

CIRCULAR 551/D of 1 March 2005**Disclosure in life assurance contracts.****Introduction**

In previous years ISVAP issued a series of circulars regulating undertakings' obligations in terms of disclosure and transparency towards policyholders and laying down arrangements for drawing up the Information Note on the various types of life assurance contracts.

However, three factors have now led ISVAP to review the rules that undertakings must observe as regards the transparency in the distribution of life assurance products. Firstly, the growth in the volume of products offered in the insurance sector; secondly the need to make the objectives pursued by the various types of life assurance policies as clear as possible for policyholders; thirdly, the related need to introduce instruments able to provide a basis for comparing different contracts.

Many innovations have been made which especially refer to the overhaul of Information Note Models for all types of contract and the introduction of a Summary Profile for with-profit, unit-linked and index-linked life assurance contracts and contracts designed to implement individual pension plans. The Profile sets out the essential characteristics of the contract – guarantees, costs and any financial risks – in easily understandable terms for potential policyholders.

The provisions of this circular therefore constitute a new consolidated text on transparency of life assurance policies.

In relation to the indissoluble bond – a feature of life assurance contracts – between the substantial rules on the nature, quality and amount of investments on the one hand, and regulations on transparency on the other, some provisions were introduced regarding the assets underlying these products.

**PART I
INFORMATION FOR POLICYHOLDERS****Section I – Information before the conclusion of the contract****Article 1 Definitions**

For the purposes of the circular the following terms shall be defined as follows:

- a) "with-profit contract": a life assurance or capital redemption contract characterised by mechanisms for increasing benefits, for example by accruing the yield of a segregate fund or profit-sharing with respect to a technical account;
- b) "capital redemption contract": a contract with which a company undertakes to pay, irrespective of the duration of human life, a sum of money as consideration for the payment of single or periodic premiums after the lapse of a period of time of no less than five years (article 40, legislative decree 174 of 17 March 1995);
- c) "index-linked contract": a life assurance contract whose benefits are directly linked to a share index or other similar reference value (article 30, subsection 2, legislative decree 174 of 17 March 1995);

- d) “increasing benefits contracts”: a with-profit contract whose benefits increase in relation to the return of a segregate fund;
 - e) “unit-linked contract”: a life assurance contract whose benefits are directly linked to the value of the assets in an internal fund or the value of units of a UCITS (article 30, subsection 1, legislative decree 174 of 17 March 1995);
 - f) “pure risk contract”: an insurance contract whose benefits are exclusively linked to the occurrence of events such as death, disability and incapacity of the policyholder;
 - g) “contract designed to implement individual pension plans”: a life assurance contract pursuant to article 9^{ter} of legislative decree 124 of 21 April 1993;
 - h) “internal fund”: a portfolio of transferable assets and of other financial assets¹, managed separately from the other assets held by the undertaking and denominated in units;
 - i) “segregate fund”: portfolio of transferable assets and other financial assets², managed separately from other assets held by the undertaking and on whose basis the benefits of contracts linked to them are increased;
 - j) “undertaking” or “company” or “insurance undertaking”: an undertaking that performs the insurance or the operations set forth in the table contained in annex I of legislative decree 174 of 17 March 1995;
 - k) “insurance intermediaries”: those subjects that in conformity with Directive 2002/92/EC of 9 December 2002, perform, for remuneration, the activities of introducing, proposing or carrying out other work preparatory to the conclusion of insurance contracts, or of assisting in the administration and performance of such contracts;
 - l) “ISVAP” or “Institute”: *Istituto di Vigilanza sulle Assicurazioni Private e di Interesse Collettivo* (Supervisory Authority for Private Insurance Undertakings and Insurance Undertakings of Public Interest) set up by law 576 of 12 August 1982;
 - m) “UCITS”: a collective investment undertaking as referred to in legislative decree 58 of 24 February 1998;
- “switch operations”: transfer of invested resources from one internal fund to other internal funds or segregate funds and vice-versa.

Article 2 Documentation

1. The undertakings shall draw up an Information Dossier, which may take the form of a set of detachable documents, which insurance intermediaries must deliver to potential policyholders before underwriting a life assurance proposal. The Information Dossier shall only contain the following pre-contractual and contractual documents:

- a) Summary Profile;
- b) Information Note;
- c) Insurance Conditions including:
 - c1) Regulations governing the internal fund (for unit-linked contracts);
 - c2) Regulations governing the segregate fund (for increasing benefits contracts);
- d) Glossary;
- e) Proposal form.

2. The documents making up the Information Dossier shall be numbered on each page, with an indication of the total number of the pages (1 of 6, 2 of 6 etc.) and, at the end of the Dossier, the date of the last update of the contents.

¹ Evaluated at market value.

² Evaluated at the historical cost; the return of the segregate fund is periodically calculated according to specific ISVAP regulations.

3. The cover of the Information Dossier shall only state:
- a) the name, logo and symbol of the undertaking and the parent group;
 - b) the heading: "*Contratto di* (insert the type of contract and the commercial name)";
 - c) the phrase in bold letters: "*The present Information Dossier, containing* (insert the list of documents as referred to under subsection 1) *must be delivered to the policyholder before he or she underwrites the insurance proposal*";
 - d) the sentence: "*Read the Summary Profile and the Information Note carefully before signing the contract*" in bold type.
4. With reference to collective contracts in which the policyholders either bear all or part of the economic costs of the premiums or are – directly or indirectly – vested with an interest in benefits, the insurance undertaking shall include in the agreement stipulated with the policyholder a contractual clause to regulate the obligations and arrangements for notifying the policy conditions to the insureds by the policyholder.

