

meetings. CONSOB's decision was based on the following general criteria:

- analysis of the most significant shareholders' ordinary meetings (i.e. appointments of directors, annual report approvals etc.);
- variation with respect to the shareholding which, in any case, creates a dominant influence taking into consideration the fact that the shares are held by numerous individuals and various entities and the level of absenteeism of the shareholders;
- regular control over the company which is verified by reviewing the minutes' of the shareholders' meetings in order to determine the company's participation and role at such meetings;
- review of the minutes' of the shareholders' meetings to verify the voting percentage needed, on average, in order to obtain a resolution at such meetings.

Based on the above, Olimpia was able to obtain "de facto" control over Olivetti because Olivetti is a listed company and its shares are held by both numerous individuals and various entities and, as such, it would be very difficult for these shareholders to vote against a resolution supported by Olimpia.

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Conditional Increase of the Share Capital

The Polish Commercial Companies Code of September 15, 2000 (Dziennik Ustaw, No. 94, item 1037) (the "CCC") has introduced a new,

previously unknown, corporate mechanism - a possibility to conditionally increase the share capital of joint-stock companies on the basis of a shareholder resolution. The CCC provides for only one condition - that persons entitled to take up the new shares (bond holders, employees or executives) do so on the terms set forth in the resolution (CCC, Art. 448 § 1 and 2). The par value of the conditional increase of share capital cannot be higher than three fourths of the existing share capital. The resolution must give the par value and reasons for the increase, take-up period and, of course, the entitled parties.

After the resolution is passed, the management board must report the conditional increase to the National Registry Court and announce it in Monitor Sadowy i Gospodarczy ("Court and Business Gazette"), an official magazine intended to publish announcements on companies' various corporate activities. The increase is effective upon registration (CCC, Art. 450). From that moment on, the persons authorised to take up shares may pay up the shares and acquire them. Since the taking up of shares may take years, the Management Board is required to list all of shares being taken up in each financial year and to make yearly reports on how many shares had been taken up (CCC, Art. 452).

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