor Holding[3]	TPG Advisors	global	indeterminate	100.0	4
Edison	Italenergia bis	global	25.07.2006	37.4	3
Gruppo Coin	Finanziaria Coin	global	31.12.2005	100.0	6
Immsi[4]	Omniapartecipazioni	global	15.11.2005	100.0	3
	Omniainvest	voting	06.11.2005	100.0	4
Intek	Quattroduedue holding	voting	30.06.2004	100.0	4
Isagro[5]	Holdisa	global	30.06.2005	100.0	8
	Manisa	global	02.12.2004	100.0	12
Mariella Burani F.G.[6]	Burani Designer Holding	global	22.07.2006	100.0	5
Navigazione Montanari	G. & A. Montanari & co.	global	26.05.2006	98.2	10
Nts	July Twenty	global	04.10.2005	100.0	3
Sabaf	Giuseppe Saleri	global	20.10.2006	96.0	3
Seat Pagine Gialle[7]	Societe de partecipations Silver sa	global	08.08.2006	99.5	32
Sirti	Wiretel International	global	30.05.2006	100.0	9
Snai	Snai Servizi	global	30.06.2004	29.3	68
Snia	Bios	global	28.07.2005	100.0	13
Telecom Italia	Olimpia[8, 9]	global	07.10.2004	67.2	2
		global	05.10.2004	67.2	3
		global	28.02.2006	100.0	6
		global	09.05.2006	100.0	6
Trevi Fin. Industriale	Trevi Holding	voting	31.12.2004	8.0	2
Unipol	Finsoe	global	06.02.2006	90.0	2
Vemer Siber Group	Hopa[9]	global	20.02.2006	54.4	15

See the Methodological notes. [1] As a percentage of the ordinary share capital. [2] At 31 December 2003 Consob had nor been notified of the parties' intention to withdraw; accordingly the agreement has already been renewed for a further three years. [3] Even though Tgp Advisors does not hold a controlling interest (33.5 per cent), it exercises a dominant influence over the listed company. [4] Control over the company is held by Roberto Colaninno, via Omniaholding, which controls Omniainvest, which in turn controls Omniapartecipazioni. [5] Control over the company is held by Giorgio Basile, via Manisa, which controls Holdisa. [6] Control over the company is held by Walter Burani, with a direct holding and via Burani Designer Holding. [7] The agreement includes clauses relative to the listed company. [8] The agreement expiring on 9 May 2006 also contains agreements concerning the listed companies of the Telecom Italia Group. [9] Agreements notified pursuant to Article 122 of the Consolidated Law on Finance even though at the time of the notification the company did not not consider it controlled the listed company.

Table aI.6

Major holdings in companies listed on the Stock Exchange and the Nuovo Mercato [1]
(at 31 December)

	Type of holder								
	Foreign resident	Insurance company	Bank	Foundation	Institutional investor	Other company	State or local authority	Individual	*Total*
					Stock Exchange				
1996	4.5	1.9	4.3	3.8	0.8	8.2	32.5	5.5	*61.5*
1997	5.0	2.2	5.1	3.1	0.1	14.4	12.1	4.8	*46.8*
1998	5.9	2.5	4.8	5.2	0.1	12.6	8.8	3.8	*43.6*
1999	6.2	1.5	5.3	4.5	0.2	19.4	10.6	4.5	*52.2*
2000	6.5	3.2	5.9	5.0	0.3	17.2	10.2	4.9	*53.1*
2001	5.6	1.8	4.4	4.9	0.1	18.2	11.1	5.0	*51.1*
2002	4.9	1.1	3.4	4.5	0.7	16.8	12.3	5.1	*48.8*
2003	6.7	1.2	3.9	3.6	--	12.3	11.2	6.2	*45.1*
					Nuovo Mercato				
2000	14.2	--	0.7	--	1.1	4.2	--	50.4	*70.7*
2001	16.7	--	0.6	0.1	0.5	4.8	--	42.7	*65.5*
2002	12.1	--	0.3	0.2	0.8	4.8	--	43.6	*61.8*
2003	7.7	--	1.0	--	0.2	4.8	--	41.7	*55.6*

Source: Consob's ownership transparency database. See the Methodological notes. [1] Holdings of more than 2 per cent of the voting capital. Year-end data. Percentage ratio of the market value of the major holdings calculated with reference to ordinary share capital to the market value of the ordinary share capital of all the companies listed on the Italian Stock Exchange and the Nuovo Mercato. Rounding may cause discrepancies in the last figure.

Table aI.7

Tender offers for securities of listed companies [1]
(amounts in millions of euros)

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Number of transactions												
Voluntary offers	5	2	2	4	6	5	2	4	7	4	10	8
Takeover bids [2]	—	2	1	—	2	2	2	8	8	2	4	4
Incremental bids [3]	—	—	—	—	1	1	1	—	—	—	—	—
Mandatory bids	2	3	11	8	9	7	6	8	6	7	4	6
Residual bids	—	5	6	9	10	8	3	2	7	11	5	8
For own shares	—	—	—	—	—	—	—	—	—	—	1	—
Total	*7*	*12*	*20*	*21*	*28*	*23*	*14*	*22*	*28*	*24*	*24*	*26*
Value												
Voluntary offers	611	850	72	75	264	378	96	631	4,299	171	3,724	5,837
Takeover bids [2]	—	543	1,947	—	213	234	1,658	53,292	4,878	726	809	7,359
Incremental bids [3]	—	—	—	—	53	4	126	—	—	—	—	—
Mandatory bids	11	12	832	975	161	376	102	640	2,734	5,573	26	174
Residual bids	—	7	23	24	14	27	23	5	218	196	44	356
For own shares	—	—	—	—	—	—	—	—	—	—	709	—
Total	*622*	*1,412*	*2,874*	*1,074*	*705*	*1,019*	*2,005*	*54,568*	*12,129*	*6,666*	*5,312*	*13,726*

Sources: Consob archive of offer documents and Borsa Italiana s.p.a. notices. [1] Securities offered in exchange are valued at the market prices of the day preceding the announcement of the transaction. Rounding may cause discrepancies in the last figure. [2] The number of transactions includes competitive bids. [3] Type of bid provided for in Law 149/1992 but not envisaged by the Consolidated Law on Finance.

Table aI.8

Tender offers for shares of listed companies in 2003

Offeror	Target company's share	Type of offer	Offer price [1]	Offer quantity [2]	Duration of offer
Schemaventotto (newco28)	Autostrade ord	takeover	10.00	70.3	20.01-21.02
Eurofind	La rinascente ord	residual	4.45	6.9	03.02-28.02
	La rinascente priv		4.45	28.1	
	La rinascente rnc		4.15	3.8	
Banca Antonveneta	Interbanca ord	voluntary	20.50	36.5	17.02-14.03
	Interbanca ocv		19.50	4.3	
Bracco Biomed	Esaote ord	residual	5.19	2.4	21.02-13.03
Newco Laser	Prima Industrie ord	takeover	7.50	100.0	10.03-11.04
Bipielle Retail	Banco di Chiavari ord	mandatory	7.00	30.4	17.03-04.04
Palio	Savino del Bene ord	takeover	2.50	74.6	18.03-23.04
Cortiplast	Saiag ord	voluntary	3.80	26.7	09.04-09.05
	Saiag rnc		2.55	81.0	
Ibi nv	Alerion Industries ord	mandatory	0.39	40.4	14.04-08.05
Risanamento Napoli	Ipi ord	mandatory	4.32	44.1	05.05-23.05
Deutsche Lufthansa ag	Air Dolomiti ord	mandatory	14.68	48.1	26.05-27.06
San Paolo Imi	Bca Pop dell'Adriatico ord	voluntary	7.26	28.2	28.05-18.06
Wide Design	Italdesign Giugiaro ord	takeover	4.40	100.0	03.06-23.06
Banca Antonveneta	Interbanca ord	residual	19.50	21.4	03.06-07.07
	Interbanca ocv		19.50	2.3	
Palio	Savino del Bene ord	residual	2.50	5.9	16.06-11.07
Tenaris	Dalmine ord	residual	0.17	10.0	23.06-11.07
Olivetti	Telecom Italia ord	voluntary	8.01	17.3	23.06-18.07
	Telecom Italia rnc		4.82	17.3	
Finm	Manuli Rubber Ind ord	voluntary	1.90	25.8	01.07-25.07
Wiretel 2	Sirti ord	voluntary	1.20	20.0	04.07-24.07
Unicredito Italiano	Locat ord	voluntary	0.90	12.7	07.07-05.08
Silver	Seat Pagine Gialle ord	mandatory	0.60	37.5	01.09-19.09
Wide Design	Italdesign Giugiaro ord	residual	4.40	7.0	29.09-17.10
Roland Corporation	Roland Europe ord	voluntary	1.40	43.4	30.09-29.10
Arena Holding	Roncadin ord	mandatory	0.34	68.3	13.10-31.10
Banca Popolare di Lodi	Banca Pop di Cremona ord	takeover	20.00	100.0	20.10-21.11
Cortiplast	Saiag ord	residual	4.01	6.4	27.10-21.11
	Saiag rnc		2.70	14.3	
Finm	Manuli Rubber Ind ord	residual	2.22	8.1	30.12-23.01

Source: Consob archive of offer documents. [1] Offer price per share in euros. For exchange offers, unless specified otherwise in the offer document, securities are valued at the market prices of the day preceding the announcement of the transaction. [2] As a percentage of the securities issued of the same class.