Article 3 Criteria for drawing up documents

1. When drawing up pre-contractual and contractual documents undertakings shall:
- a) use clear and concise expressions so that the policyholder can understand the contents of the contract that he/she will sign, together with the relative benefits offered, the guarantees and any financial risk that he/she must bear;
 - b) draw up a Glossary explaining the meaning of the technical terms;
 - c) use a typeset of not less than 11 and use graphic, layout and editing arrangements that will facilitate the reading of the documents. With exclusive reference to the editing of the proposal form, such arrangements can be appropriately adapted to specific typographic needs;
 - d) use bold characters for those clauses that state possibilities of risks, limitations, charges, obligations and forfeitures to which the policy may be liable as also the "Warnings" contained in the Summary Profile and Information Note;
 - e) ensure consistency of the information and clauses within a single document and between the documents referred to under article 2, subsection 1;
 - f) only use terms such as "*guarantee*" and "*guaranteed*" with reference to contracts for which the undertaking has directly committed to providing a financial guarantee, and shall avoid using such terms in the event of commitments made by third parties to pay predetermined sums;
 - g) only use the term "*protected capital*" with reference to contracts for which the adoption of particular management techniques aimed at minimising the possibility of the loss of invested capital is required. In these cases it must be stressed that protection does not represent the guarantee of conservation of capital or of a minimum return;
 - h) not include expressions or wordings of an advertising or promotional nature.

Article 4 Disclosure requirements

1. With reference to the circumstances of non-delivery by the undertaking or the insurance intermediary of the information prescribed by the law in force and this circular either before the conclusion of the contract or during its term, in addition to the provisions of the law in force on the pertinent administrative sanctions, article 1337 of the Civil Code shall also apply that requires the parties to act in good faith in both the pre-contractual phase and the stipulation of the contract. Given that among the pre-contractual obligations there is the provision that the counterpart shall be provided with

all information on the obligations arising from the contract to be executed, the violation of this obligation shall make the offender subject to pre-contractual liability under article 1228 of the Civil Code as well.

Article 5 Insurance proposal

1. The proposal form is an integral part of the Information Dossier and is made up of a number of detachable sheets of self-copying paper. If undertakings use IT procedures for issuing contracts, alternative procedures can be used for the proposal form on condition that the information acquired by the company and that stated in the copy given to the policyholder can be guaranteed as identical and that the progressive numbering within the Information Dossier is complied with.

2. For contracts that provide for benefits in case of death or other coverage that will, in any case, require the acquisition of information on the state of health of the insured, the undertakings shall state, using bold characters, the following warning in the proposal regarding the compilation of the health questionnaire:

- a) untruthful, inexact or incomplete declarations made by the subject authorised to provide the information requested for the conclusion of the contract can compromise the right to benefits;
- b) before signing the questionnaire, the subject indicated under a) must verify that the statements made in the questionnaire are exact;
- c) even in cases not expressly provided for by the undertaking, the insured party can request that he/she undergo a medical examination to certify his/her actual state of health, with all costs for his/her account.

3. The insurance proposal shall provide a special declaration, with appropriate typographic characters in terms of size and graphic format, that the policyholder must sign to attest to the receipt of the Information Dossier.

4. In the insurance proposal, the undertakings will also provide for a special area describing the means of premium payment allowed for by each undertaking. In the event that means of payment are allowed involving payment through the use of means not directly referable to the undertaking, or to the agent in his/her capacity as the undertaking's intermediary, the following warning must be included and highlighted in bold characters: *“Attention: in the case that the premium is paid in cash or through the use of means not directly referable to the undertaking, or to the agent in his/her capacity as intermediary of the undertaking, proof of payment to the company shall be represented by the indication of the sum paid and the affixing of the signature of the subject who physically collects the sums and collects the present proposal”*. In these cases the insurance proposal shall contain a special section in which the amount of the premium collected, the particulars and the handwritten signature of the subject appointed to collect the monies are indicated.

Article 6 Summary Profile

1. The companies shall draw up a Summary Profile complying with the models set out under annexes 1, 2, 3, 4 and 5 for with-profit, unit-linked and index-linked contracts and for contracts designed to implement individual pension plans. For the drawing up of the Summary Profile section which refers to the benefits offered, the undertakings shall refer to the list of the types of insurance benefits set forth in annex 6.

2. In the case of policies consisting in a combination of different contract types, for purposes of an adequate representation of the characteristics of the contract, the undertakings shall draw up the Summary Profile by combining the models for the various contract types.

3. The rate of return to be used for determining the "annual average percentage cost" as provided for by the Summary Profiles of with-profit and unit-linked contracts and contracts designed to implement individual pension plans (annexes 1, 2, 4 and 5) shall be determined by ISVAP, which will update it whenever necessary. For the first application the rate of return is fixed at 4% per annum.

4. It is forbidden to use expressions in the Summary Profiles to indicate, even indirectly, that ISVAP has given its approval to their contents.

