

Mrs Patrizia Grieco, *Chairwoman*

Banca Monte dei Paschi di Siena

Via PEC segr.gen@postacert.gruppo.mps.it

CC: Board of Directors and Board of Statutory Auditors

Dear Chairwoman, Grieco:

London, 14 March 2023

**Subject - Banca Monte dei Paschi di Siena Shareholders' Meeting of 20 April 2023:
Proposed liability action pursuant to art. 2393 of the Italian Civil Code by the
shareholder Bluebell Partners**

The shareholder Bluebell Partners Ltd ("**Bluebell**"), holder of twenty-five ordinary shares of Banca Monte dei Paschi di Siena ("**MPS**" or the "**Bank**") proposes to the Shareholders' Meeting two separate resolution pursuant to Articles 2392 and 2393 of the Italian Civil Code:

"Liability action jointly and severally or subordinately, or in the alternative, for their respective share of responsibility, against (i) the former directors PROFUMO ALESSANDRO and VIOLA FABRIZIO, pursuant to Articles 2392 and 2393 of the Italian Civil Code; (ii) the former General Manager VIOLA FABRIZIO, pursuant to Article 2396 of the Italian Civil Code; in office at the time of approval of the financial statements of MPS as at 31 December 2012, 31 December 2013, 31 December 2014 and 30 June 2015 (also in conjunction with other parties)";

Best regards,

Giuseppe Bivona

ORDINARY SHAREHOLDERS' MEETING

OF

BANCA MONTE DEI PASCHI DI SIENA S.P.A.

20 APRIL 2023

By shareholder Bluebell Partners Ltd:

"Liability action

against

the former Chairman Alessandro Profumo

and former Chief Executive Officer and General Manager Fabrizio Viola

Related and consequent resolutions".

14 March 2023

14 March 2023

Dear Shareholders,

Shareholder Bluebell Partners Ltd ("**Bluebell**"), owner of twenty-five ordinary shares of Banca Monte dei Paschi di Siena ("**MPS**" or the "**Bank**") proposes:

“to resolve on a joint and several liability action or, in the alternative, for their respective share of responsibility against (i) the former directors PROFUMO ALESSANDRO and VIOLA FABRIZIO, pursuant to Articles 2392 and 2393 of the Italian Civil Code; (ii) the former general manager VIOLA FABRIZIO, pursuant to Article 2396 of the Italian Civil Code; in office at the time of approval of the financial statements of MPS as at 31 December 2012, 31 December 2013, 31 December 2014 and 30 June 2015 (also in conjunction with other parties). Information to Shareholders. Related and consequent resolutions”.

The following are the significant events that occurred in the 2022 financial year pursuant to Article 2393 of the Italian Civil Code.

On December 14, 2022, the Milan Public Prosecutor's Office¹ requested the indictment of former directors PROFUMO Alessandro and VIOLA Fabrizio who were charged for false corporate communications (crime under Art. 81 cpv, 110 cpv, 266 co. 1,3 and 4), market manipulation (crime referred to in Art. 81 cpv, 110 cpv, 185 d.lgs. 58/1998 TUF, Art. 39 co.1 L.262/2005) and false prospectus (crime referred to in Art. 110 cpv. 173 bis d.lgs. 58/1998 TUF), Art. 39 co.1 L.262/2005) regarding the financial years 2013, 2014

¹ as part of criminal proceedings N. 33714/16 RGNR Mod. 21 e N.3502/17 RG GIP

and 2015 (1^o half-year) (**Annex 1**)².

Completing investigations begun in 2016, the Milan Public Prosecutor's Office requested the indictment of former directors PROFUMO Alessandro and VIOLA Fabrizio (and others) charging them that "*with several executive actions of the same criminal design, with the intention of misleading the shareholders and the public and in order to obtain an unjust profit for themselves or others, by stating, in the consolidated financial statements for the year 2014 and in the half-yearly financial report as of June 30, 2015, material facts that do not correspond to the truth even though they are the subject of evaluation, as well as by omitting information and/or material facts in a manner materially likely to mislead*" (Appendix 1).

Specifically, the investigations revealed how former directors PROFUMO Alessandro and VIOLA Fabrizio had recorded in the 2014 consolidated financial statements "*adjustments related to impaired loans totaling do euro 7,821 million, of which, however, euro 4,469 million would have been attributable to previous years*" (Appendix 1).

With reference to the June 6, 2014 prospectus on the 5,000,000,000 euros capital increase, the Public Prosecutor's Office charged that former directors PROFUMO Alessandro and VIOLA Fabrizio "*with the intention of misleading the recipients of the prospectus itself, set forth false information and concealed news in a manner suitable to mislead the recipients of the prospectus*" (Appendix 1).

he Milan Public Prosecutor's Office also contested with regard to the prospectus for the capital increase of 3,000,000,000 euros the dissemination "*to the market of false information concretely capable of causing a significant alteration in the price of BMPS ordinary shares,*" alleging on the 2013 Financial Statements omitted adjustments on impaired loans of "*4,456 million euros, resulting in a misleading representation*" (Appendix 1).

