



Istituto per la Vigilanza sulle Assicurazioni Private e di Interesse Collettivo

*(only the Italian version is authentic)*

## REGULATION N. 5 OF 16 OCTOBER 2006

**REGULATION LAYING DOWN PROVISIONS ON INSURANCE AND REINSURANCE MEDIATION REFERRED TO UNDER TITLE IX (INSURANCE AND REINSURANCE INTERMEDIARIES) AND ARTICLE 183 (RULES OF CONDUCT) OF LEGISLATIVE DECREE N. 209 OF 7 SEPTEMBER 2005 – CODE OF PRIVATE INSURANCE.**

AMENDED AND SUPPLEMENTED BY ISVAP ORDER N. 2720 OF 2 JULY 2009, BY ISVAP ORDER N. 2664 OF 17 DECEMBER 2008, BY ISVAP REGULATION N. 34 OF 19 MARCH 2010, BY ISVAP ORDER N. 2946 OF 6 DECEMBER 2011, BY IVASS ORDER N. 9 OF 22 OCTOBER 2013, BY IVASS ORDER N. 12 OF 3 DECEMBER 2013, BY IVASS REGULATION N. 6 OF 2 DECEMBER 2014, BY IVASS REGULATION N. 8 OF 3 MARCH 2015 AND BY IVASS ORDER N. 58 OF 14 MARCH 2017. THE AMENDMENTS OR INTEGRATIONS ARE SHOWN IN ITALICS.

### ISVAP

(Istituto per la vigilanza sulle assicurazioni private e di interesse collettivo)

HAVING REGARD to law n. 576 of 12 August 1982 as subsequently amended and supplemented, on the reform of insurance supervision;

Having regard to law n. 48 of 7 February 1979, on the setting up and functioning of the National register of insurance agents;

HAVING REGARD to law n. 792 of 28 November 1984, on the setting up and functioning of the Register of insurance and reinsurance brokers;

Having regard to legislative decree n. 209 of 7 September 2005, approving the Code of Private Insurance;

HAVING REGARD to legislative decree n. 252 of 5 December 2005, laying down rules on supplementary pension schemes;

HAVING REGARD to law n. 262 of 28 December 2005, laying down provisions on the protection of savings and provisions governing financial markets;

HAVING REGARD to presidential decree n. 445 of 28 December 2000, introducing a consolidated text of laws and regulations on administrative documentation;

HAVING REGARD to legislative decree n. 190 of 19 August 2005, implementing directive 2002/65/EC on the distance marketing of consumer financial services;

HAVING REGARD to decree-law n. 223 of 4 July 2006, converted, after amendment, into law n. 248 of 4 August 2006, on urgent measures to promote economic and social recovery and contain and rationalise public spending, on revenue collection measures and measures to prevent tax evasion;

adopts the following:

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<sup>2</sup> Article inserted by ISVAP Order n. 2720 of 2 July 2009.

<sup>3</sup> Article inserted by ISVAP Order n. 2720 of 2 July 2009.

<sup>4</sup> Article inserted by ISVAP Regulation n. 34 of 19 March 2010.

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<sup>5</sup> Article deleted by ISVAP Order n. 2720 of 2 July 2009.

<sup>6</sup> The Annexes, except for Group 7, have been deleted by IVASS Order n. 58 of 14 March 2017 starting from 5 June 2017 and have been replaced by the electronic form available on IVASS' website.

## **Part I**

### **General Provisions**

#### **Art. 1** **(Legislative sources)**

1. This Regulation has been adopted in compliance with articles 5 (2), 109 (1 and 6), 110 (2), 112 (4), 116 (2), 120 (1 and 4), 121 (3), 183 (2) and 191 (1) a) and b) of legislative decree n. 209 of 7 September 2005.

#### **Art. 2** **(Definitions)**

1. For the purposes of this Regulation:

- a) "staff involved in mediation outside the premises of the intermediary for which they conduct business" shall mean: the intermediaries, such as employees, collaborators, canvassers and the other subjects charged by the intermediaries registered under section A, B or D of the single electronic register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005, who pursue insurance and reinsurance mediation outside the premises where the intermediary conducts business;
- b) "staff involved in mediation inside the premises where the intermediary conducts business" shall mean: the bank and post office clerks, the employees, collaborators and the other subjects charged by the intermediaries registered under section A, B or D of the single electronic register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005, who pursue insurance or reinsurance mediation on the premises where these intermediaries conduct business;
- c) "agents" shall mean: the intermediaries acting in the name or on behalf of one or more insurance or reinsurance undertakings;
- d) "insurance mediation" shall mean: the activities of introducing or proposing insurance contracts or providing assistance and advice for this purpose and, if the mediation mandate so provides, of concluding such contracts or of assisting in the administration or performance of the contracts concluded, in particular in the event of a claim;
- e) "reinsurance mediation" shall mean: the activities of introducing or proposing reinsurance contracts or of providing assistance and advice for this purpose and, if the mediation mandate so provides, of concluding such contracts or of assisting in the administration or performance of the contracts concluded, in particular in the event of a claim;
- f) "banks" shall mean: the banks authorised in accordance with article 14 of legislative decree n. 385 of 1 September 1993;
- g) "policyholder" shall mean: the natural or legal person who underwrites an insurance contract;
- h) "standard contracts" shall mean: the insurance contracts containing standard covers or terms that may be freely chosen by the policyholder and may not be modified by the subject who markets them;
- i) "supervisory fee" shall mean: the fee referred to in article 336 of legislative decree n. 209 of 7 September 2005;
- j) *(repealed)*<sup>7</sup>;

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<sup>7</sup> Letter deleted by article 15, paragraph 1, of IVASS Regulation no. 6 of 2 December 2014. The previous version of letter j) laid down: *"lessons in class" shall mean: the training courses organised by teachers in the workplace or outside, also through videoconferences;*

- k) "decree" shall mean: legislative decree n. 209 of 7 September 2005, approving the Code of Private Insurance;
- k bis) *"electronic signature": "advanced, qualified or digital electronic signature, as defined and regulated by legislative decree n. 82 of 7 March 2005, and subsequent modifications and integrations"*<sup>8</sup>.
- l) "Guarantee fund" shall mean: the Guarantee fund for insurance and reinsurance brokers referred to in article 115 of legislative decree n. 209 of 7 September 2005;
- m) *(repealed)*<sup>9</sup>;
- n) "large risks" shall mean: the risks referred to in article 1 (1) (r), of legislative decree n. 209 of 7 September 2005;
- o) "principal undertakings" shall mean: the insurance or reinsurance undertakings which entrust the pursuit of insurance and/or reinsurance mediation to the intermediaries registered under section A or D of the single electronic register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005;
- p) "intermediaries" shall mean: any natural or legal person, registered in the single electronic register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005, who pursues insurance or reinsurance mediation for remuneration;
- q) "financial intermediaries" shall mean: the financial intermediaries registered in the special register referred to in article 107 of legislative decree n. 385 of 1 September 1993;
- r) *"IVASS or Authority": the Institute for the Supervision of Insurance Undertakings"*<sup>10</sup>.
- s) *"intermediary's premises" shall mean: the offices or premises where the intermediary registered in sections A, B or D of the register conducts business, which are accessible to or used for receiving the public, also when such access is subject to forms of control;*
- t) "brokers" shall mean: the intermediaries acting on behalf of their client without the power to represent insurance or reinsurance undertakings;
- u) "brokers" shall mean: the persons registered in the list referred to in article 157 of legislative decree n. 209 of 7 September 2005, whose professional activity consists in assessing and estimating material damage resulting from the use, theft and fire of motor vehicles and craft, as well as, pending the establishment of the list envisaged by said article, the persons registered in the national list of loss adjusters referred to in law n. 166 of 17 February 1992;
- v) "professional indemnity insurance policy" shall mean: the policy envisaged by article 110 (3) and article 112 (3) of legislative decree n. 209 of 7 September 2005;
- v bis) *"certified electronic mail": "electronic mail system by which the sender receives legally valid electronic documentation certifying the sending and delivery of electronic documents, in accordance with the procedures laid down in legislative decree n. 82 of 7 March 2005, and subsequent modifications and integrations"*<sup>11</sup>;
- w) "Poste Italiane spa - Divisione servizi di bancoposta" shall mean: the company Poste Italiane - Divisione servizi di bancoposta (Italian Mail - BancoPosta services department), authorized as per article 2 of presidential decree n. 144 of 14 March 2001;
- x) "direct canvassers" shall mean: the intermediaries who, also as subsidiary activity to the main business, pursue insurance mediation in life assurance and in accident and sickness insurance on behalf and under the full responsibility of an insurance undertaking and work exclusively for said undertaking without fixed working hours or without obligations as to the result to be achieved;
- y) "register" shall mean: the single electronic register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005;
- z) *"persons responsible for mediation" shall mean: the natural persons who, within the*

<sup>8</sup> Letter added by IVASS Order n. 58 of 14 March 2017.

<sup>9</sup> Letter deleted by article 15, paragraph 2, of IVASS Regulation no. 6 of 2 December 2014. The previous version of letter m) laid down: *"distance training" shall mean: the training provided, without teachers, exclusively by using printed material or IT tools"*.

<sup>10</sup> Letter replaced by IVASS Order n. 58 of 14 March 2017.

<sup>11</sup> Letter added by IVASS Order n. 58 of 14 March 2017.

*company for which they work, have been charged with management functions and vested with decision-making powers, with the related responsibilities, and carry out functions of managing, coordinating and supervising insurance and/or reinsurance mediation pursued by the company*<sup>12</sup>;

- aa) "multilevel marketing networks" shall mean: the distribution networks operating through multilevel, network marketing or similar marketing techniques under which the seller finds customers who can in their turn become sellers and receives a remuneration both on the contract directly sold and on the contracts sold by the other members of the network that he/she him/herself has hired;
- bb) "stock brokerage companies or Sim" shall mean: the stock brokerage companies authorised in accordance with article 19 of legislative decree n. 58 of 24 February 1998;
- cc) "State belonging to the European Economic Area" shall mean: a State that is a contracting party to the agreement extending the regulations of the European Union to the States of the European Free Trade Association signed in Oporto on 2 May 1992 and ratified by law n. 300 of 28 July 1993;
- dd) "Member State" shall mean: a Member State of the European Union or a State belonging to the European Economic Area and, as such, treated on a par with the member State of the European Union;
- ee) "home Member State" shall mean: the Member State of the European Union or the State belonging to the European Economic Area in which the residence or head office of the intermediaries is situated;
- ff) "host Member State" shall mean: the Member State in which the intermediaries, registered in their home Member State, carry on insurance and reinsurance mediation business by way of establishment or of freedom to provide services;
- gg) "third State" shall mean: a State which is not member of the European Union or does not belong to the European Economic Area;
- hh) "durable medium" shall mean: any instrument which enables the policyholder to store information addressed to him/her in a way accessible for future reference for a period of time adequate to the purposes of the information and which allows the unchanged reproduction of the information stored;
- ii) "means of distance communication" shall mean: any means of contacting clients which, without requiring the simultaneous and physical presence of the intermediary and the policyholder, may be used for the distance marketing of insurance and reinsurance contracts;
- jj) "consolidated banking law" shall mean: legislative decree n. 385 of 1 September 1993 and subsequent modifications and integrations;
- kk) "consolidated law on financial mediation" shall mean: legislative decree n. 58 of 24 February 1998 and subsequent modifications and integrations.

### Art. 3 (Scope)

- 1) This Regulation lays down rules on the taking up and pursuit of the activities of insurance and reinsurance mediation as defined in article 2, d) and e).
- 2) By insurance mediation is meant the activity referred to in article 2, d), including when it is pursued for remuneration within the framework of a commercial, professional or another principal activity, also when such activity concerns insurance contracts associated with the sales of goods or the provision of services provided as a principal activity.

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<sup>12</sup> Letter replaced by ISVAP Order n. 2720 of 2 July 2009. The previous version of letter z) laid down:

z) "persons responsible for mediation" shall mean: the natural persons, chosen among the senior managers of the company for which they work, who have been vested with decision-making powers, as well as functions of coordinating and supervising insurance and/or reinsurance mediation pursued by the company".



- 3) The conclusion of insurance contracts or agreements relating to collective policies on behalf of single insureds, when the latter directly or indirectly bear all or part of the economic costs of the premium payment and the subject underwriting the contract or agreement receives a remuneration also falls within the scope of insurance mediation.
- 4) The provisions of articles 47, 48, 49 (2) b), (3) and (4), 51, 52 and 53 shall apply to insurance and reinsurance mediation activities pursued directly by insurance and reinsurance undertakings and their employees.
- 5) This Regulation shall not apply to the mere provision of information on an incidental basis in the context of another professional activity, provided that the purpose of that provision of information is not to assist the policyholder in concluding or performing an insurance contract.
- 6) This Regulation, except for articles 47 (1) a) and d), 49 (2) b), 51, 53, 59, (2) d) and articles 13 and 14 of IVASS Regulation n. 34 of 19 March 2010,<sup>13</sup> shall not apply to insurance mediation when all the following conditions are met:
  - 1) the insurance contract only requires knowledge of the cover that is provided;
  - 2) except for the case envisaged under point 4) below, the insurance contract is neither a life assurance contract nor does it cover any liability risks;
  - 3) mediation is not the principal professional activity;
  - 4) the insurance is complementary to a product or service and covers the risks of breakdown, loss of or damage to the goods supplied, also when resulting from fire, theft or robbery or, in the event of booked travels, covers the loss of or damage to baggage, or life assurance or liability risks or other risks linked to the travel booked;
  - 5) the amount of the annual premium does not exceed five-hundred EUR and the total duration of the insurance contract, including any renewals, does not exceed five years.

## **Part II**

### **Taking up of mediation business**

#### **Title I**

#### **Provisions applicable to intermediaries having their residence or head office in the territory of the Italian Republic**

#### **Chapter I**

#### **Provisions relating to the register**

#### **Section I**

#### **General provisions**

#### **Art. 4**

(Register of insurance and reinsurance intermediaries)

1. The single electronic register of insurance and reinsurance intermediaries having their residence or head office in the territory of the Italian Republic is set up within IVASS.

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<sup>13</sup> The words “53, 59, (2, d) and articles 13 and 14 of ISVAP Regulation n. 34 of 19 March 2010,” have been inserted by ISVAP Regulation n. 34 of 19 March 2010 and replace “and 53”.

2. The register shall be subdivided into five sections, in which intermediaries shall be recorded – pursuant to article 109 of the decree – as follows:
  - section A: agents;
  - section B: brokers;
  - section C: direct canvassers;
  - section D: banks, financial intermediaries, stock brokerage companies and Poste Italiane spa – Divisione servizi di bancoposta;
  - section E: the staff involved in mediation outside the premises of the intermediary registered in section A, B or D, for which they conduct business, including their employees and/or collaborators.
3. The intermediaries temporarily non operating shall be indicated in sections A, B and D of the register by specifying, in sections A and B, the registered persons which did not comply with the obligation to take out a professional indemnity insurance policy, or for which the latter insurance was not taken out, and, in section D, the registered persons which do not have any current distribution tasks in relation to the pursuit of insurance mediation.
4. An intermediary recorded in one section of the register may not be recorded in any of the other sections, except for intermediaries registered in sections A and E, provided that the activity they carry on in one of the two sections regards distribution tasks pertaining to motor vehicle liability insurance alone. The simultaneous carrying on of such activities shall be shown in sections A and E of the register.

Art. 5  
(Natural persons)

1. In case of natural persons acting as intermediaries the register shall provide at least the following information:
  - a) first name and surname;
  - b) place and date of birth;
  - c) registration number and date;
  - d) in case of intermediaries registered under sections A or C, corporate name of the insurance or reinsurance undertaking or undertakings on whose behalf they carry on business.
2. In case of intermediaries registered under sections A or B, the register shall contain, in addition to the provisions of paragraph 1:
  - a) the type of mediation carried on, i.e. insurance or reinsurance business;
  - b) in what capacity they are operating, i.e.:
    - whether they carry on business individually;
    - whether they carry on business as persons responsible for mediation in companies registered, respectively, under sections A or B and, for companies registered under section B, as legal representatives, managing directors or general managers of companies registered under section B;
  - c) the operating premises;
  - d) the Member States – if any – in which they carry on business by way of establishment or by way of free provision of services, with the indication of the system adopted and, in case of establishment, of the head office;
  - e) in case they are temporarily non operating, the starting date and – if any – the ending date of the period of inactivity.

3. In case of intermediaries registered under section E, the register shall contain, in addition to the provisions of paragraph 1:
  - a) the surname and first name/corporate name and registration number of the intermediary or intermediaries registered under section A, B or D, which use their services;
  - b) in what capacity they are operating, i.e.:
    - whether they are employees of the intermediaries under (a);
    - whether they carry on business individually;
    - whether they carry on business as employees or collaborators of natural persons registered under section E;
    - whether they carry on business as persons responsible for mediation in companies registered under section E;
    - whether they carry on business as staff involved in mediation in companies registered under section E.

