

(only the Italian version is authentic)

REGULATION NO. 41 OF 15 MAY 2012

REGULATION CONCERNING IMPLEMENTATION MEASURES ON THE ORGANIZATION, PROCEDURES AND INTERNAL CONTROLS DESIGNED TO PREVENT THE USAGE OF INSURANCE UNDERTAKINGS AND INSURANCE AGENCIES FOR PURPOSES OF MONEY LAUNDERING AND FINANCING TERRORISM, IN ACCORDANCE WITH ARTICLE 7, PARAGRAPH 2 OF LEGISLATIVE DECREE NO. 231 OF 21 NOVEMBER 2007.

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 no. 576 of 12 August 1982, as subsequently amended and supplemented, on the reform of insurance supervision;

HAVING REGARD to legislative decree no. 231 of 21 November 2007, as subsequently amended and supplemented, on the implementation of directive 2005/60/EC concerning the prevention of the use of the financial system for laundering the proceeds of criminal activities or financing terrorism, and directive 2006/70/EC, which includes execution measures;

HAVING REGARD in particular to article 7, paragraph 2 of legislative decree 231 of 21 November 2007, which provides that, in compliance with the aims and within the regulatory powers foreseen by the respective sector-based orders, ISVAP and the other supervisory Authorities in the sector, upon mutual agreement, issue provisions on the organization, procedures and internal controls designed to prevent the usage of agents and other parties engaging in financial activities in accordance with the same decree for purposes of money laundering and financing terrorism;

HAVING REGARD to legislative decree no. 209 of 7 September 2005 as subsequently amended and supplemented, introducing the Code of Private Insurance;

HAVING REGARD to ISVAP Regulation no. 20 of 26 March 2008, laying down provisions on insurance undertakings' internal controls, risk management, compliance and outsourcing.

Upon agreement with Banca d'Italia and Consob

adopts the following:

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CHAPTER I

General Provisions

Art. 1

(Legislative sources)

1. This Regulation was adopted in compliance with article 7, paragraph 2 of legislative decree no. 231 of 21 September 2007.

Art. 2

(Definitions)

1. For purposes of this Regulation, the following definitions shall apply:
 - a) "senior management": the managing director, the director general and the senior management that carries out management supervision duties;
 - b) "AUI": the single computerized data bank referred to in article 37 of legislative decree no. 231 of 21 November 2007, created and managed using IT systems and consisting of a centralised storehouse for all of the information acquired in fulfilment of the identification and registration requirements, in accordance with the principles envisaged by the same decree;
 - c) "Authorities": the Authorities referred to in Titles I, Chapter II of legislative decree no. 231 of 21 November 2007;
 - d) "Code": legislative decree no. 209 of 7 September 2005 and subsequent amendments and integrations, introducing the Code of Private Insurance;
 - e) "parent undertaking": the insurance or reinsurance undertaking or insurance holding company, with head office in Italy, as defined by article 83 of legislative decree no. 209 of 7 September 2005 and related implementation measures;
 - f) "decree": legislative decree no. 231 of 21 November 2007;
 - g) "outsourcing": an agreement between an insurance undertaking and a service provider, who is not necessarily authorised to run an insurance business, on the basis of which the provider executes a process, service or activity that would otherwise be executed by the insurance undertaking itself;
 - h) "compliance function": the function referred to under Chapter V of ISVAP Regulation no. 20 of 26 March 2008;
 - i) "internal control functions": the functions referred to in letters h), j) and k);
 - j) "internal audit function": the function referred to under Chapter III of ISVAP Regulation no. 20 of 26 March 2008;
 - k) "risk management function": the function referred to under article 21 of ISVAP Regulation no. 20 of 26 March 2008;
 - l) "insurance group": the group of companies referred to in article 82 of legislative decree no. 209 of 7 September 2005 and related implementation measures;
 - m) "undertakings": the insurance undertakings with head office in Italy and the Italian branches of insurance undertakings with head office in another European Union Member State or other third country authorised to pursue life assurance business as referred to in article 2, paragraph 1 of legislative decree no. 209 of 7 September 2005;