Table aI.9

Results of tender offers for shares of listed companies in 2003
(amounts in millions of euros)

Offeror	Subject shares	Shares acquired [1]	Percentage held by offeror [2]	Value of the offer [3]
Schemaventotto (newco28)	Autostrade ord	77.0	83.8	6,458.8
Eurofind	La rinascente ord	52.5	96.7	47.9
	La rinascente priv	55.5	87.5	2.2
	La rinascente rnc	67.2	98.8	10.8
Banca Antonveneta	Interbanca ord	87.0	95.3	330.9
	Interbanca ocv	97.7	98.4	8.1
Bracco Biomed	Esaote ord	62.3	99.1	3.6
Newco Laser	Prima Industrie ord	--	--	--
Bipielle Retail	Banco di Chiavari ord	71.2	91.2	105.9
Palio	Savino del Bene ord	78.6	94.2	53.8
Cortiplast	Saiag ord	57.6	88.7	10.2
	Saiag rnc	69.0	74.9	13.9
Ibi nv	Alerion Industries ord	13.8	65.2	8.6
Risanamento Napoli	Ipi ord	43.0	74.9	33.3
Deutsche Lufthansa ag	Air Dolomiti ord	43.1	98.8	25.3
San Paolo Imi	Bca Pop dell'Adriatico ord	93.4	98.1	74.1
Wide Design	Italdesign Giugiaro ord	92.0	92.0	209.7
Banca Antonveneta	Interbanca ord	93.7	99.4	244.9
	Interbanca ocv	54.6	99.0	0.1
Palio	Savino del Bene ord	57.9	98.5	3.1
Tenaris	Dalmine ord	68.1	96.8	13.6
Olivetti	Telecom Italia ord	56.4	64.7	4,103.4
	Telecom Italia rnc	68.5	11.8	1,171.0
Finm	Manuli Rubber Ind ord	64.9	90.9	26.6
Wiretel 2	Sirti ord	100.0	20.0	52.8
Unicredito Italiano	Locat ord	61.9	95.2	38.5
Silver	Seat Pagine Gialle ord	0.1	62.5	1.3
Wide Design	Italdesign Giugiaro ord	71.7	98.1	11.4
Roland Corporation	Roland Europe ord	54.2	80.6	7.3
Arena Holding	Roncadin ord	0.0	31.7	0.0
Banca Popolare di Lodi	Banca Pop di Cremona ord	94.8	94.8	636.9
Cortiplast	Saiag ord	83.1	84.8	3.7
	Saiag rnc	40.4	86.0	1.5
Finm	Manuli Rubber Ind ord	88.8	99.1	13.4

Source: Notices issued by Borsa Italiana s.p.a.. [1] As a percentage of the offer quantity. [2] After the offer, as a percentage of the company's share capital. [3] The value of the offer is calculated on the basis of the quantity of securities actually acquired. For exchange offers, unless indicated otherwise in the offer document, the consideration in securities is valued at the market price of the day preceding the announcement of the offer.

Table aI.10

Average number of directors of companies listed on the Stock Exchange by sector of activity [1]

	2001			2002			2003		
	Executive	Non-executive	Total	Executive	Non-executive	Total	Executive	Non-executive	Total
Insurance	5.6	11.3	16.9	4.7	11.2	15.9	5.0	10.8	15.8
Banking	6.2	8.4	14.6	6.3	8.7	15.0	6.3	9.0	15.3
Finance	3.0	6.2	9.2	3.0	6.2	9.1	3.3	6.9	10.2
Industry	3.0	5.5	8.5	2.9	5.7	8.6	3.0	5.7	8.7
Services	3.3	7.0	10.3	2.8	7.4	10.2	2.9	7.4	10.3
Total	*3.6*	*6.6*	*10.2*	*3.5*	*6.8*	*10.3*	*3.6*	*6.9*	*10.5*

[1] Rounding may cause discrepancies in the last figure.

Table aI.11

Directorships of members of the boards of companies listed on the Stock Exchange

	2001			2002			2003		
	Number	Positions held		Number	Positions held		Number	Positions held	
		in the group	in other groups		in the group	in other groups		in the group	in other groups
Directors with only one position	1,574	1,574	--	1,580	1,580	--	1,465	1,465	--
Directors with more than one position	299	292	493	302	278	499	359	259	582
of which:									
- 2 positions	196	142	250	210	128	292	251	124	318
- from 3 to 5 positions	94	116	214	79	102	168	96	99	222
- more than 5 positions	9	34	29	13	41	48	12	36	42

Table aII.1

Indicators of the equity markets operated by Borsa Italiana s.p.a.
(amounts in billions of euros)

	1996	1997	1998	1999	2000	2001	2002	2003
Stock Exchange (MTA)								
Market capitalization [1]	199	310	484	714	790	575	447	475
- as a percentage of GDP	20.3	30.2	44.8	64.4	67.8	47.3	35.7	36.6
Volume of trading in shares	81	174	423	503	839	637	562	567
Number of listed Italian companies	213	209	219	241	237	232	231	219
Number of newly-listed Italian companies	14	14	25	28	16	13	11	9
Number of Italian companies delisted	18	18	15	6	20	18	12	21
Change in the MIB historical index [2]	13.1	58.2	41.0	22.3	5.4	-25.1	-23.7	14.9
Dividend/price ratio [2]	2.1	1.7	1.6	1.5	2.1	2.8	3.8	3.4
Earnings/price ratio [2]	6.9	4.6	3.9	3.4	4.5	6.0	5.9	6.4
Expandi Market								
Market capitalization [1]	3	5	4	5	6	5	5	5
Volume of trading in shares	..	1	2	1	1	..	..	..
Number of listed companies	31	26	20	17	15	12	13	11
Nuovo Mercato								
Market capitalization [1]	—	—	—	7	22	13	6	8
Volume of trading in shares	—	—	—	4	30	21	10	14
Number of listed Italian companies	—	—	—	6	39	44	44	41
Change in the NM index [2]	—	—	—	536[3]	-25.5	-45.6	-50.1	27.3

Sources: Borsa Italiana s.p.a., Consob, Thomson Financial. [1] The figure for market capitalization refers to Italian companies. [2] Year-end percentages. [3] From 17 June 1999 to 30 December 1999.

Table aII.2

Volume of trading in fixed-income securities on Italian regulated markets [1]
(billions of euros)

	2000	2001	2002	2003
MTS	2,020	2,324	2,205	2,160
Bondvision	—	18	100	176
Wholesale market for bonds other than government securities	. .	12	24	23
MOT	154	136	159	142
EuroMOT	. .	1	2	4
TLX [2]	—	—	—	2
Total	*2,174*	*2,491*	*2,490*	*2,507*

Sources: Based on MTS s.p.a. and Borsa Italiana s.p.a. data. [1] Rounding may cause discrepancies in the last figure. [2] Market began operations on 20 October 2003.

Table aII.3

Ownership structure of companies admitted to listing on the Stock Exchange (MTA) and the Expandi Market
(percentages of the voting share capital)

Company	Before IPO		After IPO	
	Controlling shareholder	Shareholders with more than 2 per cent	Controlling shareholder	Shareholders with more than 2 per cent
Average 1995	*79.0*	*96.3*	*55.6*	*63.3*
Average 1996	*78.3*	*94.7*	*52.8*	*61.2*
Average 1997	*81.2*	*90.8*	*55.6*	*61.3*
Average 1998	*89.7*	*98.6*	*57.8*	*60.1*
Average 1999	*91.9*	*98.5*	*57.8*	*59.9*
Average 2000	*80.3*	*94.9*	*56.7*	*66.0*
Average 2001	*87.7*	*97.8*	*58.8*	*63.0*
Average 2002	*83.3*	*98.9*	*57.8*	*67.3*
2003				
Meta	75.0	92.5	57.7	70.4
Hera	99.6	75.5	53.7	42.3
Isagro	81.6	98.4	61.2	72.1
Trevisan	91.9	96.7	45.1	48.1
Average 2003	*87.0*	*90.8*	*54.5*	*58.2*

See the Methodological notes.

Table aII.4

Companies admitted to listing: results of IPOs [1]

	Proportion of shares allotted				Ratio of demand to supply [2]	
	Individuals	Italian institutional investors	Foreign institutional investors	Other investors [3]	Public offerings	Institutional offerings
			Stock Exchange (MTA) and Expandi Market			
1995	42.3	16.3	41.4	—	3.2	6.8
1996	40.5	24.3	35.2	—	6.3	9.4
1997	31.4	24.5	44.1	—	10.8	12.2
1998	44.4	27.3	28.3	—	7.7	13.9
1999	44.6	23.6	31.8	--	11.1	9.8
2000	48.7	26.4	24.8	0.1	2.2	4.5
2001	29.0	36.1	34.5	0.4	1.2	2.3
2002	27.7	50.4	20.3	1.6	1.1	1.1
2003[4]	39.8	45.0	14.5	0.6	1.8	1.6
			Nuovo Mercato			
1999	27.3	32.5	40.2	..	38.1	16.6
2000[5]	27.2	25.7	44.9	2.0	27.1	13.3
2001	25.0	58.5	14.4	2.1	1.0	1.4
2002	--	--	--	--	--	--
2003	--	--	--	--	--	--

See the Methodological notes. [1] Averages weighted according to the values of the offerings; percentages. Rounding may cause discrepancies in the last figure. The figures for the Italian Stock Exchange do not include ENI in 1995, Enel in 1999 or Snam Rete Gas in 2001. [2] The averages of the ratio of demand to supply are calculated with reference only to offers for which the part reserved to the public and that reserved to institutional investors are known. [3] Persons indicated by name to whom a certain quantity of shares is reserved. [4] The remaining part (0.1 per cent) was taken up by the underwriting syndicate for the public offering in connection with the placement of Trevisan shares. [5] The remaining part (0.2 per cent) was taken up by the underwriting syndicate for the public offering in connection with the placement of Cairo Communication shares.

