

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 88679 / April 17, 2020**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 4124 / April 17, 2020**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-19751**

<p><b>In the Matter of</b></p> <p style="text-align:center"><b>Eni S.p.A.,</b></p> <p><b>Respondent.</b></p>
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**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Eni S.p.A. (“Eni” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds<sup>1</sup> that:

#### Summary

1. Between 2007 and 2010, Saipem S.p.A. ("Saipem"), a subsidiary controlled by Eni S.p.A. ("Eni"), which at the time held a 43% interest in Saipem, entered into four sham contracts with an intermediary to assist in obtaining contracts awarded by Algeria's state owned oil company. Saipem conducted little or no due diligence before entering into the contracts, received no legitimate services from the intermediary, and falsely characterized its payments to the intermediary as lawful "brokerage fees" in its books and records, which were consolidated into Eni's during the relevant period. As a consequence, Eni, an Italian multinational oil and gas company whose American Depositary Receipts ("ADRs") are listed on the New York Stock Exchange, violated the books and records and internal accounting controls provisions of the Foreign Corrupt Practices Act ("FCPA").

2. Executive A, who served as Saipem's CFO from 1996 to 2008, participated in Saipem's approval of the intermediary contracts, despite being aware of Saipem's lack of due diligence, and facilitated the payments to the intermediary, despite being aware of the lack of services rendered by the intermediary. Executive A was later hired to be the CFO of Eni in August 2008, and continued to facilitate Saipem's payments to the intermediary while at Eni.

3. Saipem paid approximately €198 million to the intermediary and was awarded at least seven contracts from the Algerian state-owned oil company. The intermediary directed a portion of the money it received from Saipem to Algerian government officials or their designees.

4. As a result of Saipem's and Executive A's conduct, Eni's consolidated financial statements failed to accurately record the true nature of Saipem's transactions with the intermediary in Eni's books and records. Instead, in violation of the books and records provisions of Section 13(b)(2)(A) of the Exchange Act, Eni—based on Saipem's own characterization of its intermediary payments—indicated in its filings with the Commission that those payments were lawful "brokerage fees."

5. In contravention of Sections 13(b)(2)(B) and 13(b)(6) of the Exchange Act, because Eni's CFO was aware of and participated in Saipem's conduct, Eni failed to proceed in good faith to use its influence to cause Saipem to devise and maintain a system of internal accounting controls consistent with Section 13(b)(2)(B) of the Exchange Act.

6. During the relevant period, Saipem's practice was to annually distribute to its

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<sup>1</sup> The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

shareholders approximately one-third of its profits, so Eni, with its 43% minority-controlling interest, benefitted from the profits derived from Saipem's contracts in Algeria. As a 43% shareholder of Saipem, Eni also benefitted from the fact that Saipem took a tax deduction on the fees it paid to the intermediary, despite not receiving legitimate services from the intermediary and thus not incurring a legitimate business expense.

7. In September 2018, an Italian trial court found Saipem, Executive A, and others guilty of the Italian crime of international corruption for the payments from Saipem through an intermediary to Algerian officials. Eni, its former CEO, and a senior Eni executive were acquitted of the same and related charges by the same court. The court ordered Saipem to forfeit approximately €198 million, which the court variously described as “the crime’s profit,” “the amount of the bribe paid by Saipem,” “the quantum paid for the acquisition of the contracts and, as such, the proceeds of the crime” and “commissions” paid to the intermediary. The court also ordered Saipem to pay a €400,000 fine. Executive A received a 49-month prison sentence. On January 15, 2020, the Milan Court of Appeals affirmed the trial court’s acquittal of Eni and its officers but overruled the trial court and acquitted the remaining defendants, including Saipem and Executive A, of all charges. This recent ruling may be further appealed to the Supreme Court of Italy.

### **Respondent**

8. **Eni S.p.A.** (“Eni”) is an Italian company headquartered in Rome, engaged in the oil and gas, electricity generation, petrochemical, oilfield services and engineering industries. Eni’s American Depositary Receipts (“ADRs”) are listed on the New York Stock Exchange. Since 1995, Eni’s ADRs have been registered with the Commission pursuant to Section 12(b) of the Exchange Act. In July 2010, in settlement of an action brought by the SEC, Eni and its then- wholly-owned subsidiary, Snamprogetti Netherlands, B.V. (“Snamprogetti”), consented to a judgment entered by the U.S. District Court for the Southern District of Texas that permanently enjoined Eni from violating the books and records and internal accounting controls provisions of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act, and permanently enjoined Snamprogetti from violating the anti-bribery, books and records, and internal accounting control provisions of the FCPA. *SEC v. Eni, S.p.A.*, No. 10-cv-2414 (S.D. Tex. July 20, 2010). That settlement was based on the conduct of certain Snamprogetti employees who participated in a joint venture known as TSKJ to construct liquefied natural gas facilities in Bonny Island, Nigeria. No employee of Eni was alleged to have participated in the TSKJ misconduct. Pursuant to the consent judgment, Eni and Snamprogetti jointly and severally disgorged \$125 million of ill-gotten gains. Snamprogetti was reorganized in 2008 to become a wholly-owned subsidiary of Saipem and then later was merged into and made a part of Saipem.