- n) "administrative body": the board of directors, or the management board for undertakings that employ the system referred to in administration article 2409 octies of the Italian Civil Code;
- o) "control body": the statutory board of auditors, or, for undertakings employing a system different from the one referred to in article 2380 (para. 1) of the Civil Code, the board of surveillance or the management control committee;
- p) "enhanced due diligence": the customer due diligence measures referred to in article 28 of legislative decree no. 231 of 21 November 2007;
- q) "direct distribution network": the insurance intermediaries referred to in article 109, paragraph 2, letters a), c) and d) of legislative decree no. 209 of 7 September 2005, who operate in the life assurance business referred to in article 2, paragraph 1 of the same decree;
- r) "UIF": Italy's financial information unit, instituted at the Banca d'Italia in accordance with article 6 of legislative decree no. 231 of 21 November 2007.

Article 3 (Scope)

1. The provisions of this Regulation, in accordance with article 11, paragraph 1, letters g) and n), and paragraph 3, letter b) of the decree, apply to:
 - a) insurance undertakings with head office in Italy and the Italian branches of insurance undertakings with head office in another Member State of the European Union or a third state who are authorised to pursue life assurance business as per article 2, paragraph 1 of the Code;
 - b) insurance intermediaries as per art. 109, paragraph 2, letters a) and b) of the Code and who pursue life assurance business in Italy as per article 2, paragraph 1 of the same Code.
2. The provisions set forth in the present Regulation apply to the insurance intermediaries referred to in article 116, paragraph 2 of the Code as a function of the business actually being conducted on the territory of the Italian Republic.

CHAPTER II

Internal controls system for anti-money laundering and against the financing of terrorism

Section I - General principles

Art. 4 (Aims of the internal controls system)

1. Undertakings equip themselves with a suitable administrative organization and a system of internal controls that is proportional to the size, nature and operating characteristics of the undertaking and designed to safeguard against the risks of money laundering and financing terrorism.

Section II - The role of corporate bodies and the supervisory body

Art. 5

(Corporate bodies)

1. Corporate bodies, each according to its specific competencies and responsibilities, define company policies and apply organizational and operational measures to avoid the risk of involvement in episodes of money laundering and financing terrorism and to arrange for the monitoring of compliance with anti-money laundering laws and the due oversight for this risk, drawing on the specific control bodies and functions envisaged for the system of internal controls.

Art. 6

(Administrative body)

1. The administrative body:
 - a) identifies the strategic guidelines and management policies for the risks associated with money laundering and financing terrorism. In accordance with risk-based strategizing, these policies need to be adapted to reflect the magnitude and types of risks to which the undertaking's business is exposed;
 - b) continuously ensures that the duties and responsibilities related to anti-money laundering and contrasting the financing of terrorism are clearly and appropriately allocated, guaranteeing that the operational functions remain distinct from the control functions and engaging the appropriate human resources in terms of both quality and quantity;
 - c) delineates an organic, coordinated structure of internal controls in order to prompt detection and management of the risks of money laundering and financing terrorism and ensures its effectiveness over time;
 - d) approves internal procedures and related updates in order to avoid unwitting involvement in acts of money laundering or financing terrorism, taking into account the indications expressed by competent Authorities and various international bodies as well as any changes that are made to the legal framework;
 - e) ensures the preparation of an adequate system of information flows towards and within the corporate bodies that is comprehensive and prompt while still managing to ensure the confidentiality of anyone who takes part in the reporting of suspicious activities;
 - f) examines, at least once per year, the reports detailing the actions undertaken by the head of anti-money laundering and the controls conducted by the functions of competency for anti-money laundering;
 - g) ensures that any deficiencies or anomalies detected by the various levels of controls are brought to its attention in a timely manner so that it may issue directives for the adoption of appropriate corrective measures.