Table aII.5

Role of investment banks in IPOs [1]
(market concentration; amounts in millions of euros)

	Top ranking bank [2]	First three banks [2]	First five banks [2]	Number of transactions	Value of transactions
			Global coordinator [3]		
1995	27.7	72.3	91.5	11	3,671
1996	64.3	88.9	93.9	12	1,666
1997	36.8	71.0	89.0	10	833
1998	20.6	59.6	74.4	16	1,845
1999	25.9	71.7	81.2	26	5,032
2000[4]	18.1	45.0	59.7	43	6,728
2001	16.3	42.9	62.5	17	1,732
2002	30.0	65.0	83.1	6	1,062
2003	29.2	81.8	100.0	4	550
			Lead manager [5]		
1995	43.1	77.4	96.9	11	1,264
1996	69.0	90.2	94.2	12	675
1997	57.0	79.0	91.4	10	261
1998	58.3	87.3	92.2	16	818
1999	45.9	74.2	84.5	26	2,196
2000	33.7	65.0	79.7	44	2,418
2001	23.6	59.9	83.5	17	497
2002	32.7	84.7	100.0	6	294
2003[6]	45.1	95.5	100.0	4	219

Source: Based on listing particulars. See the Methodological notes. [1] The indicators of concentration refer to the value of the offerings on the Stock Exchange, the Expandi Market and the Nuovo Mercato. The figures for the Stock Exchange do not include the Eni offering in 1995, the Enel offering in 1999 or the Snam Rete Gas offering in 2001. [2] Percentages. [3] The figures refer to global offerings. [4] One transaction has been excluded because it consisted only of a public offering in Italy. [5] The figures refer only to public offerings in Italy. [6] The public offerings in 2003 were handled by only four banks.

Table aII.6

Offerings of shares and convertible bonds by listed companies [1]
(millions of euros)

Offering aimed at	1995	1996	1997	1998	1999	2000	2001	2002	2003
Subscription of new securities									
The public	165	516	1,122	392	413	1,827	798	416	785
Institutional investors	103	193	226	1,090	802	4,846	2,080	577	51
Employees	6	25	104	319	221	37	8	9	4
Shareholders	4,103	1,572	4,172	7,341	21,736	2,737	7,793	3,290	9,007
Other	....	....	....	....	....	78	9	491	21
Total	*4,377*	*2,306*	*5,624*	*9,142*	*23,172*	*9,525*	*10,688*	*4,783*	*9,868*
Sale of existing securities									
The public	1,649	2,342	11,616	7,054	14,433	4,995	692	248	179
Institutional investors	1,588	2,965	5,422	3,774	10,478	2,492	3,750	1,778	2,469
Employees	159	301	1,389	446	884	118	15	2	8
Shareholders	--	3	--	--	--	--	--	--	--
Other	....	....	....	....	....	10	..	18	--
Total	*3,396*	*5,611*	*18,427*	*11,274*	*25,795*	*7,615*	*4,457*	*2,046*	*2,656*
Total									
The public	1,814	2,858	12,738	7,446	14,846	6,822	1,490	664	964
Institutional investors	1,691	3,158	5,648	4,864	11,280	7,338	5,830	2,355	2,520
Employees	165	326	1,493	765	1,105	155	23	11	12
Shareholders	4,103	1,575	4,172	7,341	21,736	2,737	7,793	3,290	9,007
Other	....	....	....	....	....	88	9	509	21
Total	*7,773*	*7,917*	*24,051*	*20,416*	*48,967*	*17,140*	*15,145*	*6,829*	*12,524*

Sources: Consob archive of prospectuses and notices issued by Borsa Italiana s.p.a. See the Methodological notes. [1] The figures refer to companies listed on the Stock Exchange (MTA); they include offerings made by companies listed on the Expandi Market and the Nuovo Mercato. The figures for 2002 include the initial public offering of units of a closed-end real-estate investment fund. Rounding may cause discrepancies in the last figure.

Table aII.7

Sales of public-sector holdings in listed companies by means of public offerings and private placements [1]
(1993-2003; amounts in millions of euros)

Company	Date	Value [2]	Seller	Holding sold [3]	Offering aimed at [4]			
					The public [5]	Employees	Foreign buyers	Institutional investors
Credit ord	4.12.1993	886	Iri	63.1	36.3	—	—	26.8
Credit risp	4.12.1993	44	Iri	17.4	—	17.4	—	—
Imi	31.01.1994	1,231	Treasury et al.	36.5	14.8	0.8	—	20.9
Comit	26.02.1994	1,493	Iri	51.9	26.9	3.5	—	21.5
Ina	27.06.1994	2,340	Treasury	47.2	31.6	0.6	—	15.0
Eni	21.11.1995	3,254	Treasury	15.0	4.3	0.7	3.3	6.7
Imi	7.07.1996	259	Treasury	6.9	—	—	—	6.9
Amga	7.10.1996	107	Genoa City Council	49.0	17.6	0.8	—	30.6
Eni	21.10.1996	4,582	Treasury	15.8	8.0	0.8	2.0	5.0
Montefibre	08.07.1996	94	Enichem	66.4	8.2	—	—	58.2
Ist. Banc. S Paolo	19.05.1997	1,374	S.Paolo banking group, Treasury et al.	31.0	12.3	2.4	—	16.3
Eni	23.06.1997	6,805	Treasury	17.6	9.9	0.8	2.3	4.6
Aeroporti di Roma	15.07.1997	307	Iri	45.0	15.5	0.9	—	28.6
Telecom	20.10.1997	9,778	Treasury	32.9	24.3	3.3	1.1	4.2
Banca di Roma	24.11.1997	1,379	Iri	36.6[6]	26.7	2.4	—	7.5
Saipem	17.03.1998	383	Eni	17.1	—	—	—	17.1
Alitalia	22.05.1998	406	Iri	18.4	—	—	—	18.4
Eni	22.06.1998	6,594	Treasury	14.0	10.5	0.6	—	2.8
Aem	14.07.1998	761	Milan City Council	49.0	28.9	0.5	—	19.6
Bnl	16.11.1998	2,620	Treasury	64.7	34.8	3.6	—	26.3
Banca Monte Paschi	18.06.1999	2,217	Fondazione Monte Paschi	21.2	7.6	2.0	—	11.6
Acea	09.07.1999	934	Rome City Council	49.0	15.7	10.5	—	22.9
Acsm	20.10.1999	18	Como City Council	25.0	13.5	1.4	—	10.1
Enel	29.10.1999	16,550	Treasury	31.7	18.5	1.5	....	14.5[7]
Autostrade	03.12.1999	3,805	Iri	48.0	41.0	0.7	—	6.2
Finmeccanica[8]	29.05.2000	6,570	Iri	44.0	33.7	0.7	—	10.7
Aeroporto di Firenze	03.07.2000	18	Sundry entities	29.0	10.5	—	—	18.5
Cassa Risp. di Firenze	10.07.2000	320	Ente Cassa Risp. di Firenze	25.0	15.0	1.7	—	9.8
Aem Torino	22.11.2000	112	Turin City Council	14.6	6.3	—	—	8.3
Acsm	29.11.2000	42	Como City Council	24.0	18.3	0.4	—	5.4
Eni	15.02.2001	2,721	Treasury	5.0	—	—	—	5.0
Ac.e.ga.s.	19.02.2001	174	Trieste City Council	46.8	16.0	0.8	—	30.0
Snam rete gas	26.11.2001	942	Snam (Eni)	22.4	11.1	0.3	—	11.0
Fiera Milano	02.12.2002	41	Ente Fiera Internazionale di Milano	22.9[9]	—	—	—	13.7
Telecom Italia[10]	09.12.2002	1,434	Ministry of the Economy	3.5	—	—	—	3.5
Meta	17.03.2003	39	Modena City Council et al.	14.9	—	—	—	14.9
Hera	16.06.2003	435	Bologna City Council et al.	44.5	18.5	0.9	—	25.1

Sources: Consob and the Ministry for the Economy and Finance (Report to Parliament on the sale of holdings in companies controlled directly or indirectly by the State under Article 13.6 of Law 474/1994), various years. [1] Rounding may cause discrepancies in the last figure. [2] Total value of the offering. [3] Percentages of the pre-offering share capital. The figures do not include any bonus shares but do include the shares corresponding to the greenshoe option actually exercised. [4] Percentages of the pre-offering share capital. The figures include the entire over-allotment or greenshoe option actually exercised. [5] Includes the shares reserved to other persons (except employees) in the public offering tranche. [6] Figure calculated with reference to the post-offering share capital. [7] Includes the public offering abroad. [8] Includes the issue of €0.9 billion of convertible bonds. [9] Includes the private placement reserved to the organizers and the Chamber of Commerce, equal to 9.2 per cent. [10] Includes the sale of savings shares amounting to 68 million.

Table aII.8

Sales of public-sector holdings in listed companies by means of private negotiations
(1996 – 2003; amounts in millions of euros)

Company	Buyer(s)	Date of completion of sale	Holding sold [1]	Total value	Date of mandatory tender offer [2]
Dalmine	Techint, Siderca	27.02.1996	84.1	156	9.04.1996
Seat	Abn-amro, Bain capital, Comit, Bc partners, Cvc capital partner, Investitori ass., De Agostini, Sofipa	25.11.1997	61.3[3]	849	—
Banco di Napoli[4]	Ina-Bnl	11.06.1997	60.0	32	—
San Paolo[5]	Ifi/Ifil, Imi, Banco Santander, Reale Mutua Assic., Monte Paschi, Kredietbank	23.04.1997	19.0	594	—
	Other[6] (Ina, Hdi, Credit Loc. France, Credit Comm. Belgique)	24.04.1997	3.0	134	
Telecom[5, 7]	At&t, Unisource, Imi, Credit, Credit Suisse, Ass. Generali, Compagnia S.Paolo, Ifil, Comit, Monte Paschi, Fondaz. Cariplo, Ina, Alleanza Ass., Rolo Banca	29-30.09.1997	9.0	2,040	—
Banca di Roma[5]	Toro[8]	09.12.1997	4.1	155	—
	Other[6]	09.12.1997	15.1	639	
Bnl[5]	Banco Bilbao Vizcaya, Ina, Bca Pop Vicentina	29.09.1998	25.0	1,335	—
Autostrade	Edizione Holding spa, Fond. Cassa Risp. Torino, Autopistas Conc. Espanola sa, Ina, Unicredit, Brisa Autostrade de Portugal sa	09.03.2000	30.0	2,516	—
Aeroporti di Roma	Consorzio Leonardo (Gemina, Falck, Italpetroli, Impregilo)	31.07.2000	51.2	1,327	25.09.2000
Beni Stabili[9]	Banca Imi	06/2001	0.3	2	—
S. Paolo Imi[9]	Banca Imi	06/2001	0.3	80	—
Bnl[9]	Banca Imi	27.12.2001	1.3	77	—
Generali[9, 10]	Banca Imi	04/2002	1.1[11]	76	—
Enel[9]	Morgan Stanley & Co. Int. ltd	30.10.2003	6.6	2,173	—

