

*(only the Italian version is authentic)*

## **REGULATION NO. 5 OF 21 JULY 2014**

**REGULATION FOR IMPLEMENTING RULES CONCERNING THE FULFILMENT OF CUSTOMER DUE DILIGENCE AND RECORDING REQUIREMENTS BY INSURANCE UNDERTAKINGS AND INSURANCE INTERMEDIARIES, PURSUANT TO ARTICLE 7, PARAGRAPH 2, OF LEGISLATIVE DECREE NO. 231 OF 21 NOVEMBER 2007.**

### **IVASS**

**(Institute for the Supervision of Insurance Undertakings)**

HAVING REGARD to Decree Law no. 95 of 6 July 2012, converted into Law no. 135 of 7 August 2012, concerning urgent measures for the review of public spending with unchanged services for citizens and establishing the institution of IVASS;

HAVING REGARD to Legislative Decree no. 231 of 21 November 2007, as subsequently amended and supplemented, for implementation of Directive 2005/60/EC concerning prevention of the use of the financial system for laundering the proceeds of criminal activities and for financing terrorism, and Directive 2006/70/EC setting out implementation measures;

HAVING REGARD in particular to Article 7, paragraph 2, of Legislative Decree no. 231 of 21 November 2007, which provides that, consistent with the purposes and within the scope of regulatory powers provided for in the respective sector regulations, IVASS and other supervisory authorities in the sector, in agreement among themselves, issue provisions on the manner of fulfilment of the obligations of customer due diligence and recording;

HAVING REGARD to Legislative Decree no. 209 of 7 September 2005 as subsequently amended and supplemented, establishing the Code of Private Insurance ;

HAVING REGARD to ISVAP regulation no. 41 of 15 March 2012, concerning implementing measures for the organisation, procedures and internal controls designed to prevent the use of insurance undertakings and insurance intermediaries for purposes of money laundering and financing terrorism, pursuant to Article 7, paragraph 2 of Legislative Decree no. 231 of 21 November 2007.

HAVING REGARD to the Provision of the Bank of Italy, approved with Resolution no. 895 of 23 December 2009 establishing implementing measures for maintenance of the AUI, the single computer archive, and for the simplified recording procedure referred to in Article 37, paragraphs 7 and 8, of Legislative Decree no. 231 of 21 November 2007;

TAKING INTO ACCOUNT the outcomes of public consultation;

HAVING REGARD to the Resolution no. 25 taken by the Joint Directorate of IVASS in the meeting of 18 February 2014 under which this Regulation was approved;

HAVING REGARD to the agreements of the Bank of Italy and Consob submitted, respectively, on 11 July 2014 and 20 March 2014;

adopts the following:

## REGULATION

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## **Chapter I**

### **General Provisions**

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

1. This Regulation is adopted pursuant to Article 7, paragraph 2, of Legislative Decree no. 231 of 21 November 2007.

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

1. For the purposes of this Regulation, the following definitions shall apply:
  - a) "*AUI*": the single computer archive referred to in Article 37 of Legislative Decree no. 231 of 21 November 2007, formed and managed by the use of computer systems, which stores in a centralised manner the data and information acquired in fulfilment of the obligations of identification and recording, in accordance with the principles and procedures laid down in the above-mentioned decree and in provisions issued by the Bank of Italy;
  - b) "*institutional activity*": the activity for which insurance undertakings or insurance intermediaries have obtained, respectively, authorisation or registration from IVASS;
  - c) "*Competent authorities*": the authorities referred to in Title I, Chapter II of Legislative Decree no. 231 of 21 November 2007;
  - d) "*Sectoral supervisory authorities*": in accordance with current legislation, the authorities responsible for supervision or control of the subjects referred to in Articles 10, paragraph 2, subparagraphs a) to d), 11 and 13, paragraph 1, subparagraph a), of Legislative Decree no. 231 of 21 November 2007;
  - e) "*beneficiary*": the subject, which, on the basis of the designation made by the customer, receives the service rendered by the undertaking;
  - f) "*customer*": the subject who establishes ongoing relationships or carries out transactions with the undertaking; in the case of relationships or transactions in the name of more than one subject, the customer is considered to be each of the parties in whose name the transaction is effected;
  - g) "*Code*": Legislative Decree no. 209 of 7 September 2005 and subsequent modifications and additions, establishing the Code of Private Insurance Undertakings;
  - h) "*ID data*": name and surname, place and date of birth, address, details of the identification document and the tax code, or, in the case of subjects other than a natural person, name, registered office and tax code/VAT number. In the case of foreign subjects, the tax code assigned by the Italian authorities, if issued;
  - i) "*decree*": Legislative Decree no. 231 of 21 November 2007, and subsequent amendments and additions, establishing implementation of Directive 2005/60/EC on prevention of use of the financial system for the purpose of laundering the proceeds of crime and financing of terrorism, and of Directive 2006/70/EC which establishes implementation measures;