### **Facts**

#### **Saipem’s Use of the Intermediary**

9. In early 2006, Saipem’s management came to understand from the Algerian owner of the intermediary, who was well-connected in Algerian politics, that, in order to

obtain business in Algeria, Saipem would need to hire the intermediary. In meetings with Saipem's management, the Algerian energy minister at the time referred to the owner of the intermediary as his personal secretary and someone he considered like a "son." Following these conversations, Saipem and certain of its subsidiaries entered into at least four sham contracts with the intermediary and paid the intermediary pursuant to invoices for services that were never rendered.

10. The agreements provided that the intermediary would help Saipem identify and evaluate business opportunities, assist with bidding processes, develop strategies for procuring contracts, and provide advice and assistance in connection with the performance of such contracts. The intermediary never rendered any legitimate services to Saipem. In fact, the intermediary was wholly unequipped to provide the contemplated consulting services in the technically complex energy design sector, having no employees or offices in Algeria and only a "virtual office" in Geneva, Switzerland staffed by one individual.

11. Saipem paid approximately €198 million to the intermediary. The intermediary directed at least a portion of that money through offshore shell entities to Algerian officials or their designees, including the Energy Minister at the time.

12. Algeria's state-owned oil company awarded at least seven projects to Saipem between 2007 and 2009. Saipem deducted the intermediary payments from its taxable corporate income in Italy.

13. Executive A, Saipem's then-CFO, was aware of and participated in Saipem's intermediary payments. Executive A supervised the inadequate "due diligence" conducted on the intermediary, negotiated the intermediary fees, bypassed contracting procedures at Saipem, and approved certain of the contracts as a Director of certain Saipem subsidiaries.

#### **Eni Failed to Maintain Accurate Books and Records**

14. During the relevant period of 2007 to 2010, Eni consolidated Saipem's financial statements into its own. Thus, Saipem's transactions were reflected in Eni's consolidated financial statements, including the approximately €198 million in payments to the intermediary that Saipem falsely recorded as legitimate "brokerage fees." By virtue of its consolidation of Saipem's financial statements, Eni included the false line item for "brokerage fees" in its financial statements that it filed with the Commission in its annual reports on Form 20-F for the years 2007 through 2010.

15. As Eni's CFO at the time, Executive A knew that the payments to the intermediary were mischaracterized as legitimate "brokerage fees" in Eni's financial statements, despite no legitimate services being rendered by the intermediary. Saipem claimed the intermediary payments as a legitimate business expense and obtained an approximately \$57 million tax benefit as a result. That inaccurate expense accounting was also reflected in Eni's financial statements by virtue of its consolidation of Saipem's financial statements. Moreover, approximately \$19,750,000 of the unwarranted tax benefit obtained by Saipem also flowed to Eni as a result of its 43% interest in Saipem during the time when Executive A was

Eni's CFO.

**Eni Failed to Exercise Good Faith to Use Its Influence to Cause Saipem to Design and Maintain Sufficient Internal Accounting Controls**

16. Eni, as the controlling minority shareholder, required Saipem to maintain its own internal controls policies, including adopting Eni's directives of transparency, traceability, and anti-bribery compliance. However, because of the conduct of Executive A and others at Saipem, Saipem's internal accounting controls were not adequately implemented and were ineffective.

17. Eni's subsidiary Saipem conducted no substantive review of the intermediary contracts at Saipem. For example, Saipem's legal department conducted a pre-review of the sham contracts prior to anyone signing them, but these contracts had no names inserted, not even the name of the intermediary. Accordingly, Saipem's legal department did not conduct any review of the intermediary's business or reputation. Although Saipem had its own internal audit department, its audits performed on the intermediary contracts were either inadequate or perfunctory, such as simply matching invoices to payment amounts. Saipem's intermediary contracts were not within the scope of Eni's internal audit function because Saipem had its own internal audit department.

18. Executive A, as Saipem's CFO at the time, along with other senior officers, bypassed contracting and procurement controls to enter into contracts with the intermediary, including falsifying and backdating documents concerning the intermediary contracts in Board notes and approvals. Saipem also made payments to the intermediary on at least one occasion without approval from the appropriate senior officer until nearly a year after the payment had been made. These actions demonstrate that Saipem's internal accounting controls were inadequate and insufficient.