Sources: Consob and the Ministry for the Economy and Finance. See the Methodological notes. [1] As a percentage of the ordinary share capital. [2] Date tender offer started. [3] The sale included 0.8 per cent of the capital in the form of savings shares. [4] Transaction effected by means of a competitive auction. [5] The date refers to the signing of the agreement. The figures refer to the *noyeau dur*. [6] Shareholders not part of the *noyeau dur*. [7] The figure does not include the sale of 1.2 per cent of the ordinary shares to AT&T and Unisource, subject to the conclusion of strategic alliances with Telecom. [8] The figure does not include the sale of €172 million of convertible bonds. [9] Transactions carried out by means of the sale of the holding to an intermediary, which then gradually placed the shares with institutional investors. [10] Includes the proceeds of the sale of a tranche of INA shares in the period May-June 2001. [11] The figure refers to the Treasury Ministry's holding in the capital of INA before the latter's merger into Generali s.p.a., with effect from 1 December 2001.

Table aIII.1

Assets managed by mutual funds in Europe and the United States [1]
(percentages)

	2000	2001	2002	2003
Austria	1.8	1.8	2.0	1.9
Belgium	2.2	2.2	2.2	2.2
Denmark	1.0	1.1	1.0	1.1
Finland	0.4	0.4	0.5	0.7
France	22.4	23.2	25.3	25.3
Germany	7.4	7.0	6.3	6.1
Greece	0.9	0.8	0.8	0.8
Ireland	4.3	6.2	7.5	7.9
Italy	13.2	11.7	11.3	10.5
Luxembourg	23.2	24.7	24.1	24.3
Netherlands [2]	2.9	2.6	2.5	2.2
Portugal	0.5	0.5	0.6	0.6
Spain	5.4	5.2	5.4	5.6
Sweden	2.4	2.1	1.7	1.9
United Kingdom	12.2	10.4	8.7	8.7
Total	*100.0*	*100.0*	*100.0*	*100.0*
Assets under management in Europe [3]	3,419	3,444	3,179	3,595
Assets under management in the United States [3]	7,390	7,824	6,482	5,963

Sources: Fefsi and Ici data. [1] Percentages of the total assets under management in Europe. Rounding may cause discrepancies in the last figure. [2] With reference to the year preceding the reference year. [3] Billions of euros.

Table aIII.2

Structure of the mutual funds industry in Italy: Italian operators [1]
(at 31 December; amounts in billions of euros)

	1996	1997	1998	1999	2000	2001	2002	2003
Number of management companies	53	53	59	54	55	61	57	55
Number of funds in operation								
Equity	235	277	321	356	435	492	515	474
Balanced	57	53	57	61	82	85	88	84
Bond	239	296	325	337	382	396	382	360
Liquidity	—	—	—	33	35	37	38	39
Flexible	—	—	—	29	33	49	49	55
Total	*531*	*626*	*703*	*816*	*967*	*1,059*	*1,072*	*1,012*
Net inflows								
Equity	-1	16	24	32	39	-19	-9	-5
Balanced	-1	3	12	16	17	-16	-10	-5
Bond	33	55	125	4	-69	-7	-20	2
Liquidity	—	—	—	7	-1	22	27	13
Flexible	—	—	—	3	5	-1	-1	1
Total	*32*	*74*	*162*	*61*	*-8*	*-21*	*-13*	*7*
Assets under management								
Equity	18	40	74	140	156	111	73	75
Balanced	7	11	29	51	73	52	36	32
Bond	77	138	269	257	191	189	172	170
Liquidity	—	—	—	21	23	47	76	96
Flexible	—	—	—	6	8	6	4	6
Total	*102*	*190*	*372*	*475*	*450*	*404*	*361*	*379*

Source: Assogestioni. See the Methodological notes. [1] The figures refer to mutual funds and Sicavs. Rounding may cause discrepancies in the last figure.

Table aIII.3

Collective investment undertakings distributed in Italy by foreign operators
(at 31 December 2003)

	1996	1997	1998	1999	2000	2001	2002	2003
Foreign companies [1]								
of which with registered office in:								
Luxembourg	53	65	86	104	105	127	159	158
Ireland	1	1	4	5	7	12	15	31
France	9	9	9	10	8	7	7	8
Germany	1	1	1	1	1	1	2	1
Austria	--	--	--	1	1	1	1	1
United Kingdom	--	--	--	--	--	1	2	1
Belgium	--	2	2	2	2	--	--	1
Total	*64*	*78*	*102*	*123*	*124*	*149*	*186*	*201*
Number of funds/sub-funds distributed in Italy	446	603	833	1,134	1,534	2,132	2,730	2,791

Sources: Consob archive of prospectuses and Luxor-FI.DATA archive. [1] Companies that offer units/shares of collective investment undertakings subject to the Community directives to the public in Italy.

Table aIII.4

Asset allocation in individual portfolio management services [1]
(percentages)

	1997	1998	1999	2000	2001	2002	2003[2]
Banks							
Government securities	58.7	43.7	30.0	20.0	22.4	26.2	26.9
Italian bonds	5.4	3.0	2.2	2.2	2.0	2.4	3.6
Foreign bonds	5.7	5.9	5.9	5.7	6.8	9.8	11.4
Italian shares	4.3	4.4	4.7	4.1	3.6	2.1	2.2
Foreign shares	0.2	0.5	2.1	2.1	1.7	2.0	1.7
Units of CIUs	18.4	36.2	50.0	61.4	58.9	53.1	49.7
Liquidity and other securities	7.2	6.3	5.1	4.4	4.7	4.4	4.5
Total	*100.0*	*100.0*	*100.0*	*100.0*	*100.0*	*100.0*	*100.0*
Italian investment firms [3]							
Government securities	47.0	39.7	22.6	20.9	16.8	19.3	13.4
Italian bonds	6.9	5.0	3.3	2.5	1.8	2.4	2.8
Foreign bonds	10.4	8.6	6.0	6.6	6.1	13.3	17.4
Italian shares	8.4	5.8	6.6	5.6	3.6	2.7	2.7
Foreign shares	4.6	4.1	5.2	3.1	2.5	2.1	1.9
Units of CIUs	17.0	33.4	52.1	57.5	65.2	55.1	58.0
Liquidity and other securities	5.6	3.4	4.1	3.8	4.1	5.2	3.8
Total	*100.0*	*100.0*	*100.0*	*100.0*	*100.0*	*100.0*	*100.0*
Asset management companies [4]							
Government securities	—	....	34.5	33.6	40.8	46.6	44.9
Italian bonds	—	....	8.5	11.0	15.6	16.7	18.9
Foreign bonds	—	....	5.8	3.0	1.7	1.3	1.3
Italian shares	—	....	7.7	7.9	7.0	4.1	4.3
Foreign shares	—	....	3.1	2.9	2.0	1.0	0.8
Units of CIUs	—	....	36.0	37.4	30.4	27.2	26.9
Liquidity and other securities	—	....	4.5	4.1	2.5	3.1	2.9
Total	—	....	*100.0*	*100.0*	*100.0*	*100.0*	*100.0*

Source: Based on Bank of Italy data. [1] Rounding may cause discrepancies in the last figure. [2] Data refer to the end of the first half of the year. [3] Includes trust companies. [4] The division between Italian and foreign securities is between those denominated in euros and those denominated in other currencies.

Table aIII.5

Italian investment firms: cancellations from the register [1]

Reason	1992-1997	1998	1999	2000	2001	2002	2003
Crisis of the intermediary [2]	37	2	1	1	1	--	2
Mergers and spin-offs	29	7	9[3]	3	3	3	21
Voluntary liquidation	49	11	4	9	2	5	6
Change in activity	51	5	--	2	4	--	2
Transformation into a bank	5	4	--	3	10[4]	4	1
Transformation into an asset management company	—	--	4	7	3[5]	--	1
Transformation from a trust company into an Italian investment firm	2	--	2	1	--	1	--
Non-operational [6]	38	—	—	—	—	—	—
Failure to provide authorized service	--	1	--	1	--	2	--
Total	*211*	*30*	*20*	*27*	*23*	*15*	*33*

[1] The figures refer to the total number of resolutions deleting a firm from the register, including those deleting trust companies from the special section of the register. [2] Includes Ministry for the Economy and Finance decrees, measures adopted by Consob, bankruptcies and firms placed in compulsory administrative liquidation. [3] Includes an investment firm that transferred the business to another company belonging to the same group. [4] In 3 cases the investment firm was merged into a bank. [5] In all 3 cases the investment firm was merged into an asset management company. [6] At the entry into force of Legislative Decree 415/1996 (Article 60).