Art. 6  
(Companies)

1. In case of companies carrying on mediation business the register shall provide at least the following information:
  - a) corporate name;
  - b) head office and branches – if any;
  - c) registration number and date;
  - d) in case of companies registered under sections A, B or D:
    - the Member States – if any – in which they carry on business by way of establishment or by way of free provision of services, with the indication of the system adopted and, in case of establishment, of the head office;
    - in case they are temporarily not operating, the starting and – if any – the ending date of the period of inactivity;
  - e) in case of companies registered under sections A or D, the corporate name of the insurance or reinsurance undertaking or undertakings on whose behalf they carry on business.
2. In case of companies registered under sections A or B the register shall contain, in addition to the provisions of paragraph 1:
  - a) the type of mediation carried on, i.e. insurance and/or reinsurance mediation;
  - b) the surname, first name and registration number under sections A or B of the person(s) responsible for mediation and, in case of companies registered under section B, the surname, first name and registration number under section B of the legal representative(s) and, where appointed, of the managing director(s) and general manager(s).
3. In case of companies registered under section E, the register shall contain, in addition to the provisions of paragraph 1:
  - a) the surname and first name/corporate name and registration number of the intermediary or intermediaries registered under section A, B or D, which use their services;
  - b) the surname, first name and registration number under section E of the person(s) responsible for mediation;
  - c) the surname, first name and registration number under section E of the staff involved in mediation.

Art. 7  
(Update of the data and public access)

1. IVASS shall ensure that the data in the register are updated on the basis of the communications sent by undertakings and intermediaries in compliance with article 36, as well as on the basis of the outcome of the controls and checks made on the basis of this Regulation.
2. IVASS shall ensure public access to the register by making it available for consultation in its website.

Art. 7-bis  
(Requirements for the electronic management of the register)<sup>14</sup>

1. *For the purpose of submitting to IVASS:*
  - *applications for registration and reinstatement in the various sections of the register, pursuant to articles 12, 16, 18, 20, 24, 27 and 28;*
  - *applications for removal pursuant to article 26, paragraph 1, letter b);*
  - *applications for the start of and change to a collaboration relation with an intermediary already registered in section E pursuant to article 28 bis;*
  - *applications for the shift to another section of the register pursuant to article 29;*
  - *applications for the extension of mediation business to other member States pursuant to article 31;*
  - *notifications referred to in article 36;**applicants will need to have the electronic signature referred to in article 2, paragraph 1, letter k bis).*
2. *In particular, for signing the applications and notifications referred to in paragraph 1, the following subjects will need to have the electronic signature referred to in article 2, paragraph 1, letter k bis):*
  - *the natural persons registered in sections A and B of the register and the legal representatives of the legal persons registered in sections A and B of the register;*
  - *the natural persons registered in sections C or E of the register who are entitled to ask for the shift to sections A and B of the register;*
  - *the legal representatives of the intermediaries registered in section D of the register or the persons appointed by them.*
3. *To be accepted, the applications and notifications referred to in paragraph 1 shall be drawn up using the electronic form enclosed to the regulation and available on IVASS' website from 20 March 2017, sent by certified electronic mail to the address [istanze.rui@pec.ivass.it](mailto:istanze.rui@pec.ivass.it).*

**Section II**  
**Registration of natural persons under sections A or B of the register**

Art. 8  
(Registration requirements)

1. To be registered in sections A or B of the register, natural persons must:

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<sup>14</sup> Article inserted by IVASS Order n. 58 of 14 March 2017.

- a) fulfil the requirements envisaged in article 110 (1) of the decree;
  - b) not be civil servants under a full-time contract of employment or a part-time contract when the working hours exceed half of the working hours of a full-time contract;
  - c) have passed the qualifying examination as provided for in article 9;
  - d) without prejudice to the provisions of paragraph 2, have complied with the requirement to take out a professional indemnity insurance policy, in compliance with the provisions of article 11 and/or be included under the cover of the policy underwritten, in compliance with the provisions of article 15, by the undertakings for which they shall act;
  - e) with exclusive regard to registration under section B, have joined the Guarantee fund.
2. The natural persons fulfilling the requirements envisaged in paragraph 1, a), b), c) and e) who, in their application for registration, state that they do not hold the professional indemnity insurance cover referred to under d) of the same paragraph, shall be entered in section A or B as “non operating”.

Art. 9  
(Qualifying examinations)

1. Qualifying examinations shall be announced by IVASS at least once a year, by Order published in the Gazzetta Ufficiale della Repubblica italiana, in ISVAP Bulletin and website<sup>15</sup>.
2. In the order announcing the examination sittings IVASS shall establish the venues, the arrangements for holding of the examination and any other information relating to it. The same order shall set out the terms and arrangements for submitting applications for admission to the examination.
3. To be admitted to the qualifying examination candidates are required to have, on the deadline date for submission of applications, a level of education not lower than a certificate of advanced secondary education, awarded on completion of a course of study of five years or of four years supplemented by the one-year course envisaged by the law or of a foreign equivalent certificate.
4. *The written test shall consist in multiple-choice questions to test candidates' knowledge in the following fields<sup>16</sup>:*
  - a) insurance law, including the regulations issued by IVASS;
  - b) provisions on supplementary pension plans;
  - c) provisions governing the activity of agent and broker;
  - d) insurance technique;
  - e) provisions governing consumer protection;
  - f) a knowledge of private law;
  - g) a knowledge of tax law applying to insurance and supplementary pension plans.
5. The *proficiency test*<sup>17</sup> for candidates proposing to pursue reinsurance mediation shall also cover the following subjects, in addition to those envisaged under paragraph 4:

<sup>15</sup> Sentence deleted by IVASS Order n. 12 of 3 December 2013. The previous version of such sentence, inserted by ISVAP Order n. 2720 of 2 July 2009 laid down: “and shall consist in a written and oral test. As regards the natural persons registered under sections C or E of the register for at least three years before the date of publication of the Order announcing the examination sittings, the qualifying examination shall consist in a written test.”.

<sup>16</sup> Sentence amended by IVASS Order n. 12 of 03 December 2013. The previous version of the period laid down: “The written test shall consist in multiple-choice questions to test candidates' knowledge in the following fields”.

<sup>17</sup> Words amended by IVASS Order n. 12 of 3 December 2013. The previous version laid down: “the written test”

- a) provisions governing reinsurance contracts and types of reinsurance;
- b) reinsurance technique.

5 bis. *Candidates proposing to pursue reinsurance mediation who are already registered as insurance intermediaries under sections A or B of the register or who have already passed the qualifying examination for the pursuit of insurance mediation as provided for in this article, shall have to pass a proficiency test<sup>18</sup> covering the subjects referred to under paragraph 5<sup>19</sup>.*

6. <sup>20</sup>

7. Candidates who have obtained a mark not lower than 60/100 shall be considered suitable<sup>21</sup>.

#### Art. 10 (Selection board)

1. The selection board for the qualifying examination shall be appointed by IVASS Order and shall be made up of:
  - a) two managers of IVASS, one of whom holds the chair;
  - b) two functionaries of IVASS;
  - c) two university teachers in one of the following subjects: private law, civil law, commercial law, insurance law.
2. Secretarial services shall be provided by two employees of IVASS.
3. The chairman of the selection board may, where necessary for reasons of speed due to the high number of candidates and before the holding of *the proficiency test*<sup>22</sup>, subdivide the board into two sub-boards, each made up of one IVASS manager, who holds the chair, of one IVASS officer and of one university teacher. The chairman of the board shall subdivide the tasks assigned to the board for the conduct of *the proficiency test*<sup>23</sup> between the two sub-boards.
4. The members of the selection board must not be in any of the situations of incompatibility envisaged by article 51 of the code of civil procedure, and must not have held training courses attended by candidates admitted to the examination.
5. The board and sub-boards shall be convened on the initiative of the chairman and shall decide by majority vote, with the presence of all the members. In the event of a tie, the deciding vote shall be cast by the chairman.
6. The remunerations for the external members of the selection board shall be determined by IVASS in the order appointing them.

<sup>18</sup> Words amended by IVASS Order n. 12 of 3 December 2013. The previous version laid down: "*the written test*".

<sup>19</sup> Paragraph added by ISVAP Order n. 2720 of 2 July 2009.

<sup>20</sup> Paragraph repealed by IVASS Order n. 12 of 3 December 2013. The previous version laid down: "*The oral test shall cover the same subjects covered by the written test*".

<sup>21</sup> Sentence amended by IVASS Order n. 12 of 03 December 2013. The previous version amended by ISVAP Order n. 2720 of 2 July 2009 laid down: "*Candidates who have obtained a mark not lower than 60/100 both in the written and in the oral test shall be considered suitable. Candidates who only take the written test in accordance with paragraph 1 shall be considered suitable if they have obtained a mark not lower than 70/100.*" The change has been applied to the examination sittings starting from 1 February 2010.

<sup>22</sup> Words amended by IVASS Order n. 12 of 3 December 2013. The previous version laid down: "*of the written test*".

<sup>23</sup> Words amended by IVASS Order n. 12 of 3 December 2013. The previous version laid down: "*of the written and oral tests*".

Art. 11  
(Professional indemnity insurance policy)

1. The professional indemnity insurance policy shall be taken out by the intermediaries registered under sections A and B with an undertaking authorized to the pursuit of class 13 general liability referred to in article 2 (3) of the decree, or with a foreign undertaking licensed to pursue that activity under the right of establishment or the freedom of services in the territory of the Italian Republic. Professional indemnity insurance may also be concluded by way of coinsurance.
2. The policy must have at least the following characteristics:
  - a) it must cover liability for damage caused to third parties in the pursuit of mediation business arising from the intermediary's professional negligence and misconduct or from the professional negligence, misconduct and infidelity on the part of its employees, collaborators or any other persons for whom the intermediary is liable under the law, including the natural and legal persons registered in section E. Clauses limiting or excluding this cover shall not be allowed;
  - b) it must cover the whole amount of damages caused when pursuing mediation business, even if they are reported in the three years following the termination of effect of cover;
  - c) any deductible or excess may not be enforceable by the undertaking against third parties, to whom damages must be paid for in full up to the amounts of cover; the undertaking shall maintain its right of recourse against the policyholder;
  - d) it must cover the territory of all the Member States.
3. If the intermediary pursues business relating to supplementary pension plans, insurance shall also cover this activity.
4. *The amounts of insurance cover shall be at least:*
  - a) *for each claim, € 1,250,618;*
  - b) *per year in aggregate for all claims, € 1,875,927;*

*In case of policies envisaging cumulative covers, the above minimum amounts shall be referred to each intermediary seeking registration under sections A or B<sup>24</sup>.*
5. Without prejudice to the provisions of article 71, the policy shall take effect on the date of registration and shall expire on 31 December. Annual policies shall expire on 31 December of the year of registration and may be renewed each year.

Art. 12  
(Application for registration)<sup>25</sup>

1. *The application for registration under sections A or B of the register shall be submitted in accordance with the procedures envisaged in article 7 bis, paragraph 3.*

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<sup>24</sup> Paragraph replaced at first by ISVAP Order n. 2720 of 2 July 2009, and then by IVASS Order n. 9 of 22 October 2013. The previous version of paragraph 4 as amended by ISVAP Order n. 2720 of 2 July 2009 laid down:

*"4. The amounts of insurance cover shall be at least:*

*a) one million one hundred twenty thousand two hundred euro applying to each claim;*

*b) in aggregate one million six hundred eighty thousand three hundred euro per year for all claims.*

*In case of policies envisaging cumulative covers, the above minimum amounts shall be referred to each intermediary seeking registration under sections A or B..*

<sup>25</sup> Article replaced by IVASS Order n. 58 of 14 March 2017.

2. *In their application for registration to IVASS applicants shall state that they have paid the administrative charge for registration envisaged by current regulations, as well as stamp duties.*

### **Section III**

#### **Registration of companies under sections A or B of the register**

##### Art. 13 (Registration requirements)

1. To be registered in sections A or B of the register, companies must:
  - a) fulfil the requirements envisaged in article 112 (1) of the decree;
  - b) neither be public bodies nor entities or companies controlled by public bodies;
  - c) have entrusted responsibility for mediation to at least one natural person registered under the same section of the register in which registration is sought. When responsibility for mediation has been entrusted to more than one person, the requirement to be registered in the same section of the register shall refer to each of them. Companies shall entrust responsibility for mediation to an adequate number of persons within the top management, taking account of the size and complexity of the activity carried on;
  - d) without prejudice to the provisions of paragraph 3, hold a professional indemnity insurance policy, in compliance with the provisions of article 15.
2. As regards registration of companies under section B, in addition to the requirements envisaged under paragraph 1, it is necessary that:
  - a) the legal representative and, where appointed, the managing director and the general manager be registered in section B;
  - b) such companies have become members of the Guarantee fund.
3. The companies fulfilling the requirements envisaged in paragraph 1, a), b) and c) and in paragraph 2 which, in their application for registration, state that they do not hold the professional indemnity insurance cover referred to under d) of the same paragraph, shall be entered in section A or B of the register as “non operating”.

##### Art. 14 (Additional requirements for the registration of companies proposing to pursue reinsurance mediation)

1. To be registered under sections A or B, in addition to the requirements envisaged in article 13, companies proposing to pursue reinsurance mediation must possess a fully paid up share capital not lower than one hundred twenty thousand euros. Whenever companies propose to simultaneously carry on insurance and reinsurance mediation they must also:
  - a) have entrusted responsibility for the two activities to separate natural persons, registered under the same section of the register in which registration is sought, respectively as insurance intermediary and reinsurance intermediary;
  - b) have an adequate organisation for the pursuit of the two activities, both in terms of human resources and operating equipment.

##### Art. 15 (Professional indemnity insurance policy)



1. The professional indemnity insurance policy taken out by the companies registered under sections A or B must have the characteristics envisaged in article 11 and cover liability for any damage caused by the company to third parties in the pursuit of mediation business, or by persons responsible for mediation business, as well as for any damage arising from the professional negligence, misconduct and infidelity on the part of its employees, collaborators or any other persons for whom the company is liable under the law, including the natural persons and companies registered in section E. As regards companies to be registered under section B, the insurance policy shall also cover legal representatives as well as managing directors and general managers – if any.
2. Companies that simultaneously carry on insurance and reinsurance business shall comply with the minimum amounts of cover envisaged in article 11 (4), notwithstanding that the overall annual amount of cover for all claims must be broken down according to each activity.

Art. 16  
(Application for registration)<sup>26</sup>

1. *The application for registration under sections A or B of the register shall be submitted in accordance with the procedures envisaged in article 7 bis, paragraph 3.*
2. *In their application for registration to IVASS applicants shall state that the company has paid the administrative charge for registration envisaged by current regulations, as well as stamp duties.*

**Section IV**  
**Registration under section C of the register**

Art. 17  
(Registration requirements)

1. To be registered under section C of the register, direct canvassers must:
  - a. fulfil the requirements envisaged in article 110 (1) of the decree;
  - b. not be civil servants under a full-time contract of employment or a part-time contract when the working hours exceed half of the working hours of a full-time contract;
  - c. have acquired professional training adequate to the contracts mediated and to the activity pursued, *according to the provisions of IVASS Regulation n. 6 of 2 December 2014<sup>27</sup>.*
2. *(repealed)<sup>28</sup>*

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<sup>26</sup> Article replaced by IVASS Order n. 58 of 14 March 2017.

<sup>27</sup> Letter amended by article 15, paragraph 3, first indent, of IVASS Regulation n. 6 of 2 December 2014. The previous version of letter c) laid down: “*have acquired professional training adequate to the contracts mediated and to the activity pursued, according to the provisions of paragraph 2*”.

<sup>28</sup> Paragraph amended by article 15 (3, second indent) of IVASS Regulation n. 6 of 2 December 2014. The previous version of paragraph 2) laid down: “*The professional training referred to under paragraph 1 (c) must be aimed to reach an up-to-date theoretical knowledge, technical and operating skills and skills in dealing with clients. It shall be provided by the undertaking using the services of direct canvassers and shall comply with at least the following criteria:*

*a) it shall consist in the attendance, in the twelve months preceding the filing of the application for registration, at lessons in class and/or distance training courses of no less than 60 hours per year, where at least 30 hours shall consist in lessons in class;*

3. In the application for registration of direct canvassers *the undertaking shall state that it has provided a professional training in line with the criteria established by IVASS Regulation n. 6 of 2 December 2014 and that it has verified that the requirements under paragraph 1, a) and b) are met. As regards these latter requirements the verification shall be accepted only if it is made on the basis of documents dated no more than ninety days before the date the application for registration is submitted to IVASS*<sup>29</sup>.

