



Istituto per la Vigilanza sulle Assicurazioni Private e di Interesse Collettivo

(only the Italian version is authentic)

REGULATION N. 39 OF 9 JUNE 2011

REGULATION ON REMUNERATION POLICIES IN INSURANCE UNDERTAKINGS

ISVAP

Istituto per la vigilanza sulle assicurazioni private e di interesse collettivo (Supervisory Authority for Private Insurance Undertakings and Insurance Undertakings of Public Interest)

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

HAVING REGARD to legislative decree n. 209 of 7 September 2005 as subsequently amended and supplemented, introducing the Code of Private Insurance, and in particular to article 5 (2), according to which ISVAP shall adopt any regulation necessary for the sound and prudent management of undertakings;

HAVING CONSIDERED the necessity to lay down rules on remuneration policies in insurance undertakings in line with the sound and prudent management of undertakings and market stability;

HAVING DEEMED it necessary to take account, when defining those rules, of the international principles on remuneration policies in the financial sector, including Commission Recommendations 2009/384/EC and 2009/385/EC of 30 April 2009;

adopts the following:

REGULATION

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Title I – General provisions

Art. 1

(Legislative sources)

1. This Regulation has been adopted in compliance with articles 5 (2) and 191 (1, c) of legislative decree n. 209 of 7 September 2005.

Art. 2

(Definitions)

1. For the purposes of this Regulation:
 - a) "ultimate parent undertaking" shall mean: the insurance or reinsurance undertaking or insurance holding company, whose head offices are in Italy, as defined by article 83 of the legislative decree n. 209 of 7 September 2005 and the relevant provisions for its implementation;
 - b) "variable component " shall mean: the component of the remuneration based on performance, including bonuses, premiums and other incentive remuneration schemes;
 - c) "internal control functions" shall mean: the internal audit, risk management and compliance functions as referred to under ISVAP Regulation n. 20 of 26 March 2008;
 - d) "insurance group" shall mean: the group of companies as referred to in article 82 of legislative decree n. 209 of 7 September 2005 and its relevant implementing provisions;
 - e) "ISVAP" shall mean: Istituto per la vigilanza sulle assicurazioni private e di interesse collettivo (Supervisory Authority for Private Insurance Undertakings and Insurance Undertakings of Public Interest);
 - f) "personnel" shall mean: the directors general, managers with strategic responsibilities, the responsible officers and the highest level personnel of the internal control functions and the other categories of personnel, whose activity can have a significant impact on the undertaking's risk profile. Insurance and reinsurance undertakings shall identify, while formalising and explaining the relevant choices, the categories of subjects whose activity can have such impact, bearing in mind, amongst other things, the position, level of responsibility, level within the hierarchy, activity performed, delegations given, amount of the remuneration paid, and the possibility to take risk positions, generate profits or have a significant effect on other accounting items;
 - g) "listed companies" shall mean: the companies listed in accordance with article 119 of legislative decree n. 58 of 24 February 1998.

Art. 3

(Scope)

1. This Regulation shall apply to insurance and reinsurance undertakings having their head office in the territory of the Italian Republic and, in so far as they are compatible with their organisation, to branches of insurance and reinsurance undertakings with head office in a third State.
2. The provisions contained in this Regulation are applicable taking account of the undertaking's nature, size and operational features. For that purpose the relevant features shall be the nature and number of insurance classes pursued, the amount of premiums and technical provisions, the ownership structure, membership of a group and listing on regulated markets.

3. Undertakings shall adequately formalise and explain the choices they make based on the criteria referred to under paragraph 2.

Art. 4 (General principles)

1. Undertakings shall adopt remuneration policies consistent with a sound and prudent risk management and in line with an undertaking's strategic objectives, profitability and balance in the long run.
2. Undertakings shall avoid payment policies based exclusively or mainly on short-term performance, which may favour excessive risk exposure.

Art. 5 (Groups)

1. The parent company shall ensure:
 - a) the overall consistency of the insurance group's remuneration policies by ensuring that they are adequately regulated to comply with the characteristics of the group companies, and verify their correct application;
 - b) compliance with the provisions of this Regulation by all insurance group companies, including those with head office abroad, subject to compatibility with the foreign State's regulatory framework.

Title II – Decision-making processes in the field of remuneration policies

Art. 6 (Role played by the meeting)

1. Undertakings' memorandum and articles of association envisage that the ordinary meeting establishes the remunerations for the bodies appointed by it and approves the remuneration policies of the corporate bodies and personnel, including the remuneration schemes based on financial instruments.

Art. 7 (Role played by the board of directors)

1. The board of directors shall define and periodically review the remuneration policies in order to obtain the approval by the ordinary meeting, as envisaged by article 6, and be responsible for their correct application.
2. The board of directors shall ensure that the internal control functions and the human resources function are involved in the definition of the remuneration policies.
3. The decision-making processes regarding remuneration policies shall be clear, supported by evidence and transparent, and include measures aimed to avoid conflicts of interest.
4. The members of the board of directors responsible for making proposals for the definition of remuneration policies, and the members of the remuneration committee referred to under article 8 shall have the necessary knowledge and act with independence of judgement to assess the adequacy of the policies and their implications on the writing and management of risks.