Table aIV.1

Supervision of corporate disclosures, ownership structures and research reports

	2000	2001	2002	2003
Requests for information under Articles 115.1 and 115.2 of Legislative Decree 58/1998	89	397	211	489
Requests for information under Article 115.3 of Legislative Decree 58/1998 (names of shareholders)	68	52	31	33
Inspections	--	4	2	4
Requests to publish data and information under Article 114.3 of Legislative Decree 58/1998	17	40	109	75
Requests to publish research reports on listed companies	—	—	3	10
Reports to the courts under Article 2409 of the Civil Code	2	—	1	--
Written reprimands	12	5	3	3
Challenges of the annual accounts	1	1	--	4

Table aIV.2

Distribution of research reports by type of recommendation
(percentages)

Recommendation	1998	1999	2000	2001	2002	2003
Buy	59.1	57.5	58.2	48.3	46.7	51.1
Hold	25.5	26.7	26.1	33.6	29.2	36.2
Important news	9.9	9.1	9.6	9.0	11.7	3.9
Sell	5.5	6.6	6.1	9.1	12.4	8.8
Number of reports	*2,288*	*2,260*	*2,368*	*5,912*	*5,351*	*5,141*

Table aIV.3

Distribution of companies covered by research reports by number of reports

	Number of companies covered by research reports [1]	Distribution of companies by number of reports produced [2]					
		≥ 51	25 - 50	13 – 24	5 - 12	≤ 4	*Total*
1998	179	4.5	10.1	21.2	25.1	39.1	*100.0*
1999	146	4.9	8.9	16.4	27.4	42.4	*100.0*
2000	261	9.9	9.3	15.6	27.4	37.8	*100.0*
2001	217	7.8	17.5	14.7	24.4	35.6	*100.0*
2002	198	9.4	19.1	20.8	22.6	28.1	*100.0*
2003	255	8.4	15.5	17.4	23.9	34.5	*100.0*

[1] Companies listed on the regulated markets operated by Borsa Italiana s.p.a. [2] Percentages.

Table aIV.4

Notifications of major holdings under Article 120 of the Consolidated Law on Finance

	1999	2000	2001	2002	2003
Exceeding the 2% threshold	397	398	337	303	309
Change in previously held major holding	353	404	403	502	464
Falling below the 2% threshold	248	379	313	308	257
Total	*998*	*1,181*	*1,053*	*1,113*	*1,030*

Table aIV.5

Distribution of notifications of major holdings in 2003 by type of investor and type of transaction

Type of investor	Type of transaction			
	Change in the way holding was held	Sales	Purchases	Total
Insurance companies	3	10	15	28
Banks	1	104	113	218
Foundations	4	40	17	61
Italian institutional investors	--	31	17	48
Foreign institutional investors	--	65	59	124
Individuals	5	103	116	224
Other companies	20	141	158	319
State	--	4	4	8
Total	*33*	*498*	*499*	*1,030*

Table aIV.6

Results of the external audits of the unconsolidated and consolidated accounts of companies listed on Italian regulated markets

Type of opinion	1996	1997	1998	1999	2000	2001	2002
Opinions with emphasis of matter paragraphs	328	197	197	217	207	192	159
Opinions qualified for:							
- disagreement with accounting treatments	8	6	1	--	2	5	9
- limitations on the audit	4	3	2	2	2	--	3
- uncertainty	--	3	--	--	--	1	2
Adverse opinions and disclaimers:							
- adverse opinions	1	--	1	--	--	--	--
- disclaimers for serious limitations on the audit	1	--	1	1	--	--	--
- disclaimers owing to uncertainty	2	1	--	1	--	5	10

See the Methodological notes.

Table aIV.7

Controls on auditing firms

	1997	1998	1999	2000	2001	2002	2003
Check for initial registration	--	--	2	--	1	1	2
Inspection and on-site controls	7	5	2	2	1	5	7
Written reprimand	4	--	--	--	--	--	1
Suspension of a partner	5	1	--	1	--	3	1
Ban on new engagements	--	1	--	--	--	--	--
Administrative sanction	2	2	--	--	--	--	--
Deletion from the special register	--	--	2	--	--	--	5
Report to the judicial authorities	6	--	--	--	--	--	--

Table aV.1

Requests for information in connection with insider trading and market manipulation investigations

	Requests addressed to:					
	Authorized intermediaries [1]	Listed companies, their controllers and subsidiaries	Individuals	Government departments	Foreign authorities	*Total*
1997	220	37	49	22	11	*339*
1998	324	14	50	10	17	*415*
1999	416	22	48	--	21	*507*
2000	492	33	11	4	30	*570*
2001	247	30	93[2]	10	33	*413*[4]
2002	154	28	52[3]	1	24	*259*[5]
2003	185	15	55[6]	3	27	*285*[7]

[1] Banks, investment firms, asset management companies and stockbrokers. [2] Includes 7 hearings. [3] Includes 19 hearings. [4] Of which 156 on behalf of foreign authorities. [5] Of which 36 on behalf of foreign authorities. [6] Includes 29 hearings. [7] Of which 38 on behalf of foreign authorities.

Table aV.2

Market participants reported to the judicial authorities on suspicion of insider trading or market manipulation

	Authorized intermediaries [1]	Institutional insiders [2]	Others [3]	Foreign residents	*Total*
			Insider trading		
1997	11	12	41	17	*81*
1998	17	31	34	32	*114*
1999	21	26	56	48	*151*
2000	24	11	149	34	*218*
2001	20	6	53	30	*109*
2002	14	1	69	21	*105*
2003	2	12	35	20	*69*
			Market manipulation		
1997	3	21	--	--	*24*
1998	7	2	--	2	*11*
1999	10	5	34	2	*51*
2000	1	2	1	1	*5*
2001	4	1	1	2	*8*
2002	18	2	--	4	*24*
2003	6	--	1	--	*7*

[1] Banks, investment firms, asset management companies and stockbrokers. [2] Shareholders, directors and managers of listed companies. [3] So-called secondary insiders and tippees (under Article 180.2 of Legislative Decree 58/1998).

Table aVI.1

Inspections at intermediaries and listed companies

	1997	1998	1999	2000	2001	2002	2003
Inspections							
Approved	16	24	21	18	8	9	14
Started	25	20	23	19	9	13	14
Concluded	31	22	24	18	13[2]	12	18
Inspections started at:							
Investment firms [1]	12[3]	6	8	5	2	5	1
Banks	5	9[4]	--	1	2	2	9
Asset management companies/Sicavs	1	--	--	6	2	3	--
Stockbrokers	6	3	3	6	3	1	--
Financial salesmen	1	--	11	1	--	--	--
Listed companies	--	2[5]	1	--	--	2[8]	4
Total	*25*	*20*	*23*	*19*	*9*	*13*	*14*
Inspections concluded at:							
Investment firms [1]	17	9[3]	8	5	4[6]	4	5
Banks	9	8[4]	2	2	1[7]	3	8
Asset management companies/Sicavs	--	--	--	1	5	4	1
Stockbrokers	4	3	2	9	3	1	--
Financial salesmen	1	--	11	1	--	--	--
Listed companies	--	2[5]	1	--	--	--	4
Total	*31*	*22*	*24*	*18*	*13*	*12*	*18*

[1] Includes trust companies. [2] Of which two suspended. [3] Of which one at an EU investment firm. [4] Of which six under Article 8 of Law 157/1991. [5] Of which one under Article 8 of Law 157/1991 and one under Article 185 of Legislative Decree 58/1998. [6] Of which one suspended. [7] Suspended. [8] Of which one at a company that made a tender offer for shares of a listed company.

Table aVI.2

Register of Italian investment firms: entries and exits [1]
(1991-2002)

	Registered firms	Entries	Exits
1991	255	255	—
1992	356	110	9
1993	326	19	49
1994	289	12	49
1995	284	20	25
1996	236	4	52
1997	212	3	27
1998	191	9	30
1999	183	12	20
2000	171	15	27
2001	162	15	24
2002	158	11	15
2003	131	6	33

[1] Includes trust companies.

Table aVI.3

Interventions by the National Investor Compensation Fund
(at 31 December 2003; amounts in thousands of euros)

	Investment firms	Stockbrokers	Total
Bankruptcies [1]			
1997	4	1	5
1998	2	3	5
1999	1	1	2
2000	1	--	1
2001	1	--	1
2002	--	2	2
2003	2	1	3
Total insolvencies	*11*	*8*	*19*
of which: with statement of liabilities filed	*11*	*7*	*18*
Number of creditors admitted	1,145	854	1,999
Amount of claims admitted [2]	29,280	25,090	54,370
Interventions by the Fund [3]	7,439	10,347	17,786

Source: Based on National Investor Compensation Fund data. [1] For which the statement of liabilities was filed after 1 February 1998. [2] Net of partial allotments made by the bodies responsible for the bankruptcy proceedings. [3] Interventions for claims entered in the statement of liabilities, of which around €90,000 set aside for claims that have been challenged.

Table aVI.4

Special interventions by the National Investor Compensation Fund
(at 30 June 2003 [1]; amounts in millions of euros)

	Investment firms	Stockbrokers	Trust companies	Total
Bankruptcies [2]				
1992	1	--	--	1
1993	5	1	3	9
1994	4	--	--	4
1995	3	1	--	4
1996	4	2	--	6
1997	1	--	--	1
Total bankruptcies	*18*	*4*	*3*	*25*
Number of creditors admitted	7,089	2,236	304	9,629
Total amount of claims admitted [3]	186	173	12	371
Number of applications to the fund	4,405	1,262	208	5,875
Value of claims in applications [3]	168	125	12	305
Indemnities in respect of applications [3]	42	31	3	75
indemnities committed drawing on available assets	42	31	3	75
remaining indemnities to be committed	--	--	--	--

Source: Based on National Investor Compensation Fund data. [1] Date of the latest update of the plan for the financing of special interventions drawn up by the Fund and approved by the Ministry for the Economy and Finance. [2] For which the statement of liabilities was filed before 1 February 1998. [3] Net of partial allotments made by the bodies responsible for the bankruptcy proceedings.

Table aVI.5

Register of financial salesmen: entries and exits

	Registered financial salesmen [1]	Entries [2]	Exits [2]	Turnover [3]
1995	25,902	4,512	1,344	14.8
1996	27,105	3,236	1,443	6.9
1997	27,994	2,922	1,961	3.5
1998	33,063	6,358	1,402	17.7
1999	42,810	10,383[4]	1,278	27.5
2000	49,856	8,774	1,085	18.0
2001	59,610	11,001[5]	1,182	19.7
2002	66,743	9,300	2,201	11.9
2003	66,554	4,530	4,735	-0.3

[1] At 31 December. [2] The figures do not include the measures revoking earlier entry or deletion resolutions. [3] Percentage ratio of entries net of exits to the total number of registered financial salesmen in the previous year. [4] Of which 1,800 were entered *de jure* under Article 3 of Ministerial Decree 322/1997. [5] Of which 2,100 were entered *de jure* under Article 3 of Ministerial Decree 472/1998.