## **Section V**

### **Registration under section D of the register**

#### Art. 18 (Registration arrangements)<sup>30</sup>

1. *The application for registration of direct canvassers under section C of the register shall be submitted by the undertaking using their services in accordance with the procedures envisaged in article 7 bis, paragraph 3.*
2. *In the application for registration submitted to IVASS in accordance with the current provisions on stamp duties, the applicant undertaking shall state that it has verified that the persons to be registered under section C have paid the administrative charge envisaged by current regulations.*
3. *Undertakings shall enclose to the application referred to under paragraph 1 the track record drawn up according to the specific techniques illustrated in Document C enclosed to the regulation and available on IVASS's website.*

#### Art. 19 (Registration requirements)

1. The following subjects may be registered under section D:
  - a) banks, provided that they have been authorised under article 14 of the consolidated banking law and have been registered in the relevant register;
  - b) Sim, provided that they have been authorised under article 19 of the consolidated banking law and have been registered in the relevant register;
  - c) financial intermediaries, provided that they have been included in the special list as defined in article 107 of the consolidated banking law;
  - d) Poste Italiane spa - Divisione servizi di bancoposta.

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*b) it shall be focused on the knowledge of legislation, technical, fiscal and economic matters relating to insurance, with special regard to the regulation of insurance contracts and to the provisions on consumer protection, as well as to the technical features and legal aspects of the insurance contracts that direct canvassers seeking registration will distribute;*

*c) it shall be provided by specialized teachers with qualified experience in the insurance sector;*

*d) at the end of these courses candidates shall pass a final test to verify the knowledge acquired. If candidates pass the test they will be awarded a certificate, signed by the participant to the course and by the person responsible for the organisation providing the training, which shall show the names of the teachers, the number of hours of attendance at the course, the issues dealt with and the successful completion of the final test*<sup>29</sup>.

<sup>29</sup> Paragraph amended by article 15 (3, third indent) of IVASS Regulation n. 6 of 2 December 2014. The previous version of paragraph 3) laid down: *In the application for registration of direct canvassers the undertaking shall state that it has provided a professional training in line with the criteria established in paragraph 2 and that it has verified that the requirements under paragraph 1, a) and b) are met. As regards these latter requirements the verification shall be accepted only if it is made on the basis of documents dated no more than ninety days before the date the application for registration is submitted to ISVAP*".

<sup>30</sup> Article replaced by IVASS Order n. 58 of 14 March 2017.

Art. 20  
(Application for registration)<sup>31</sup>

1. *The application for registration under section D of the register of the subjects referred to in article 19 shall be submitted to IVASS in accordance with the procedures envisaged in article 7 bis, paragraph 3.*
2. *In their application for registration to IVASS applicants shall state that the subject to be registered has paid the administrative charge for registration envisaged by current regulations, as well as stamp duties.*

**Section VI**  
**Registration under section E of the register**

Art. 21  
(Registration requirements for natural persons)

1. To be registered under section E of the register, the staff involved in mediation outside the premises of the intermediary registered under sections A, B or D for which they conduct business, including their employees and collaborators, must:
  - a) fulfil the requirements envisaged in article 110 (1) of the decree;
  - b) not be civil servants under a full-time contract of employment or a part-time contract when the working hours exceed half of the working hours of a full-time contract;
  - c) have knowledge and professional skills adequate to the activity pursued and to the contracts mediated, acquired by attending professional training courses *consistent with IVASS Regulation n. 6 of 2 December 2014*<sup>32</sup>.
2. In the application for registration the intermediary using the services of the subjects referred to in paragraph 1 shall state that they have acquired the professional training required and that it has verified that the requirements under paragraph 1, a) and b) are met. As regards these latter requirements the verification shall be accepted only if it is made on the basis of documents dated no more than ninety days before the date the application for registration is submitted to IVASS.

Art. 22  
(Registration requirements for companies)

1. To be registered under section E of the register companies involved in mediation outside the premises of the intermediary, registered in section A, B or D, for which they conduct business, must:

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<sup>31</sup> Article replaced by IVASS Order n. 58 of 14 March 2017.

<sup>32</sup> Letter amended by article 15, paragraph 4, of IVASS Regulation n. 6 of 2 December 2014. The previous version of letter c) laid down: “*have knowledge and professional skills adequate to the activity pursued and to the contracts mediated, acquired by attending professional training courses consistent with the criteria set out in article 17 (2), held or organized by the intermediaries for which they conduct business or by the relevant principal undertakings. As regards the pursuit of reinsurance mediation or the marketing of supplementary pension plans, the subjects of training courses must be supplemented with specific knowledge of the activity to be pursued, focused respectively on provisions governing reinsurance contracts and reinsurance undertakings or rules on supplementary pension plans*”.

- a) fulfil the requirements envisaged in article 112 (1) of the decree;
  - b) neither be public bodies nor entities or companies controlled by public bodies;
  - c) not conduct business, directly or indirectly, through another company;
  - d) have entrusted responsibility for mediation to at least one natural person registered under section E. When responsibility for mediation has been entrusted to more than one person, the requirement to be registered in section E shall refer to each of them. Companies shall entrust responsibility for mediation to an adequate number of persons within the top management, taking account of the size and complexity of the activity carried on;
  - e) assign mediation activity only to staff registered under section E.
2. Compliance with the requirements by the companies under paragraph 1 shall be verified by the intermediary using their services, which shall also certify this in the application for registration. The declaration of compliance with the requirements under paragraph 1, a) and b), shall be accepted only if it is made on the basis of documents dated no more than ninety days before the date the application for registration is submitted to IVASS.

Art. 23  
(Professional indemnity insurance cover)

1. The subjects referred to in articles 21 and 22 shall be included, in compliance with articles 11 and 15, in the insurance cover provided by the policy taken out by the intermediary – registered under sections A or B – for which they conduct business, which shall state in the application for registration that they have been included in the cover.

Art. 24  
(Registration arrangements)<sup>33</sup>

1. *As regards the registration of natural persons and companies under section E, each intermediary using their services and registered under sections A, B or D shall submit to IVASS an application, in accordance with the procedures envisaged in article 7 bis, paragraph 3.*
2. *In the application for registration submitted to IVASS in accordance with the current provisions on stamp duties, the applicant shall state that it has verified that the persons to be registered under section E have paid the administrative charge envisaged by current regulations.*

**Section VII**  
**Registration, removal and reinstatement procedures; rules on the shift to another section of the register**

Art. 25  
(Registration in the register)

1. *IVASS shall make the entry in the register once the examination of the relevant application has been successfully completed and shall inform applicants of the registration by a certified email, indicating the date when the application has been accepted. In case the examination produces a negative result IVASS shall inform applicants that their application is going to be rejected, shall provide the reasons for doing so and shall set a deadline for supplying any additional information; then, once the deadline has expired with no avail, it shall reject it*

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<sup>33</sup> Article replaced by IVASS Order n. 58 of 14 March 2017.

*definitively. If the examination regards subjects to be registered under sections C or E applicant undertakings or intermediaries shall immediately inform the persons concerned that their application has been rejected.*<sup>34</sup>

2. *Subject to the provisions of article 28 bis, the examination of the applications for registration in the register shall be completed within the deadline envisaged by ISVAP Regulation n. 2 of 9 May 2006*<sup>35</sup>.
3. Without prejudice to the periodic assessments envisaged by article 39 on the maintenance of the registration requirements, IVASS shall, upon request by the intermediaries concerned or by the undertakings using the services of direct canvassers, issue a statement certifying that they have been entered in the register.

Art. 26  
(Removal from the register)

1. Unless disciplinary proceedings or investigations preliminary to such proceedings are under way, IVASS shall remove intermediaries from the register:
  - a) further to striking off;
  - b) in case of renunciation of registration, upon filing the relevant application;
  - c) in case of failure to carry on business, without good reason, for more than three years – after ascertaining the underlying reason;
  - d) in case of loss of at least one of the requirements envisaged in articles 108 (4), 110 (1), 111 (1 and 3) or 112 of the decree;
  - e) as to the intermediaries under section D, in case of loss of the authorisations to the pursuit of the respective business or of registration in the registers to which they belong;
  - f) limited to the intermediaries registered under sections A or B, in case of loss of effectiveness of the insurance covers envisaged in articles 11 and 15 – after ascertaining the underlying reason;
  - g) in case of failure to pay the contribution for supervision, upon formal notice given by IVASS and after the relevant deadline has expired with no avail;
  - h) only as regards intermediaries registered under section B, in case of failure to pay the contribution to the Guarantee fund, upon formal notice given by IVASS and after the relevant deadline has expired with no avail.
2. *IVASS shall automatically remove the subjects registered in section E in case of notification of termination of the relationship as per article 36 (6), except when the subject pursues the activity of insurance or reinsurance mediation for other intermediaries*<sup>36</sup>.
3. *The application for removal from the register shall be submitted in accordance with the procedures envisaged in article 7 bis, paragraph 3*<sup>37</sup>.
4. IVASS shall remove the subjects from the register by order to be communicated to the persons concerned. In case of removal of intermediaries registered under sections C or E, the communication shall be addressed to the undertakings or intermediaries which use their

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<sup>34</sup> Paragraph replaced by IVASS Order n. 58 of 14 March 2017.

<sup>35</sup> Paragraph replaced by ISVAP Order n. 2720 of 2 July 2009. The previous version of paragraph 2) laid down: “2. *The examination of the applications for registration in the register shall be completed within the deadline envisaged by ISVAP Regulation n. 2 of 9 May 2006.*”

<sup>36</sup> Paragraph replaced by ISVAP Order n. 2720 of 2 July 2009. The previous version of paragraph 2) laid down: “2. *For the purposes of removing the subjects registered under sections C or E, and except for the cases of official removal, the undertakings or intermediaries using the services of those subjects shall submit the relevant application to ISVAP.*”

<sup>37</sup> Paragraph replaced by IVASS Order n. 58 of 14 March 2017.

services, which shall immediately notify the subjects concerned.

5. The examination of the applications for removal from the register shall be completed within the deadline envisaged by ISVAP Regulation n. 2 of 9 May 2006.

#### Art. 27

##### (Reinstatement of natural persons in the register)

1. Subject to paragraph 2, the natural persons registered in the register and then removed can be reinstated, provided that:
  - a) they meet the registration requirements envisaged for their section of destination; to that end the professional qualification requirement upon which the first registration in the register had been made shall remain valid *provided that, in case of intermediaries registered in sections C or E of the RUI, the application for reinstatement be submitted within five years of the removal* <sup>38</sup>. In case of reinstatement in a section for which it is required to pass the qualifying examination not envisaged for registration in the original section the passing of that qualifying examination shall be required. In case of reinstatement in a section for which specific training on the contracts to be distributed is required that specific training shall be acquired;
  - b) *if the application for reinstatement is submitted within 2 years from the removal, they have attended professional updates of no less than 15 hours; if the application for reinstatement is submitted after 2 years from the removal, they have attended professional updates of no less than 60 hours; if the application for reinstatement is submitted after 5 years from the removal, the intermediaries registered in sections C or E of the RUI have completed their professional training* <sup>39</sup>;
  - c) *an application for reinstatement is submitted in compliance with the procedures envisaged in one of the articles 12, 18 or 24*; <sup>40</sup>
  - d) in case of removal due to final sentence or bankruptcy, failure to pay the supervisory fee or the contribution to the Guarantee fund, the conditions under article 114 of the decree are met.
2. The subjects who have been struck off the register can, after at least five years from the removal, be reinstated, provided that they fulfil all the registration requirements envisaged for their section of destination and an application for reinstatement be submitted in compliance with paragraph 1 (c).
3. IVASS shall effect the reinstatement in the different sections of the register in accordance with the arrangements in article 25 (1 and 2).

#### Art. 28

##### (Reinstatement of companies in the register)

1. The companies removed from the register can be reinstated, provided that:
  - a) they meet the registration requirements envisaged for their section of destination;
  - b) *an application for reinstatement is submitted in compliance with the procedures envisaged in one of the articles 16, 20 or 24*; <sup>41</sup>

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<sup>38</sup> Words added by article 15, paragraph 5, first indent, of IVASS Regulation n. 6 of 2 December 2014.

<sup>39</sup> Letter replaced by article 15 (5, second indent) of IVASS Regulation n. 6 of 2 December 2014. The previous version of letter b) laid down: "*if the application for reinstatement is submitted after one year from the removal, they have attended annual professional updates of a level at least equal to that envisaged by article 38 below*".

<sup>40</sup> Letter replaced by IVASS Order n. 58 of 14 March 2017.

<sup>41</sup> Letter replaced by IVASS Order n. 58 of 14 March 2017.

- c) in case of removal due to failure to pay the supervisory fee or the contribution to the Guarantee fund, the conditions under article 114 of the decree are met.

The subjects which have been removed from section D of the register can be reinstated exclusively in that section.

2. The reinstatement of companies in the different sections of the register shall be effected by IVASS in accordance with the arrangements in article 25 (1 and 2).

*Art. 28-bis*

*(Establishment and change of a collaboration relation with an intermediary already registered in section E)<sup>42</sup>*

1. *Before starting a collaboration relation with natural persons and companies already registered in section E, the intermediary registered under sections A, B or D and proposing to use their services shall submit to IVASS an application for registration, in accordance with the procedures envisaged in article 7 bis, paragraph 3.*
2. *The application referred to under paragraph 1 shall be submitted to IVASS in accordance with the current provisions on stamp duties.*
3. *Within 45 days of receiving the application and once the examination of such application has been successfully completed, IVASS shall enter the natural person or the company in the register as staff of the applicant intermediary. Article 25 (1) shall apply.*
4. *If the natural persons and the companies referred to in paragraph 1, for which registration as staff of another intermediary has been sought, cease to carry on the activity of mediation for such intermediary, the latter shall submit to IVASS a notification of termination of the relationship in accordance with the procedures envisaged in article 7 bis, paragraph 3. Article 36 (6) shall apply.*

*Art. 29*

*(Shift to another section of the register)*

1. *The natural persons registered in the register may shift to another section, provided that the conditions under article 27 (1) a) are met and the application is submitted to ISVAP in accordance with the current provisions on stamp duties and in accordance with the procedures envisaged in article 7 bis, paragraph 3. In case of shift to another section of the register of intermediaries from sections C or E, the applicant intermediary shall enclose to the application the notification of termination of the collaboration relation given by the undertaking or the intermediary on whose behalf business was conducted or, in its absence, the notification of termination of the collaboration relation given pursuant to article 36, paragraph 6.<sup>43</sup>*
2. *Companies may shift to another section of the register on condition that applicant companies fulfil all the registration requirements envisaged for their section of destination and that an application is submitted to IVASS in accordance with the current provisions on stamp duties and in accordance with the procedures envisaged in article 7 bis, paragraph 3. In case of shift to another section of the register of companies from section E, the applicant intermediary shall enclose to the application the notification of termination of the collaboration relation given by the intermediary on whose behalf business is conducted or, in its absence, the notification of termination of the collaboration relation given pursuant to*

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<sup>42</sup> Article replaced by IVASS Order n. 58 of 14 March 2017.

<sup>43</sup> Paragraph replaced by IVASS Order n. 58 of 14 March 2017.

article 36, paragraph 6.<sup>44</sup>

3. This article shall not apply to the subjects registered in section D.
4. The shift to another section of the register shall be carried out by IVASS in accordance with the arrangements in article 25 (1 and 2).

#### Art. 30

(Inquiries about the content of substitutive statements and disqualification)

1. In compliance with article 71 of presidential decree n. 445 of 28 December 2000 IVASS shall make inquiries about the content of substitutive statements made by the persons concerned for admission to the qualifying examination and for registration and reinstatement in the register. For this purpose the offices of the public administration and the private individuals mentioned in the substitutive statements (or the subjects who are anyway aware of the facts declared) shall be consulted directly, and documentary evidence shall be gathered, if necessary.
2. The lack of truthfulness in the content of the substitutive statements referred to under paragraph 1 shall involve the criminal consequences mentioned in article 76 of presidential decree n. 445 of 28 December 2000 and – as per article 75 of the same decree – disqualification from, respectively, the results of the examination or the registration or reinstatement in the register.

### Chapter II

#### **Business pursued under the right of establishment and the freedom to provide services by intermediaries registered under the sections A, B or D of the register**

#### Art. 31

(Extension of mediation business to other Member States)

1. Intermediaries registered under sections A, B or D intending to carry on business in other Member States under the right of establishment or the freedom to provide services shall submit to IVASS a notification *in accordance with the procedures envisaged in article 7 bis, paragraph 3.*<sup>45</sup>
2. Within thirty days of receipt of the notification under paragraph 1, where there are no objections, IVASS shall inform the competent supervisory Authorities of the host Member States of the intention of the intermediaries concerned to carry on business in their territory and shall at the same time inform such intermediaries.
3. Intermediaries may start business thirty days after the receipt date of the notification referred to in paragraph 2. IVASS shall give notice of this business in the register.

#### Art. 32

(Collaboration between Authorities)

1. IVASS shall cooperate with the Authorities of the other Member States with a view to facilitating the exercise of their own supervisory functions over intermediaries, also by exchanging information, in accordance with the provisions of the CEIOPS Protocol concerning the application of directive 2002/92/EC on insurance mediation. To that end, it

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<sup>44</sup> Paragraph replaced by IVASS Order n. 58 of 14 March 2017.