Article 7 Information Note

1. The undertakings shall draw up different Information Notes for different types of contracts on the basis of the models set forth in the annexes 7, 8, 9, 10 and 11. In the case of pure risk contracts, the Information Note (annex 7) contains the representation of the tables illustrating the premiums stated in annex 12. The insertion of supplementary information with respect to that envisaged by the models must be limited to the need to make the characteristics of the contract fully understandable.

2. In the case of policies comprising the combination of different contract types, and for purposes of an adequate representation of the characteristics of the contract, the undertakings shall draw up the Information Note by combining the models of the various contract types.

3. It is forbidden to use expressions in the Information Note to indicate, even indirectly, that ISVAP has given its approval to their contents.

Article 8 Exemplifying Scheme

1. The Information Note of with-profit contracts provides an Exemplifying Scheme of the development of premiums, insurance benefits and surrender and paid-up values according to the model set forth under Section F of the Information Note (annex 7), and based on specific combinations of age, duration and premium amount, chosen by the undertaking according to criteria that ensure the example is adequately representative of the existing portfolio. The projections are made according to the guaranteed minimum rate of return and an assumption of financial return set by the Institute, which will update it where necessary. For the first application the rate of return is fixed at 4% per annum.

2. The undertakings shall prepare an Exemplifying Scheme drawn up in a customised manner according to the policyholder/insured's data, which shall be subsequently submitted to the policyholder no later than the date on which the latter is informed that the contract is concluded. The delivery of a customised scheme is not obligatory for collective contracts.

3. For contracts designed to implement individual pension plans, the undertakings must submit policyholders an Exemplifying Scheme drawn up in a customised manner based on the model in ISVAP circular 445/2001, along with the Information Dossier, so that policyholders can make an indicative evaluation of how much they need to invest to

supplement their social security pension. Where necessary, the Institute will see that the assumptions of real average returns indicated in the foregoing circular are appropriately updated. Any updates to the Exemplifying Scheme, taking account of the results accruing to the pension position, can be provided to the policyholder during the term of the contract by making projections on the benefits in force when the Scheme was originally prepared.

4. The Exemplifying Schemes described under the above paragraphs 1, 2 and 3 shall contain the warning – displayed in bold types – that projections made on the basis of hypothetical financial returns are merely indicative and that, consequently, the values shown are not, in any case, binding upon the undertaking.

Article 9 Comparable historical data provided in Summary Profiles

1. By 15 February of each year the Institute will communicate the rate of inflation based on ISTAT's consumer price index referred to families of clerical and manual workers as well as the average gross rate of return on government bonds and other bonds to be included in the Summary Profiles. For contracts whose benefits are denominated in foreign currencies the Institute shall, at the same time, provide the update on the interest rates of long-term securities as well as the annual percentage variations in the rates of exchange of the principal foreign currencies against the Euro. For 2005 refer to ISVAP circular 550/2005.

Article 10 Updating of pre-contractual documents

1. By 31 of March of each year the undertakings shall update both the Summary Profiles and the Information Notes. If during the period prior to the annual update, changes referring to the information contained in the foregoing documentation take place, the undertakings will appropriately supplement the information documents in circulation and immediately post the news of such modifications on their internet site.

Section II – Information during the term of the contract

Article 11 Letter confirming the investment of premiums for unit-linked contracts.

1. The undertakings shall communicate to the policyholder in writing no later than 10 working days after the valuation date of the units (the day to which the quotation of the units refers), the amount of the gross premium paid in for executing the contract and that for investment, the contract's commencement date, the number of units attributed, their unit value and the valuation date. For contracts that convert premiums into units according to the date on which the proposal is received and/or the premium collected, the relative dates must be stated.

2. As regards successive premiums, the undertakings shall communicate to the policyholder in writing no later than 10 working days after the valuation date of the units, the amount of the gross premium paid in, and the amount invested, the number of units attributed further to the new payment, their unit value and their valuation date. In the case of recurrent premium contracts that obey a predefined payment plan, the undertakings can send a cumulative confirmatory letter for the premiums paid over a six-monthly period.

Article 12 Publication in daily newspapers and on internet sites

1. Undertakings shall have the value of the unit of the internal fund or of the UCITS used to represent the basis for the calculation of benefits in unit linked contracts, and the relevant valuation date, published daily in at least one daily newspaper with nation-wide circulation and on their internet sites. The publication must take place no later than the third working day after the valuation date of the unit. The obligation to publish the value of the UCITS unit shall be deemed complied with when the publication is already made in a daily newspaper with nation-wide circulation by the authorised subjects referred to in legislative decree 58/98.

2. Without prejudice to the provisions contained in ISVAP circular 533/2004, the undertakings will publish daily in at least one daily newspaper with nation-wide circulation and on their sites:

- a) the value of the index and/or the reference value (e.g. structured financial instrument ...) which represents the basis for the calculation of benefits in index-linked contracts, with the relevant valuation date;
- b) the name and the updated rating of the issuer (or of any guarantor) of the financial instrument, with the indication of the rating agency.

The values published must represent the only reference basis for the quantification of benefits and of the surrender value as well as for the possible re-purchase of the financial instrument by the issuer or by other subjects on the basis of the re-purchase agreements of section III paragraph 2.1 of ISVAP Circular 451/2001.