19. In August 2008, Executive A was hired to be the CFO of Eni. At Eni, he remained involved in Saipem's intermediary contracts by communicating with the intermediary and its owner and associates, sending emails concerning the intermediary, and facilitating Saipem's ongoing payments to the intermediary. For example, in early 2009, an associate of the intermediary emailed Executive A, Eni's CFO at the time, for assistance in getting an invoice paid by Saipem. In response, in May 2009, Executive A sent an email from his Eni email account to a Saipem manager requesting that Saipem pay the invoice.

20. While at Eni, Executive A continued to conceal Saipem's sham intermediary contracts from, among others, his colleagues at Eni. For example, in August 2009, he received an email from a Saipem accounting employee that the semi-annual intermediary fees reported to Eni for 2009—which Executive A knew to be payments to the intermediary for services that were not rendered—amounted to €63 million rather than the €22 million that was previously reported, due to an “incorrect allocation” at Saipem. Eni corrected its interim financial statements because of this discrepancy, yet Executive A did not disclose the true nature of those “intermediary fees” to anyone else at Eni. To avoid further scrutiny, he did not request

any inquiry or review of that accounting discrepancy. Similarly, he did not request any inquiry or review as to why Saipem's "intermediary fees" increased four-fold from 2007 to 2008.

21. After becoming CFO of Eni, Executive A continued to override and undermine Saipem's internal accounting controls by exerting his influence over Saipem and requesting that it prepay an invoice from the intermediary that was not due yet. Executive A also circumvented Saipem's anti-bribery internal controls by emailing the intermediary's "strawman" owner and also meeting with the intermediary's true owner.

22. In late 2012, Eni became aware that Saipem had entered into four agreements with the intermediary without conducting adequate due diligence. Eni also learned that Executive A had continued to involve himself in Saipem's payments to the intermediary. Immediately upon discovering those facts, Eni separated Executive A from the company.

23. Section 13(b)(6) of the Exchange Act provides that when an issuer that holds 50 per centum or less of the voting power with respect to a domestic or foreign firm, the provisions of Section 13(b)(2) of the Exchange Act require only that the issuer proceed in good faith to use its influence, to the extent reasonable under the issuer's circumstances, to cause such domestic or foreign firm to devise and maintain a system of internal accounting controls consistent with Section 13(b)(2) of the Exchange Act. Such circumstances include the relative degree of the issuer's ownership of the domestic or foreign firm and the laws and practices governing the business operations of the country in which such firm is located. An issuer which demonstrates good faith efforts to use such influence shall be conclusively presumed to have complied with the requirements of Section 13(b)(2) of the Exchange Act.

24. Here, however, because Saipem's accounting for intermediary fees was inaccurate, and because Executive A participated in the approval of and payments to the intermediary while at Saipem and continued to take certain actions to facilitate payments to the intermediary while CFO of Eni, Eni failed to proceed in good faith to cause Saipem to devise and maintain sufficient internal accounting controls. As the principal finance officer of Eni, Executive A could not have been proceeding in good faith to cause Saipem to devise and maintain sufficient internal accounting controls while simultaneously being aware of, and participating in, conduct at Saipem that undermined those controls. Because its CFO was not acting in good faith, Eni cannot rely on the provisions of Section 13(b)(6) of the Exchange Act.

### **Eni's Remedial Efforts**

25. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Eni and cooperation afforded the Commission staff, including compiling financial data and analysis relating to the transactions at issue, making substantive presentations on key topics, and providing translations of key documents and foreign proceedings.

### **Violations**

26. As a result of the conduct described above, Eni violated Section 13(b)(2)(A) of

the Exchange Act, which requires reporting companies to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets.

27. In contravention of Section 13(b)(6) of the Exchange Act, Eni did not proceed in good faith to use its influence, to the extent reasonable under Eni's circumstances, to cause Saipem to devise and maintain a sufficient system of internal accounting controls consistent with Section 13(b)(2) of the Exchange Act. As a result of the conduct described above, Eni violated Section 13(b)(2)(B) of the Exchange Act.

#### IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Eni's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Eni cease and desist from committing or causing any violations and any future violations of Sections 13(b)(2)(A) and 13(b)(2)(B).

B. Respondent Eni shall, within 14 days of the entry of this Order, pay disgorgement of \$19,750,000 and prejudgment interest of \$4,750,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Eni as a Respondent in these proceedings, and the file number of these proceedings; a copy of

the cover letter and check or money order must be sent to Melissa R. Hodgman, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-5553.

By the Commission.

Vanessa A. Countryman  
Secretary