<sup>45</sup> Paragraph amended by IVASS Order n. 58 of 14 March 2017.



shall inform the supervisory Authorities of the host Member States of any change in the data on intermediaries, supplied at the time of the notification referred to in article 31 (2). At the request of the same Authorities, IVASS shall communicate any other information concerning the pursuit of mediation business in the territory of their respective Member States.

2. IVASS shall also communicate to the supervisory Authorities concerned the names of the intermediaries who have been removed from the register after the notification under article 31 (2).

## **Title II**

### **Provisions applicable to intermediaries having their residence or head office in other Member States**

#### **Art. 33**

(List enclosed to the register of insurance and reinsurance intermediaries)

1. When an intermediary having its residence or head office in another Member State intends to carry on mediation business in the territory of the Italian Republic under the right of establishment or the freedom to provide services, the supervisory Authority of the home Member State shall inform IVASS accordingly. IVASS shall immediately acknowledge receipt of the notification to the Authority of the home Member State and shall inform it of the provisions protecting the general good intermediaries must comply with when pursuing mediation business in the territory of the Italian Republic. These provisions shall be published by IVASS in its Bulletin and website.
2. Thirty days after the receipt by IVASS of the notification referred to in paragraph 1, the intermediaries concerned shall be licensed to carry on business in the territory of the Italian Republic and shall be entered in a special list enclosed to the register, providing at least the following information:
  - a) surname and first name or name of legal person;
  - b) nationality;
  - c) address of residence or head office or registration number in the home Member State;
  - d) way by which business is pursued;
  - e) in case of business pursued by way of establishment, branch in the territory of the Italian Republic and name of the person representing the branch;
  - f) home supervisory Authority;
  - g) date of commencement of business in the territory of the Italian Republic;
  - h) date of any measure adopted by IVASS concerning suspension or prohibition of business in the territory of the Italian Republic;
  - i) website address of the register in the home Member State in which details about the intermediary may be found.
3. On the basis of the notifications received from the competent supervisory Authorities of the other Member States IVASS shall update the data contained in the list referred to in paragraph 2 by deleting the names of the intermediaries for which a notification of removal from the register of their home Member State has been received.
4. IVASS shall ensure public access to the list enclosed to the register by giving the possibility to consult it in its website.

*Art. 33-bis  
(Requirements for the electronic management of the register)<sup>46</sup>*

1. *For the purpose of submitting to IVASS:*

- *applications for registration and reinstatement in the register, pursuant to articles 24, 27 and 28;*
- *applications for removal pursuant to article 26, paragraph 2;*
- *applications for the start of and change to a collaboration relation with an intermediary already registered in section E pursuant to article 28 bis,*

*the applicants, be they natural persons registered in the Enclosed List and the legal representatives of the legal persons registered in the Enclosed List, will need to have a certified electronic mail address referred to in article 2, paragraph 1, letter v bis) and the electronic signature referred to in article 2, paragraph 1, letter k bis) for signing the electronic form envisaged in article 7 bis, paragraph 3.*

*Art. 33-ter  
(Provisions applicable to intermediaries registered in the enclosed List)<sup>47</sup>*

1. *For the purposes of submitting the applications referred to in articles 24, 27, 28 and 28 bis, the applicant intermediaries registered in the List Enclosed to the register verify that the requirements envisaged in articles 21 and 22 are fulfilled.*
2. *In case of termination of the relationship with the subjects registered under section E of the register, the provision of article 36, paragraph 6 shall apply.*

**Art. 34  
(Measures against intermediaries)**

1. Should IVASS become aware of the pursuit of insurance or reinsurance mediation on its territory by intermediaries having their residence or head office in other Member States, for which no notification has been received pursuant to article 33, it shall inform the competent supervisory authority of the home Member State and shall take appropriate measures to prevent such intermediaries from continuing business in the territory of the Italian Republic.
2. IVASS may adopt measures under which the intermediaries included in the list enclosed to the register not complying with the provisions protecting the general good shall be suspended from pursuing business in the territory of the Italian Republic, for a period not exceeding ninety days. In case of continued breach, IVASS shall prevent the intermediary from continuing business.
3. IVASS shall notify the supervisory Authorities of the home Member State of the measures taken against the persons referred to under paragraphs 1 and 2 and shall publish them in its Bulletin and website.

**PART III  
Pursuit of mediation business**

**Title I  
Carrying on of business**

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<sup>46</sup> Article inserted by IVASS Order n. 58 of 14 March 2017.

<sup>47</sup> Article inserted by IVASS Order n. 58 of 14 March 2017.

## Chapter I General provisions

### Art. 35 (Arrangements for the pursuit of business)

1. Intermediaries shall carry out the tasks and comply with the duties imposed on them by the provisions regulating the activity of insurance and reinsurance undertakings and intermediaries, on the basis and within the limits of the mediation task assigned to them or of the mediation agreement underwritten by them.
2. It shall be prohibited for intermediaries to pursue mediation activity in relation to contracts of insurance and reinsurance undertakings not authorised or licensed to pursue business in the territory of the Italian Republic.

### Art. 36 (Obligations to give information)

1. The intermediaries registered under sections A, B or D of the register shall inform IVASS:
  - a) within five working days from the event *and by a certified email*, of the loss of any of the registration requirements<sup>48</sup>;
  - b) *within twenty working days* from the event, or from the moment when they become aware of it<sup>49</sup>:
    - 1) <sup>50</sup>
    - 2) *of any changes in the information provided when applying for registration, to be notified in accordance with the procedures envisaged in article 7 bis, paragraph 3<sup>51</sup>*;
    - 3) <sup>52</sup>
    - 4) *as to the intermediaries registered under sections A or B, of the starting date of the period of inactivity, if any. The notification shall be submitted in accordance with the procedures envisaged in article 7 bis, paragraph 3<sup>53</sup>*.

In case the information regards the intermediaries registered under sections C or E, the obligations to give information shall be fulfilled, respectively, by the undertakings or intermediaries using their services. In case the information regards the appointment and termination of subjects registered under sections A or B in accordance with article 13 (1) c) and 13 (2) a), *the relevant undertakings shall forward IVASS a notification submitted in accordance with the procedures envisaged in article 7 bis, paragraph 3.<sup>54</sup>*
2. *In case the intermediaries temporarily not operating registered in sections A or B resume their activity, they shall forward IVASS, within five working days from the ending date of the period of inactivity, a notification in accordance with the procedures envisaged in article 7 bis, paragraph 3. The resumption of the activity shall be conditional upon having the professional indemnity insurance cover referred to in articles 11 or 15, the starting date of*

<sup>48</sup> Letter amended by IVASS Order n. 58 of 14 March 2017.

<sup>49</sup> Letter amended by ISVAP Order n. 2720 of 02 July 2009. The previous version of letter b) laid down: "b) *within ten working days from the event, or from the moment when they become aware of it*:".

<sup>50</sup> Point deleted by ISVAP Order n. 2720 of 2 July 2009. Point 1) laid down: "1) *of the places in which the documents under article 57 are stored*;".

<sup>51</sup> Point amended by IVASS Order n. 58 of 14 March 2017.

<sup>52</sup> Point deleted by ISVAP Order n. 2720 of 2 July 2009. Point 3) laid down: "3) *in case they have been licensed to pursue business in other Member States, of the name of the insurance undertaking for which they pursue business in those States*;".

<sup>53</sup> Point replaced by IVASS Order n. 58 of 14 March 2017.

<sup>54</sup> Sentence amended by IVASS Order n. 58 of 14 March 2017.

*which shall be the same as the starting date of the activity; moreover, for natural persons acting as intermediaries, it shall be conditional upon the achievement of the professional training required under article 7 of IVASS Regulation n. 6 of 2 December 2014<sup>55</sup>.*

3. The undertakings which have granted agency or insurance mediation mandates respectively to the intermediaries registered in sections A or D, or to the intermediaries included in the list enclosed to the register, shall provide information on<sup>56</sup>:
  - a) the granting of the mandates, within ten working days from the date of the relevant act;
  - b) any change in the information referred to under a) above, including the termination of the mandate, within ten working days from the date of the change or termination.
4. *Undertakings shall send IVASS the information envisaged under paragraph 3 by means of a track record drawn up according to the specific techniques illustrated in Document A enclosed to the regulation and available on IVASS' website<sup>57</sup>.*
5. The undertakings which, for the distribution of insurance contracts, use the multilevel marketing networks referred to in article 44, shall, within ten working days, inform IVASS of the names of the intermediaries using such marketing techniques.
6. *In case of termination of the relationship the undertakings and intermediaries recorded in the register or in the List Enclosed to the register which use, respectively, the services of the subjects registered under sections C or E, shall inform IVASS accordingly, within ten working days from the date of termination in accordance with the procedures envisaged in article 7 bis, paragraph 3. In the absence of such notification, the subjects registered under sections C or E may send IVASS, on paper or in accordance with the procedures envisaged in article 7 bis, paragraph 3, a notification of termination of the collaboration relation consistent with the facsimile enclosed to the regulation and available on IVASS' website<sup>58</sup>.*
7. *Undertakings shall enclose to the notification referred to under the above paragraph the track record drawn up according to the specific techniques illustrated in Document C enclosed to the regulation and available on IVASS' website.<sup>59</sup>*

#### Art. 37

##### (Annual obligations)

1. For the purposes of carrying on the activities of insurance and reinsurance mediation, every year:
  - a) the persons registered under section A shall renew their professional indemnity insurance policy, *except for cases of multi-year policies*, and pay the supervisory fee<sup>60</sup>;
  - b) the persons registered under section B shall renew their professional indemnity insurance policy, *except for cases of multi-year policies*, and pay the supervisory

<sup>55</sup> Sentence amended by IVASS Order n. 58 of 14 March 2017.

<sup>56</sup> Paragraph amended by IVASS Order n. 58 of 14 March 2017.

<sup>57</sup> Paragraph replaced by IVASS Order n. 58 of 14 March 2017.

<sup>58</sup> Paragraph replaced by IVASS Order n. 58 of 14 March 2017.

<sup>59</sup> Paragraph replaced by IVASS Order n. 58 of 14 March 2017.

<sup>60</sup> Letter amended by ISVAP Order n. 2664 of 17 December 2008. The previous version of letter a) laid down: "a) the persons registered under section A shall renew their professional indemnity insurance policy or communicate its confirmation as referred to in paragraph 4 and pay the contribution for supervision;".

- fee and the contribution to the Guarantee fund<sup>61</sup>;
- c) the persons registered under section C or D shall pay the supervisory fee.
2. The supervisory fee shall be paid also in case of inactivity. The supervisory fee shall be paid according to the provisions established each year by decree of the Minister of Economy and Finance in compliance with article 336 of the decree.
  3. The contribution to the Guarantee fund shall be paid as determined each year by decree of the Minister of Economic Development in compliance with article 115 of the decree.
  4. *By 5 February of each year the intermediaries registered in sections A or B of the register shall state that they have renewed their policy or, in case of multi-year policies, confirm that the relevant cover is effective by submitting a notification in accordance with the procedures envisaged in article 7 bis, paragraph 3<sup>62</sup>.*
  5. *After 90 days from the deadline envisaged in paragraph 4, the intermediaries registered in sections A or B of the register who have not given the notification shall be registered in the RUI as non operating<sup>63</sup>.*

Art. 38  
(Professional update)

*(repealed)*<sup>64</sup>

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<sup>61</sup> Letter amended by ISVAP Order n. 2664 of 17 December 2008. The previous version of letter b) laid down:

*“b) the persons registered under section B shall renew their professional indemnity insurance policy or communicate its confirmation as referred to in paragraph 4, pay the supervisory fee and the contribution to the Guarantee fund;”.*

<sup>62</sup> Paragraph introduced by IVASS Order n. 58 of 14 March 2017.

<sup>63</sup> Paragraph introduced by IVASS Order n. 58 of 14 March 2017.

<sup>64</sup> Article deleted by article 15, paragraph 7, of IVASS Regulation no. 6 of 2 December 2014. The previous version laid down:

*“1. The natural persons acting as intermediaries registered in the register and the staff involved in mediation inside the premises where the intermediary registered in sections A, B or D conducts business shall regularly update their professional knowledge. For this purpose they shall annually attend lessons in class and/or distance training courses of no less than 30 hours, where at least 15 hours shall consist in lessons in class. The annual update shall be effected from the date of registration or, for the staff operating inside the premises of the intermediary, from the starting date of the activity; at any rate the update shall be effected whenever new products to be distributed are placed on the market or there are developments in the reference regulatory framework.*

*2. The courses referred to under paragraph 1 shall be held by specialised teachers with qualified experience in the insurance sector and at the end of them candidates shall pass a final test to verify the knowledge acquired; if candidates pass the test they will be awarded a certificate attesting that the professional training has been achieved. The certificate, signed by the participant to the course and by the person responsible for the organisation providing the training, shall show the number of hours of attendance at the course, the issues dealt with, the names of the teachers and the successful completion of the final test.*

*3. As to the intermediaries registered under section E and the staff involved in mediation referred to under paragraph 1 the professional training courses shall be held or organised by the intermediary using their services or by the relevant principal undertakings. As to the intermediaries registered under section C the courses shall be held or organised by the undertakings on whose behalf business is conducted.*

*4. The natural persons acting as intermediaries registered in sections A or B and temporarily not operating are not required, during the period of inactivity, to update their professional knowledge referred to under paragraph 1. At any rate, if the period of inactivity is more than one year, to resume their activity as per article 36 (2) intermediaries must have undergone a professional update of at least the same level as that envisaged by paragraph 1.*

*5. The subjects referred to under paragraph 1 shall be exempted from the professional update requirements therein envisaged in the following cases:*

*a) pregnancy, childbirth, compliance with the obligations connected with maternity or paternity in the case of minors;*  
*b) serious illness or accident.*

*In case of pregnancy the exemption shall start at the beginning of the third month preceding the term of pregnancy and continue until one year after the date of confinement, subject to further exemptions for certified medical reasons. The exemption shall be granted only for the period of the inability for obligations connected with*

Art. 39  
(Periodic assessments)

1. IVASS may assess that the persons registered in the register:
  - a) continue to meet the good reputation requirements, and that there are no situations of incompatibility, as envisaged for registration under the relevant section;
  - b) comply with the professional updating requirements, *according to the provisions of IVASS Regulation n. 6 of 2 December 2014*<sup>65</sup>.
2. IVASS shall:
  - a) in compliance with article 26, remove from the register the intermediaries for which the assessments referred to under paragraph 1 (a) produced a negative result;
  - b) apply the disciplinary sanction envisaged in article 62 against intermediaries not complying with the professional updating requirements *envisaged by IVASS Regulation n. 6 of 2 December 2014*<sup>66</sup>.
3. Every year IVASS shall assess compliance with the obligation to hold a professional indemnity insurance cover – also by means of checks with the undertakings providing the cover – and compliance with the obligations to pay the contribution to the Guarantee fund and the supervisory fee, and it shall remove the intermediaries not complying with said obligations from the register, as envisaged by article 26.

Art. 40  
(Control of distribution networks)

1. Insurance and reinsurance undertakings shall assess that the training and professional updates followed by the distribution networks they use are adequate, and that the general rules of conduct referred to under article 47 are observed. The assessments made shall be included in an annual report to be drawn up by the relevant organisation unit and sent to IVASS within sixty days of the end of the solar year after the person in charge of the internal auditing has submitted it to the company's administrative bodies along with any comments on its substance. To that end for the year 2006 and until new provisions are issued undertakings shall send the report referred to under ISVAP circulars n. 533 of 4 June 2004 and n. 573 of 21 December 2005.

**Chapter II**  
**Distribution of insurance contracts by the intermediaries registered under section D**  
**of the register**

Art. 41  
(Distribution requirements)

1. The intermediaries registered under section D may distribute insurance contracts on condition that the task of distributing such contracts by the above intermediaries, by the staff involved in mediation registered under section E or carrying on mediation business inside the

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*maternity or paternity in the case of minors, serious illness or accident . If one year has elapsed since the last professional update, to resume their activity the subjects referred to under paragraph 1 must have undergone a professional update of at least the same level as that envisaged by that paragraph."*

<sup>65</sup> Letter amended by article 15, paragraph 8, first indent, of IVASS Regulation n. 6 of 2 December 2014. The previous version laid down: *"comply with the professional updating requirements as per article 38"*.

<sup>66</sup> Paragraph amended by article 15 (8, second indent) of IVASS Regulation n. 6 of 2 December 2014. The previous version laid down: *apply the disciplinary sanction envisaged in article 62 against intermediaries not complying with the professional updating requirements envisaged by article 38.*

premises where the persons registered under section D carry on business, shall be limited to standard insurance contracts.

2. If undertakings establish procedures for issuing policies directly at the premises of intermediaries registered under section D, it must be guaranteed that the contractual terms and conditions established by such undertakings may not be modified and, if policies are issued through electronic links, there must be adequate protection from any interference within the intermediary's structure.
3. In accordance with article 119 (2) of the decree non-standardized insurance contracts may be distributed by intermediaries registered under section D only inside the premises of such intermediaries and provided that the natural persons who distribute contracts inside such premises are registered under section A of the register.