3. As soon as a new product is marketed, the undertakings will publish on their own internet site:

- a) the Information Dossier;
- b) the annual report of the segregate fund;
- c) the annual prospectus of the composition of the segregate fund;
- d) the annual report of the internal fund.

Article 13 Amendments during the term of the contract

1. The undertakings shall immediately communicate in writing to the policyholder any variation in the information contained in the Information Dossier also as a result of changes in the law after the conclusion of the contract.

Article 14 Annual statement of account

1. In case of with-profit contracts undertakings must send the policyholder, in writing, the annual statement of account of his/her insurance position within sixty days from the end of each solar year or from the date envisaged in the policy conditions for the increase of insured benefits. Such statement must contain, at least:

- a) the total amount of premiums paid from the execution of the contract to the reference date of the preceding statement of account and the value of the benefits accrued at the reference date of the preceding statement of account;
- b) details of premiums paid in the reference year, illustrating any unpaid premiums and stating the results of the non-payment;
- c) value of partial surrenders in the reference year;
- d) value of the benefits accrued at the reference date of the statement of account;
- e) surrender value accrued at the reference date of the statement of account;
- f) for increasing benefits contracts, the gross annual rate of financial return achieved by the segregate fund, the percentage of the rate of return retrocessed

to policyholders, the net annual rate of return to policyholders, with indications of any levies applied by the undertaking, and the annual rate for increasing benefits. For with-profit contracts other than those specified above, the statement of account will state the profits allocated to the contract in the reference year.

As concerns single premium contracts and contracts with paid-up value the undertakings shall submit the information stated under subsection 1 within the same term.

For contracts designed to implement individual pension plans, the foregoing information must be supplemented by the indication of the value of the individual transferable position at the reference date of the statement of account. During the payment of the annuity, the annual statement of account shall indicate the amount of the insured annuity at the reference date of the preceding statement of account and of the current statement as well as the information contained under letter f).

2. In case of unit-linked contracts undertakings must send the policyholder, in writing, the annual statement of account of his/her insurance position within sixty days from the end of each solar year. Such statement must contain, at least:

- a) the total amount of premiums paid from the execution of the contract until 31 December of the preceding year, the number and equivalent value of the units as at 31 December of the preceding year;
- b) details of premiums paid in, those invested, the number and value of the units assigned in the reference year;
- c) number and value of the units transferred and of those assigned following switch operations;
- d) number of the units that may have been cancelled during the reference year for the premium relating to pure risk coverage;
- e) number and value of the units reimbursed as a result of a partial surrender in the reference year;
- f) number of the units cancelled for management commissions in the reference year (only for contracts directly linked to UCITS);
- g) overall number of the units and their value at the end of the reference year;
- h) value of the guaranteed benefit (only for contracts with financial guarantees).

Undertakings must transmit, along with the annual statement of account, the updating of the historical data stated under section F of the Model Information Note and under section 6 of the Summary Profile.

For contracts designed to implement individual pension plans, the foregoing information must be supplemented by the indication of the value of the individual transferable position at the reference date of the statement of account. During the payment of the annuity, the annual statement of account shall indicate the amount of the insured annuity at the reference date of the preceding statement of account and of the current statement, as well as the information contained under paragraph 1 letter f).

3. In case of index-linked contracts undertakings must send the policyholder, in writing, the annual statement of account of his/her insurance position within sixty days from the end of each solar year. Such statement must contain, at least:

- a) the total amount of premiums paid from the execution of the contract until 31 December of the preceding year;
- b) details of premiums paid in and invested in the reference year;
- c) details of the sums paid to policyholders/beneficiaries in the reference year (periodic payments, any partial surrender ...);

- d) the value of the reference indices at the periodical valuation dates envisaged in the contract for the determination of benefits as well as, for contracts whose benefits are directly linked to the value of representative assets, indication of the relevant current value as at 31 December of the reference year;
- e) value of the guaranteed benefit (only for contracts with financial guarantees).

Article 15 Communication in the event of loss

1. If during the term of a unit-linked contract the undertakings ascertain that the equivalent value of all the units held by the policyholder has fallen by more than 30% with respect to the overall amount of the premiums invested, taking due account of any surrenders, the policyholder will be duly informed in writing within ten working days from the ascertainment of the event. A similar communication is given in the same manner in the event of a further reduction of 10% or more.

2. If during the term of an index-linked contract the undertakings ascertain that a fall in the value of the indices or reference values has led to a reduction of the surrender value of more than 30% with respect to the overall amount of the premiums invested, the policyholder will be duly informed in writing within ten working days from the ascertainment of the event. A similar communication is given in the same manner in the event of a further reduction of 10% or more.

Article 16 Variation in the guaranteed interest rate

1. With respect to contracts with recurrent single premiums that contemplate guaranteed interest rates which may vary on the basis of mechanisms defined in the policy conditions and in compliance with article 23 of legislative decree 174/95 and the ISVAP order 1036/98, the undertakings shall communicate variations in the rate in writing in advance to the policyholder, specifying that the new rate is exclusively applied to premiums falling due after the date on which the variation was communicated.