Table aVII.1

Measures concerning financial salesmen and reports to the judicial authorities

Type of measure	1997	1998	1999	2000	2001	2002	2003
Disciplinary measures							
Reprimand	8	11	2	21	29	33	1
Deletion from the register	39	86	70	49	36	58	56
Suspension from the register for a given period	5	73	51	73	48	37	47
Fine	--	--	4	26	15	6	5
Total	*52*	*170*	*127*	*169*	*128*	*134*	*109*
Preventive measures							
Suspension from activity for a given time [1]	64	76	74	39	50	31	26
Reports to the judicial authorities	58	137	106	134	72	72	77

[1] For 1997 and 1998 includes measures adopted under Article 45.4 of Legislative Decree 415/1996 and, from 1 July 1998 onwards, under Article 55.2 of the Consolidated Law on Finance.

Table aVII.2

Internet supervision and enforcement

	2000	2001	2002	2003
Number of sites inspected for:				
Web spidering	105	32	21	27
Press cuttings	1	--	2	1
Reports to Consob operational offices	1	3	26	42
Total	*107*	*35*	*49*	*70*
Enforcement actions				
Disciplinary and preventive measures	9	4	4	12
Reports to other authorities				
Judicial authorities	5	6	20	6
Finance police	1	2	2	3
Bank of Italy	2	3	0	1
UIC	1	3	10	2
Isvap	--	--	--	2
Foreign authorities	4	4	2	2
Total	*13*	*18*	*34*	*16*

Table aIX.1

International cooperation
(requests for cooperation by geographical area - 2003)

Subject matter	Country/ Area	from Consob to foreign authorities	from foreign authorities to Consob
Insider trading	EU	7	14
	USA	1	1
	Other	3	2
Market manipulation	EU	3	2
	USA	1	--
	Other	--	--
Unauthorized solicitation and investment services activity	EU	4	3
	USA	--	--
	Other	1	1
Transparency and disclosure	EU	3	--
	USA	2	--
	Other	1	--
Major holdings in listed companies and authorized intermediaries	EU	2	--
	USA	--	1
	Other	1	--
Integrity and experience requirements	EU	20	62
	USA	--	1
	Other	1	7
Violation of conduct of business rules	EU	1	--
	USA	--	--
	Other	--	--
Total		*51*	*94*

Table aX.1

Appeals to ordinary courts against administrative sanctions, 2001-2003

Plaintiff(s)	Number	Court	Type of sanction	Outcome at 31 December 2003	
				First level	Court of Cassation
2001					
Financial salesmen	6	Tribunal (6)	Fine (2)	Accepted (1)	
				Rejected (1)	
			Disciplinary suspension (2)	Rejected (2)	Pending (1)
			Registration denied (1)	Rejected (1)	
			Verification professional requirements (1)	Pending (1)	
Banks	1	Appeal court (1)	Fine (1)	Rejected (1)	
Person responsible for placement	4	Appeal court (4)	Fine (4)	Accepted (3)	
				Partially accepted (1)	
Investment firms	6	Appeal court (6)	Fine (6)	Accepted (2)	
				Rejected (4)[1]	
Corporate officers of investment firms [2]	15	Appeal court (15)	Fine (15)	Rejected (9)	Pending (2)
				Accepted (5)	Pending (1)
				Partially accepted (1)	
Corporate officers of banks [3]	5	Appeal court (5)	Fine (5)	Rejected (5)	Pending (5)
Shareholders of listed companies	2	Appeal court (2)	Fine (2)	Rejected (2)[4]	
Other [5]	1	Appeal court (1)	Fine (1)	Rejected (1)	
Total	*40*				
2002					
Financial salesmen	4	Tribunal (4)	Fine (1)	Rejected (1)	
			Debarment (2)	Rejected (2)	
			Disciplinary suspension (1)	Pending (1)	
Investment firm	2	Appeal court (2)	Fine (2)	Accepted (1)	Pending (1)
				Rejected (1)	
Corporate officers of investment firms [6]	6	Appeal court (6)	Fine (6)	Accepted (4)	Pending (2)
				Rejected (2)	Pending (1)
Corporate officers of banks	5	Appeal court (5)	Fine (5)	Rejected (5)	Pending (4)
Stockbrokers [7]	3	Appeal court (3)	Fine (3)	Rejected (2)	
				Partially accepted (1)	
Stockbroker's employees	1	Appeal court (1)	Fine (1)	Rejected (1)	
Corporate officers of an ATS	1	Appeal court (1)	Fine (1)	Rejected (1)	
Corporate officers of listed companies and listed companies	9	Appeal court (9)	Fine (9)	Rejected (7) Accepted (2)	
Local authority officials and local authority	1	Appeal court (1)	Fine (1)	Partially accepted (1)	
Person responsible for placement	1	Appeal court (1)	Fine (1)	Rejected (1)	
Corporate officers of unlisted companies and unlisted companies	5	Appeal court (5)	Fine (5)	Rejected (1)	
				Pending(4)[8]	
Listed company	1	Appeal court (1)	Fine (1)	Subject of appeal ceased to exist (1)	
Shareholders of listed company	1	Appeal court (1)	Fine (1)	Accepted (1)	
Total	*40*				

- Cont. -

Table aX.1 - cont.

Plaintiff(s)	Number	Court	Type of sanction	Outcome at 31 December 2003	
				First level	Court of Cassation
2003					
Financial salesmen	1	Tribunal (1)	Fine (1)	Rejected (1)	
Investment firms [9]	3	Appeal court (3)	Fine (3)	Accepted (1)	
				Rejected (1)	
				Pending (1)	
Corporate officers of investment firms [10]	8	Appeal court (8)	Fine (8)	Accepted (3)	Pending (2)
				Rejected (1)	
				Pending (4)	
Banks	1	Appeal court (1)	Fine (1)	Accepted (1)	
Corporate officers of banks [11]	19	Appeal court (19)	Fine (19)	Accepted (15)	
				Pending (4)	
Stockbrokers	1	Appeal court (1)	Fine (1)	Pending (1)	
Asset management companies	3	Appeal court (3)	Fine (3)	Accepted (2)	
				Pending (1)	
Corporate officers of an asset management company [12]	5	Appeal court (5)	Fine (5)	Accepted (3)	
				Partially accepted (2)	
Corporate officers of an ATS [13]	3	Appeal court (3)	Fine (3)	Rejected (3)	
Unlisted companies	6	Appeal court (6)	Fine (6)	Rejected (5)	
				Pending (1)	
Shareholders of listed companies	3	Appeal court (3)	Fine (3)	Rejected (1)	
				Pending (2)	
Corporate officers of listed companies and listed companies [14]	8	Appeal court (8)	Fine (8)	Accepted (8)	
Total	*61*				

[1] In one case the sanction was imposed for violation of the rules concerning the solicitation of investors. [2] With a total of 18 plaintiffs. In two cases the plaintiff also appealed to a Regional Administrative Tribunal. [3] With a total of 18 plaintiffs. In one case the plaintiff also appealed to a Regional Administrative Tribunal. [4] In one case the fine was reduced. [5] The appeal, made by a company and 7 of its corporate officers, concerned fines imposed for violation of Article 188 of Legislative Decree 58/1998. The appeal was rejected for the fines imposed on the directors of the company but not for those applied to the members of the board of auditors. [6] With a total of 11 plaintiffs. [7] In one case the appeal was made by 4 stockbrokers acting in administrative association. [8] Four appeals are currently suspended because a question of jurisdiction has been raised. [9] One investment firm also challenged the same measure before a Regional Administrative Tribunal. [10] With a total of 55 plaintiffs. One appeal was made by 29 corporate officers of an investment firm and by the firm itself; three appeals were made by the members of the board of auditors of an investment firm. In one case an appeal was made separately by the investment firm to which the plaintiffs belonged. In two cases an appeal was also made to a Regional Administrative Tribunal. [11] With a total of 42 plaintiffs. Three appeals were made by a total of 25 corporate officers of a bank, which took part in all 3 actions. In another 2 cases the appeal was submitted jointly by the intermediary to which the plaintiffs belonged. Fifteen appeals were made individually by an equal number of corporate officers of a bank, which also appealed separately. [12] With a total of 27 plaintiffs. In one case the appeal was made jointly by 11 corporate officers and the asset management company they belonged to; another corporate officer appealed separately. Two appeals were made by as many corporate officers of the same asset management company. [13] The three appeals were made by the members of the board of auditors of an intermediary that operated an ATS. [14] In 7 cases an appeal was also lodged with a Regional Administrative Tribunal.

