



Istituto per la Vigilanza sulle Assicurazioni Private e di Interesse Collettivo

*(only the Italian version is authentic)*

## REGULATION N. 44 OF 9 AUGUST 2012

**REGULATION CONCERNING THE DRAFTING OF THE REPORT TEMPLATE ON THE FIGHT AGAINST FRAUD REFERRED TO UNDER ART. 30, PARA. 1 OF DECREE-LAW N. 1 OF 24 JANUARY 2012, CONVERTED, AFTER AMENDMENT, INTO LAW N. 27 OF 24 MARCH 2012.**

### 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 art. 5 para. 2, according to which ISVAP shall adopt any regulation necessary for the fairness in the behaviour of supervised entities;

HAVING REGARD to art. 30 para. 1 of decree-law n. 1 of 24 January 2012, converted into law n. 27 of 24 March 2012, according to which within three months of the entry into force of the law converting the decree ISVAP shall draft a report template, that each undertaking shall be required to transmit on an annual basis, on the activity it pursued to fight against fraud in the insurance sector;

HAVING REGARD to decree-law n. 95 of 6 July 2012, containing urgent measures for reviewing public spending with unchanged services for citizens;

HAVING REGARD to ISVAP Regulation n. 31 of 1 June 2009, laying down provisions governing the claims data bank and, in particular, art. 13 para. 7, implemented by ISVAP Order n. 2827 of 25 August 2010, introducing the parameters of significance for the consultation of the claims data bank;

adopts the following:

### REGULATION

Art. 1  
(Legislative sources)

1. This Regulation has been adopted in compliance with art. 30, para.1, of decree-law n. 1 of 24 January 2012, containing urgent measures for competition, the

development of infrastructures and competitiveness, converted, after amendment, into law n. 27 of 24 March 2012.

Art. 2  
(Definitions)

1. For the purposes of this Regulation:

- a) "senior management" shall mean: the managing director, the director general as well as the senior management which carries out management supervision duties;
- b) "compulsory insurance against civil liability in respect of the use of motor vehicles" shall mean: compulsory insurance against civil liability in respect of the use of motor vehicles, for the risks of class 10, of legislative decree n. 209 of 7 September 2005;
- c) "claims data bank" shall mean: the claims data bank set up in accordance with article 135 of legislative decree n. 209 of 7 September 2005 for preventing and combating fraudulent behaviours in compulsory insurance for motor vehicles registered in Italy;
- d) "CARD" shall mean: the Agreement between insurers for direct compensation and the regulation of the reimbursements and compensations ensuing from damages as per articles 141, 149 and 150 of legislative decree n. 209 of 7 September 2005 and presidential decree n. 254 of 18 July 2006;
- e) "CARD-CID" shall mean: the second part of the CARD for the direct compensation of the damage to the drivers, vehicles and goods in transit owned by the drivers or owners of the vehicles;
- f) "CARD-CTT" shall mean: the third part of the CARD for the exercise of the right of recourse for damage regarding passengers and goods owned by passengers;
- g) "trustees" shall mean: loss adjusters, doctors and lawyers participating in the assessment of damage and estimate of compensation costs;
- h) "managing undertaking" shall mean: the undertaking which pays compensation on behalf of the insurer of the vehicle liable, in full or in part, for the accident;
- i) "insurance undertakings authorised in Italy" shall mean: the companies referred to under article 1, letter u), of legislative decree n. 209 of 7 September 2005 authorised to pursue compulsory insurance against civil liability in respect of the use of motor vehicles;
- j) "Community insurance undertakings" shall mean: the companies referred to under article 1, letter u), of legislative decree n. 209 of 7 September 2005 licensed to pursue compulsory insurance against civil liability in respect of the use of motor vehicles in the territory of the Italian Republic;
- k) "appointed undertakings" shall mean: the undertakings appointed by ISVAP in accordance with article 286 of legislative decree n. 209 of 7 September 2005;
- l) "indicator of the fraud risk" shall mean: a factor identified by the undertaking to indicate a potential exposure to the fraud risk;
- m) "intermediaries" shall mean: any natural or legal person, registered in the single register of insurance and reinsurance intermediaries referred to in article 109 of legislative decree n. 209 of 7 September 2005, who pursues insurance mediation for remuneration;
- n) "ISVAP" or "the Authority" 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);
- o) "administrative body" shall mean: the board of directors or, for undertakings which have adopted the system referred to in article 2409 *octies* of the civil code, the management board and the authorised agent for the Italian branches of insurance undertakings having their head office in a third State;

