

COVID-19 EPIDEMIOLOGICAL EMERGENCY - LEGAL REQUIREMENTS IMPOSED ON OPERATORS

The COVID-19 epidemiological emergency and the measures adopted by the Government to reduce contagion have limited the pursuit of production and commercial activities and have imposed restrictions on mobility of people across the national territory.

IVASS is closely monitoring the health situation and the impact of the restrictive measures in place, assessing in particular the effects on the insurance sector and on the numerous categories of insurance market participants.

On account of the operational difficulties in complying with the afore-mentioned restrictive measures, some of the provisions issued by the Government (see in particular decree law No. 18 of 17 March 2020 - called "Heal Italy") have envisaged, among other things, the suspension of procedural, tax and administrative deadlines (see [notice of 24 March 2020 in IVASS' website](#)). They have also introduced the possibility to assess the impact of the containment measures envisaged in the decree for the purposes of granting exemptions from debtor's liability, or of applying lapses or penalties relating to delays or failure to comply with the requirements (article 91, para.1 of Decree Law 18/2020.) In this framework, particular importance is to be attached to the decrees of the President of the Council of Ministers imposing the temporary suspension of all the industrial and commercial activities, except for those expressly indicated in the specific Annex, including insurance activities.

From the above-described legal framework it results that, on the one hand, the deadlines for complying with the legal requirements which have not expressly been suspended are still fully in force and, on the other hand, that insurance business is among the commercial activities exempted from suspension. This implies that, in relation to the commitments undertaken and consistently with the emergency situation, insurance sector operators shall organise themselves to better ensure service continuity and consumer protection. In view of business continuity, operators should prefer to use electronic mail and electronic channels when sending communications to clients, limiting the use of the postal service – the operation of which has significantly been reduced as a result of the health emergency - only to those cases where it is strictly necessary.

IVASS is aware of the difficulties that the current emergency situation may cause in the performance of the daily activities of operators. Therefore, in the exercise of its supervisory functions over the conduct of undertakings and intermediaries, it will take into due account any situations of objective impossibility arising from the current restrictions and which (following the provisions in Article 91 of Decree Law “Heal Italy”) may constitute grounds for exemption from or limitation of liability in case of breaches.

In any case, in line with [the guidelines recently issued by EIOPA](#), we recommend supervised subjects to ensure that insurance business continue to be conducted in the best interests of consumers, even in this unprecedented situation, and in particular:

- provide clear and timely information to consumers on the organizational measures adopted to guarantee service continuity and fair contractual relations, immediately informing them of any operational change or impediment to the customary management of relations;
- keep specific evidence of any impediments to the smooth conduct of business and of the remedial action taken to protect customers’ rights that might be affected by delays or errors in the communications addressed to them; this in order to make it possible to assess any grounds of exemption from or limitation of liability that may arise in individual cases;
- adequately consider the difficulties that consumers too may encounter in the fulfilment of their obligations, as a result of COVID-19 containment measures.

Further clarification will be provided, as necessary, in light of the evolution of the situation.