Table aX.2

Appeals to administrative courts against measures adopted by Consob and the Minister for the Economy and Finance acting on a proposal from Consob, 2001-2003

Plaintiff(s)	Number	Subject of appeal	Outcome at 31 December 2003	
			Regional tribunal	Council of State
2001				
Financial salesmen [1]	1	Debarment	Suspension rejected (1)	
Financial salesmen	6	Disciplinary suspension	Suspension rejected (3)	
			Pending (3)	
Financial salesmen [2]	5	Precautionary suspension	Suspension granted (1)	
			Suspension rejected (2)	
			Accepted (2)	Consob's appeal rejected (2)
Financial salesmen	3	Deletion from the register	Suspension granted (1)	
			Suspension rejected (2)	Plaintiff's appeal rejected (2)
Financial salesmen [3]	2	Registration denied	Suspension rejected (1)	
			Pending (1)	
Financial salesmen [4]	1	Fine	Pending (1)	
Investment firm	1	Registration denied	Accepted (1)	Pending (1)
Corporate officers of banks	1	Fine	Pending (1)	
Corporate officers of investment firms [5]	2	Fine	Rejected (1)	Pending (1)
			Suspension rejected (1)	
Stockbrokers	1	Deletion from the register	Suspension rejected (1)	
Auditing firms	2	Denial of access to acts	Rejected (2)	Pending (1)[6]
Listed companies	2	Challenge under Article 195 of the Consolidated Law on Finance	Pending (2)	
Listed companies	2	Clearance of prospectus	Accepted (2)	
Unlisted company	1	Clearance of prospectus	Accepted (1)	
Unlisted company	1	Ban on public offering	Suspension rejected (1)	Plaintiff's appeal rejected (1)
Other	3	Failure to initiate sanction procedure	Pending (1)	
		Denial of access to acts	Pending (1)	
		Suspension of ATS	Accepted (1)	Consob's appeal rejected (1)
Total	*34*			
2002				
Financial salesmen [7]	4	Debarment	Suspension rejected (2)	
			Pending (2)	
Financial salesmen	2	Disciplinary suspension	Suspension rejected (1)	
			Pending (1)	
Financial salesmen	2	Precautionary suspension	Suspension rejected (2)	
Financial salesmen	2	Deletion from the register	Suspension granted (1)	
			Appeal abandoned (1)	
Financial salesmen	2	Registration denied	Pending (1)	
			Subject of appeal ceased to exist (1)	
Investment firm	1	Fine	Pending (1)	
Corporate officers of banks [8]	6	Fine	Suspension rejected (3)	
			Pending (3)	
Stockbrokers	2	Fine	Suspension rejected (1)	
			Rejected (1)	Pending (1)
Stockbrokers	3	Precautionary suspension	Suspension rejected (1)	Plaintiff's appeal rejected (1)
			Pending (2)	
Stockbrokers' employees	1	Fine	Pending (1)	
Corporate officers of an ATS	1	Ban on trading	Suspension rejected (1)	

- Cont. -

Table aX.2 – Cont.

Plaintiff(s)	Number	Subject of appeal	Outcome at 31 December 2003	
			Regional tribunal	Council of State
Shareholders of a listed company	1	Opinion concerning a tender offer and damages	Partially accepted (1)	Appeal against interested party declared inadmissible (1)
Corporate officers of listed cos. and listed cos.	4	Fine	Pending (4)	
Corporate officers of unlisted cos. and unlisted cos.	3	Fine	Suspension rejected (2) Pending (1)	
Shareholders' trust	1	Response to a complaint on a tender offer	Suspension rejected (1)	
Auditing firm	2	Order to refrain from using a partner	Pending (2)	
Other	1	No action on a complaint	Pending (1)	
Total	*38*			
2003				
Financial salesmen	5	Debarment	Suspension rejected (3) Pending (2)	
Financial salesmen	2	Disciplinary suspension	Pending (2)	
Financial salesmen	1	Precautionary suspension	Suspension granted (1)	
Financial salesmen	1	Deletion from the register	Suspension rejected (1)	
Investment firm [9]	2	Fine	Suspension rejected (1) Pending (1)	
Corporate officers of investment firms [10]	3	Fine	Suspension rejected (1) Pending (2)	
Stockbrokers	1	Deletion from the register	Pending (1)	
Regulated market operating company [11]	1	Approval of market rules	Pending (1)	
Listed company	2	Consob resolution on a shareholders' agreement	Pending (2)	
Shareholders of a listed co.	1	Denial of access to acts	Pending (1)	
Corporate officers of a listed co. and listed co.	2	Response to a query on exercise of voting rights	Pending (2)	
Corporate officers of a listed co. and listed co.	1	Denial of access to acts	Pending (1)	
Corporate officer of a listed company [12]	7	Challenge under Article 195 of the Consolidated Law on Finance	Suspension rejected (7)	
Unlisted company	1	Ban on public offering	Pending (1)	
Other	1	Cancellation of Fib30 contracts	Pending (1)	
Total	*31*			
Extraordinary appeals to the Head of State				
Financial salesmen	1	Debarment	Rejected (1)	
s.p.a.	1	Ban on soliciting investors	Rejected (1)	
Total	*2*			

[1] In 3 cases an appeal was also made to the Pretore. [2] In one case the appeal was made to a Tribunal declared jurisdictionally not competent; the case was reassigned to the Lazio Administrative Tribunal and judgement on its merits is pending. [3] In one case Consob - to which the appeal had been notified – did not appear in court because the subject of the appeal was a denial by the Lazio Regional Commission for the register of financial salesmen. In the other case the appeal was made to a Tribunal declared jurisdictionally not competent; the case was reassigned to the Lazio Administrative Tribunal and judgement on its merits is pending. [4] In one case the appeal was made to a Tribunal declared jurisdictionally not competent; the case was reassigned to the Lazio Administrative Tribunal and judgement on its merits is pending. [5] One of the two appeals was made jointly by nine corporate officers of an investment firm. [6] The constitutional legitimacy of Article 10.4 of Legislative Decree 58/1998 has been questioned. [7] In 1 case an appeal was also made to the Pretore. [8] Six appeals made by a total of 21 corporate officers of a bank, who also challenged the same sanction measure before the Appeal Court. [9] One investment firm also lodged an appeal with the competent Appeal Court under Article 195 of the Consolidated Law on Finance. [10] With a total of 22 plaintiffs. In one case an appeal – subsequently abandoned – was also made separately by the investment firm the plaintiffs belonged to. In two cases an appeal was also made to the competent Appeal Court under Article 195 of the Consolidated Law on Finance. [11] The action was subsequently abandoned after the trial of the case had begun. [12] Seven appeals lodged by 7 corporate officers of a listed company, who also appealed to the competent Appeal Court under Article 195 of the Consolidated Law on Finance.

Table aX.3

Actions for damages brought against Consob [1]

Plaintiff(s)	1996	1997	1998	1999	2000[2]	2001	2002	2003[3]	Grounds	Outcome at 31 December 2003
Clients of investment firms	1	1	4	9	1	--	--	29	Omission of supervision	Pending. Damages refused at first level. Appealed.
	--	1	--	--	--	2	--	--	Omission of supervision – under Art. 185.2 penal code	Pending [4]
	--	--	--	1	--	--	--	--	Omission of supervision – under Art. 185.2 penal code	Exclusion of Consob from the penal proceedings
	--	2	--	--	--	--	--	--	Libel	Pending
Liquidator of an investment firm	--	1	--	--	--	--	--	--	Omission of supervision	Suspended
Investment firms	--	1	--	--	--	--	--	--	Omission of supervision – under Art. 106 code of penal procedure	Pending
	--	1	--	--	--	--	--	--	Denial of extension of authorization	Pending; Damages refused at first level. Appealed.
	--	--	--	--	1	1	--	--	Illegitimate conduct in performance of supervision	1 favourable decision; 1 trial extinguished
Shareholders of listed companies	1	--	--	--	--	--	--	--	Illegitimacy of Consob's exoneration from obligation to make a tender offer	Pending
	1	--	--	--	--	2	1	--	Omission of supervision	Pending [5]
Clients of stockbrokers	1	--	--	--	--	--	--	--	Illicit action by an employee – under Art. 185.2 penal code	Application for damages refused at second level – Appeal to the Court of Cassation
	--	--	--	3	1	--	--	--	Omission of supervision	Pending
Liquidator of a stockbroker	--	--	--	--	--	--	--	1		Pending
Clients of a stockbroker and an investment firm	1	--	--	--	--	--	--	--	Omission of supervision	Pending
Committee of shareholders	--	--	1	--	--	--	--	--	Ban on unauthorized solicitation of investors	Pending
Clients of trust companies	--	--	--	2	--	1	--	--	Omission of supervision	Pending; application for damages refused
Clients of financial salesmen	--	--	--	--	--	--	5	--	Omission of supervision	Pending; application for damages refused
Financial salesmen	--	--	--	--	--	1	1	--	Illegitimate deletion from the register	Pending
Total	*5*	*7*	*5*	*15*	*3*	*7*	*7*	*30*		

[1] In addition to the actions shown, there is an appeal under Article 700 of the Code of Civil Procedure by an intermediary to block a disciplinary procedure initiated by Consob. Appeals were also initiated in 1999 against 3 dismissals of actions for damages brought against Consob in 1994 and 1995 by clients of intermediaries. [2] With reference to an action brought in 2000 before a Regional Administrative Tribunal, the Court of Cassation declared that the Tribunal was not jurisdictionally competent to hear the case, which should have been heard by an ordinary court. [3] In 2003 the Court of Cassation rejected an appeal against a decision in Consob's favour adopted in 2000 by the Milan Appeal Court, which had rejected the application for damages in a dispute initiated in 1994 by a client of an investment firm. [4] In one case Consob also applied to recover damages as an injured party. [5] Two of the actions brought against Consob in 2002 are not for damages but call on the civil courts to order Consob to adopt certain administrative measures. Again in 2002 appeals were made against two judgements dismissing actions for damages (one brought in 1996 by an intermediary and the other in 1997 by the clients of an intermediary).

Table aXI.1

Contributions to Consob's financing by persons subject to supervision
(millions of euros)

	1997[1]	1998[1]	1999[1]	2000[1]	2001[1]	2002[1]	2003[2]
Intermediaries							
Investment firms and stockbrokers	0.7	0.6	0.6	0.5	0.5	1.2	1.0
Banks	2.8	2.8	2.8	2.9	2.8	7.5	7.1
Auditing firms	2.3	2.3	2.1	2.3	2.1	2.0	2.7
Financial salesmen	5.3	7.6	8.9	10.3	8.7	6.4	8.0
Market operators and the like [3]	1.2	1.2	1.3	1.2	1.4	2.8	3.1
Issuers	6.1	5.5	6.5	8.4	7.9	8.9	9.2
Collective investment undertakings [4]	1.3	1.7	2.4	3.0	3.1	5.3	5.3
Solicitors of investors	3.6	2.4	21.1	9.2	3.5	4.9	3.2
Traders in securities listed on MTA/Expandi Market	—	—	3.9	5.2	3.6	—	—
Other	0.2	0.2	0.0	0.0	0.4	0.9	1.2
Total fee revenues	*23.5*	*24.3*	*49.6*	*43.0*	*34.0*	*39.9*	*40.8*

[1] Final data. [2] Provisional data. [3] Borsa Italiana s.p.a., MTS s.p.a., Cassa di Compensazione e Garanzia s.p.a. and Monte Titoli s.p.a.. [4] Includes the supervisory fees paid by asset management companies for individual portfolio management services.