- j) "*executor*": the subject to whom are granted the powers of attorney to operate in the name and on behalf of the customer or the beneficiary. In the case of a non-natural person, the natural person who ultimately has the power to act in the name and on behalf of the customer;
- k) "*financing of terrorism*": in accordance with Art. 1, paragraph 1, subparagraph a), of Legislative Decree no. 109 of 22 June 2007, "any activity aimed, by any means, at the collection, provision, brokering, deposit, custody or disbursement of funds or economic resources, carried out in any way, intended to be used, in whole or in part, for carrying out one or more crimes of terrorism or in any event aimed at encouraging the carrying out of one or more crimes of terrorism under the Criminal Code, regardless of the actual use of funds and economic resources for committing the aforementioned crimes";
- l) "*FATF*": Financial Action Task Force, a body established by the OECD which is specialised in the sector of preventing and combating money laundering and financing of terrorism, and proliferation of weapons of mass destruction;
- m) "*insurance group*": group of companies referred to in Article 82 of Legislative Decree no. 209 of 7 September 2005 and its implementation provisions;
- n) "*undertaking(s)*": insurance undertakings with registered offices in Italy and branches in Italy of insurance undertakings with head offices in a European Union member state or other countries authorised to pursue life insurance business as referred to in Article 2, paragraph 1, of Legislative Decree no. 209 of 7 September 2005;
- o) "*IVASS*": Institute for the supervision of insurance;
- p) "*means of payment*": cash, bank and postal cheques, banker's cheques and other similar or comparable cheques such as money orders, postal orders, credit or payment orders, credit cards and other payment cards, transferable insurance policies, pledge policies and any other instrument that permits the transfer, movement or acquisition, also via computer, of monies, assets or financial assets;
- q) "*transaction*": transmission or movement of means of payment, irrespective of attribution or not to an ongoing relationship;
- r) "*split transaction*": unitary transaction economically equal to or greater than € 15,000, performed through multiple transactions each with a value lower than such limit, effected at different times and within a limited period of time fixed at seven days, without prejudice to the existence of the *split* transaction when elements exist to consider it as such;
- s) "*occasional transaction*": a transaction not attributable to an ongoing relationship;
- t) "*equivalent third countries*": non-EU countries whose regime to combat money laundering and the financing of terrorism is considered equivalent to that required by Directive 2005/60/EC, as set out in the Decree of the Ministry of Economy and Finance provided for by Art. 25, paragraph 2, of the Decree;
- u) "*politically exposed persons (PEPs)*": natural persons resident in other EU member states or non-EU states who hold or have held prominent public positions, as well as their immediate family members or those with whom such persons are known to have close ties, identified on the basis of the criteria referred to in the Technical Annex of the Decree;