² document available at the following link:

<https://www.dropbox.com/scl/fo/h6uz259k9jytsyb3ykib3/h?dl=0&rlkey=5l051f4tmg9sfx782sx6yusr>

The Bank is a person aggrieved in the proceedings.

The indictment bases its conclusions, *inter alia*, on two expert reports filed respectively (a) on April 26, 2021 by experts Prof. Gaetano Bellavia and Dr. Fulvia Ferradini appointed by Judge for Preliminary Investigations Guido Salvini (**Appendix 2**)³ and; (b) on May 6, 2022 by the experts Dr. Stefania Chiaruttini and Dr. Luca Minetto appointed by the Public Prosecutor Roberto Fontana and Giovanna Cavalleri (**Attachment 3**)⁴: "*in a nutshell and in relation to the capital increases that took place in those years, it turned out that the net adjustments to receivables not accounted for on an accrual basis in the years mentioned above totaling € 11.420,81 million, amounting to € 7.766,15 million net of the tax effect, are of almost the same amount as the capital increases that took place between 2014 and 2015, amounting as mentioned to € 8 billion*" (Appendix 2)

Please note that on the 15th of October 2020, with sentence issued on the 7th of April 2021 (the “**Sentence**” **Appendix 4**)⁵ as part of separate proceedings⁶, former directors PROFUMO Alessandro (former Chairman) and VIOLA Fabrizio (former Chief Executive Officer and General Manager) were found them guilty by the Tribunal of Milan of the offences of false corporate communications (art. 2622 of the Italian Civil Code) and market manipulation because they accounted as investment into government securities two transactions for a nominal amount of €5 billion that turned out to be hidden derivatives (Credit Default Swaps), with reference to the financial statements, reports and other corporate communications in the period 2012-2015.

³ document available at the following link:

<https://www.dropbox.com/scl/fo/h6uz259k9jytsyb3ykib3/h?dl=0&rlkey=51051f4tmg9sfx782sx6yusr>

⁴ document available at the following link:

<https://www.dropbox.com/scl/fo/h6uz259k9jytsyb3ykib3/h?dl=0&rlkey=51051f4tmg9sfx782sx6yusr>

⁵ document available at the following link:

<https://www.dropbox.com/scl/fo/h6uz259k9jytsyb3ykib3/h?dl=0&rlkey=51051f4tmg9sfx782sx6yusr>

⁶ 955/2016 RGNR (Tribunal of Milano)

As a result of the court ruling, the Tribunal of Milan in the referred found PROFUMO Alessandro and VIOLA Fabrizio to be individuals with a "*marked capacity to commit crimes*" and of considerable "*social dangerousness*" for their conducts of "*singular offensiveness*" committed as directors of MPS (2012-2015), guilty for having implemented "*the same criminal plan*" (Appendix 4).

The Tribunal of Milan concluded that former directors PROFUMO Alessandro and VIOLA Fabrizio have a recognizable "*inclination to deceit*", disguised with conduct aimed at "*offering an immaculate, providential and saving image of themselves*" with the aim of "*seeing their personal prestige (illegitimately) increased*" (Appendix 4).

The sentence also recognized the "*insidiousness of the falsehood (knowingly perpetrated)*" in their role at the time of the facts as directors of MPS with the "*fraudulent compilation of financial statements*". The Court of Milan, again as established in the Judgment, recognized the "*full and conscious adherence to the criminal plan*" by the former directors PROFUMO Alessandro and VIOLA Fabrizio stigmatizing the "*seriousness of the conduct (of singular insidiousness and also repeatedly perpetrated)*" and the "*seriousness of the charges (stubbornly repeated in the insidious manner described)*" having acted in "*absolute bad faith*" to gain an "*unfair profit*" (Appendix 4).

Former directors PROFUMO Alessandro and VIOLA Fabrizio were sentenced (first degree) to six years' imprisonment, 2.5 million euros in fines, five years' disqualification from public office, and two years' disqualification from corporate management offices.

As a result, the Bank was declared liable for the administrative offences under Legislative Decree 231/01 and sentenced to a fine of **€800.000**. The Bank, also in its capacity as civilly liable, was also jointly and severally sentenced with the former directors Alessandro Profumo and Fabrizio Viola to pay damages in favour of the admitted civil parties to be settled in separate civil proceedings, as well as to pay court costs. The petitem, if any, amounts, with reference to the proceedings in question, **to approximately €177.000.000.**

Following the conviction, on 5 November 2020 the Bank announced provisions for legal

risks of approximately €400 million.

The aforesaid provisions, with a consequent reduction in equity, related to legal disputes concerning the facts alleged against the former directors Alessandro Profumo and Fabrizio Viola in the criminal proceedings.