Art. 7

(Senior management)

1. The senior management:
 - a) defines in detail, in accordance with the directives of the administrative body, the duties and responsibilities related to anti-money laundering and contrasting the financing of terrorism;

- b) prepares the procedures for fulfilling the obligations related to anti-money laundering and contrasting the financing of terrorism that are consistent with the strategic guidelines and risk management policies defined by the administrative body. In specific, the procedures for reporting suspicious activities must guarantee certainty of reference, homogeneity of behaviour and generalized application to the entire structure, with due respect for the confidentiality of the identity of any subjects who take part in the reporting process, as well as the tools, including information technology, that are used to detect anomalous activities;
- c) ensures that the procedures and information systems permit an accurate identification of the customer's details, the acquisition and continuous updating of any and all information needed to assess the economic-financial profile of the customers themselves and the identification of the economic motivations underlying the relationships established and transactions effected;
- d) prepares the procedures that guarantee the acquisition of information that reveals any deficiencies or anomalies detected by the various levels of controls and their timely communication to the administrative body;
- e) prepares the procedures for fulfilling the requirements for document preservation and the registration of information in a single data archive;
- f) defines the initiatives and procedures required to ensure timely fulfilment of the requirements for reporting to the Authorities and the UIF as prescribed by the laws on anti-money laundering and contrasting the financing of terrorism;
- g) approves the training and preparation programmes for staff members and collaborators on the subject of the obligations entailed by the rules on anti-money laundering and the financing of terrorism. Training activities are on-going and systematic, accommodating the evolution of the laws and the procedures employed by the undertakings;
- h) defines the information flows designed to ensure that all of the corporate structures involved and the bodies in charge of control functions in accordance with article 52 of the decree are aware of the risk factors;
- i) adopts suitable tools for continuous checks and controls of the activities of staff members, collaborators, the direct distribution network and intermediaries as per article 109, paragraph 2, letter b) of the Code, for purposes of detecting any noteworthy anomalies that might arise in the behaviour or quality of reporting to the corporate representatives and structures, not to mention the relations between these employees or collaborators and customers themselves;
- j) for activities that are carried out by telephone or telematically, ensure the adoption of specific computerised procedures in compliance with anti-money laundering laws, especially in regard to the automated identification of anomalous activities.

Art. 8 (Control body)

1. The control body oversees compliance with the law and verifies the adequacy of the risk management and control system against money laundering and financing terrorism.
2. In the context of its duties, the control body:

- a) solicit the cooperation of internal structures, including the structures that implement the control functions, in order to carry out the necessary verifications and ascertainties and use the incoming information flows from other corporate bodies, the head of anti-money laundering and other internal control functions;
 - b) assesses the suitability of the existing customer due diligence procedures, the acquisition, registration and preservation of information in the AUI or in non-AUI data archives as referred to in article 37, paragraph 6 of the decree and for reporting suspicious activities;
 - c) promote detailed investigations into the causes of any deficiencies, anomalies or irregularities that are detected and recommend appropriate corrective measures to the administrative body.
3. The control body is consulted regarding the definition of elements of the overall structuring of the management and control system that relate to the risks of money laundering and financing terrorism.
 4. The control body, in accordance with article 52, paragraph 2, letters a) and d) of the decree:
 - a) informs ISVAP without delay of any facts or events it learns of during the exercise of its functions and that may constitute a violation of the implementation measures from article 7, paragraph 2 of the decree, communicating any initiatives it intends to undertake and their subsequent results;
 - b) informs ISVAP within thirty days when it learns of violations of the provisions contained in article 36 of the decree, providing indications of the causes that provoked them.

The reporting referred to in letters a) and b) may be carried out jointly with other corporate bodies or functions.