- v) "*public administration*": all State administrations, including institutes and schools of all levels, educational institutions, autonomous State companies and administrations, regions, provinces, municipalities, mountain communities and their consortia and associations, university institutions, National Health Service administrations, units and bodies, and the agencies referred to in Legislative Decree no. 300 of 30 July 1999, as amended;
- w) "*ongoing relationship*": a lasting contractual relationship falling within the exercise of the institutional activity of undertakings, which may give rise to several transfer or movement transactions of means of payment, and which does not end with a single transaction. For the purpose of qualifying as an ongoing relationship, refer to Art. 3, paragraphs 2 and 4, of the Provisions of the Bank of Italy establishing implementing measures for maintenance of the Centralised Computer Archive and for the simplified recording procedure referred to in Article 37, paragraphs 7 and 8 of the Decree;
- x) "*money laundering*": pursuant to Art. 2, paragraph 1, of Legislative Decree no. 231 of 21 November 2007, "the following actions, when committed intentionally, constitute money laundering:
  - i. the conversion or transfer of property, carried out knowing that it constitutes the proceeds of criminal activity or of participation therein with the aim of hiding or dissimulating the illicit origin of the property or of helping any individual involved in such activity to avoid the legal consequences of his or her actions;
  - ii. hiding or dissimulating the real nature, origin, location, arrangement, transfer or ownership of property or rights thereto, carried out knowing that it constitutes the proceeds of criminal activity or of participation therein;
  - iii. the acquisition, detention or use of property, knowing at the time of receiving it that it constitutes the proceeds of criminal activity or of participation therein,
  - iv. participation in one of the actions referred to in the preceding subparagraph, association with others to perform such actions, attempts to perform them, the act of helping, instigating or advising someone to perform them or the fact of facilitating their performance";
- y) "*beneficial owner*": **1)** the natural person or persons on whose behalf the customer carries out a transaction or establishes an ongoing relationship; **2)** in the event that the customer and/or the subject on whose behalf the customer carries out a transaction or establishes an ongoing relationship are entities other than a natural person, the natural person or persons who ultimately own or control the entity, or are its beneficiaries according to the criteria referred to in the Technical Annex of the decree and that of this Regulation;
- z) "*FIU*": the Financial Information Unit for Italy, established at the Bank of Italy pursuant to Article 6 of the decree.

Art. 3  
(Scope)

- 1 The provisions of this Regulation, pursuant to Article 11, paragraph 1, subparagraphs g) and n), and paragraph 3, subparagraph b) of the Decree, apply to:

- a) insurance undertakings with head office in Italy and branches in Italy of insurance undertakings with head office in another Member State of the European Union or in a third state authorised to pursue life insurance business as per Article 2, paragraph 1, of the Code;
  - b) insurance intermediaries referred to in Art. 109, paragraph 2, subparagraphs a) and b) of the Code which pursue life assurance business in Italy as per Article 2, paragraph 1, of the same Code.
2. The provisions set forth in this Regulation apply to the intermediaries referred to in Article 116, paragraph 2, of the Code, depending on the business actually being conducted on the territory of the Italian Republic.

## **Chapter II**

### **Due diligence**

#### **Section I - Risk of money laundering and financing of terrorism**

##### Article 4 *(Risk-Based Approach)*

1. The intensity and extent of customer due diligence are modulated according to the degree of risk of money laundering and financing of terrorism.
2. Undertakings, within the scope of their autonomy, adopt clear and objective assessment systems and operational processes, which are regularly checked and updated, taking into account all the risk factors that could affect exposure to money laundering and/or financing of terrorism.
3. The assessment systems and decision-making processes adopted must ensure consistent conduct across the entire business structure and full traceability of audits carried out and assessments performed, in order to demonstrate to the competent authorities that the specific measures taken are adequate with respect to the real risks detected.
4. The risk-based approach cannot determine the specific breach of legal or regulatory obligations of the law or regulations which do not allow room for judgment by the person subject to the obligations hereunder on the specific case.

##### Art. 5 *(Assessment of risk of money laundering and financing of terrorism)*

1. For the purposes of assessing the risk of money laundering and financing of terrorism, the factors to be considered are the customer, the ongoing relationship, the transaction or those further factors identified by undertakings which are considered relevant for the purposes of risk assessment. As part of their processes of analysis, undertakings assign to the factors and elements of assessment the importance deemed appropriate for defining the level of risk.
2. The overall factors and elements of assessment specified in the decree and in this Regulation, as well as those identified by the undertaking, are used for customer profiling and, in cases in which the level of risk is defined as relevant, for identifying the requirements to be put in place.

3. Elements of assessment relating to the customer:

- a) nature and characteristics: criminal proceedings or proceedings for damage to the state treasury, for administrative liability pursuant to Legislative Decree no. 231 of 8 June 2001, for the imposition of administrative penalties as a result of violation of anti-money laundering provisions charged to the customer – when this information is well-known or however known to the undertaking and not covered by confidentiality obligations which prevent use by the undertaking itself – or previous reports to the FIU. This information also apply with regard to subjects known to be linked to the customer.