Article 17 Communications in case of exercise of contractual options

1. If the contract envisages the possibility to exercise options undertakings must provide policyholders/beneficiaries with a written summary description of all the options exercisable – no later than sixty days before the scheduled date for exercising the option – illustrating the relative costs and economic conditions whenever not predetermined in the original policy conditions. This description must also envisage the commitment of the company to transmit, before the exercise of the option, the Summary Profile, the Information Note and the policy conditions referring to the insurance covers for which the policyholder/beneficiary expressed an interest.

Article 18 Transformation of the contract

1. The undertakings, in every transformation operation that entails the change – whatever the form taken – of benefits accruing from the original contract, shall provide the policyholder with the necessary evaluation elements so as to enable him/her to compare the characteristics of the new contract with the existing contract. For this purpose the undertakings, before transforming the contract, shall furnish the policyholder with an information document drawn up on the basis of the indications stated in annex 13, as well as the Information Dossier of the new contract, and shall retain proof that the foregoing delivery has taken place.

2. The instructions referred to under subsection 1 also apply in the event that the transformation actually takes place through the surrender of the preceding contract and the taking out of a new policy, or when the circumstances and the arrangements of the operations are such as to indicate that there has been a transformation.

Article 19 Setting up of new internal insurance funds or compartments

1. If the undertakings decide to propose to policyholders of unit-linked contracts the payment of premiums or switch operations into funds or compartments set up after the conclusion of the contract, they must first submit the policyholder the relevant section³ of the updated Information Note following the insertion of the new fund or compartment as well as the related management regulations, and retain proof that the foregoing delivery has taken place.

Article 20 Distance communication techniques

1. Communication duties towards the policyholder during the term of the contract may also be acquitted by using distance communication techniques on condition that such communications are received on a durable medium and that the policyholder has expressly authorised their use.

Article 21 Filing and conserving documents

1. The undertakings shall adopt methods for the internal filing and conservation of documents, including the proof of having acquitted the submission obligations and, where required, the information delivery obligations pursuant to this circular, also through the use of information technology devices. The foregoing procedures must provide for the orderly and expedite management of the communications notified to policyholders and insured parties, also through the use of distance communication techniques in both the pre-contractual and contractual phases as well as the communications issued to insured parties and policyholders in the framework of relations with insurance intermediaries and the undertaking.

PART II SPECIFIC PROVISIONS

Article 22 Benchmark for unit-linked contracts

1. In ISVAP Circular 474/2002, Section 1, point 2.2., the second paragraph is replaced by the following:

“The companies shall establish a benchmark with which to compare the performance of the internal insurance fund to which the benefits are linked. The benchmark must possess the following characteristics:

- a) it must be constructed by making reference to commonly-used financial indicators drawn up and publicised by third parties;*
- b) be consistent with the risks connected with the fund's investment policy and with the types of assets admitted as cover for technical provisions;*
- c) be clear and transparent in the calculation formula, in the composition of the basket and in the estimation of the weightings;*

³ Relevant section: section C, section D, points 11.2 and 11.3 of annex 8. For contracts designed to implement individual pension plans, section C 1, section D, points 14.2 and 14.3 of annex 11.

d) *facilitate the retrieval of data concerning the components to which it refers.*

In the event that the benchmark does not represent a significant parameter for the management style adopted, the undertaking will illustrate the reasons in the Information Note and indicate, in its place, the expected average annual volatility of the units deemed acceptable for identifying the fund's risk profile".

Article 23 Costs applied to unit-linked contracts by cancelling units

1. The undertakings are not permitted to cover any kinds of cost by reducing the number of units attributed to the single contract, excepting management commissions applied in the case of contracts directly linked to units in UCITS. However, in the latter case, such commissions may be allowed only if there is a specific management activity described as such among the policy conditions.

Article 24 Return of the segregate fund

1. The undertakings may not, in the documentation on increasing benefit contracts, indicate rates referring to the allocation of the return of a segregate fund if the indication is such as to generate an erroneous information on the amount of the accrual actually accrued, such as in case of the charges on returns regardless of the reason for the charge (management commission, minimums retained by the undertaking).

Article 25 Safety of assets covering index-linked contracts

1. In ISVAP Circular 451/2001, Section III, point 1.2., b) the following words are deleted: *"This requisite of minimum rating can alternatively be met by the financial instrument"*.

2. In ISVAP Circular 451/2001, Section III, point 1.2 the following letter has been added: *"d) do not contain subordination clauses that rank structured assets after the claims of other creditors"*.

Article 26 Provisions referring to contracts designed to implement individual pension plans

1. In ISVAP Circular 434/2001, point 2, under the heading "Contract features", third paragraph, letter d) the words *"An early notice shall be sent before applying the new bases; it shall also set out the economic impact on the benefit insured"* are replaced by: *"A notice must be sent at least sixty days before the commencement day of the variations and must describe the economic impact on the annuity benefit. The new conversion coefficients of the capital accrued must be attached to the communication. The undertaking must give the policyholder a term of no less than sixty days to request the transfer of his/her individual position to another pension scheme or pension fund. In this case the undertaking will not apply the administrative charges that may be included among the policy conditions for the transfer operations"*.