### Chapter III

#### Pursuit of mediation business through staff operating inside the premises of the intermediary

##### Art. 42

##### (Requirements for the pursuit of business)

1. When pursuing mediation business inside their premises intermediaries registered under sections A, B or D of the register may use the services of staff for whom they have previously ascertained that:
  - a) they fulfil the requirements envisaged in article 110 (1) of the decree;
  - b) have knowledge and professional skills adequate to the activity pursued and to the contracts mediated, acquired by attending professional training courses, *consistent with IVASS Regulation n. 6 of 2 December 2014*<sup>67</sup>.(.....)<sup>68</sup>
2. Intermediaries referred to under paragraph 1 shall:
  - a) periodically verify the maintenance of the requirements envisaged under a) of the same paragraph and refrain from using the services of those who no longer comply with such requirements as long as this situation persists;
  - b) ensure that the persons whose services they use comply with the professional updating requirements *envisaged by IVASS Regulation n. 6 of 2 December 2014*<sup>69</sup>.
3. Intermediaries, registered in accordance with Part V, which use the services of staff involved in mediation inside their premises, shall be required:
  - a) within nine months of the entry into force of this Regulation, to verify compliance

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<sup>67</sup> Letter amended by article 15, paragraph 9, first indent, of IVASS Regulation n. 6 of 2 December 2014. The previous version of letter b) laid down: "*they have knowledge and professional skills adequate to the activity pursued and to the contracts mediated, acquired by attending training courses consistent with the criteria set in article 17 (2), held or organized by the intermediaries for which they conduct business or by the relevant principal undertakings*".

<sup>68</sup> Sentences deleted by ISVAP Order n. 2720 of 2 July 2009. The sentences read:

*"In case of staff working for intermediaries registered under section E, it shall be for the intermediaries for which they work to verify that they comply with the above requirements. Professional training courses shall be held or organised by the same intermediaries for which the intermediaries registered under section E conduct business or by the relevant principal undertakings."*

<sup>69</sup> Letter amended by article 15 (9, second indent) of IVASS Regulation n. 6 of 2 December 2014. The previous version of letter b) laid down: "*ensure that the persons whose services they use comply with the professional updating requirements envisaged in article 38*".

- with the requirements envisaged by paragraph 1, a) and b), and to abide by the provisions of paragraph 2, a) if they find out that such requirements are not met;
- b) after the deadline set under a), to fulfil the periodical requirements set under paragraph 2.
4. Intermediaries under paragraphs 1 and 3 shall, in accordance with article 57, keep supporting evidence that compliance with and maintenance of the requirements envisaged under this article have been verified.

## **Chapter IV**

### **Special provisions**

#### **Art. 43** **(Marketing of supplementary pension plans)**

1. Without prejudice to the provisions of article 44 (2) a), registered intermediaries as well as staff operating inside the premises of the intermediaries registered under sections A, B and D shall be allowed to market supplementary pension plans in compliance with the provisions set by the supervisory Authorities competent in the field of supplementary pension plans.

#### **Art. 44** **(Multilevel marketing)**

1. Without prejudice to the provisions of law n. 173 of 17 August 2005, insurance undertakings shall be allowed, for the distribution of insurance contracts, to use intermediaries operating through multilevel marketing networks on condition that each member of the network be registered in the register. This marketing technique may neither be used by undertakings with head office in the territory of other Member States, authorised to carry on business in the territory of the Italian Republic by way of free provision of services, nor by persons registered under section B of the register.
2. At any rate insurance mediation may be pursued by using the sales networks referred to in paragraph 1 only on condition that:
- a) such business does not relate to the marketing of supplementary pension plans and to the contracts envisaged under article 41 of the decree;
  - b) contracts can only be offered on the basis of previously numbered insurance proposals, whose content cannot be modified and which do not contain clauses of provisional cover relating to the applicability of guarantees immediately binding for the undertaking;
  - c) the members of the network refrain from proposing potential policyholders examples of benefits at maturity or estimates, if not through special standard forms drawn up by the undertaking; it shall be prohibited for them to provide information that might undermine the policyholders' capacity to make free and informed contractual choices;
  - d) if the members of the network have the power to collect insurance premiums, they may only accept the means of payment specified in article 47 (3) a) and b), where the direct holder or beneficiary is the undertaking, and may not receive cash. This fact must be highlighted in the proposal and in the information note, by using characters of an adequate size and typeface.
3. Undertakings using multilevel marketing shall:
- a) give the persons who, either individually or as a company, co-ordinate the



network, an agency mandate, duly supplemented to take account of the operating peculiarities of that marketing technique; these persons shall have in place peripheral offices, adequately located in the geographical areas where the underwriting activity is concentrated, and shall exert the necessary supervision over the mediation activity carried out by the members of the network;

- b) define the contract types to be marketed by the network, the relevant underwriting procedures, the timeframe for reporting the business done, as well as the requirement to carry out controls, including inspections, at least every quarter;
- c) develop infrastructures capable of providing a prompt reply to the requests for clarification on the contracts offered, which shall also carry out policyholder surveys, by means of adequate sample techniques, aimed to verify the pre-contractual information actually provided by each member of the network. The outcome of these controls must be periodically illustrated in writing to a person responsible for the undertaking;
- d) have in place adequate procedures to monitor the use of proposals supplied to the network and to oversee the arrangements for handling and recovering the forms held in storage by the members of the network;
- e) ensure that policyholders receive the necessary after-sales assistance by entrusting the management of the contracts concluded to the intermediary coordinating the network or to the undertaking's peripheral offices – if any – and at any rate to structures which are easily accessible to policyholders and equipped with sufficient and adequately trained staff; if assistance is provided from the undertaking's headquarters, a special free phone number shall be set up. At the time when the proposal is accepted or the final policy is forwarded, the policyholder must be informed, in writing, of the structure providing the after-sales assistance or of the free phone number, if any.

*Art. 44-bis*

*(Special provisions on the termination of the mediation mandate assigned to persons registered in section A)<sup>70</sup>*

*1 In case the mediation mandate granted to subjects registered in section A of the register is terminated due to an exceptional circumstance which could not be foreseen by the principal undertaking, pending the appointment of another intermediary registered in section A, the undertaking may temporarily take over the direct management of business by appointing one of its employees as proxy, provided that:*

- a) within sixty days of cancelling the mediation mandate or of being informed thereof the undertaking appoints another subject registered in section A and informs IVASS thereof within the subsequent ten day;*
- b) to continue to use the subjects registered in section E who carried on the activity for the intermediary whose mandate has been cancelled, as well as the staff involved in mediation business inside the premises of that intermediary, the undertaking assumes responsibility (by means of a document signed by a legal representative) for the acts done by those subjects until the intermediary to whom the mandate has been granted in compliance with letter a) registers the subjects it intends to use to pursue mediation business outside its premises.*

*2. During the direct management the subjects registered in section E, whose services the undertaking continues to use in compliance with paragraph 1 (b), shall remain registered in the register.*

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<sup>70</sup> Article inserted by ISVAP Order n. 2720 of 2 July 2009.

3. *IVASS shall make a point of determining whether the exceptional and not foreseeable circumstances referred to in paragraph 1 existed .*
4. *The principal undertaking shall inform IVASS, within five working days of cancelling the mediation mandate or of being informed thereof, that it has taken over the direct management of the intermediary's activity indicating the circumstances referred to in paragraph 1, accompanied by the relevant supporting evidence, as well as of the name of its employee appointed as proxy. The undertaking shall give information on the taking up and termination of direct management by publishing a notice on its website.*
5. *The intermediary to whom the mandate has been granted in compliance with paragraph 1 (a) shall apply for registration of the subjects it intends to use to pursue mediation business outside its premises. IVASS shall automatically remove from the register the subjects referred to in paragraph 2 for which the new intermediary has not requested registration.*
6. *In case the undertaking does not inform IVASS within the deadline envisaged in paragraph 1 (a) that it has replaced the intermediary whose relationship was terminated IVASS shall automatically remove from the register the subjects registered in section E used by that intermediary.*
7. *In the cases envisaged by paragraphs 5 and 6 the subjects registered in section E of the register shall not be removed if they have been registered also by other intermediaries.*

## **Title II**

### **Rules on how intermediaries shall introduce themselves and behave in relation to clients**

#### Art. 45 (Scope)

1. Without prejudice to the provisions of law n. 262 of 28 December 2005, the provisions under this title shall apply to the pursuit of insurance and reinsurance mediation business by:
  - registered intermediaries;
  - staff involved in mediation inside the premises of the intermediary for which they conduct business, with the exception of articles 46, 54 and 57.

### **Chapter I** **Rules of conduct**

#### Art. 46 (Limits to the pursuit of mediation business)

1. The activity of intermediary is incompatible with the post of director, general manager, auditor or collaborator of the latter as per article 2403-bis of the civil code, and of person responsible for the internal auditing function at the principal insurance undertakings.
2. As regards the persons responsible for other corporate functions, undertakings shall adopt and formalise adequate strategies aimed to prevent and manage any conflicts of interest between the intermediary and the undertaking resulting from the mediation mandate assigned.

#### Art. 47 (General rules of conduct)

1. When carrying on mediation business and in particular when proposing insurance contracts and throughout the whole contract period, intermediaries must:
  - a) behave with diligence, fairness, transparency and professionalism towards policyholders and insured persons;
  - b) comply with the laws and regulations, as well as with the relevant procedures and instructions provided by the undertakings for which they conduct business;
  - c) acquire the information necessary to evaluate policyholders' insurance and pension needs and act in such a manner so that the latter are always adequately informed;
  - d) act in such a manner as not to prejudice the interests of policyholders and insured persons.
2. Intermediaries shall be required to preserve the confidential nature of the information acquired from policyholders or anyhow available to them on account of the activity pursued, except with respect to the subject for which they conduct business or on whose behalf they market contracts, in the cases referred to in article 189 of the decree and in any other case where the current regulations require or allow that such information be disclosed. However the use of the above information for purposes other than those strictly linked to the pursuit of mediation business shall be prohibited, except when expressly allowed by the party concerned after the latter has received adequate information in compliance with legislative decree n. 196 of 30 June 2003.
3. Intermediaries may accept the following means of payment of insurance premiums from the policyholder:
  - a) non transferable bank cheques, postal cheques or bankers' drafts, made out or endorsed to the undertaking on whose behalf they are acting or whose contracts are marketed, or specifically to the intermediary in his capacity as such;
  - b) payment orders, other means of bank or mail transfer, or electronic mail systems, where the beneficiary is one of the persons stipulated under a) above.

Intermediaries shall be prohibited from receiving cash payments in respect of the life assurance premiums referred to in article 2 (1) of the decree. As regards the non-life insurance contracts referred to in article 2 (3) of the decree, such prohibition shall apply to premiums exceeding *seven hundred and fifty euros per year*<sup>71</sup> for each contract. This prohibition shall not apply to motor vehicle liability insurance covers and to the relevant ancillary covers, in so far as they relate to the same vehicle insured against motor vehicle liability.

#### Art. 48 (Conflicts of interest)

1. In proposing and managing insurance contracts intermediaries shall, according to the provisions of article 183 of the decree, avoid performing operations that, will directly or indirectly 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 intermediaries shall take care not to prejudice the interests of policyholders.

*1bis. At any rate it shall be prohibited for intermediaries to directly or indirectly become, even*

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<sup>71</sup> The words "seven hundred and fifty euros per year" have been inserted by ISVAP Order n 2720 of 2 July 2009 and replace "five hundred euros per year".

*through one of the relations referred to under paragraph 1, first sentence, at the same time beneficiary or lien-holder of insurance benefits and intermediary of the relevant individual or collective contract<sup>72</sup>.*

2. In any case, taking account of the activity pursued and of the type of contracts offered, intermediaries shall:
  - a) propose contracts and suggest changes in contract terms or other operations in the interest of policyholders under the best possible conditions in relation to the time, size and nature of such contracts and operations;
  - b) endeavour to limit the costs borne by policyholders and obtain the best possible result, given the insurance objectives;
  - c) refrain from proposing changes in contract terms and suggesting operations with a frequency unnecessary for the achievement of the insurance objectives;
  - d) refrain from every behaviour that may advantage some clients over others.
3. To guarantee compliance with the principles under paragraphs 1 and 2, intermediaries shall identify and manage conflicts of interest on the basis of appropriate procedures that take account of the size and complexity of their activity.

Art. 49  
(Pre-contractual information)

1. *Intermediaries shall put up on their premises, in a location visible to members of the public, a document printed in bold characters and conforming to the model envisaged in annex n. 7A, illustrating the main behavioural obligations imposed on intermediaries in accordance with the decree and this Regulation<sup>73</sup>.*
  2. *Before policyholders sign a proposal or, when the latter is not envisaged, an insurance contract, intermediaries shall deliver or send to the client:*
    - "a) copy of a statement, conforming to the model envisaged in annex n. 7B, reporting the essential information on the intermediary and his/her activity.*
    - a bis) in case the proposal is being offered away from business premises or in case the pre-contractual steps are accomplished via distance communication techniques a document in line with annex n. 7A;*
    - b) pre-contractual and contractual documents envisaged by the current provisions<sup>74</sup>.*
- 2bis. In case of renewal or conclusion of further contracts with the same intermediary, the documents referred to under letters a) and a bis) of paragraph 2 shall be delivered or sent only if there are any variations in the information contained in them<sup>75</sup>.*

<sup>72</sup> Paragraph added by ISVAP Order n. 2946 of 06 December 2011. This rule shall enter into force on 2 April 2012.

<sup>73</sup> Paragraph added by article 12 of IVASS Regulation n. 8 of 3 March 2015. The previous paragraph, deleted by ISVAP Order n. 2720 of 2 July 2009, laid down:

*1. At their first contact with policyholders intermediaries shall deliver them a summary document illustrating the main behavioural obligations imposed on intermediaries in accordance with the decree and this Regulation, in line with the standard form envisaged in annex n. 7A."*

<sup>74</sup> Paragraph replaced by article 12 of IVASS Regulation n. 8 of 3 March 2015. The previous version laid down: *Before policyholders sign a proposal or, when not envisaged, an insurance contract, intermediaries shall deliver them: "a) copy of a statement, conforming to the model envisaged in annex n. 7B, reporting the essential information on intermediaries and their activity. The statement shall be updated every time there is a change in the data therein contained. In case of material amendments in the contract or renewal the statement shall be delivered if the data therein contained have changed ;*

*a bis) copy of a document, conforming to the model envisaged in annex n. 7A, illustrating the main behavioural obligations imposed on intermediaries in accordance with the decree and this Regulation; b) the pre-contractual and contractual documents envisaged by the current provisions.*

<sup>75</sup> Paragraph added by article 12 of IVASS Regulation n. 8 of 3 March 2015.

3. *To provide evidence that the obligations envisaged under paragraph 2 have been complied with the intermediary shall keep a statement signed by the client or the proof of the correct sending of documents to the e-mail address indicated by the client*<sup>76</sup>.
4. Before a proposal or, when not envisaged, an insurance contract is underwritten intermediaries shall provide policyholders with information adequate to enable them to make informed choices corresponding to their needs. To that end, based on the complexity of the contract being proposed, they shall explain to the policyholder the characteristics, duration, costs and limits of the cover, as well as any financial risks connected to the underwriting of the contract and any other element useful to provide complete and correct information.
5. *Insurance intermediaries dealing with large risks shall be exempted from the information requirements referred to in paragraphs 1 and 2 (a) and (a bis), as well as from the provisions of paragraph 3 relating to such requirements.*<sup>77</sup>

Art. 50

(Information on possible conflicts of interest)

1. In the statement referred to in article 49 (2) (a), intermediaries shall provide the policyholder with the following information too:
  - a) whether he has a holding, direct or indirect, representing more than 10% of the voting rights or of the capital in an insurance undertaking, specifying its corporate name;
  - b) whether an insurance undertaking or the parent undertaking of an insurance undertaking, whose corporate name must be indicated, has a holding, direct or indirect, representing more than 10% of the capital or of the voting rights in the mediation company for which it conducts business;
  - c) concerning the contract that is proposed:
    - whether they give advice based on a fair analysis. In that case intermediaries shall be obliged to give that advice on the basis of a sufficiently large number of contracts available on the market, to enable them to make a recommendation regarding which product would be adequate to meet the policyholder's needs;
    - whether they are under a contractual obligation to offer exclusively the products of one or more insurance undertakings – in that case they shall provide the names of those undertakings;
    - whether they are not under a contractual obligation requiring them to propose exclusively the contracts of one or more insurance undertakings. In that case, they shall, at the policyholder's request, provide the names of the insurance undertakings with which they may and do conduct business, without prejudice to the obligation to inform policyholders of their right to request such

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<sup>76</sup> Paragraph replaced by article 12 of IVASS Regulation n. 8 of 3 March 2015. The previous version laid down: "The delivery of the documents referred to under paragraph 2 must be attested by a statement to be signed by the policyholder, drawn up by using characters of an adequate size and typeface. The intermediary shall keep the documents providing evidence that the obligations to deliver information envisaged under paragraph 2 have been complied with."

