

(only the Italian version is authentic)

ORDER NO. 1617 OF 21 JULY 2000

Technical methods of identification of situations of close links referred to in art. 1 of Legislative Decree no. 343 of 4 August 1999, of implementation of Directive 95/26/EC regarding reinforcement of the prudential supervision in the insurance sector.

HAVING REGARD to Law no. 576 of 12 August 1982, on the reform of private insurance supervision and insurance of public interest;

HAVING REGARD to Law no. 20 of 9 January 1991, supplementing and modifying Law no. 576 of 12 August 1982, and introducing provisions on supervision over participations held in or by insurance undertakings or institutions;

HAVING REGARD to Decree of the President of the Republic no. 385 of 18 April 1994, on the simplification of administrative procedures on private insurance and insurance of public interest falling within the competence of the Minister of Industry, Trade and Craft Trades;

HAVING REGARD to Legislative Decrees nos. 174 and 175 of 17 March 1995, implementing Directives 92/96/EC and 92/49/EC respectively as regards direct life assurance and direct insurance other than life assurance;

HAVING REGARD to Legislative Decree no. 373 of 13 October 1998, on the rationalisation of the rules concerning the Istituto per la vigilanza sulle assicurazioni private e di interesse collettivo (the Supervisory Authority for Private Insurance Undertakings and Insurance Undertakings of Public Interest - ISVAP);

HAVING REGARD to Legislative Decree no. 343 of 4 August 1999, implementing directive 95/26/EC on the reinforcement of prudential supervision in the insurance sector;

HAVING REGARD in particular to art. 1 of the aforementioned Legislative Decree no. 343 of 4 August 1999, that to paragraphs 2 and 3 introduced art. 9-bis (Close links) of Legislative decree no. 174 of 17 March 1995 and art. 11-bis (Close links) of Legislative Decree no. 175 of 17 March 1995, in which it is provided that ISVAP, with its order to publish in the Official Journal of the Italian Republic, indicates the technical methods of identifying the situations of close links governed in the same articles;

GIVEN the need to lay down provisions giving indications of the aforementioned technical methods;

Provides

Art. 1 *Scope*

1. The provisions of this order, regarding the technical methods of identifying the situations of close links referred to in art. 1 of Legislative Decree no. 343 of 4 August 1999 are applied to insurance undertakings with head office in Italy and to the Italian branches of insurance undertakings with head offices in a third country outside of the European Union included in the context of application of Legislative Decrees nos. 174 and 175 of 17 March 1995.

Art. 2
Close links

1. Pursuant to art. 9-Bis of Legislative Decree no. 174 of 17 March 1995 and art. 11-bis of Legislative Decree no. 175 of 17 March 1995, close links exist when:
 - a.1) the insurance undertaking exercises control pursuant to article 1, paragraph 1, respectively letters o) and m), of Legislative Decrees nos. 174 and 175 of 17 March 1995 and of another undertaking;
 - a.2) the insurance undertaking is controlled, pursuant to article 1, paragraph 1, respectively letters o) and m), of Legislative Decrees nos. 174 and 175 by a legal or natural person;
 - b.1) The insurance undertaking holds a participation, directly or through subsidiaries, trust companies or third parties, representing at least 10% of the capital or the voting rights, or a participation that, although not exceeding the above-mentioned limit, makes it possible to exercise a significant influence over the company, even if it is not a dominant influence;
 - b.2) a legal or natural person holds a participation, directly or through subsidiaries, trust companies or third parties, representing at least 10% of the capital or the voting rights, or a participation that, although not exceeding the above-mentioned limit, makes it possible to exercise a significant influence over the company, even if it is not a dominant influence;
 - c) the insurance undertaking and another company are under the control of the same subject, or are anyhow managed on a unified basis pursuant to a contract or provisions of their memoranda or articles of association, or when the administrative bodies are mainly made up of the same persons. Unified management may also consist of important and durable reinsurance links;
 - d) the insurance undertaking and another natural or legal person presenting a technical, organisational, financial, conventional or familial connection that may influence the management of the undertaking in a significant way. The familial relationship, for legal persons, refers both to the controlling subject natural person and the administrators or general managers of the same.

Art. 3

Disclosure obligations relating to the technical methods of identifying the situations of close links

1. For the purposes of identification of situations of close links, the undertakings and branches falling within the scope of application of the present order shall transmit to ISVAP as annex to the request for authorisation for the practice of insurance business or, for the general undertakings and branches already authorised, at the request of ISVAP itself, the following documentation:
 - a) report on the legal and economic structure of the group of undertakings of which the insurance undertaking will be part, drafted on the basis of connections referred to in art. 2, paragraph 1, letters a.1), a.2) and letter c) of the present order;
 - b) report on the ownership structure of the insurance undertaking, with the indication of all the natural or legal persons that directly, or through subsidiaries, trust companies or third parties, hold a participation representing at least 10% of the capital or the voting rights, or a participation that, although not exceeding the above-mentioned limit, makes it possible to exercise a significant influence over the company, even if it is not a dominant influence;

- c) report on companies in which the insurance undertaking holds a participation, directly or through subsidiaries, trust companies or third parties, representing at least 10% of the capital or the voting rights, or a participation that, although not exceeding the above-mentioned limit, makes it possible to exercise a significant influence over the company, even if it is not a dominant influence;
- d) report on the technical, organisational, financial, legal and family relations which the insurance undertaking has with other subjects, both inside or outside the group referred to under letter a) of this article, and which may have a relevant influence on the management of the undertaking;
- e) copy of any shareholders' voting agreement, and communication of every agreement between the partners of the insurance undertaking that allows control of the majority of the voting rights or confer the right to appoint or dismiss the majority of the undertaking's directors;
- f) copy of any shareholders' voting agreement, and communication of every agreement in which the insurance undertaking participates in, that allows control of the majority of voting rights or confer the right to nominate or dismiss the majority of the directors of other undertakings.

Art. 4

Further ISVAP information requests

1. In relation to the controls to carry out for the purposes of the evaluation of the situations of close links referred to in art. 2 of this order may require further data, information and documents considered necessary to the performance of supervisory functions.

Art. 5

Entry into force

1. The provisions of this order are applied by the publication date of the same order in the Official Journal of the Italian Republic.

Art. 6

Publication

1. This order will be published in the Official Journal of the Italian Republic.

The President
Giovanni Manghetti