2. In ISVAP Circular 434/2001, point 2, under the heading "Contract features" after the last paragraph the following wording is added: *"In order to guarantee the effective exercise of the right to the transfer of a pension position and the right of surrender, guaranteed by law, the undertakings in those cases in which they pay the acquisition costs together at once must abide by the following provisions. If the tariff envisages the recovery of the deferral acquisition costs upon the payment of the first annual premium, the undertakings are required to increase the capital sums accruing to the pension position, whenever the right to transfer and surrender is exercised, by the share of the non-accrued costs calculated on the basis of the years and yearly fractions remaining before the conclusion of the accumulation phase with respect to all the years provided"*

for, net of any refunds already made for this purpose. The same criterion must apply in cases in which the recovery involves the first annual premium by attributing higher costs with respect to a fixed levy applied to all the premiums.

In cases where the tariff provides for the recovery of the deferral acquisition costs by a periodic levy on the relative depreciation rate, the undertakings cannot include contractual provisions in any manner designed to recover non-depreciated costs whenever the right to transfer or surrender is exercised.

Any administrative charges connected to the surrender and the transfer of the individual pension position are only indicated as a fixed figure and their amount cannot be such as to impair the exercise of such rights".

PART III

ADEQUACY OF THE INSURANCE PROPOSAL AND CONFLICTS OF INTEREST

Article 27 Rules of conduct

In the life assurance and capital redemption contract proposal and in the performance of the contract the undertakings and the insurance intermediaries must:

- a) behave with diligence, correctness and transparency towards policyholders and insured parties, acquire the information necessary to evaluate their insurance and pension needs and operate in such a manner that the latter will always be kept appropriately informed;
- b) act in such a manner as not to prejudice the interests of policyholders.

Article 28 Adequacy of contractual proposals

1. The undertakings must impart instructions to insurance intermediaries, in the pre-contractual phase, so that policyholders will provide them with all information useful to evaluate the adequacy of the contractual proposal with regard to their insurance and pension needs and propensity towards risk. For this purpose the intermediaries must ask the policyholder for information, which will be recorded and conserved, on his/her personal characteristics, particularly as regards his/her age, employment and family, his/her financial and insurance position and his/her expectations from the contract in terms of coverage, duration and the related financial risks. If the policyholder refuses to provide the information requested, this must be recorded as a declaration signed by the policyholder, and attached to the proposal.

2. The insurance intermediaries are required to:

- a) explain to the policyholder, in a clear and easy-to-understand language, the characteristics of the contract proposed analytically illustrating the nature and any financial risks connected to the execution of the contract and any other element useful to provide complete and correct information;
- b) refrain from offering inappropriate contracts in respect of prospective policyholders' insurance and pension needs and propensity towards risk. However if the intermediary receives inappropriate insurance proposals, taking due account of the information referred to under subsection 1, and any other information available, he/she will mention this to the policyholder and illustrate the reason for the inadequacy. This information statement must be specifically stated in a special declaration signed by both parties, and attached to the proposal.

Article 29 Conflict of interests

1. In proposing and executing life assurance and capital redemption contracts, undertakings must avoid performing operations that, directly or indirectly, will lead to conflicts of interest, including those deriving from group relations, own business relations or from relations with companies of the group. If the conflict is inevitable undertakings must take care not to prejudice the interests of policyholders.

2. In any case, the undertakings must:

- a) carry out operations in the interest of policyholders offering the best conditions currently possible in relation to the time, size and nature of such operations;
- b) endeavour to limit the costs borne by policyholders and obtain the best possible result, given the insurance objectives;
- c) abstain from carrying out operations with a frequency unnecessary for the achievement of the insurance objectives;
- d) refrain from every form of behaviour than can advantage one particular segregate fund or internal fund to the detriment of another.

3. The undertakings shall carry out procedures appropriate for identifying and managing conflicts of interest in order to guarantee compliance with subsections 1 and 2.

4. The undertakings shall identify the cases in which the contractual conditions agreed upon with third parties conflict with the interests of policyholders and ensure that the assets of segregate funds, of internal funds and the assets representing index-linked contracts or single contracts are not liable to otherwise avoidable charges or excluded from receiving the gains or discounts due to them. In particular the undertakings shall ensure that the policyholders benefit, directly or indirectly, from any revenues obtained from the rebate of commissions or other revenues received from the undertakings in virtue of agreements with third parties.

5. The undertakings are liable for the application of the provisions regulating conflicts of interest even when specific investment choices are entrusted to other intermediaries authorised to provide asset management services.

Article 30 Unit-linked contracts – Limits to the investment activities of internal insurance funds

1. In ISVAP Circular 474/2002, Section 1, point 2.3 the following paragraph is added: *“In the case that the assets of an internal fund are invested in units of UCITS sponsored, set up or managed by an asset management company or by a harmonised investment company belonging to the same group of the insurance undertaking (“affiliate” UCITS), the fund acquiring such assets cannot be levied with charges and fees of any kind for the underwriting and refund of the units acquired from such affiliate UCITS. In addition, the undertakings cannot charge management commissions for the part of the fund represented by “affiliate” UCITS, with the exception of that part of the commissions identified by the undertaking for the service provided for the asset allocation of the affiliate UCITS and contract administration”.*

2. In ISVAP Circular 474/2002, Section 3, point 2, fifth paragraph, the 30% limit on overall investments in financial instruments from several issuers linked to each other by controlling interests is extended also to the group to which the insurance undertaking belongs.