<sup>77</sup> Paragraph replaced by article 12 of IVASS Regulation n. 8 of 3 March 2015. The previous version laid down: "Insurance intermediaries dealing with large risks shall be exempted from the information requirements referred to in paragraph 2 (a) and (a bis), as well as from the provisions of paragraph 3 relating to such requirements."

information.

- in the case of motor liability insurance contracts, the amount of the commissions or the remuneration paid by the undertaking or by each undertaking in relation to the policies offered.

Art. 51  
(Information arrangements)

1. The information referred to in articles 49, 50 and 52 shall be provided:
  - a) in Italian or in another language agreed by the parties;
  - b) in a correct, exhaustive and easy-to-understand manner.
2. *The information referred to in article 49 (2)<sup>78</sup>, shall be provided on paper or on another durable medium accessible to the policyholder. The information referred to in article 49 (2) (a and a bis)<sup>79</sup>, may be provided orally where immediate cover is necessary or where the policyholder so requests; in those cases the intermediary shall provide the information on paper or on another durable medium immediately after the conclusion of the contract and no later than five days after the conclusion.<sup>80</sup>*

Art. 52  
(Adequacy of contractual proposals)

1. Undertakings shall impart instructions to the intermediaries whose services they use, so that in the pre-contractual phase they acquire from policyholders any information useful to evaluate the adequacy of the contractual proposal with regard to the latter's insurance and pension needs and, where appropriate, in relation to the type of contract and to their risk propensity.
2. At any rate intermediaries shall be required to propose or recommend contracts adequate to meet the policyholder's insurance and pension needs. To that end, before they have an insurance proposal signed or, if the proposal is not envisaged, an insurance contract, they shall acquire from the policyholder any information they deem useful in relation to the features and complexity of the contract offered, and record and keep such information.
3. As regards life assurance contracts intermediaries shall ask policyholders for information on their personal characteristics, particularly as regards their age, employment, family, financial and insurance position, risk propensity and expectations from the contract in terms of coverage, duration and any financial risks related to the contract to be concluded.
4. The refusal to provide one or more pieces of the information requested must be written down in a statement, to be enclosed to the proposal and underwritten by the policyholder, containing a specific warning about the fact that the policyholder's refusal to provide one or more pieces of information shall undermine the possibility to select the contract tailored to his/her needs.
5. The intermediaries who receive insurance and pension proposals not meeting the

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<sup>78</sup> The words "*The information referred to in article 49 (2)*" have been inserted by ISVAP Order n. 2720 of 2 July 2009 and replace "*The information referred to in article 49 (1 and 2)*".

<sup>79</sup> The words "*The information referred to in article 49 (2) (a and a bis)*" have been inserted by ISVAP Order n. 2720 of 2 July 2009 and replace "*The information referred to in article 49 (1 and 2 (a))*".

<sup>80</sup> The words "*no later than five days after the conclusion*" have been inserted by ISVAP Regulation n. 34 of 19 March 2010 and replace "*no later than two working days after the conclusion.*".

policyholder's needs shall inform the latter of such circumstance and specify the reasons thereof. Such information given by the intermediary, along with the reasons for deeming the policy inadequate, shall be disclosed in a specific statement underwritten by the policyholder and the intermediary.

Art. 53  
(Documents to be provided to policyholders)

1. Intermediaries shall give the policyholder the documents referred to in article 49, a copy of the contract and of any other act or document underwritten by him/her.

Art. 54  
(Obligation to keep segregate assets)

1. According to article 117 of the decree if the premiums paid to the intermediary and the amounts to be used for the payment of claims or owed by undertakings are managed through the intermediary they shall represent segregate and independent assets from those of the intermediary.
2. For the purposes of paragraph 1 as well as of article 117 (2) and (3) of the decree the premiums paid to intermediaries shall be deposited in a separate bank or post-office account in the name of the undertaking or of the intermediary itself in its capacity as such. The money shall be deposited immediately *and anyhow not later than ten days after<sup>81</sup> the date when the premiums have been received. The money may be deposited net of the commissions due to intermediaries in case this possibility is allowed by the principal undertakings<sup>82</sup>.* Intermediaries operating for various undertakings shall adopt procedures designed to guarantee, also in case of proceedings for enforcement, the attribution of monies to each principal insurance undertaking and the respective insured persons. Intermediaries shall not be allowed to temporarily deposit premiums and amounts to be used for the payment of damages, or other insurance benefits to be paid by undertakings, in current accounts other than the separate current account.
3. The provisions of paragraphs 1 and 2 shall apply to the persons registered under section B exclusively in case they are in one of the conditions referred to in article 55 (1) below.

Art. 54-bis  
(Bank guarantee)<sup>83</sup>

1. *The provisions of article 54 shall not apply to the intermediaries registered in sections A, B or D who can permanently prove, by means of a bank guarantee, that their financial capacity is equal to 4% of the premiums collected, with a minimum of fifteen thousand euros. For this purpose premiums shall be considered net of tax charges.*
2. *The bank guarantee taken out by the intermediaries registered in sections A, B or D shall provide for a guarantee on first demand and ensure that the characteristics referred to in paragraph 1 are constantly maintained.*
3. *The amount of premiums earned at 31 December of the year before that when the bank guarantee is issued shall be taken as the reference point for the operation.*

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<sup>81</sup> The words “and anyhow not later than ten days after” have been inserted by ISVAP Order n. 2720 of 2 July 2009 and replace “and anyhow not later than five days after”.

<sup>82</sup> Sentence added by ISVAP Order n. 2720 of 2 July 2009.

<sup>83</sup> Article inserted by ISVAP Order n. 2720 of 2 July 2009.

Art. 55  
(Compliance with financial obligations)

1. Article 118 (1) of the decree shall apply to the intermediaries registered under section B, provided that:
  - a) they have been authorised by an insurance undertaking to the collection of premiums and/or payment of the amounts owed to policyholders or other persons entitled, based on a specific provision contained in the agreement concluded with the same undertaking;
  - b) where the agreement referred to under a) has been concluded with an intermediary registered under section A, that agreement has been ratified by the principal undertaking of the latter intermediary;
  - c) in case the policy has been concluded by way of coinsurance, the activities shown under a) are envisaged by the agreement concluded with the leading insurer. In that circumstance the provisions of article 118 (1) shall have effect in relation to each of the coinsurers.
2. In the statements referred to in articles 49 (2) (a) and 60 (2) the intermediaries registered under section B shall furnish policyholders with specific information on whether they have been authorised to the pursuit of the activities shown under paragraph 1 and the consequent effects.
3. The information referred to under paragraph 2 shall also be furnished by the intermediaries collaborating with the persons registered in section B, it being understood that in this case they are authorised to collect premiums and/or pay the amounts owed to policyholders or other persons entitled only if they are also expressly mentioned in the agreement concluded with the undertaking.

Art. 56  
(Collective contracts)<sup>84</sup>

1. *With reference to the collective contracts in which policyholders bear all or part of the economic costs connected with the payment of the premiums and are – directly or indirectly – vested with an interest in benefits, the provisions of articles 48, 49 (2) (b) and 52<sup>85</sup> shall apply to the persons insured, besides the policyholder. The documents referred to in article 49 (2) (b) shall be delivered to the insured persons by the policyholder.*

Art. 57  
(Keeping of documents)

1. Intermediaries shall keep the following documents for at least five years, unless otherwise provided for by law<sup>86</sup>:

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<sup>84</sup> Paragraph amended by ISVAP Order n. 2720 of 2 July 2009. The previous version of paragraph 1) laid down:

*“1. With reference to the collective contracts in which policyholders bear all or part of the economic costs connected with the payment of the premiums and are – directly or through those claiming under them – vested with an interest in benefits, the provisions of articles 48, 49 (1), (2) and (3), 51 and 53 shall apply to the persons insured, besides the policyholder.”*

<sup>85</sup> As supplemented by article 12, paragraph 6, of IVASS Regulation n. 8 of 3 March 2015.

<sup>86</sup> As amended by ISVAP Order n. 2720 of 2 July 2009. The previous version laid down:

*“1. Intermediaries shall keep the following documents in the places communicated according to article 36 for at least five years, unless otherwise provided for by law.”*



- a) granting of mandates, agreements on the pursuit of mediation business and proxies, if any;
- b) contracts negotiated through them and the relevant documents;
- c) insurance proposals and other documents underwritten by policyholders;
- d)<sup>87</sup>
- e) *the professional training and updates referred to in IVASS Regulation n. 6 of 2 December 2014, including any documentation demonstrating the suspension of the professional update obligation referred to under article 7 (5) of that Regulation*<sup>88</sup>;
- f) the names of the subjects pursuing mediation activity within their organisation and covered by the insurance policy referred to under articles 11 and 15;
- g) *the registration under section E of the subjects whose services they use and their professional updates, the documents regarding the verifications made pursuant to article 42 with regard to the staff operating inside their premises, as well as any documentation demonstrating the suspension of the professional update obligation referred to under article 7 (5) of IVASS Regulation n. 6 of 2 December 2014*<sup>89</sup>.

As to the intermediaries registered under section C the documents referred to under paragraph 1 from a) to e) can be kept by the undertakings on whose behalf they pursue business<sup>90</sup>.

2. In case of termination of the mediation mandate the obligation to keep the documents referred to under paragraph 1 b) and c) shall cease when said documents are returned to the undertaking.
3. Undertakings shall, under the same terms referred to under paragraph 1, keep the documents relating to any professional training and updates followed by the intermediaries whose services they use, *including any documentation demonstrating the suspension of the professional update obligation referred to under art. 7 (5) of IVASS Regulation n. 6 of 2 December 2014*<sup>91</sup>.
4. The documents referred to under paragraphs 1 and 3 may be stored also on magnetic media, microfilm, optical or digital media or on another equivalent technical media.

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<sup>87</sup> Letter deleted by ISVAP Order n. 2720 of 2 July 2009. Letter d) laid down:

*“d) their correspondence with the undertakings or with the intermediaries for which they carry on business and pertaining to the mediation activity carried on;”*

<sup>88</sup> Letter replaced by article 15 (10, first indent) of IVASS Regulation n. 6 of 2 December 2014. The previous version of letter e) laid down: *“the professional training referred to in articles 17 and 21 and the professional updates referred to in article 38, including any supporting evidence for the exemption from the professional update referred to under paragraph 5 of that article”*.

<sup>89</sup> Letter replaced by article 15 (10, second indent) of IVASS Regulation n. 6 of 2 December 2014. The previous version of letter g) laid down: *“the registration under section E of the subjects whose services they use and their professional updates, the documents regarding the verifications made pursuant to article 42 with regard to the staff operating inside their premises, as well as any supporting evidence for the exemption from the professional update referred to under article 38 (56).”*

<sup>90</sup> Sentence amended by ISVAP Order n. 2720 of 02 July 2009. The previous version of the period laid down:

*“As to the intermediaries registered under section C the documents referred to under paragraph 1 from a) to e), can be kept by the undertakings on whose behalf they pursue business, which shall immediately inform ISVAP of the places where such documents are kept if other than the head office.”*

<sup>91</sup> paragraph amended by article 15 (10, third indent) of IVASS Regulation n. 6 of 2 December 2014. The previous version of paragraph 3 laid down: *“Undertakings shall, under the same terms referred to under paragraph 1, keep the documents relating to any professional training and updates followed by the intermediaries whose services they use, including any supporting evidence for the exemption from the professional update referred to under article 38 (5)”*.

## Chapter II Distance insurance contracts

### Art. 58 (Scope)

1. *The provisions of this Chapter shall apply to mediation pursued by means of distance communication techniques concerning insurance contracts intended for policyholders having their habitual domicile or – if legal persons – their head office in the territory of the Italian Republic, covering risks situated in the territory of the latter.*<sup>92</sup>
2. The mediation activity referred to in paragraph 1 may be pursued by registered intermediaries and by intermediaries having their residence or head office in another Member State who have been included in the list enclosed to the register in compliance with article 33.
3. *This Chapter shall not apply to insurance mediation through the internet when:*
  - a) *the website contains a specific warning that its contents are intended only for policyholders having their habitual domicile or – if legal persons – their head office in a State other than Italy for the purposes of covering risks situated outside Italy;*
  - b) *the website has operational procedures in place to refuse proposals or acceptances from policyholders having their habitual domicile or – if legal persons – their head office in Italy for the purposes of covering risks situated in Italy.*<sup>93</sup>

### Art. 58 bis <sup>94</sup> (Call centre)

1. *In the promotion and distance marketing of insurance contracts the intermediaries registered under sections A, B or D of the register may use call centres, provided that the intermediary assumes full responsibility for the acts done by the call centre staff and identifies, for each call centre, one of its collaborators registered in section E responsible for the coordination and supervision over the distance mediation activity carried on by the call centre.*
2. *The intermediaries which use call centres shall make sure that:*
  - a) *the call centre staff meet the professional requirements referred to under IVASS Regulation n. 6 of 2 December 2014, and regularly update their professional competences in accordance with that regulation*<sup>95</sup>;
  - b) *on the first contact the call centre staff furnish their identification code or their name and the name of the intermediary they work for;*
  - c) *the policyholder can, upon request, be put in contact with the intermediary or with the subject registered in section E referred to under paragraph 1;*
  - d) *the information is correct, true, given in Italian and in a clear and comprehensible*

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<sup>92</sup> Paragraph replaced by ISVAP Regulation n. 34 of 19 March 2010. The previous version of paragraph 1) laid down: “1. *The provisions of this Chapter shall apply to mediation pursued by means of distance communication techniques concerning life assurance contracts intended for policyholders having their habitual domicile or – if legal persons – their head office in the territory of the Italian Republic, and non life insurance contracts covering risks situated in the same territory.*”.

<sup>93</sup> Paragraph added by ISVAP Regulation n. 34 of 19 March 2010.

<sup>94</sup> Article added by ISVAP Regulation n. 34 of 19 March 2010.

<sup>95</sup> Letter amended by article 15, paragraph 11, of IVASS Regulation n. 6 of 2 December 2014. The previous version of letter a) laid down: a) *the call centre staff meet the professional requirements referred to under article 17 (2), and regularly update their professional competences as per article 38;*

- language;
- e) *the answers given by the call centre staff are standardised and compliant with contract terms.*

Art. 59  
(Special rules of conduct)

1. When pursuing the activity referred to in article 58 (1) intermediaries shall be required to comply with *the provisions referred to in Part III, Title III, Chapter I, Section IV bis of legislative decree n. 206 of 6 September 2005*<sup>96</sup> as well as with the provisions of articles 47, 48, 52, 53, 54, 54 bis,<sup>97</sup> 55 and 57.
2. Registered intermediaries shall also:
  - a) give prior written notice to the principal undertakings or to the undertakings for which they conduct business, concerning the application of these sales techniques and stating the arrangements and the object of these techniques, as well as the commitment to ensure compliance with the provisions of this Regulation and to give notice of any subsequent amendments in the procedures;
  - b) define the arrangements referred to under point a) above with the principal undertakings or with the undertakings for which they conduct business, and submit to the checks on the actual implementation of these sales techniques carried out by these undertakings;
  - c) assume full responsibility towards the principal undertakings or the undertakings for which they conduct business, also for any action of their staff, in relation to the performance of their mandate by means of distance techniques;
  - d) *comply with the provisions referred to under articles 5, 6, 8, 10, 11, 12, 14, 15 and 16 of ISVAP Regulation n. 34 of 19 March 2010.*<sup>98</sup>

Art. 60  
(Information for policyholders)

1. Before policyholders are bound by any distance insurance contract, the intermediary shall provide them with the following information:
  - c) the information referred to in annex n. 7B;
  - d) a description of the main characteristics of the service or product offered;
  - e) the total premium to be paid by the policyholder, including the related fees, charges, expenses and taxes;
  - f) any specific additional cost for the policyholder of using the means of distance communication.
- (repealed)<sup>99</sup>
2. The intermediary shall send the policyholder, before the latter is bound by the contract and in accordance with the terms envisaged in article 51 (1 and 2), a statement containing the

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<sup>96</sup> The words "*the provisions referred to in Part III, Title III, Chapter I, Section IV bis of legislative decree n. 206 of 6 September 2005*" have been inserted by ISVAP Order n. 2720 of 2 July 2009 and replace "*the provisions referred to in legislative decree n. 190 of 19 August 2005*".

<sup>97</sup> The words "54 bis" have been inserted by ISVAP Regulation n. 34 of 19 March 2010.

<sup>98</sup> Letter added by ISVAP Regulation n. 34 of 19 March 2010. The provisions referred to under articles 8 (2, a, b and c) and 10 (2, 3 and 4) of ISVAP Regulation n. 34 of 19 March 2010 shall enter into force on 1 November 2010.

<sup>99</sup> Sentence repealed by ISVAP Regulation n. 34 of 19 March 2010. The period laid down "*In the case of telephone selling, the information to be provided to the policyholder shall be that indicated in article 67 novies of legislative decree n. 206 of 6 September 2005.*"

information set out in paragraph 1, a summary document illustrating the main behavioural obligations envisaged in annex n. 7A and the precontractual and contractual documents envisaged under the current provisions.