In the case of customers which are natural persons, positions held in the political-institutional sphere, in companies, associations or foundations, especially when it concerns entities resident in non-EU countries other than equivalent third countries.

In the case of customers which are not natural persons, the purpose of establishment, aims, operating arrangements, legal form adopted, with particular attention to cases of complexity or opacity that may impede or obstruct identification of the beneficial owner, the actual company object or participatory connections.

Connection with entities resident in jurisdictions not falling among equivalent third countries.

Situations of economic and financial difficulty or weakness of the customer, which may result in exposure to criminal infiltration.

Information about the geographic area of interest of any beneficial owners and beneficiaries.

- b) activities performed and economic interests: economic activities characterised by movement of high cash flows or a high use of cash and other typologies which, by their nature, present particular risks of money laundering. Operations in economic sectors concerned with the provision of public funds, including from the EU.

- c) conduct observed when completing transactions or establishing ongoing relationships: dissimulating behaviour.

Reluctance of the customer or any executor to provide requested information, or incompleteness or inaccuracy of the latter.

- d) geographical area of interest: residence or registered office, place of location of activity carried out or in any case of business, especially if unreasonably distant from the head office of the insurance undertaking or intermediary, with particular attention to the presence in the territory of illegality susceptible to fostering money laundering or financing of terrorism conducts.

If known or knowable, the degree of infiltration of economic criminality, socio-economic or institutional weakness, phenomena of "black economy" and, in general, information useful for defining the risk profile of the area.

If the geographic area of interest is abroad, elements of risk in the political and economic situation and the legal and institutional framework of the country of reference, with particular attention in the case of a "non-equivalent" State, i.e. recipient of remarks from international bodies competent in the field of combating money laundering and financing of terrorism.

4. Elements of assessment concerning ongoing relationships and transactions:

- a) type of ongoing relationship or transaction: greater or lesser possibility of using the relationship or transaction for illicit purposes.  
The type of relationship and occasional transaction requested constitute an element to be considered for defining the activities and economic interests of the customer;
- b) procedures for establishment and execution: cases that do not require the physical presence of the customer or do not permit its direct identification.  
Designation of one or more beneficiaries not belonging to the family of the customer or the beneficial owner or to the same not linked by relations suitable for justifying designation.  
Changes of designation of beneficiary that are frequent and/or close to expiry of the ongoing relationship.  
Transactions carried out with resources coming from or intended for abroad – especially if the movement occurs with unusual procedures or means of payment – or characterised by unjustified complexity.  
Request for payment of insurance benefit in cash;
- c) amount: transactions for large amounts, if inconsistent with the economic assets profile of the customer.  
Transactions close to each other for a sum under the threshold which can lead to a hypothesis of splitting aimed at avoiding the obligations of anti-money laundering;
- d) frequency of transactions and duration of ongoing relationship: frequency and duration are to be assessed in relation to the economic-financial needs of the customer and in light of the purpose and nature of the ongoing relationship.  
Payments of additional premiums should be assessed with particular attention;
- e) reasonableness of ongoing relationship or transaction in relation to the activity carried out by the customer: the assessment is performed with reference to the overall economic profile of the customer, developed on the basis of all available information. Comparative assessments with the transactions of subjects with similar characteristics of size, economic sector and geographic area may be useful;
- f) geographical area of origin and destination of the funds involved in the ongoing relationship or transaction: reference is made to the criteria set out in paragraph 3, subparagraph d).

Art. 6  
(Customer profiling)

1. Undertakings determine:
  - classes of risk to which to assign their customers;
  - risk profile of money laundering and financing of terrorism attributable to each customer, based on the information obtained and the analysis carried out in application of Articles 4 and 5, with particular reference to the factors set out therein and the additional ones possibly adopted.
2. Based on the profiling carried out, each customer is included in one of the classes of risk determined by the undertakings.