Table aXI.2

Distribution of staff by grade and organizational unit [1]

	Managers		Professionals and clerks	Other	Total
	Senior	Junior			
Divisions					
Corporate Issuers	8	30	35	--	73
Intermediaries	4	16	60	--	80
Markets and Economics	5	19	28	--	52
Administration and Finance	5	6	36	16	63
Legal Services	3	6	14	--	23
External Relations	4	6	7	--	17
Resources	3	4	21	--	28
Other offices [2]	10	13	49	--	72
Total	*42*	*100*	*250*	*16*	*408*

See the Methodological notes. [1] At 31 December 2003. Fixed-term employees are classified according to the equivalent grades of permanent employees. [2] The offices outside the division structure.

Table aXI.3

Applications for information and documentation on Consob's activities

	1997	1998	1999	2000	2001	2002	2003
Applicants							
Institutional investors and market participants	673	597	540	1.460	782	655	365
Individual investors, students et al.	441	448	475	1.158	1.407	922	1.114
Total	*1,114*	*1,045*	*1,015*	*2,618*	*2,189*	*1,577*	*1,479*
Subject of applications							
Resolutions, communications and prospectuses	451	427	310	588	365	182	149
Texts of laws and regulations	367	300	290	379	112	79	6
Data and information	286	300	300	1,261	1,259	1,092	1,007
Other	10	18	115	390	453	224	317
Total	*1,114*	*1,045*	*1,015*	*2,618*	*2,189*	*1,577*	*1,479*

METHODOLOGICAL NOTES

N.B.

The symbols used in the tables in the Report and the Appendix have the following meanings:

-- the observed value is nil;

— the phenomenon does not exist;

.... the phenomenon exists but the data are not known;

.. the data are below the significance threshold.

Rounding may cause discrepancies in totals.

Sources: unless stated otherwise, Consob's archives.

GOVERNANCE OF LISTED COMPANIES

Tables I.1, I.2 and I.3 and Tables aI.1, aI.1, aI.2 and aI.6

Consob's ownership transparency archive is based on the notifications referred to in Article 120 of the Consolidated Law on Finance, whereby persons who own more than 2 per cent of the voting capital of an Italian listed company are required to notify the fact in writing to the company and to Consob, which disseminates the information to the market.

Major holdings are defined as holdings of more than 2 per cent of the capital represented by voting shares (Article 120 of the Consolidated Law).

The figures shown in the tables are calculated with reference to holdings of companies' ordinary share capital.

Tables I.1 and I.3 and Table aI.2

The types of control are defined as follows:

- *majority control*: when a single shareholders holds more than 50% of the shares with voting rights exercisable in the ordinary shareholders' meeting;
- *working control*: when a shareholder who does not have majority control of the company is able to exercise a dominant influence in the ordinary shareholders' meeting;
- *under shareholders' agreements*: when the sum of the voting rights attaching to the shares covered by the agreement is equal to more than 50% of the shares with voting rights exercisable in the ordinary shareholders' meeting or permits working control to be exercised.

Tables aI.3, aI.4 and aI.5

The information on shareholders' agreements is obtained from the disclosures required by Article 122 of the Consolidated Law on Finance, whereby any agreement that limits or regulates participants' voting rights, creates obligations or gives rights with regard to consultation prior to the exercise of voting rights, imposes conditions on the transfer of shares, or provides for the concerted acquisition of shares must be notified to Consob within five days of its being concluded on pain of nullity.

Only agreements covering more than 5 per cent of the shares are considered.

MARKETS AND FIRMS

Tables II.7, II.8, II.9, II.10 and II.11 and Tables aII.3, aII.4, aII.5, aII.6

The following criteria are adopted in dealing with initial public offerings:

- offerings made by foreign companies are excluded;
- the data on the amounts of offerings refer to the results of placements and include any shares allotted to institutional investors at the close of the offering under greenshoe options. Accordingly, the data are independent of whether, in connection with stabilization activity undertaken by the placers, the greenshoe option is exercised, in whole or in part, in the 30 days following the offering;
- the data on the development of the ownership structure are taken from prospectuses and take account of the results of offerings, including the exercise of greenshoe options; if the number of shares offered for sale is smaller than envisaged in the prospectus, and in the absence of accurate information in this respect, the calculation of each selling shareholder's post-offering quota is based on a pro rata division of the shares sold according to the division specified in the prospectus;
- the determination of the percentage held by the controlling shareholder is based on a substantial criterion which takes into account all the shares held by the members of the same family, of those held by companies owned by the same person and of those not committed to a shareholders' agreement if there is one; in the absence of a controlling shareholder, the leading shareholder is shown under that heading;
- own shares are deducted from the share capital of the issuer for the purpose of calculating the percentages held by major shareholders and the market value.

Table II.9

Includes the credit and equity relationships existing at the offering date between the companies admitted to listing and the persons controlling or controlled by the sponsors or placers that handled the operation.

The credit relationships do not include transactions with commercial banks or those for which it was not possible to determine the portion of credit actually disbursed; only in some particularly important cases was account taken of the figures for credit facilities granted.

The equity relationships do not include options held by the above-mentioned persons for the purchase or subscription of shares.

Table II.11 and Table aII.6

The data refer exclusively to offerings of listed securities and securities issued by listed companies and initial public offerings. The time classification of offerings is based on their starting dates.

The sample does not include offerings made for the purpose of restructuring the listed company's debt and reserved to creditor banks, nor increases in capital with contributions in kind. By contrast, it includes increases in capital for the conversion of shares with a cash balance. The data on the part of offerings reserved to the public include the offerings of unexercised preemption rights on the stock exchange and any amounts reserved to issuers' clients; by contrast, amounts reserved to individually named persons and any amounts taken up by members of the underwriting syndicate are included under "Other". In some public offerings for the sale and subscription of securities for which the distribution of the sale of existing securities and the subscription of new securities by type of acquirer was not known, the breakdown was made on the basis of the total number of securities allotted to each category.

Table aII.5

The data refer to financial intermediaries that act as global coordinators and lead managers in initial public offerings.

Where an intermediary took part in more than one IPO, the figure shown in the table is the sum of the offerings in question in relation to the market total (consisting, according to the case, of the total of the global and public

offerings made during the year). Moreover, where an offering had more than one global coordinator and/or lead manager, its value was divided by the number of intermediaries, and the market share of each intermediary calculated on the basis of the amounts obtained in this way.

Table aII.8

The data refer to listed companies at the time of the sale of the holding. The total value includes only the proceeds of the sale, gross of the related costs; it does not include any financial debts transferred.

FINANCIAL INTERMEDIATION

Tables III.1, III.4, III.7 and III.8 and Table aIII.2

Individual asset management services are those defined in Article 1.5d) of the Consolidated Law on Finance. The figures for funds include Sicavs.

Table III.5

The analysis of management companies' ownership structures not only considered their direct shareholders but also determined the beneficiaries of significant holdings. In classifying controlling companies, reference was made to their "prevalent activity".

In the case of management companies for which there was neither a legal controller nor a shareholders' agreement, an attempt was made to establish whether there existed a "coalition" relationship that, without amounting to a shareholders' agreement, nonetheless allowed control to be attributed to a particular group of investors marked by a high degree of homogeneity as regards their legal nature or form and their activity.

"Joint ventures" are companies whose shares are divided into two parts on a 50-50 basis and held by non-homogeneous investors.

"Non-bank financial intermediaries" is a residual category where control is exercised by an unlisted financial company that does not engage in either banking or insurance and for which it is not possible to identify a natural person as the controller.

Table aIII.2

The categories of funds are based on the Assogestioni classifications in force at the time.

SUPERVISION OF LISTED COMPANIES

Table aIV.6

The types of opinion auditing firms may render are described below.

- Qualified opinion

Auditors are required to express a qualified opinion where they find: significant failures to comply with the rules governing annual accounts; significant disagreements with the directors about accounting policies; errors in the latter's application or inadequate information; significant limitations in performing the audit owing to technical obstacles or restrictions imposed by the directors; a situation of significant uncertainty not adequately described in the report or action taken by the directors which does not appear to be acceptable.

- Adverse opinion

Auditors are required to express an adverse opinion where the effects of the matters they criticize concerning significant failures to comply with the rules governing annual accounts, significant disagreements with the directors about accounting policies, errors in the latter's application or inadequate information are such as to cast doubt on the reliability and informational content of the annual accounts taken as a whole.

- Disclaimer owing to serious limitations

Auditors must issue a disclaimer where the possible effects of the limitations encountered in performing the audit are such as to prevent them from having the elements needed to express an opinion.

- Disclaimer owing to serious uncertainties

Auditors must also issue a disclaimer where they are faced with one or more situations of uncertainty such as to cast doubt on the reliability of the annual accounts taken as a whole or the continued existence of the company and they deem that the action taken or planned by the directors is based on highly questionable assumptions.

CONSOB'S INTERNAL MANAGEMENT AND EXTERNAL RELATIONS

Table XI.2 and Table aXI.2

Senior managers comprise the following grades: Direttore generale, Funzionario generale, Condirettore centrale, Direttore principale, Direttore and Condirettore. Junior managers comprise the following grades: Primo funzionario, Funzionario di 10 and Funzionario di 20. Professionals and clerks comprise: Coadiutore principale, Coadiutore, Assistente superiore, Assistente and vice Assistente.