Art. 9

(Supervisory body referred to in legislative decree no. 231 of 8 June 2001)

1. In order to attenuate the risks of incurring liability for administrative crimes deriving from offences involving money laundering, financing terrorism, or the use of money, property or benefits of unlawful origin as referred to in articles 648 bis and 648 ter of the Criminal Code, and that are committed by the people indicated in article 5 of legislative decree no. 231/2001, undertakings endowed with a supervisory body as per article 6, paragraph 1, letter b) of legislative decree no. 231 of 8 June 2001 shall oversee compliance with the decree's laws and issue the prescribed reports in accordance with article 52 of said decree within the context of its own duties and competencies.
2. This body enjoys unlimited access to any and all significant information and receives information flows from all corporate functions for purposes of fulfilling its duties.

Section III - Organizational anti-money laundering safeguards

Art. 10

(Anti-money laundering function)

1. Undertakings create an anti-money laundering function, in proportion to the nature, size and complexity of the undertaking's own activities, that is delegated to prevent and contrast the occurrence of money laundering and the financing of terrorism.

2. The anti-money laundering function must meet the requirements of independence and have resources that are qualitatively and quantitatively commensurate with the assigned duties, and must enjoy full access to any and all of the undertaking's activities and any information of relevance to the fulfilment of its tasks.
3. The institution of an anti-money laundering function is formalised in a dedicated resolution by the administrative body, which defines the responsibilities, duties, operational procedures and frequency at which it reports to corporate bodies and other interested functions.
4. Undertakings organise their respective anti-money laundering function independently, deciding whether to create a specific organisational unit or to entrust the duties in question to the pre-existing resources of other organisational units, so that the entire risk management process for money laundering and financing terrorism is incorporated within the unit through the appointment of a designated head for coordination and supervision activities. In the latter case, independence is ensured by the presence of appropriate safeguards that guarantee the separation of duties and prevent conflicts of interest.
5. The anti-money laundering function may also be attributed to the organisational units for compliance or risk management and is subject to periodic controls by the internal audit function.

Art. 11

(Duties of the anti-money laundering function)

1. The anti-money laundering function verifies the consistency of corporate procedures with the goal of anticipating and contrasting any violations of law, regulations or self-imposed rules on money laundering and the financing of terrorism.
2. The anti-money laundering function:
 - a) identifies the laws that apply to money laundering and financing terrorism and assesses their impact on internal processes and procedures;
 - b) collaborates to identify a system of internal controls and procedures for preventing and contrasting the risks of money laundering and financing terrorism and continuously verifies the extent of their effectiveness;
 - c) verifies the suitability of the system of internal controls and procedures that is adopted and recommends any procedural or organisational changes needed to ensure sufficient protection against the risks referred to in letter b);
 - d) provides corporate bodies and senior management with advice and assistance in its fields of competence and provides them with adequate information flows;
 - e) verifies the reliability of the reporting system that feeds in to the AUI;
 - f) provides the UIF with the aggregate data for AUI registrations on a monthly basis;
 - g) prepares information flows for corporate bodies, senior management and the supervisory body;
 - h) in conjunction with the other corporate functions with competency for training, prepares an appropriate training programme designed to keep staff members and collaborators continuously up to date;
 - i) contributes to the dissemination of an anti-money laundering culture by drafting a document, subject to the approval of the administrative body, that summarises the

responsibilities, duties and operational procedures used to manage the risks of money laundering and financing terrorism. This document, which is updated continuously, is made available and readily accessible to all staff members, collaborators and the direct distribution network;

- j) assesses the suitability of the internal systems and procedures for fulfilling the customer due diligence and registration measures and the systems used for the detection, assessment and reporting of suspicious activities; it also assesses the effective detection of other situations to which the reporting obligation applies, as well as the proper preservation of documentation as required by law;
- k) the assessment of the sufficiency of the systems and procedures referred to in letter j) may entail the execution of on-site sample-based controls in order to verify the effectiveness and functionality and to identify any problem areas;
- l) executes enhanced customer due diligence measures for cases in which, on the basis of objective, environmental and/or subjective circumstances, the risks of money laundering or financing terrorism seem particularly high. This duty may instead be assigned to other operational structures, in which case the head of anti-money laundering referred to in article 12 verifies the sufficiency of the enhanced customer due diligence process employed by such structures, subjecting said process and related results to careful controls;
- m) at least once per year, presents the corporate bodies with a report on the initiatives undertaken, the dysfunctions ascertained and the related corrective measures to be taken, as well as any training activities;
- n) in its capacity as a specialized corporate safeguard against money laundering, collaborates with the Authorities referred to in Title I, Chapter II of the decree.