3. Each class of risk is associated with a consistent level of depth and extent of compliance with the obligations under the rules of combating money laundering and financing of terrorism.
4. In the case of ongoing relationships, undertakings define the routine frequency of updating of customer profiling, based on the relevant level of risk, and cases in which it is necessary to verify the adequacy of the assigned risk class. This verification is always performed when the undertakings become aware of events or circumstances likely to change their risk profile.
5. Customer segmentation makes use of structured procedures for the collection and processing of data and information. The collection of information may be through pathways or questionnaires. Construction of the risk profile can also be performed using predefined algorithms and computer procedures able to automatically assign the risk class. In all cases of automatic procedures, operators must apply the highest risk classes, where deemed appropriate. When change by the operator lowers the level of risk or controls, this must be justified in writing.
6. In insurance groups in which customer profiling is not centralised, it is carried out by individual companies based on the information used by other companies for the assignment of the risk class to the same customer. For the same customer, each company assumes the highest risk profile from among those assigned to all group companies. When a company assigns a customer a higher risk class, it informs the other companies concerned for the purposes of relevant adjustment. When a company intends to assign a lower risk class to a customer, it informs the other companies concerned for the purposes of possibly sharing the new risk profile and the reasons for this choice must be specifically justified in writing.

## **Section II - Customer due diligence**

### **Art. 7** *(General principles)*

1. Undertakings carry out adequate customer due diligence in relation to ongoing relationships and transactions that fall within their institutional activities.
2. Activities aimed or related to the operation, organisation and administration of the undertaking are excluded from due diligence.
3. Due diligence activity, set out in sub-paragraphs a) to e) of Article 8, paragraph 1, are carried out, however and at least, at the following times and in the following cases:
  - a) when establishing an ongoing relationship;
  - b) when an occasional transaction ordered by the customer is performed which involves the transmission or handling of means of payment for an amount equal to or greater than € 15,000, irrespective of whether it is carried out in a single transaction or in several transactions that appear interlinked for carrying out a split transaction;
  - c) When there is a suspicion of money laundering or financing of terrorism, irrespective of any applicable derogation, exemption or threshold. To this end, undertakings use the anomaly indicators referred to in Article 41 of the decree, issued through Provisions of the Bank of Italy on the basis of a proposal from the FIU and the typical patterns of anomalous conduct disseminated by the FIU;

- d) When there is any doubt about the completeness, reliability or accuracy of the information or documentation previously acquired from customers.
- 4. In the cases referred to in paragraph 3, subparagraphs a) and b), including in relation to remote operation, identification of the customer, executor, beneficial owner and beneficiary, and verification of their data can be considered completed when they have already been effected in relation to an existing ongoing relationship, provided that identification and verification of the data are updated within regular monitoring.

Art. 8  
*(Contents of obligations)*

- 1. Customer due diligence consists of the following activities:
  - a) identification of the customer and any executor;
  - b) in the case of services provided by undertakings in favour of the beneficiary, identification of the beneficiary and any executor at the time of payment of the insurance benefit;
  - c) identification of any beneficial owner;
  - d) verification of the identity of customer, beneficiary, any executor and any beneficial owner on the basis of documents, data or information obtained from a reliable and independent source;
  - e) acquisition of information about the purpose and nature of the ongoing relationship and occasional transaction;
  - f) exercise of constant control during the ongoing relationship.

Art. 9  
*(Identification of customer, beneficiary and executor)*

- 1. If the customer is a natural person, the identification takes place through the acquisition of identification data supplied by the party concerned or taken from a valid ID as referred to in the Technical Annex of the Decree.
- 2. The same procedure is used to identify the co-holder, beneficiary and executor. In the case of the executor, information related to the transfer of the power of attorney with authority to act is acquired.
- 3. If the customer or the beneficiary is any subject other than a natural person, the identification is carried out for:
  - the customer or beneficiary through the acquisition of the identification data, as well as information on the type, legal form, aims and/or activity carried out and, where applicable, the details of listing in the business register and in rolls kept by any sectoral supervisory authority; in the case of non-profit organisations, information about the class of subjects benefitting from the activities carried out is also acquired;
  - the executor, acquiring, in addition to identification data, information about conferment of powers of attorney.
- 4. The identification is carried out in the presence of the customer, of the beneficiary or – when these are subjects other than a natural person – of the executor. Other than these cases, identification falls within the scope of remote operations referred to in Art. 22.