- p) "parameters of significance" shall mean: the fraud risk indicators identified by ISVAP in its order n. 2827 of 25 August 2010;
- q) "report" shall mean: the report on the fight against fraud referred to under art. 30, para. 1 of decree-law n. 1 of 24 January 2012, converted, after amendment, into law n. 27 of 24 March 2012;
- r) "direct compensation" shall mean: the procedure for the settlement of damages envisaged by articles 141, 149 and 150 of legislative decree n. 209 of 7 September 2005 and by presidential decree n. 254 of 18 July 2006;
- s) "fraud risk" shall mean: the risk of financial loss arising from behaviours, consisting even in simple tricks, performed against an insurance undertaking, both during the contractual procedure and during the management of the claim;
- t) "claim" shall mean: the claim regarding the compulsory insurance against civil liability in respect of the use of motor vehicles referred to under art. 2 para. 3 n. 10 of the code of private insurance referred to under legislative decree n. 209 of 7 September 2005;
- u) "claim exposed to the fraud risk" shall mean: the claim which accounts for at least one indicator of fraud risk;
- v) "claim being examined" shall mean: the claim exposed to the risk of fraud for which supplementary activities have been arranged in addition to ordinary ones;
- w) "unit of risk" shall mean: each single policy covering compulsory insurance against civil liability in respect of the use of motor vehicles in case there is one single insured vehicle or the individual insured vehicle in case of collective policy.

#### Art. 3 (Scope)

1. This Regulation applies to insurance undertakings authorised in Italy and to Community insurance undertakings.

#### Art. 4 (Purpose of the report)

1. The report shall provide the information required for the evaluation of the efficiency of processes, systems and persons, in order to ensure the adequacy of the company organisation to the objective of preventing and combating fraud.

#### Art. 5 (Contents of the report)

1. The report template shall comprise one compilation document and three sections.
2. The document shall describe the guidelines of corporate policy and the objectives and operational strategies promoted in the field of preventing and combating fraud.
3. Section 1 shall contain information about the organisational system and procedures, including IT procedures, adopted by undertakings to prevent and combat the fraud risk. In particular:
  - A. "general information" shall regard the organisational structure, training of employees and trustees;
  - B. "information on the underwriting phase" shall regard the procedures adopted in the underwriting phase of the contract;
  - C. "information on the management of claims" shall regard the internal procedures adopted in the management phase of claims and the forms of control envisaged for those who participate in the investigation and assessment of damages and the payment of damages;

D. "information on the management of claims by appointed undertakings" shall regard the internal procedures adopted for the management of the claims referred to in art. 283 of legislative decree n. 209 of 7 September 2005.

4. Section 2 shall be divided into two statements. The first one shall contain numeric data regarding the claims reported in the reference year in relation to the units of risk, broken down by province and claims items, with the indication of those exposed to the fraud risk, those subject to specific analysis, those without follow-up and those for which complaints have been lodged. The second one shall contain the same data relating to the claims managed under the CARD.

5. Section 3 shall be divided into two statements. The first one shall contain aggregate data on complaints relating to claims, the subsequent participation of the undertaking in the proceedings and their outcome. The second one shall contain the same data related to the contracts and the contractual documentation.

6. The information in section 1, in the years after the first, shall be transmitted only in case of variation.

Art. 6  
(Arrangements and deadlines)

1. The insurance undertakings authorised in Italy shall forward to the Authority the report, approved by the administrative body, within the terms of art. 7, para. 1 of Regulation n. 22 of 4 April 2008.

2. Community insurance undertakings shall forward the report to the Authority by 31 May of each year.

3. The technical arrangements for transmission of the data and information referred to in article 5 of the Regulation shall be established by way of an Order.

Art. 7  
(Amendment to ISVAP Order n. 2827 of 25 August 2010)

Art. 4 para. 3 of ISVAP Order n. 2827 of 25 August 2010 shall be amended as follows:  
*"The parameters of significance shall be annually revised by ISVAP, on the basis of information provided by each undertaking in the annual report referred to in ISVAP Regulation n. 44 of 9 August 2012, on the fight against fraud".*

Art. 8  
(Publication)

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

Art. 9  
(Entry into force)

1. This Regulation shall enter into force on the day following its publication in the Official Journal of the Republic of Italy.

the Special Commissioner  
(Giancarlo Giannini)