Art. 8
(Remuneration committee)

1. Undertakings of larger size or complexity shall set up a remuneration committee within the board of directors, made up of non-executive directors, who are mostly independent as per article 2387 of the civil code.
2. The board of directors shall define the remuneration committee's composition, tasks and functional procedures. The establishment of the committee shall not relieve the board of directors of its own responsibilities in this field.
3. The remuneration committee shall:
 - a) give advice and make proposals for the definition of remuneration policies and make proposals about the remunerations of each of the directors invested with particular powers;
 - b) verify the proportionality of the remunerations of executive directors with each other and compared to the undertaking's personnel.

Art. 9
(External advisors)

1. If the undertaking intends to use external advisors for determining remuneration policies the board of directors – or, where set up, the remuneration committee – shall verify that advisors do not, at the same time, provide other advisory services to the directors or the subjects involved in the decision-making process.

Art. 10
(Two-tier administration system)

1. For undertakings which have adopted the two-tier administration system article 2409 *octies* of the civil code the provisions of this Title referred to the functions of the board of directors shall be meant as referred to the supervisory board.

Title III – Remuneration policies

Chapter I – Directors' remuneration

Art. 11
(Balance between fixed and variable components)

1. If the directors' remuneration policy envisages that a variable component be paid the correct balance between fixed and variable components shall be ensured and maximum limits for the variable component shall be envisaged.
2. The two components shall be subdivided so as to allow the undertaking to pursue a flexible policy regarding the payment of variable components, with special regard to the exercise of the powers referred to under article 13 (2).
3. For non-executive directors the payment of variable remuneration components shall be envisaged only in exceptional, adequately motivated cases, and shall at any rate constitute a negligible part of the remuneration.

Art. 12

(Performance setting and measurement)

1. The payment of the variable component shall be subject to achieving set, objective and easy measurable performance.
2. When setting the performance to be achieved the remuneration policy shall:
 - a) envisage the adoption of performance indicators which take account of the actual or future risks connected with the set performance and of the corresponding charges in terms of cost of the capital used and the necessary cash;
 - b) take account, where appropriate, also of non-financial criteria contributing to the creation of wealth for the undertaking, such as compliance with external and internal regulations and efficiency in the management of services to customers;
 - c) ensure that the total amount of the variable component be based on an adequate combination of the performance achieved by the individual and of the global performance of the undertaking or parent group.
3. Performance shall be measured over an adequate, preferably multi-year time period.

Art. 13

(Payment of the variable component)

1. The remuneration policy shall envisage (varying according to the incidence of the variable component over the fixed one) that a considerable part of the variable component be paid only at the end of a minimum deferment period and taking account of the risks underlying the performance, in compliance with article 12 (2, a).
2. Without prejudice to the provisions of article 11 (3), should the directors' remuneration policy envisage the payment of a variable component the undertaking shall adopt proper provisions laid down by contract allowing it:
 - a) not to pay or to pay part of those remunerations if the set performance is not achieved or the undertaking's assets/liability or financial situation has noticeably deteriorated;
 - b) reclaim all or part of the remunerations paid on the basis of performance which proved to be non-lasting or effective due to fraudulent or grossly negligent behaviours.

Art. 14

(Remunerations based on financial instruments)

1. Incentive remuneration schemes based on financial instruments shall be adjusted to the risk taken by the undertaking and so structured as to avoid the creation of incentives conflicting with the company's interest in the long term.
2. Remuneration schemes based on shares and other financial instruments shall envisage adequate time periods for assigning shares or financial instruments, for the exercise of options and for their maintenance, so that the economic benefits are obtained gradually.

Art. 15

(Sums paid in case of early termination of the appointment)

1. The undertaking shall envisage that the sums due in case of termination of the appointment be subject to adequate quantitative limits, and determine the cases in which those sums must not be paid.

Chapter II – Role played by control bodies

Art. 16

(Limits to variable remunerations for control bodies)

1. Members of the board of internal auditors, the supervisory board and the management supervisory committee shall not be paid remunerations linked to performance or based on financial instruments.

Chapter III – Remuneration of personnel

Art. 17

(General provisions)

1. The provisions of this Chapter shall apply in compliance with the regulations in force on employment relationships.

Art. 18

(Internal disclosure)

1. The general criteria of the personnel remuneration policy shall be accessible to all personnel to whom they apply, in compliance with the right to confidentiality of each subject. The personnel concerned shall be informed in advance of the criteria used to determine their remuneration and performance assessment, to which the variable component is linked.
2. The remuneration policy and the evaluation process shall be adequately supported by evidence and made transparent to each subject concerned.