Art. 10

*(Identification of beneficial owner)*

1. Identification of the beneficial owner takes place, without the need for the beneficial owner's physical presence, concurrent with identification of the customer and based on the identification information provided by them pursuant to Art. 21 of the decree, i.e. by making use of public registers, lists, deeds or documents accessible to the public or in any other way.
2. At the time of identification, the customer is invited to state whether the ongoing relationship is established on behalf of another subject and to provide all the particulars necessary for identification of the beneficial owner. A similar invitation is given in the case of an occasional transaction that meets the requirements of the amount referred to in Article 7, paragraph 3, subparagraph b).
3. Operations attributable to an ongoing relationship, which meet the requirements of an amount provided for by law, are presumed carried out on behalf of the customer in whose name the ongoing relationship is kept or of any beneficial owner of the relationship, unless otherwise specified by the customer. On establishment of the ongoing relationship, undertakings inform the customer of the need to declare, for each transaction entered into, whether it is carried out on behalf of beneficial owners other than those specified at the time of establishment of the ongoing relationship and to provide all relevant information necessary for their identification. In the framework of constant monitoring, undertakings assess any elements that suggest that the customer is acting on behalf of subjects other than those specified at the time of establishment of the ongoing relationship or performance of the transaction.
4. In relation to concrete situations, there may exist multiple beneficial owners. In such cases, the procedures are carried out for each beneficial owner.

Art. 11

*(Verification of information related to customer, beneficiary, executor and beneficial owner)*

1. Verification of the customer, beneficiary, executor and beneficial owner data referred to in Article 2, subparagraph y), number 1), occurs through comparison with those deduced from a reliable and independent source, from whom a copy in paper or electronic format is acquired and retained.
2. For the purpose of verification of information of customer, beneficiary and executor who are natural persons, undertakings effect a comparison with a valid original ID, from among those referred to in the Technical Annex of the decree, and acquire a copy, in paper or electronic format.
3. Undertakings adopt reasonable appropriate measures for verification of information concerning the beneficial owner referred to in Article 2, subparagraph y), number 2), in the light of the risk profile of the customer, ongoing relationship or transaction. To this end, a comparison is made with the information inferable from a reliable and independent source, of which a copy in paper or electronic format is acquired - either alone or through the customer - and a copy of the same is kept in paper or electronic format. When there is a low risk of money laundering and/or terrorist financing, this may be done by acquiring a statement of confirmation of the data relating to the beneficial owner signed by the customer under their own responsibility.
4. In all the above cases and with particular regard to those in which the documentation referred to in paragraph 3 has not been acquired, undertakings assess – on the basis

of the principle of the risk-based approach – whether any further comparisons are necessary, using reliable and independent sources from which the relevant documentation must be acquired, in original format or in copy, that is, in electronic format. Reliable and independent sources include:

- a) valid identity documents among those listed in the Technical Annex of the decree, different from those used for the verification referred to above;
  - b) public deeds, authenticated private deeds, qualification certificates used to generate a digital signature associated with electronic documents pursuant to Article 24 of Legislative Decree no. 82 of 7 March 2005, with regard to the contents supported by legal evidentiary effect;
  - c) the declaration by the Italian diplomatic mission and consular authority, as specified in Article 6 of Legislative Decree no. 153 of 26 May 1997;
  - d) the public companies' archives, the rolls and lists of authorised persons, instruments of incorporation, statutes, budgets or equivalent documents, communications made public in accordance with sector regulations;
  - e) *web* sites of public bodies and authorities, including of foreign states, on condition of equivalence of system.
5. Undertakings shall adopt measures of professional diligence to verify the authenticity of the original documents used. If the original documents are in a foreign language, undertakings shall adopt professional diligence measures to ascertain their actual content.
  6. For persons under legal age, identification data must be verified, in the absence of a document of identity or recognition, through the birth certificate or any order of the guardianship judge. The verification may also take place by means of an authenticated photo. In this latter case, the details of the act of birth of the person concerned must be recorded.
  7. For non-EU persons, verification of personal data must be carried out through passport, residence permit, travel document for foreigners issued by the police authorities or other document considered equivalent pursuant to Italian law.
  8. Verification of the identity of the customer, executor and beneficial owner is performed when establishing an ongoing relationship, or execution of an occasional transaction, with the exception of the following cases:
    - a) verification of the data about the beneficial owner may take place after the establishment of the ongoing relationship, provided that adequate measures have been taken to prevent operations which are carried out until the beneficial owner has been verified;
    - b) verification of the data about the customer, executor and beneficial owner may take place after establishment of the ongoing relationship, if it is necessary to not interrupt the normal conduct of business and result in a low risk of money laundering and/or terrorist financing. In any case, the procedure is completed as soon as possible after the initial contact and in any event within thirty days of the establishment of an ongoing relationship. Beyond this date, the undertaking assesses whether to refrain from proceeding with the ongoing relationship and whether to report a suspicious transaction pursuant to Article 16;
  9. Verification of the data relating to the beneficiary occurs at the time of payment of the insurance service