Art. 12

(Head of the anti-money laundering function)

1. Regardless of the organisational form selected in accordance with article 10, undertakings appoint a head of the anti-money laundering function who exhibits the due requisites of independence, authority and professionalism. Undertakings ensure that the internal rules and regulations define the specific safeguards that are put into place to protect the stability and independence of this head.
2. The administrative body is responsible for appointing and dismissing this head.
3. For the cases referred to in article 10, paragraph 5, the head of compliance or the risk manager may be put in charge of this function. The head of this function must not be in charge of any operational areas, nor may he/she be hierarchically subordinated to the heads of such areas. As justified by size or operational characteristics, an administrator may be put in charge of this function, provided he/she has not otherwise been delegated.
4. The staff members called on to cooperate with the anti-money laundering function, even if they belong to other units, shall report directly to the head of the function in regard to any issues pertaining to the duties assigned to them.

Art. 13

(Outsourcing of the anti-money laundering function)

1. When the establishment of a dedicated anti-money laundering function would be uneconomical due to the small size or operational characteristics of the undertaking, this

function may be outsourced, even within the same insurance group, in accordance with the conditions referred to in chapter VIII of ISVAP Regulation no. 20 of 26 March 2008 and the subsequent paragraphs of the present article. The undertaking nevertheless is fully accountable for proper risk management in regard to money laundering and financing terrorism.

2. The outsourcer entrusted with the anti-money laundering function must meet the due requisites of professionalism, authority and independence.
3. The outsourcing is formalised through an agreement that fulfils the conditions referred to in article 32 of ISVAP Regulation no. 20 of 26 March 2008 and contains the following minimum elements:
 - a) an indication of the minimum frequency of information flows to the internal referent subject, the administrative body and the control body, without prejudice to the obligation to satisfy any and all requests for information and consultation in a timely manner;
 - b) the confidentiality requirements for any information acquired during the exercise of this function;
 - c) the possibility to review the terms and conditions of service in response to changes in law or changes in the operation and organisation of the undertaking that is outsourcing the function;
 - d) the possibility for the UIF to access information that serves for supervisory and control activities.
4. In cases of outsourcing, and in accordance with the provisions of article 33 of ISVAP Regulation no. 20 of 26 March 2008, undertakings assign the duty of monitoring the service procedures employed by the outsourcer to a figure within the anti-money laundering function. Undertakings take every due precaution to ensure that the corporate bodies retain full powers of direction and control over the outsourced function.
5. An insurance group may centralise the activities related to the anti-money laundering function by establishing a specialised unit, as long as:
 - a) each undertaking in the insurance group appoints a referent subject who serves as contact with the head of the group function;
 - b) appropriate procedures are defined at the level of the insurance group to guarantee that the risk management policies for money laundering and financing terrorism are suitably calibrated to the operational characteristics of the individual undertakings.

Art. 14

(Relations with other corporate functions)

1. The anti-money laundering function collaborates with other corporate functions to develop its own risk management methods in a manner consistent with the corporate strategies and operations.
2. If anti-money laundering is not attributed to the compliance function, then the duties and responsibilities of the two functions are clearly identified and communicated within the undertakings and a continuous exchange of information between the two functions is ensured.
3. The head of the internal audit function periodically informs the head of the anti-money laundering function of any procedural inefficiencies or deficiencies in risk management that might arise during the verifications referred to in article 16, paragraph 1.