3. Intermediaries shall keep supporting evidence of compliance with the duties to send information envisaged in paragraph 2.

#### Art. 61

##### (Mediation activity through the internet)

1. If intermediaries pursue mediation business through the internet, their website must enable consumers to easily identify them and verify that they are registered intermediaries. For this purpose, the website shall show:
  - a) the data identifying the intermediary;
  - b) the address of its head office, its telephone and fax number and e-mail address;
  - c) the registration number and date, as well as the indication that the intermediary is subject to IVASS's supervision;
  - d) *the certified electronic mail address.*<sup>100</sup>
2. As regards the intermediaries registered in the list enclosed to the register referred to under article 33, the website shall show the information under paragraph 1 (a) and (b), with the indication of the branch – if any –, the statement that the intermediary is licensed to pursue business in Italy and the indication of the supervisory Authority of the home Member State.
3. *(repealed)*<sup>101</sup>

### Part IV Sanctions

#### Art. 62

##### (Infringements subject to disciplinary sanctions)

1. IVASS, in accordance with the procedure laid down in article 331 of the decree and in the relevant implementation regulation, shall impose the disciplinary sanctions envisaged in article 329 of the above-mentioned decree against the natural persons registered in the register, for any breach of the rules of the decree, of this Regulation and of other general or special provisions set by IVASS. Sanctions may be of differing severity depending on the seriousness of the breach and on any previous convictions.
2. Without prejudice to the provisions of paragraph 1, IVASS shall:
  - a) order the striking off from the register in case of:
    - 1) pursuit of mediation business in breach of article 35 (2);
    - 2) counterfeiting or falsification of contractual documents;
    - 3) counterfeiting of the policyholder's signature on standard contractual forms or other documents relating to operations concluded by the policyholder;

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<sup>100</sup> Letter added by article 12, paragraph 7, of IVASS Regulation n. 8 of 3 March 2015.

<sup>101</sup> Paragraph repealed by ISVAP Regulation n. 34 of 19 March 2010. Paragraph 3 laid down "*Mediation activity through the internet shall be subject to the general principles established in ISVAP circular n. 393 of 17 January 2000.*"

- 3 bis) *issuing of false statements when proposing the insurance contract or during its term*<sup>102</sup>;
- 4) non-remittance of the amounts collected as insurance premiums to the undertaking, or embezzlement of amounts to be used for the payment of claims or owed by undertakings to policyholders or other persons entitled;
- 5) *failure to open the separate current account envisaged by article 54 or failure to take out the bank guarantee envisaged by article 54 bis*<sup>103</sup>;
- 5 bis) *temporary deposit of premiums and amounts to be used for the payment of damages, or other insurance benefits to be paid by undertakings, in current accounts other than the separate current account referred to in article 54*<sup>104</sup>;
- 6) pursuit of mediation business in breach of the provisions of Part III, Title I, Chapters II and IV;
- 7) communication or sending of untruthful information and delivery or sending of untruthful documents to the policyholder or to IVASS;
- 8) pursuit of mediation business by intermediaries registered in sections A or B without holding a professional indemnity insurance policy;
- 9) resumption of mediation business by intermediaries registered in sections A or B as non operating, without holding a professional indemnity insurance cover;
- 10) pursuit of mediation business through unregistered staff operating outside their premises;

b) order the censure in case of:

- 1) non compliance with the obligations set forth in article 36 (1) (a), (2) or (6)<sup>105</sup>;
- 2) breach of the provisions *on the professional update referred to under IVASS Regulation n. 6 of 2 December 2014*<sup>106</sup>;
- 3) pursuit of mediation business through staff not fulfilling the requirements established in article 42;
- 4) breach of the provisions of article 46;
- 5) breach of the provisions of article 47 (1) (a) and (b) relating to breaches of laws or regulations, c), d) or 47 (2);
- 6) acceptance of means of payment from the policyholder other than those stipulated under article 47 (3) or having different characteristics;
- 7) breach of the provisions of articles 48, 49 or 50;
- 8) breach of the provisions of article 51;
- 9) breach of the provisions of article 52;
- 10) breach of the provisions of article 53;
- 10 bis) *opening of a separate current account not in line with the provisions of article 54 or taking out of a bank guarantee not in line with the provisions of article 54 bis*<sup>107</sup>;
- 10 ter) *deposit of premiums in the separate current account beyond the time-limits laid down in article 54 (2)*<sup>108</sup>;

<sup>102</sup> Point inserted by ISVAP Order n. 2720 of 2 July 2009.

<sup>103</sup> Point replaced by ISVAP Order n. 2720 of 2 July 2009. The previous version of point 5) laid down:

*"5) breach of the provisions of article 54;"*.

<sup>104</sup> Point inserted by ISVAP Order n. 2720 of 2 July 2009.

<sup>105</sup> The words " or 6" have been inserted by ISVAP order n 2720 of 2 July 2009 and replace "or 5".

<sup>106</sup> Point amended by article 15, paragraph 12, of IVASS Regulation n. 6 of 2 December 2014. The previous version of point 2 laid down: *"breach of the provisions of article 38"*.

<sup>107</sup> Point inserted by ISVAP Order n. 2720 of 2 July 2009.

<sup>108</sup> Point inserted by ISVAP Order n. 2720 of 2 July 2009.

- 11) breach of the provisions of article 55, (2) or (3);
- 12) non compliance with the duties to keep the documents referred to under article 57;
- 13) breach of the provisions of article 59;
- 14) breach of the provisions of article 60;
- 15) breach of the provisions of article 61;
- 16) *conclusion of compulsory insurance contracts against civil liability in respect of the use of motor vehicles and craft under conditions other than those to which the policyholder is entitled if no certificate of claims experience has been submitted or if no data have been collected about the policyholder and the vehicle's owner (if other than the policyholder), or under conditions other than those to which the policyholder is entitled according to the certificate of claims experience or to the data about the policyholder and the vehicle's owner – if other than the policyholder*<sup>109</sup>;

c) order the reproach for instances of minor failures.

3. In case of the breaches listed under paragraph 2, taking into account specific circumstances, previous convictions and any available information, IVASS may order the sanction immediately above or below instead of that prescribed.
4. In those cases where a co-responsibility of the mediation company can be said to exist as a result of lacks of control or organisational failings which have allowed the systematic repetition of the disciplinary infringement, the striking off of the natural person pursuing business within the company shall also imply the removal of the company from the register.
5. The application of the disciplinary sanction of striking off shall be published in IVASS's Bulletin and website.

## **PART V**

### **Transitional provisions**

#### Art. 63

(Transfer to the register of the natural persons registered in the National register of insurance agents)

1. The natural persons registered in the National register of insurance agents at the date of entry into force of this Regulation shall be recorded under section A of the register, provided that they have complied with the obligation to take out the policy referred to under article 11 and/or have been included in the cover of the policy referred to under article 15 underwritten by the undertakings mentioned in article 65 (1) for which they conduct business. Compliance with such obligation shall be demonstrated by sending ISVAP a substitutive statement in line with the model provided for in annex n. 8A – Part I.
2. The subjects referred to under paragraph 1 who, in their substitutive statement, certify that they have not complied with the requirement to take out the policy referred to under article 11 or that they have not been included in the policy taken out by the companies for which they conduct business, shall be registered in section A as non operating.
3. Those who do not send the substitutive statement referred to under paragraphs 1 and 2 by

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<sup>109</sup> Point inserted by ISVAP Order n. 2720 of 2 July 2009.

the time limit envisaged by paragraph 7 shall not be transferred to the register; nonetheless their professional qualification shall remain valid for a later registration.

4. The provisions of article 65 (2, 3, 4 and 5) shall apply to the subjects referred to under paragraph 1, registered in the National register of insurance agents as legal representatives or as agents responsible for the pursuit of insurance activity of the companies referred to under article 65 (1) who, in their substitutive statement, certify that they have been included in the policy taken out by those companies.
5. The natural persons who, at the date of entry into force of this Regulation, were registered under the second section of the National register of insurance agents and carried on an activity corresponding to that for which registration in section E is required, shall be registered under section A as non operating; to that end they shall fill out Part I of the model referred to in annex n. 8A. In case they intend to continue to pursue the activity previously performed they shall submit an application for removal from section A by filling out Part IV of the model referred to in annex 8A, and the intermediaries which use their services shall submit on their behalf an application for registration in section E, according to the provisions of paragraph 6 or of article 65 (6). In case the conditions under article 4 (4) are met the removal from section A shall not be required. For these subjects the professional qualification requirement upon which the registration in the National register of insurance agents had been made shall remain valid.
6. The natural persons referred to under paragraph 1 intending to register in section E the staff involved in mediation outside their premises who are in the conditions referred to in article 70, shall submit an application for registration according to the provisions of the latter article. To that end they shall fill out Part II and/or III of the model referred to in annex n. 8A.
7. The time limit for transmission to ISVAP of the documents envisaged by this article is 31 December 2006.

#### Art. 64

(Transfer to the register of the natural persons and companies registered in the Register of insurance and reinsurance brokers)

1. The natural persons registered in the Register of insurance and reinsurance brokers at the date of entry into force of this Regulation shall be recorded under section B of the register, provided that they have complied with the obligation to take out the policy referred to under article 11 and/or have been included in the cover of the policy referred to under article 15 underwritten by the undertakings referred to under paragraph 8 for which they conduct business; compliance with such obligation shall be demonstrated by sending ISVAP a substitutive statement in line with the corresponding model envisaged in annex n. 8C - Part I.
2. The subjects referred to under paragraph 1 who, in their substitutive statement, certify that they have not complied with the requirement to take out the policy referred to under article 11 or that they have not been included in the policy taken out by the companies for which they conduct business, shall be registered in section B as non operating.
3. Those who do not send the substitutive statement referred to under paragraphs 1 and 2 by the time limit envisaged by paragraph 13 shall not be transferred to the register; nonetheless their professional qualification shall remain valid for a later registration.
4. A corresponding status shall be recognised to the natural persons registered in the Register of insurance and reinsurance brokers as legal representatives, managing directors or general managers of the companies referred to under paragraph 8, who will send the substitutive statement referred to under paragraph 1, provided that the companies certify in annex n.8D

that they have confirmed them in their posts. Otherwise if such certification is not given they shall temporarily be registered in section B as non operating and shall be removed from the register if the following documents are not submitted to ISVAP by 31 March 2007:

- a) application for registration under section E, accompanied by an application for removal from section B;
  - b) notification of the taking up of business on an individual basis and/or notification of the taking up of one of the above-mentioned posts in other companies registered in the register, accompanied by a substitutive statement certifying that they hold the insurance cover referred to in articles 11 or 15;
  - c) notification of termination of the relationship with the company. In this case they shall remain registered in section B as non operating.
5. The second period of paragraph 4 shall apply to the natural persons registered in the Register of insurance and reinsurance brokers as administrators at the companies referred to under paragraph 8, who will send the substitutive statement referred to under paragraph 1, and for whom the companies have not stated in annex n. 8D that they were acting as persons responsible for the mediation business or with another status among those referred to under paragraph 4.
  6. As to the subjects referred to under paragraphs 4 and 5 the professional qualification upon which the registration in the Register of insurance and reinsurance brokers had been made shall remain valid.
  7. The natural persons referred to under paragraph 1 intending to register in section E the staff involved in mediation outside their premises who are in the conditions referred to in article 70, shall submit an application for registration according to the provisions of the latter article. To that end they shall fill out Part II and/or III of the model referred to in annex n. 8C.
  8. The insurance and/or reinsurance brokerage companies registered in the Register of insurance and reinsurance brokers at the date of entry into force of this Regulation shall be recorded under section B after showing evidence that they have complied with the obligation to take out the policy referred to in article 15; compliance with such obligation shall be demonstrated by sending ISVAP a substitutive statement in line with the corresponding model envisaged in annex n. 8D – Part I. In accordance with article 13 (1) (c) and (2) (a) companies shall anyhow indicate, among the brokers registered in the above register or among those who qualify for registration in the register, at least the legal representative and the person responsible for the mediation business; companies shall also indicate the managing director and the general manager only if they have been appointed.
  9. The companies referred to under paragraph 8 which, in their substitutive statement, certify that they have not complied with the requirement to take out the policy referred to under article 15, shall be registered in section B as non operating.
  10. Failure to send the substitutive statement by the time limit referred to under paragraph 13 shall result in not being transferred to the register.
  11. As to the companies referred to under paragraph 8 authorised to pursue reinsurance brokerage, the minimum capital requirement of euro 103,291.38 for the transfer to the register shall remain unchanged. Once the time limit for the duration of such companies (set prior to 1 January 2006) has elapsed the company's capital requirement to continue to be registered may not be less than that envisaged by article 14.
  12. The companies referred to under paragraph 8 intending to register in section E the staff involved in mediation outside their premises who are in the conditions referred to in article 70, shall submit an application for registration according to the provisions of the latter article.



To that end they shall fill out Part II and/or III of the model referred to in annex n. 8D.

13. The time limit for transmission to ISVAP of the documents envisaged by this article, except for the provisions of paragraph 4, is 31 December 2006.

#### Art. 65

(Registration of companies pursuing the activity of an agency)

1. Companies pursuing the activity of an agency through legal representatives or agents responsible for the pursuit of insurance activity registered in the National register of insurance agents at the date of entry into force of this Regulation, may be registered under section A of the register provided that:
  - a) they fulfil the requirements envisaged in article 13 (1);
  - b) at least one of the above legal representatives or agents be registered in section A in the capacity as person responsible for the company's mediation business.
2. For the registration of companies:
  - a) the legal representatives shall send ISVAP, by 31 December 2006, an application, in accordance with the current provisions on stamp duties, by using the model envisaged in annex n. 8B – Part I, in which they shall also indicate the person(s) responsible for the mediation business;
  - b) the legal representatives or agents already registered in the National register of insurance agents shall send ISVAP, within the same time limit specified under a), a substitutive statement attesting that they have been included in the cover of the insurance policy concluded by the company, by using the model envisaged in annex n. 8A - Part I.
3. Where all the conditions are met, ISVAP shall register the company and its legal representatives or agents responsible for the pursuit of insurance activity in section A, in their capacity as persons responsible for the mediation business.
4. Agencies which:
  - a) do not comply with registration requirements or fail to submit, by 31 December 2006, the documents referred to under paragraph 2 (a), may not be registered in the register in accordance with this article. Their legal representatives or agents responsible for the pursuit of insurance activity, already registered in the National register of insurance agents, shall be registered in section A as non operating;
  - b) fail to submit, by 31 December 2006, the statement referred to under paragraph 2 (b), may not be registered in the register in accordance with this article. Their legal representatives or agents responsible for the pursuit of insurance activity, already registered in the National register of insurance agents, may not be transferred to the register.

Principal undertakings shall revoke the agency mandates given to the companies which are not registered in the register.

5. The legal representatives or agents responsible for the pursuit of the insurance activity already registered in the National register of insurance agents, who submit the statement referred to in paragraph 2 b) and for whom the companies have not stated in annex n. 8B that they were acting as persons responsible for the mediation business, shall temporarily be registered in section A as non operating and shall be removed from the register if the following documents are not submitted to ISVAP by 31 March 2007:

- a) application for registration under section E, accompanied by an application for removal from section A;
  - b) notification of the taking up of business on an individual basis and/or notification of the taking up of one of the above-mentioned posts in other companies registered in the register, accompanied by a substitutive statement certifying that they hold the insurance cover referred to in articles 11 or 15;
  - c) notification of termination of the relationship with the company. In that case they shall remain registered in section A as non operating.
6. The agencies intending to register in section E the staff involved in mediation outside their premises who are in the conditions referred to in article 70, shall submit an application for registration according to the provisions of the latter article. To that end they shall fill out Part II and/or III of the model referred to in annex n. 8B.
7. The provisions of paragraphs 1, 2 and 3 shall not apply to the persons referred to in article 19, which, if they wish to continue to conduct insurance mediation business, shall:
- a) submit an application for registration under section D by 31 December 2006, in compliance with article 20, by using the model envisaged in annex n. 8F – Part I/A;
  - b) comply with the provisions of article 41.

The principal undertakings shall revoke the agency mandates given to such persons.

8. The legal representatives or agents of the subjects referred to in paragraph 7, already registered in the National register of insurance agents, shall be registered in section A as non operating, provided that they send ISVAP – by 31 December 2006 – a substitutive statement in line with the model provided for in annex n. 8A.
9. The persons referred to under paragraph 7 intending to register under section E the staff involved in mediation outside their premises which are in the conditions referred to in article 70, shall submit an application for registration according to the provisions of the latter article. To that end they shall fill out Part II and/or III of the model referred to in annex n. 8F.

