

# Bit Market Services

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Societa' : ANSALDO STS  
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Informazione  
Regolamentata  
Nome utilizzatore : ANSALDON05 - Razeto Andrea  
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*Testo del comunicato*

Vedi allegato.

Genoa, 3<sup>rd</sup> January 2017

## REPORTING TO THE PUBLIC

Ansaldo STS S.p.A. informs that:

- On 27<sup>th</sup> December 2016, Hitachi Rail Italy Investments S.r.l. (**Hitachi**), requested to make available to the public *“the documentation and the information attesting the behaviors, passible to be censured, by the independent director Mr. Giuseppe Bivona”*, as stated in the Company’s press release of 20 December 2016 following the Board of Directors’ meeting held on the previous day, in order to *“duly inform the Company’s shareholders about the reasons which led the Board of Directors to censure such behaviours and, as a consequence, to take all appropriate actions, if any, against Mr. Giuseppe Bivona”*;
- On 29<sup>th</sup> December 2016, Hitachi requested the Company, pursuant to Article 126-bis of Legislative Decree no. 58 of 24<sup>th</sup> February 1998 (the Italian “Consolidated Financial Act”, hereinafter defined as “**CFA**”), to supplement the agenda of the Company ordinary shareholders’ meeting, convened on 19<sup>th</sup> January 2017, in a single session, at 11:00 a.m., in Genoa at the premises of “FONDAZIONE ANSALDO – GRUPPO FINMECCANICA” at Corso F.M. Perrone No. 118, with the following additional item:  
*“Action for liability pursuant to Article 2393 of the Italian Civil Code against the director Mr. Giuseppe Bivona. Resolutions pertaining thereto and/or resulting therefrom”*;
- On the same date, Amber Capital UK LLP, in its quality of *“shareholder holding a material interest in the corporate capital of Ansaldo STS”*, officially invited *“the Board of Directors – and, insofar as it is concerned, the Board of Statutory Auditors – to ensure a complete and fair information to the market, disclosing both the objections actually addressed to Mr. Bivona (and so the behaviours which the Board of Directors deemed to be in violation of his duties as director) and the actions, if any, taken vis-à-vis Mr. Bivona (and/or other directors) which have been qualified by the latter [with press release published by Mr. Bivona on 22<sup>nd</sup> December 2016] as intimidating”*.

In reply to the above-mentioned requests of information submitted by Hitachi – also reiterated in the request to supplement the agenda of the shareholders’ meeting – and by Amber Capital UK LLP, the Company informs that during the meeting held on 19<sup>th</sup>

December 2016 the Board of Directors resolved – with simple majority – to censure certain conducts of Mr. Bivona, which were deemed to constitute an abuse of power and conflict of interest, with respect, *inter alia*, to the following actions:

- letter of 13<sup>rd</sup> December 2016 sent by Mr. Bivona to Mr. Bruno Cova, a partner at the Paul Hastings law firm with copy to – *inter alia* – Consob, whereby he asked information in the name and on behalf of the Company and invited Mr. Cova to inform the competent authorities about any possible pressure he received in order not to disclose the required information;
- the about. 27 complaints and letters he sent to the Board of Statutory Auditors, the *Internal Audit* function, the President of the Company's Supervisory Body pursuant to law 231, Consob (and often to Borsa Italiana and to the Office of the Public Prosecutor, too) in a period of about 7 months, among which those known by the Company (17) refer to alleged unlawful conducts of the *management* or to alleged irregularities occurred in the system of *corporate governance* of the Company – always related to organisational and procedural issues and never regarding the contents of managerial decisions – in respect of which Mr. Bivona has never brought legal actions;
- three letters sent on 30<sup>th</sup> September, 4<sup>th</sup> October and 11<sup>th</sup> November 2016, respectively, to Mr. Siragusa, previous managing director of the Company, in order to request information about certain possible agreements entered into by the Company in which he admitted to have requested the same information also to other parties outside the Company and, in particular, invited Mr. Siragusa to inform the competent authorities about any possible pressure he received in order not to disclose the required information.

The Board deemed such conducts in breach of the director's duties, since they have been performed without a delegation of powers from the Board, in particular violation of the powers to represent the Company, and in the interest of third parties having an interest which is in conflict with the Company's interest, considered the following:

- the consultancy performed by Mr. Bivona in favour of the Elliott Funds, through his own company BlueBell Partners, in respect of which Mr. Bivona refused to specify nature, terms, origin and scope;
- the e-mails sent by Mr. Bivona to Messrs Nakanishi and Higashihara – in their role of Chairman and CEO of Hitachi Ltd respectively – on 14<sup>th</sup> and 25<sup>th</sup> August 2016 whereby, *inter alia*, he expressed satisfaction in connection with the appointment by the Court of Genoa of an attorney-in-fact (*curatore speciale*) in the proceeding brought by the Elliott Funds to challenge the resolution appointing the current Board of Directors and offered himself to “*facilitate any discussion which could help resolve disputes among shareholders*”;
- the declarations made by Mr. Bivona during the hearing held on 14 October 2016 before the Court of Genoa (in the context of the mentioned proceeding brought by the Elliott Funds against the Company) whereby Mr. Bivona implied that a possible suspension of the resolution appointing the current members of

the Board of Directors would have pursued the Company interest rather than defend the legitimacy of such a resolution, in compliance with his duties; the legitimacy of the resolution has indeed been confirmed by the Court in the precautionary proceeding;

- the reiterated reference made by Mr. Bivona in his letters/complaints to the existence of a permanent conflict of interests involving the executive directors of the Company (resulting from their relationship with the controlling shareholders Hitachi Ltd), without taking into account the legal principles concerning the group interest, and supporting the thesis argued by the Elliott Funds, so far rejected in the precautionary proceeding by the Court of Appeal and the Tribunal of Genoa; and
- the obstructive conduct had by Mr. Bivona during all the Board of Directors' meetings, through interventions concerning matters not linked to the items in the agenda and beyond any reasonable duration, as well as through the attempt to obstruct the regular performance of the activities of the corporate bodies with the above-mentioned several complaints.

Having verified the right of Hitachi, pursuant to Article 126-*bis* of the CFA, the agenda of the shareholders' meeting of the Company already convened on 19<sup>th</sup> January 2017 is supplemented with the additional item requested by Hitachi and shall be as follows:

- 1) Resignation of the auditing company KPMG and appointment of the new external auditor; and
- 2) Action for liability pursuant to Article 2393 of the Italian Civil Code against the director Mr. Giuseppe Bivona. Resolutions pertaining thereto and/or resulting therefrom.

A copy of the aforementioned request to supplement the agenda of the Shareholders' Meeting and the related report drafted by Hitachi as per Article 126-*bis* of the CFA shall be published on the Company's website at the address <http://www.ansaldo-sts.com/en/governance/shareholder-meeting/shareholders-meeting-2017-appointing-external-auditor>, as well as on the storage system at the website [www.emarketstorage.com](http://www.emarketstorage.com). A copy of the documentation based on which the Board of Directors expressed the mentioned evaluation during the meeting held on 19<sup>th</sup> December 2016, together with an explanatory note, shall be published on the Company's website at the address stated above.

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**PRESS RELEASE**

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