Art. 19

(Structure of the personnel remuneration policy)

1. The provisions referred to under articles 11, 12, 13 and 14 shall apply to the personnel remuneration structure, where it includes the variable components.
2. When setting the performance to be achieved, the personnel remuneration policy shall take account not only of the provisions of article 12 (2, c), but also, where appropriate, of the performance achieved by the parent production unit.

Art. 20

(Remuneration of the internal control functions and of the appointed actuary)

1. The remuneration of the responsible officers and the highest level personnel of the internal control functions shall be adequately set in relation to the level of responsibility and the commitment relating to the role.
2. Variable remunerations or remunerations based on financial instruments shall be avoided for the subjects referred to under paragraph 1, unless there are valid and certified reasons. Any variable remunerations or remunerations based on financial instruments shall be consistent with the tasks assigned, independent of the performance achieved by the operational units subject to their control and linked to the achievement of targets connected with the effectiveness and quality of the control action, provided that they are not a source of conflicts of interest.

3. The remuneration of the appointed actuary shall be proportionate to the role played in the undertaking and not to the undertaking's performance.

Chapter IV – Other subjects' remuneration

Art. 21

(Insurance and reinsurance intermediaries)

1. When defining the remuneration policies of insurance and reinsurance intermediaries undertakings shall ensure that remunerations and incentives are consistent with the principles referred to under article 4.

Art. 22

(Providers of outsourced services)

1. In case of outsourcing of critical or important activities undertakings shall ensure that the outsourcing does not undermine compliance with the principles referred to under article 4.

Title IV – Verifications of remuneration policies

Art. 23

(Verification of remuneration policies)

1. The implementation of the remuneration policies adopted by the undertaking shall be subject, at least every year, to verification by the internal control functions, which collaborate each according to its own competences. For this purpose:
 - a) the internal control function shall verify the correct application of the remuneration policies based on the guidelines defined by the board of directors for the sake of efficiency and protection of an undertaking's assets;
 - b) the compliance function shall verify that the remuneration policies are consistent with the targets of compliance with the rules of this Regulation, of the memorandum and articles of association and of any ethical codes or other behavioural standards applicable to the undertaking, in order to prevent and reduce legal and reputational risks.
2. The internal control functions shall report about the results of the verifications to the bodies competent for the adoption of corrective measures, which shall assess their impact in order to promptly report it to ISVAP. The outcome of the verifications made shall be disclosed to the meeting every year within the information referred to under paragraph 24 (2).

Title V – Information requirements

Art. 24

(Information for the meeting)

1. For approval of the remuneration policies referred to under article 6 the board of directors shall furnish the meeting, separately for the corporate bodies and personnel and broken down by roles and functions, with:

- a) an illustration of the general strategies, reasons and purposes that the undertaking intends to pursue through its remuneration policy;
 - b) the information about the decision-making process used to define the remuneration policy, including that on the subjects involved;
 - c) the criteria used to define the balance between fixed and variable component and the parameters, reasons and relevant deferment periods for the payment of the variable components, as well as the policy regarding the severance indemnity;
 - d) information about the changes made to the already approved policies.
2. Every year the board of directors shall furnish the meeting with adequate and quantitative information on the application of the remuneration policies.
 3. For undertakings which have adopted the two-tier administration system article 2409 *octies* of the civil code the provisions of paragraphs 1 and 2 referred to the functions of the board of directors shall be meant as referred to the supervisory board.

Title VI – ISVAP's supervision

Art. 25 (ISVAP's supervision)

1. ISVAP shall supervise observance of the provisions of this Regulation, taking account of the nature, size and operational characteristics of the undertaking.

Title VII – Transitional and final provisions

Art. 26 (Publication)

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

Art. 27 (Entry into force)

1. This Regulation shall enter into force on the day after its publication in the Italian Official Journal.
2. Undertakings shall change their memorandums and articles of association as envisaged for the application of article 6 before the deadline for the approval of the 2011 financial statements. Within the same delay undertakings shall submit, for approval by the meetings, the remuneration policies defined according to the provisions of this Regulation, taking account of the current appointments and contracts. In relation to those appointments and contracts undertakings shall take any initiative for adjusting to the provisions of this Regulation, in so far as such changes are regulated.
3. In case of appointments made and contracts underwritten after the entry into force of this Regulation and before the remuneration policies have been approved in compliance with paragraph 2, undertakings shall take account of the provisions on the remuneration structure referred to under Title III.

4. In the first application, undertakings shall assess whether their remuneration systems are adequate to meet the provisions of this Regulation and identify the necessary adjustment measures and their time schedule, and inform ISVAP thereof, by 30 November 2011. Such results shall be formalised in a resolution of the board of directors, or of the supervisory board in undertakings which have adopted the system pursuant to article 2409 *octies* of the Italian Civil Code.

the President
(Giancarlo Giannini)