Art. 15

(Head for reports of suspicious activities)

1. The undertaking's legal representative or his/her delegate, in accordance with article 42, paragraph 4 of the decree, examines the suspicious activities reports submitted by staff members, collaborators or intermediaries of the direct distribution network, as well as from those referred to in article 109, paragraph 2, letter b) of the Code, and forwards any well-founded reports to the UIF.
2. Subjects delegated by the legal representative of the undertaking must possess the due requisites of independence, authority and professionalism, and must not bear any direct responsibility for operational areas or be hierarchically subordinated to subjects in such areas.
3. The name of the head of suspicious activities, identified in accordance with paragraph 1, is communicated to the UIF in a timely manner. The roles and responsibilities of this figure are duly formalised and publicized within the structure, throughout the direct distribution network and among the intermediaries referred to in article 109, paragraph 2, letter b) of the Code.
4. The delegation referred to in paragraph 1 may be attributed to the head of the anti-money laundering function. This delegation may not be conferred to the head of the internal audit function or to subjects outside the undertaking. Within the insurance group, the delegation may be attributed to a group delegate as provided for in article 22.
5. The head of reports on suspicious activities enjoys full access to the information flows to corporate bodies and the structures involved in managing and contrasting the risks of money laundering and financing terrorism, and may obtain useful information from the head of the anti-money laundering function. The head for reports on suspicious activities is in charge of maintaining relations with the UIF and responding in a timely manner to any requests formulated by this Unit.
6. The head for reports on suspicious activities, in accordance with the organizational procedures deemed most appropriate, transmits the results of his/her own assessments to the head of the unit from which the report first originated.

Art. 16

(Internal audit function)

1. The internal audit function verifies:
 - a) continuous compliance with the due diligence measures at the outset of an insurance relationship, during the course of its progression and up until its conclusion;
 - b) the acquisition and orderly preservation of the data and documents prescribed by law;
 - c) the proper functioning of the AUI or other data archives as per article 37, paragraph 6 of the decree;
 - d) the involvement of staff members, collaborators, the direct distribution network and the intermediaries indicated in article 109, paragraph 2, letter b) of the Code in implementation of the active collaboration requirement.
2. The verifications by the internal audit function in regard to anti-money laundering and contrasting the financing of terrorism are subject to planning that draws on the

involvement of internal operational structures as well as the sufficiency and results of the controls carried out by the internal structures with responsibility for doing so within the direct distribution network and the intermediaries referred to in paragraph 1, letter d), as well as with outside entities who are engaged by the undertakings to carry out specific activities that could also be relevant to the anti-money laundering process.

3. The internal audit function conducts follow-up interventions to verify the effective adoption of corrective measures for any deficiencies and irregularities encountered during the course of verifications.
4. The internal audit function periodically checks the alignment between the various sector-based business accounting procedures and the procedures for feeding and managing the AUI.
5. The internal audit function reports to the administrative body, senior management and the control body on the activities related to anti-money laundering and contrasting the financing of terrorism and any related results, without any prejudice to compliance with the principle of confidentiality in the reporting of suspicious activities.

Art. 17

(Safeguards for the direct distribution network and intermediaries referred to in article 109, paragraph 2, letter b), of the Code)

1. During the marketing of their insurance products via the direct distribution network, undertakings take every precaution to ensure compliance with the provisions on anti-money laundering and contrasting the financing of terrorism.
2. For the purposes referred to in paragraph 1, undertakings:
 - a) in their contracts/collaboration agreements with intermediaries in the direct distribution network, cite the code of conduct that must be followed for purposes of anti-money laundering and contrasting the financing of terrorism.
 - b) provide the intermediaries in the direct distribution network with the operational tools and procedures, including computerisation, needed to fulfil the anti-money laundering requirements;
 - c) monitor, including the use of focused on-site inspections, compliance with the code of conduct for anti-money laundering, including any rules incorporated in the contracts/collaboration agreements; in specific, they verify the completeness and accuracy of the data and information referred to in article 36, paragraph 2 of the decree, as well as compliance with the terms referred to in paragraph 4 of the same article, without prejudice to the obligations of their own subjects as referred to in article 109, paragraph 2, letter a) of the Code;
 - d) intervene, when enhanced customer due diligence is necessary due to higher risks of money laundering, in support of the intermediaries in the direct distribution network in order to fulfil the obligations referred to in article 28 of the decree.
3. Undertakings also carry out the activities referred to in paragraph 1, letters c) and d) in regard to the intermediaries and as referred to in article 109, paragraph 2, letter b) of the Code.