#### Art. 66

(Registration in the register of the subjects removed from the National register of insurance agents and from the Register of insurance and reinsurance brokers)

1. The natural persons removed from the National register of insurance agents from 1 January 2001 until the date of entry into force of this Regulation or from the Register of insurance and reinsurance brokers from 1 January 2004 until the date of entry into force of this Regulation, may be registered, respectively, in sections A or B of the register, on condition that:
- a) the removal was not decided pursuant to a disciplinary sanction imposing the striking off;
  - b) they fulfil the requirements envisaged in article 8 (1), a), b) and d), as well as, only for the purposes of registration under section B, of the requirement envisaged in article 8 (1) (e);
  - c) by 31 December 2006 they submit an application for registration in accordance with the terms and procedures envisaged in article 12 and according to the models envisaged in annexes n. 8G or n. 8I.
2. The natural persons who meet all the conditions under paragraph 1 and who, in their application for registration, state that they have not complied with the obligation to take out the policy referred to in article 11, shall be registered in section A or B as non operating.

Art. 67

(Registration in the register on the basis of equivalent titles or after passing the qualifying examination for registration in the National register of insurance agents or in the Register of insurance and reinsurance brokers)

1. The natural persons who, in accordance with law n. 48 of 7 February 1979 and law n. 792 of 28 November 1984, have reached the requirements for registration in the National register of insurance agents or in the Register of insurance and reinsurance brokers at the date of entry into force of this Regulation, or who will reach these requirements by 31 December 2006, shall be entitled, respectively, to registration under section A and under section B of the register, on condition that:
  - a) they fulfil the requirements envisaged in article 8, except for the requirement under paragraph 1 (c);
  - b) by 31 March 2007 they submit an application for registration in accordance with the terms and procedures envisaged in article 12 and according to the standard form envisaged in annexes n. 8H or n. 8L.

Where these subjects submit, after the entry into force of this Regulation, an application for registration in the relevant Registers, ISVAP shall require that the application be supplemented with a declaration of compliance with the requirements under paragraph 1 (a).

2. The natural persons who meet all the conditions under paragraph 1 and who, in their application for registration, state that they have not complied with the obligation to take out the policy referred to in article 11, shall be registered in section A or B of the register as non operating.
3. The provisions of this article shall also apply to the subjects who, as at 31 December 2006, have passed the qualifying examination for registration in the National register of insurance agents or in the Register of insurance and reinsurance brokers. The application for registration shall be drawn up by using the standard forms provided for in the annexes n. 8M or n. 8N.

Art. 68

(Registration under section C of the register of persons pursuing the activity of insurance mediation)

1. The persons who, as at 1 January 2006, pursued a type of mediation business corresponding to that for which registration under section C of the register is required, may be registered in this section provided that:
  - a) they fulfil the requirements envisaged in article 17 (1) a) and b);
  - b) they have adequate professional experience resulting from their uninterrupted exercise, at least in the twelve months preceding the entry into force of this Regulation, of the activity of direct canvasser for which commissions or remunerations were paid and the relevant fiscal obligations fulfilled;
  - c) by 31 December 2006 they submit an application for registration in accordance with the terms and procedures envisaged in article 18 and according to the model envisaged in annex n. 8E.

In accordance with this article, those who have been removed from the National register of insurance agents or from the Register of insurance and reinsurance brokers pursuant to a disciplinary sanction imposing the striking off shall be barred from registration in the register, except after five years have elapsed from their removal.

2. Undertakings intending to use the services of direct canvassers shall, in their application for registration, state that they fulfil the requirements envisaged in paragraph 1. To that end:
  - a) as regards the requirements under paragraph 1 a), the certification shall be accepted only if it is made on the basis of documents dated no more than ninety days before the date the application for registration had been submitted to ISVAP;
  - b) as regards the requirement envisaged in paragraph 1 b), where the activity had been carried out in undertakings other than those submitting the application for registration, the certification shall be accepted only if it is made on the basis of adequate evidence provided by the subjects for which the activity was carried out.

#### Art. 69

(Registration under section D of the register of persons pursuing the activity of insurance mediation)

1. Banks, financial intermediaries, stock brokerage companies and Poste Italiane spa – Divisione servizi di bancoposta which, as at 1 January 2006, carried on the activity of insurance mediation, may be registered under section D of the register provided that they:
  - a) fulfil the requirements envisaged in article 19;
  - b) certify that they have an insurance mediation mandate as at 1 January 2006;
  - c) by 31 December 2006 submit an application for registration in accordance with the terms and procedures envisaged in article 20 and according to the standard form envisaged in annex n. 8F – Part I/B.
2. The persons referred to under paragraph 1 intending to register under section E the staff involved in mediation outside their premises which are in the conditions referred to in article 70, shall submit an application for registration according to the provisions of the latter article. To that end they shall fill out Part II and/or III of the model referred to in annex n. 8F.

#### Art. 70

(Registration under section E of the register of persons pursuing the activity of insurance or reinsurance mediation)

1. The persons who, as at 1 January 2006, pursued a type of mediation business corresponding to that for which registration under section E of the register is required, may be registered in that section provided that they:
  - a) fulfil the requirements envisaged in article 21 (1) a) and b) and in article 22 (1);
  - b) have adequate professional experience resulting from their continuously carrying out, at least in the twelve months preceding the entry into force of this Regulation, an activity corresponding to that for which registration under section E is required and for which commissions or remunerations were paid and the relevant fiscal obligations fulfilled. In case of companies, the requirement shall be fulfilled not only by the company but also by the person responsible for the mediation business and by each of the staff involved in mediation;
  - c) an application for registration be submitted, by 31 December 2006, by the intermediaries registered under sections A, B or D for whom they conduct business, according to the provisions of articles 63, 64, 65 and 69.

In accordance with this article, those who have been removed from the National register of insurance agents or from the Register of insurance and reinsurance brokers pursuant to a disciplinary sanction imposing the striking off shall be barred from registration in the register, except after five years have elapsed from their removal.

2. Intermediaries intending to use the services of the subjects referred to in paragraph 1 shall, in their application for registration, state that they fulfil the requirements envisaged in that paragraph. To that end:
  - a) as regards the requirements under article 21 (1) a) and b) and under article 22 (1) a) and b), the certification shall be accepted only if it is made on the basis of documents dated no more than ninety days before the date the application for registration was submitted to ISVAP;
  - b) as regards the requirement envisaged in paragraph 1 b), where the activity had been carried out for intermediaries other than those submitting the application for registration, the certification shall be accepted only if it is made on the basis of adequate evidence provided by the subjects for which the activity was carried out.
3. The provisions under paragraphs 1 and 2 shall not apply to the persons referred to in article 19 which, if they wish to continue to conduct insurance mediation business, must become registered in section D, in compliance with article 69 (1).

Art. 71  
(Time limits)

1. ISVAP shall effect the transfer to or registration in the register in compliance with the articles of this Part V not later than ninety days from the date of receiving the documents envisaged by said articles.
2. As regards the transfer to or registration in the register, for the subjects who, according to the provisions of this Part V, must submit the documents required by 31 December 2006, the effective date of the professional indemnity policy referred to under articles 11 and 15 shall be 1 January 2007.
3. Pending the transfer or registration as operating intermediaries, the subjects who shall submit the documents required within the time limits envisaged by the relevant transitional provisions may continue to pursue the activity performed until then.  
Those who, within the statutory time limits, do not submit the documents required or certify that they fulfil the requirements for the transfer or registration as operating intermediaries, may continue to pursue their activity until 31 December 2006.
4. In case of transfer refusal or registration rejection ISVAP shall inform the persons concerned in writing, in accordance with article 25.

Art. 72  
(Applications for registration in the National register of insurance agents and in the Register of insurance and reinsurance brokers)

1. For the purposes of transferring to the register the subjects who have submitted an application for registration in the National register of insurance agents and in the Register of insurance and reinsurance brokers until the day before the entry into force of this Regulation and for whom, on that date, the examination has not been completed, ISVAP shall require a certificate attesting that the obligation to take out the professional indemnity insurance policy referred to under articles 11 or 15 has been complied with.

Art. 73  
(Special provisions)

1. The subjects transferred to or registered in the register in compliance with articles 63, 64, 65

(1) and 66 may pursue the insurance and/or reinsurance business for which they were authorised in their capacity as persons registered in the National register of insurance agents or in the Register of insurance and reinsurance brokers. To pursue reinsurance mediation business the subjects authorised to pursue insurance mediation business must have passed the qualifying examination referred to under article 9, with exclusive reference to the subjects indicated under paragraph 5 of the same article.

2. The subjects who, at the date of entry into force of this Regulation, pursue the activities referred to in article 3 (2 and 3), shall comply with the provisions herein contained by 30 June 2007.
3. The subjects who, at the date of entry into force of this Regulation, are registered in the National register of insurance agents on the basis of the provisions of article 24 of law n. 48 of 7 February 1979, shall be registered in section A of the register in compliance with article 343 (1) of the decree, provided that:
  - a) the natural persons indicated by the same subjects as persons responsible for mediation in accordance with article 13 (1) (c) send ISVAP, by 31 December 2006, the documents required for the transfer to or registration in the register according to these transitional provisions;
  - b) the same subjects send ISVAP, by the same date, the substitutive statement attesting the fulfilment of the obligation to take out the policy referred to in article 15 and indicate the natural persons referred to under (a) as persons responsible for mediation business.

Failure to send the documents referred to under (a) and (b) by 31 December 2006 shall result in not being transferred to the register. The subjects who, in the substitutive statement referred to under (b), certify that they have not complied with the requirement to take out the policy, shall be registered under section A as non operating.

## **Part VI Final Provisions**

Art. 74  
(Information to be sent to ISVAP)<sup>110</sup>

Art. 75  
(Complaints against intermediaries)

1. Natural and legal persons, as well as recognised associations representing consumers' interests, have the possibility to file with ISVAP complaints against intermediaries aimed at ascertaining any non compliance with the provisions of the decree, of this Regulation and with other general or special provisions set by IVASS, in compliance with article 7 of the decree.

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<sup>110</sup> Article deleted by ISVAP Order n. 2720 of 2 July 2009. Article 74 laid down:

*"Art. 74 (Information to be sent to ISVAP) – 1 The annexes of groups n. 7, 8 and 9 regarding pre-contractual information and the implementation of transitional provisions are an integral part of this Regulation.*

*2. Through subsequent provisions, to be issued by 15 November 2006, ISVAP shall make available the annexes regarding application and communication models for the groups 1-6 to be used once the Regulation has been fully implemented, and shall lay down the arrangements for the transmission of the relevant information also in electronic form."*

Art. 76  
(Repeals)

1. The following regulations are or remain repealed:

- as from the date of entry into force of this Regulation, ISVAP circular n. 375/D of 10 May 1999;
- as from 1 January 2007:
  - a) ISVAP order no. 1418 of 28 December 1999;
  - b) ISVAP order no. 1895 of 26 June 2001;
  - c) ISVAP order no. 1896 of 26 June 2001;
  - d) ISVAP Circular no. 241 of 29 March 1995;
  - e) ISVAP Circular no. 487/D of 24 October 2002;
  - f) articles 1, 2, except for point 3, and article 5 of ISVAP circular n. 533/D of 4 June 2004;
- as from 30 June 2007:
  - a) paragraph 5 of ISVAP circular n. 393/D of 17 January 2000, as regards the provisions incompatible with the rules of this Regulation;
  - b) articles 27 and 28 of ISVAP circular n. 551/D of 1 March 2005.

2. Until the provisions of article 74 are issued ISVAP circulars n. 390 of 30 November 1999, n. 423/D of 5 December 2000 and n. 477/D of 11 March 2002 shall remain in force for those registered in the National register of insurance agents at the date of entry into force of this Regulation.

3. Any other provision that is incompatible with this Regulation shall not apply.

Art. 77  
(Publication)

1. This Regulation shall be published in the Official Journal of the Italian Republic and in the Authority's Bulletin and website.

Art. 78  
(Entry into force)

1. This Regulation shall enter into force on 1 January 2007, except for the provisions referred to under Part V of this Regulation and under articles 1, 2, 3, 8, 11, 13, 14, 15, 17, 19, 21, 22, 23, 25, 30, 32, 33, 40 and 74, which shall enter into force on the day after the publication in the Italian Official Journal. The provisions referred to under articles 12, 16, 18, 20 and 24 shall enter into force on 15 November 2006.
2. Intermediaries and undertakings shall comply with the provisions stated under articles 47 (3), 48, 49, 50, 51, 52, 53, 55, 56, 60 and 61 by 30 June 2007.

Rome, 16 October 2006

The President  
(Giancarlo Giannini)

## LIST OF ANNEXES<sup>111</sup>

N.	Subject:
1	Single model for registration, reinstatement and removal – Section A
2	Single model for registration, reinstatement and removal – Section B
3	Single model for registration, reinstatement and notification of termination of the collaboration relation – Section C
4	Single model for registration, reinstatement and removal – Section D
5	Single model for registration and reinstatement – Section E
5a.	Model for the notification of termination of the collaboration relation – Section E
6	Model for the registration of new collaboration relations with intermediaries already registered in Section E
GROUP 7: PRE-CONTRACTUAL INFORMATION	
7A	Information for policyholders on the behavioural obligations imposed on intermediaries
7B	Information to be delivered to the policyholder before signing the proposal or, where not envisaged, the contract, and in case of material amendments to the contract or of renewal entailing material amendments
GROUP 8: SUBSTITUTIVE STATEMENTS FOR THE TRANSFER TO THE REGISTER AND/OR APPLICATIONS FOR REGISTRATION, PURSUANT TO THE TRANSITIONAL PROVISIONS*	
8A	Substitutive statement, in accordance with article 63 of ISVAP Regulation n. 5/2006, in case of transfer of <b>natural persons</b> registered in the National register of insurance agents to <b>section A</b> of the register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005 and, where necessary, application for registration under <b>section E</b> of collaborators, be they <b>natural persons or companies</b>
8B	Application for registration, in accordance with article 65 of ISVAP Regulation n. 5/2006, of <b>agencies</b> under <b>section A</b> of the register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005 and, where necessary, application for registration under <b>section E</b> of collaborators, be they <b>natural</b>
8C	Substitutive statement, in accordance with article 64 of ISVAP Regulation n. 5/2006, in case of transfer of <b>natural persons</b> registered in the Register of insurance and reinsurance brokers to <b>section B</b> of the register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005 and, where necessary, application for registration under <b>section E</b> of collaborators, be they <b>natural persons or companies</b>
8D	Substitutive statement, in accordance with article 64 of ISVAP Regulation n. 5/2006, in case of transfer of <b>companies</b> registered in the Register of insurance and reinsurance brokers to <b>section B</b> of the register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005 and, where necessary, application for registration under <b>section E</b> of collaborators, <b>be they natural persons or companies</b>

\* These Annexes are no longer published for they were in force until 31 March 2007.

<sup>111</sup> The Annexes, except for forms 7A and 7B, have been deleted by IVASS Order n. 58 of 14 March 2017 and shall remain valid until 5 June 2017.



8E	Application for registration, in accordance with article 68 of ISVAP Regulation n. 5/2006, of direct canvassers under <b>section C</b> of the register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005
8F	Application for registration, in accordance with articles 65 or 69 of ISVAP Regulation n. 5/2006, under <b>section D</b> of the register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005 and, where necessary, application for registration under <b>section E</b> of collaborators, be they <b>natural persons or companies</b>
8G	Application for registration, in accordance with article 66 of ISVAP Regulation n. 5/2006, under <b>section A</b> of the register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005, of <b>natural persons</b> removed from the National register of insurance agents
8H	Application for registration of <b>natural persons</b> on the basis of equivalent titles, in accordance with article 67 of ISVAP Regulation n. 5/2006, under <b>section A</b> of the register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005
8I	Application for registration, in accordance with article 66 of ISVAP Regulation n. 5/2006, under <b>section B</b> of the register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005, of <b>natural persons</b> removed from the Register of insurance and reinsurance brokers
8L	Application for registration of <b>natural persons</b> on the basis of equivalent titles, in accordance with article 67 of ISVAP Regulation n. 5/2006, under <b>section B</b> of the register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005
8M	Application for registration under <b>section A</b> of the register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005, in accordance with article 67 of ISVAP Regulation n. 5/2006, of the <b>natural persons</b> who have passed the qualifying examination as provided for in article 4 (1) d) of law n. 48 of 7 February 1979.
8N	Application for registration under <b>section B</b> of the register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005, in accordance with article 67 of ISVAP Regulation n. 5/2006, of the <b>natural persons</b> who have passed the qualifying examination as provided for in article 4 (1) h) of law n. 792 of 28 November 1984.
<b>N.</b>	<b>Subject:</b>
9	Single model for shifts to other sections
10	Model for extension of business to other member States
11	Model for the notification of the starting of the activity and for the notification of changes in the posts held in companies registered in Sections A or B
12	Information to be sent to IVASS by insurance and reinsurance undertakings, in compliance with article 36 of ISVAP Regulation n. 5/2006

## LIST OF ANNEXES<sup>112</sup>

- *Electronic form in PDF format*
- *Notification of termination of the collaboration relation*
- *Document A*
- *Document C*
- *Annex 7A*
- *Annex 7B*

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<sup>112</sup> Annexes introduced by IVASS Order n. 58 of 14 March 2017.