3. In ISVAP Circular 474/2002, Section 3, point 2, the following paragraphs are inserted after the fifth paragraph:

“The internal fund cannot be invested in the units of a harmonised or non-harmonised UCITS whose investments in the units of other harmonised or non-harmonised UCITS represent more than 10% of its total assets.

The internal fund cannot be invested in units of one harmonised UCITS for a value in excess of 25% of all the assets, nor can it be invested in units of a single non-harmonised UCITS for over 10% of the total assets.

In any case, the investments in units of non-harmonised UCITS cannot, overall, exceed 30% of the total of the fund's assets.

If the assets of the fund are invested in deposits in banks of the group to which the undertaking belongs, the conditions enjoyed by the fund must be at least equivalent to those that the bank practises to its leading customers.”

Article 31 Index-linked contracts – Limits on the exposure to the parent group

1. In ISVAP Circular 451/2001, Section III, point 1.3. “Concentration of Risks”, the provisions relating to maximum exposure per single issuer or group are extended also to the group to which the insurance undertaking belongs.

Article 32 Revocation and cancellation

1. In the event that the right to revoke or cancel the contract is exercised undertakings have the right to charge the costs actually sustained for the issue of the contract on the premium reimbursed, on condition that these are quantified in the proposal or in the contract and that they correspond to the issuing costs posted in the table of costs indicated in the Information Note.

2. If – in the event of cancellation of unit-linked contracts – undertakings intend to take account of the trend in the value of the units attributed, they will refund the policyholder the counter-value of the units in the case of both increases and decreases in value, uprated by all the costs referring to the premium and net of the costs sustained for the issue of the contract and the premium for the risk run.

PART IV

MERGERS BETWEEN SEGREGATE FUNDS AND INTERNAL FUNDS

Article 33 Merger conditions

1. The undertakings may merge segregate funds or internal funds only when such mergers are undertaken in the interest of policyholders. An interest of this kind can, for example, be said to exist when a merger is aimed at giving the internal or segregate fund a suitable scale or a more efficient management, especially in terms of reduced costs for policyholders. Similarly, the merger of segregate funds or internal funds following a merger between undertakings or portfolio transfers must be conducted in the interest of policyholders.

2. Mergers between segregate funds and between internal funds shall be conditional upon the following conditions:

- a) the operation pursues the interest of the policyholders affected by the merger;
- b) the regulations of the segregate funds or internal funds provide for the possibility of a merger. If the regulations do not contain a clause of this kind, the

undertaking can supplement the communication referred to under subsection 3 e), with the provision that policyholders may exercise, within thirty days from the receipt of the foregoing communication, their right to surrender the contract or transfer their investments to other segregate fund or internal funds of the same undertaking without incurring any costs. The merger operation may take place 60 days after the receipt of the communication by the policyholder;

- c) the segregate funds and the internal funds to which the merger refers must have similar characteristics;
- d) the segregate funds and internal funds involved in the merger must pursue similar investment policies;
- e) the transfer from the preceding segregate fund or internal fund to the new segregate fund or internal fund shall not entail costs or charges for policyholders;
- f) the management of the segregate funds or internal funds will not be interrupted.

3. The undertakings must give advance notice to the Institute of their intention to merge segregate funds or internal funds. The notification must be accompanied by a report specifying:

- a) the objectives to be attained by the merger, with special reference to policyholders' interests;
- b) the indication of any differences between the characteristics and investment policies of the segregate funds or internal funds involved in the merger;
- c) any possible repercussions on the costs of the internal fund or segregate fund;
- d) the various phases of the operation, with an indication of the timescale necessary and the scheduled effective date;
- e) the arrangements and the text of a draft communication to be sent to each policyholder. The communication must state the reasons and the consequences of the merger, including the related costs, a summary description of the composition of the segregate funds or internal funds involved in the merger and the effective date of the merger. As regards internal funds, the report must indicate the criteria for determining the value of the exchange offer to be made;
- f) for internal funds:
 - f1) a detailed breakdown of the assets in the funds involved in the merger at the latest monthly closing;
 - f2) the criteria followed for attributing the units of the new fund to policyholders;
- g) for segregate funds:
 - g1) the latent gains and losses of the assets involved in the merger at the latest monthly closing;
 - g2) the expected returns of the segregate funds involved in the operation and the expected returns for the merged fund with reference to a period of not less than twenty four months;
 - g3) the detailed breakdown of the assets in the funds concerned referred to the latest monthly closing;
 - g4) the amount of the technical reserves of the contracts present in the segregate funds, detailing the respective minimum guaranteed interest rates.

In the foregoing communication to the Institute the undertakings will also submit the regulations for the segregate funds or the internal funds involved in the merger or a copy of the new regulations, if the merger requires them to be redrafted.

4. The Institute will evaluate:

- a) if the proposed merger of segregate funds or internal funds comply with the regulations in force and the conditions stated under subsections 1 and 2;
- b) if amendments have been made to the regulations of the segregate funds or internal funds, compliance of the new text with the provisions in force;
- c) the completeness, clarity and regulatory compliance of the information for policyholders and the appropriateness of the communication arrangements chosen.

The operation can be carried out 60 days after the date of transmission to the Institute of the documentation indicated under subsection 3, but without prejudice to the term indicated under subsection 2, letter b). The term will be suspended if the Institute requests further information to supplement the documentation provided.