Art. 18

(Training for staff, collaborators and intermediaries
of the direct distribution network)

1. Undertakings provide for staff members and collaborators to receive continuous training on the obligations and responsibilities entailed by anti-money laundering laws, with particular reference to staff members and collaborators who are in close contact with customers.
2. Undertakings ensure that the intermediaries of the direct distribution network receive adequate training in the subject of anti-money laundering. The training hours dedicated to the subject of anti-money laundering are applicable for purposes of fulfilling the minimum number of training hours and continuous education requirements referred to in ISVAP Regulation no. 5 of 16 October 2006.
3. The staff involved in mediation inside the premises where the intermediary conducts business as referred to in article 109, paragraph 2, letter d) of the Code, who are already subject to the training requirements in anti-money laundering matters in accordance with banking laws, will at a minimum require training in the proper use of the auxiliary and support procedures (including IT) for the operational tools, to be provided by the undertaking for precise fulfilment of the anti-money laundering requirements.
4. Training similar to that referred to in paragraph 3 is also necessary for the intermediaries referred to in article 109, paragraph 2, letter e) of the Code, who collaborate with the intermediaries referred to in article 109, paragraph 2, letter d) of the same Code.
5. Undertakings prepare specific programmes for staff members of the anti-money laundering function to ensure that they are kept up to date on the evolution of risks related to money laundering and financing terrorism and the typical models of criminal financial operations.

Chapter VI – Provisions related to insurance groups

Art. 19

(Role of the parent undertaking)

1. An insurance group's strategic decisions for risk management as related to money laundering and financing terrorism are deferred to the parent undertaking, who makes these decisions by drawing on corporate bodies of subsidiary undertakings in the manner deemed most appropriate.
2. The corporate bodies of the undertakings in an insurance group must be advised of the parent undertaking's decisions and are responsible, each according to its respective competencies and within its own corporate setting, for implementing the risk management policies for anti-money laundering and contrasting the financing of terrorism.

Art. 20

(Insurance group risk management against money laundering and financing terrorism)

1. If the anti-money laundering function is being outsourced to the parent undertaking or some other company in the group, the group-level anti-money laundering function serves as the sole point of reference for regulating the operational activities involved in this risk management.

2. Under the hypothesis referred to in paragraph 1, each undertaking in the insurance group appoints a referent subject or a specific anti-money laundering unit with the duty of regulating the processes associated with anti-money laundering regulations for the undertaking in question, in coordination with the group anti-money laundering function.
3. The head of the group anti-money laundering function is duly informed in a timely manner of the results of the control activities carried out by the undertakings in the group, as well as any significant events in this area of interest. The head of the group anti-money laundering function enjoys full access to all of the data bases of the group's undertakings that contain information of use for the fulfilment of his/her duties.

Art. 21

(Insurance groups with cross-border activities)

1. Insurance groups with cross-border activities cultivate a global approach to the risks of money laundering and financing terrorism by establishing a set of generalized standards for customers identification and recognition.
2. Without prejudice to compliance with the specific requirements prescribed by the laws of the State of provision of services, the procedures used by the group undertakings who have their head office in foreign states and the branches abroad must correspond to the group standards in order to ensure information sharing at consolidated level.