The former directors Alessandro Profumo and Fabrizio Viola, due to the top positions they held, are responsible for the conclusion of two settlement agreements⁷ entered into in the period 2012-2015 with the two foreign banks Deutsche Bank and Nomura with which the hidden derivatives had been negotiated - the two foreign banks have also already been sentenced in separate criminal proceedings - thereby committing the Bank to (i) waive the actions for damages brought against the foreign banks in civil proceedings in order to obtain compensation for the damage that the former directors Alessandro Profumo and Fabrizio Viola had quantified in the total amount of €1.2 billion and (ii) to pay a total of €800 million to the two foreign banks to terminate in advance the hidden derivatives which, even at the time of the closing of the transactions, were concealed, thereby causing overall damage to the Bank's assets of **€2.000.000.000.**

In addition, the settlement agreements entered in 2013 (Deutsche Bank) and 2015 (Nomura) by former directors PROFUMO Alessandro⁸ and VIOLA Fabrizio, contained clauses designed to prevent MPS from exercising recourse and regress against Deutsche Bank and Nomura in the event that "*one or more investors in shares or other financial instruments issued by MPS promote, in any forum, claims for compensation and/ or restitution based on disputes that are wholly or partly related or connected*", thereby creating an irreparable prejudice for the Bank which today, unless it brings an action for nullity, is precluded by the above-mentioned settlement agreements from exercising its right to seek recovery and recourse against the

⁷ Limited only to the settlement agreement finalized with Deutsche Bank (December 2013) regarding former Chairman Alessandro Profumo, who left office in August 2015

⁸ Limited to only the settlement agreement finalized with Deutsche Bank (December 2013)

foreign banks in the event of losing the lawsuits brought against it.

The Bank incurred costs for legal assistance in favor of the former directors PROFUMO Alessandro and VIOLA Fabrizio amounting to 3.947.968,06 euro, in addition to costs for technical accounting consultancy of 703.788,78 euro⁹ with a total damage of **€4,651,756.84**.

To these costs must be added the costs of legal and technical-accounting assistance in favor of the Bank in civil and criminal proceedings and out-of-court disputes which have as their underlying fact the unlawful conduct of the former directors PROFUMO Alessandro and VIOLA Fabrizio as ascertained by the Court of Milan with the sentence published on 7 April 2021.

The Bank is a defendant in numerous civil proceedings called to account by former shareholders for investment damage having as its underlying fact both the false accounting of derivatives and the false accounting of loans in the period 2012-2015, referred to in the indictment issued on December 14, 2022.

Added to all this is the enormous reputational damage suffered by the Bank, including that resulting from the indictment issued by the Public Prosecutor's Office on December 14, 2022.

To date, the Bank's current Board of Directors chaired by Chairwoman Patrizia Grieco has not proposed to the shareholders to resolve the corporate liability action, despite the extensive damage caused by former directors PROFUMO Alessandro and VIOLA Fabrizio also in terms of reputation.

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⁹ data as of December 31, 2021 (source: MPS)

Proposed resolution

The shareholder Bluebell Partners Ltd proposes to resolve to bring a liability action jointly and severally or in the alternative for their respective share of responsibility against (i) the former directors PROFUMO ALESSANDRO and VIOLA FABRIZIO, pursuant to Articles 2392 and 2393 of the Italian Civil Code; (ii) the former General Manager VIOLA FABRIZIO, pursuant to Article 2396 of the Italian Civil Code; in office at the time of approval of the financial statements of MPS as at 31 December 2012, 31 December 2013, 31 December 2014 and 30 June 2015 (also in conjunction with other parties).

Resolution

to authorize the exercise of corporate liability action pursuant to Articles 2392, 2393 and 2396 of the Italian Civil Code, as well as any other appropriate action (including by way of recourse or regress) against the former directors PROFUMO ALESSANDRO and VIOLA FABRIZIO, as well as any other appropriate action (including by way of recourse or redress) against the former directors PROFUMO ALESSANDRO and VIOLA FABRIZIO in office at the time of approval of the financial statements as at 31 December 2012, 31 December 2013, 31 December 2014 and 30 June 2015 with a view to obtaining compensation for any damage, financial or otherwise (including reputational damage), suffered or to be suffered, which the Bank may suffer or have suffered as a result of or arising from the breach by the aforementioned corporate officers and members of the management body (including in conjunction with other persons) during the period in which they held their respective offices, of the obligations, insofar as they are concerned, set out in Articles 2381, 2391, 2391 bis, 2392 and 2396 of the Italian Civil Code, as well as of the provisions of the Consolidated Law on Finance. Civil Code, as well as any other provision of law or regulation governing the rules of conduct on which the members of

the general management and the directors must base their actions, as well as any other applicable regulatory provision, including Article 2043 of the Italian Civil Code and, thus, by way of example and not limited thereto, of all damages, financial and non-financial, including of a reputational nature for the above-mentioned facts.