5. The provisions stated under subsections 1, 2, 3 and 4 shall also apply, to the extent applicable, to the spin off of segregate funds or internal funds and to inter-company portfolio transfers that entail the partial transfer of assets from an internal fund or segregate fund to another internal fund or segregate fund.

PART V FINAL PROVISIONS AND REPEALS

Article 34 Scope

1. This circular applies to Italian companies and to Italian branches of foreign undertakings with head office in third countries with respect to the European Economic Area that pursue the activities indicated under point A) of the table in annex I of legislative decree 174/95.

2. Undertakings with head office in a country of the European Economic Area, licensed to pursue business in Italy pursuant to articles 69 and 70 of legislative decree 174/95, are required to observe the provisions of this circular with the exception of the provisions under article 12, limited to the obligation of publication on internet sites, as well as those under articles 21, 23, 25, 28, 29, 30, 31 and 33.

Article 35 Repeals

1. The following circulars are repealed:

- 6 November 1986, n. 60;
- 26 March 1987, n. 71/D, except for paragraphs 1, 4 and 5;
- 17 December 1993, n. 210/D;
- 19 June 1995, n. 249/D;
- 2 October 1996, n. 282/D;
- 4 February 1997, n. 294/D;
- 16 February 1999, n. 363/D;
- 14 November 2000, n. 421/D;
- 12 February 2001, n. 434/D, limited to point 3;
- 1 June 2001, n. 445/D, limited to the third from-the-last and last paragraph;
- 24 July 2001, n. 451/D, limited to Section II (Transparency in information for policyholders before the conclusion of the contract and during its term) points II.1 and II.2;

- 21 February 2002, n. 474/D, limited to Section 1, point 2.4, second paragraph and Section 2 (Information for policyholders before the conclusion of the contract and during its term);
- 10 June 2003, n. 506/D.

The indications concerning the information for policyholders before the conclusion of the contract and during its term contained in section 1, second paragraph and in section 2 of ISVAP's letter of clarification dated 25 July 2002 are superseded.

Article 36 Entry into force

1. The circular comes into force on the date of its issue.
2. Undertakings are required to comply with the provisions stated under articles 2, 3, 5, 6, 7, 8, 9, 10, 12 subsection 3, 13, 14, 17, 19, 20, 21, 23, 24, 30 subsection 1 and 32 by 1 December 2005. The provisions set forth under articles 17, 19, 20, 21 and 24 also apply to contracts in force as at the circular's issue date.
3. Undertakings are required to comply with the provisions stated under articles 11, 15, 26 and 29 subsection 4 by 1 September 2005. The provisions set forth under articles 11 and 15 also apply to contracts in force as at the circular's issue date.
4. Undertakings are required to comply with the provisions stated under article 12, subsection 2, letter b) by 1 April 2005, as concerns index-linked contracts issued after the entry into force of the circular. For index-linked contracts in force as at the issue date of the circular, undertakings must publish, in accordance with the arrangements indicated under article 12, the rating of the issuer or the guarantor of the financial instrument or, alternatively, that of the financial instrument by 1 April 2005.
5. The provisions stated under article 25 shall apply to contracts concluded after 1 April 2005.
6. Undertakings shall comply with the provisions stated under article 22 by 1 April 2005. With reference to the funds operating at the issue date of the circular whose internal regulations already envisage the indication of a benchmark as well as funds coming into operation after the foregoing date, undertakings must indicate the historical series of the benchmark for the entire period requested in the comparative tables included in the Information Dossier. As concerns existing funds that do not indicate a benchmark, undertakings must amend their regulations by 1 September 2005 and produce the aforementioned comparative table, stating the returns of the fund for the latest year – or for a longer period if it corresponds to the investment policies adopted – as well as the benchmark's returns for the same period.
7. Undertakings and insurance intermediaries shall comply with the provisions of article 28 by 1 December 2005. For this purpose the undertakings shall give their insurance intermediaries the relevant instructions by 1 August 2005.
8. With reference to article 29, subsections 1, 2 and 3 undertakings shall comply with the provisions stated thereunder by 1 June 2005, also in relation to contracts in force as at the issue date of the circular.
9. As concerns internal funds in operation at the circular's issue date, undertakings are required to bring themselves into line with the provisions of article 30, subsection 3, by

1 March 2006. If this revision is incompatible with the current regulations governing the internal fund and with the assets of the internal fund, the undertaking in question will be required to make due communication to the Institute within thirty days from the issue of the circular, in order to allow for the adoption of specific provisions.

10. Until the date for compliance with the provisions of the circular undertakings are required to abide by the provisions of the repealed circulars.

11. In order to facilitate the identification of the timescales referring to the entry into force of the provisions and their applicability to existing contracts a summary schedule is attached (annex 14).

Article 37 Final Provisions

1. In the first phase of the circular's implementation undertakings shall notify the Institute, within ten days from the first issue of each type of contract, that the Information Dossier, as required under article 2, has been published on their internet sites. Communications are to be sent to the following e-mail address: "fascicolo_info@ISVAP.it".

2. By 1 September 2005 undertakings shall submit a detailed note illustrating the operational solutions adopted in order to comply with the provisions of articles 28 and 29, subsection 4. Such communications shall be sent to the following email address: "disposizioni_vita@ISVAP.it".