Art. 22

(Head for reports on suspicious activities within an insurance group)

1. The legal representatives of undertakings that belong to an insurance group may apply the delegation envisaged by article 42, paragraph 4 of the decree to the head for reports on suspicious activities referred to in article 15 for one of the group's undertakings. Each delegation is duly formalized using the procedures referred to in article 15, paragraph 3. The parent undertaking evaluates whether to identify this delegate as the group head for reports on suspicious activities.
2. If a group head for reports on suspicious activities is identified in accordance with paragraph 1, the activities subject to his/her assessment are relayed via a procedure that ensures celerity, confidentiality and facility of comparison between the subject who reports the suspicion and the head for reports on suspicious activities him/herself.
3. The group head for reports on suspicious activities referred to in paragraph 1 acquires all of the information necessary to assess the competency of the subsidiaries, including the information in the AUI or other data archives referred to in article 37, paragraph 6 of the decree.
4. Undertakings of the group who have not delegated a group head for reports on suspicious activities provide the group with a copy of the reports that have been filed or submitted to the UIF, complete with the motivations for such decisions. The group head for reports on suspicious activities may draw upon any structure of the undertakings of the group, including those that have not assigned a delegate, for purposes of closer investigation into activities and relations that have been deemed anomalous from a group standpoint.

CHAPTER III

Insurance agents and brokers

Art. 23

(Organisation and controls)

1. The insurance intermediaries referred to in article 109, paragraph 2, letters a) and b) of the Code utilize operational tools and procedures that are commensurate with their operational size and complexity to regulate the risks of money laundering and financing terrorism, in accordance with the primary and secondary provisions of law as well as, for the intermediaries referred to in article 109, paragraph 2, letter a), the Code, with provisions issued for this purpose by the undertakings for which they work.
2. The intermediaries referred to in article 109, paragraph 2, letter b) of the Code ensure that a portion of the continuing education hours that must be taken in accordance with ISVAP Regulation no. 5 of 16 October 2006 are dedicated to appropriate training activities in anti-money laundering and contrasting the financing of terrorism.
3. The insurance intermediaries referred to in paragraph 1, with respect to their own employees and collaborators and including the subjects referred to in article 109, paragraph 2, letter e) of the Code, take every precaution to ensure compliance with the provisions on contrasting money laundering and the financing of terrorism, without prejudice to the fact that the insurance intermediaries themselves remain fully accountable for compliance with the aforementioned provisions.

Art. 24

(Insurance intermediaries' requirements for safeguarding against the risks of money laundering and financing terrorism)

1. For the purposes referred to in article 23, paragraph 2, the insurance intermediaries referred to in article 109, paragraph 2 letters a) and b) of the Code:
 - a) in agreements stipulated with their own employees and collaborators, cite the code of conduct to be followed during the exercise of insurance mediation activities for purposes of contrasting money laundering and the financing of terrorism;
 - b) ensure that the employees and collaborators that assist them during the exercise of intermediation activities are appropriately trained in anti-money laundering, in accordance with existing legal provisions and, for the intermediaries referred to in article 109, paragraph 2, letter a) of the Code, in the provisions issued by the undertakings for whom they work. The training hours dedicated to anti-money laundering issues are considered valid for purposes of accumulating the minimum number of training hours and continuing education requirements referred to in ISVAP Regulation no. 5 of 16 October 2006.
 - c) adopt operating procedures and tools for fulfilling the anti-money laundering obligations and provide them to their own employees and collaborators. Said operating procedures guarantee:
 - 1) elements of certainty regarding the subjects who collected the data and information used for anti-money laundering purposes;
 - 2) the transmission of data and information within the time limits foreseen in article 36, paragraph 4 of the decree.

CHAPTER IV

Final provisions

Art. 25 (Repeals)

1. In accordance with the terms of article 27, the following are hereby repealed:
 - ISVAP Circular no. 182 of 31 July 1992;
 - ISVAP Circular no. 198 of 4 March 1993;
 - ISVAP Circular no. 257 of 5 October 1995;
 - ISVAP Circular no. 415 of 8 August 2000;
 - ISVAP Circular no. 486 of 17 October 2002.

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 are allowed until 1 August 2012 to bring themselves into line with the provisions of article 10.

The President
(Giancarlo Giannini)