Art. 12

*(Ongoing relationships and transactions involving identification of a number of persons)*

1. When the persons to be identified are more than one, identification and verification of data as referred to in Articles 8, 9, 10 and 11 may occur at different times. In the case of joint holders or executor, before making the joint holding operational or granting the powers of representation; in the case of the beneficiary, at the time of paying the insurance service.

Art. 13

*(Acquisition of information on the intended purpose and nature of the ongoing relationship and occasional transaction)*

1. Undertakings acquire information about the purpose and intended nature of the ongoing relationship. The depth and extent of verifications are related to the risk profile.
2. In any case, information concerning the following shall be acquired:
  - aims related to opening the ongoing relationship;
  - the relations among the customer, executor and beneficiary;
  - work and economic activities carried out and, in general, business relations.
3. In relation to the risk profile, additional information to be acquired may include:
  - the origin of the funds used in the ongoing relationship;
  - business relations and relationships with the persons referred to in Article 11, paragraph 1, of the Decree;
  - the economic, income and assets situation;
  - the working, economic, income and assets situation of family members and partners;
  - the relationship between the customer and the beneficial owner of the ongoing relationship.
4. The information can be immediately deduced from the ongoing relationship, or, specifically requested from the customer.
5. The extent of verification, through reliable and independent sources, is carried out in relation to the risk profile.
6. Undertakings also ascertain the purpose and nature of occasional transactions, when, according to a risk-based approach, they show elements that could constitute a high risk of money laundering.

Art. 14

*(Constant control during the ongoing relationship)*

1. Constant control is exercised through an examination of the overall operation of the customer, having regard both to the continuous relationships in which specific operations may be arranged, as well as through the acquisition of information during the verification or

updating of information in order to identify the customer, beneficiary and beneficial owner, and ascertain the nature and purpose of the continuous relationship or transaction.

2. On the basis of the specific risk, undertakings establish the timing and frequency of updating of data and information acquired and the related verifications. Such planning may usefully rely on automatic procedures of reporting the expiry dates of documents, certificates, powers of attorney, mandate relations, and reporting the acquisition of specific qualities or inclusion in lists. In any case, updating is performed when it appears to the undertakings that the information is no longer current and relevant for the due diligence previously acquired.

3. The results of control may lead to the updating of data, information and risk profiles, to the performance of a more extensive and thorough verification, to detection of anomalies and inconsistencies that may lead to the reporting of suspicious transactions, to the freezing of funds, to abstention from performing the transaction or to termination of the continuous relationship.

#### Art. 15

##### *(Retention obligations)*

1. Undertakings shall keep records on paper or as electronic documents which are acquired in performing due diligence, in order to:

- a) demonstrate to IVASS the procedures followed and the measures taken to meet legal obligations;
- b) enable analysis and insights by the FIU or any other competent authority;
- c) enable their use in the investigation or prosecution of money laundering, terrorist financing or other criminal offences.

2. Documents shall be retained for a period of ten years from the date of execution of the occasional transaction or the termination of the continuous relationship.

3. Documents must be readily available, in paper or electronic format, at the request of the competent authorities.

4. The storage of documents in a single structure, as may be determined at the group level or at third parties is permitted, provided this does not create legal obstacles to confidentiality, privacy - or logistics that compromise the ready availability of these documents.

#### Art. 16

##### *(Inability to fulfil due diligence: obligation of abstention)*

1. When undertakings are not able to meet the requirements of customer due diligence referred to in Articles 9, 10, 11, 12 and 13, they do not establish the continuous relationship, or do not perform the transaction.

2. If this impossibility occurs for an existing continuous relationship or for a transaction under way, the undertakings put an end to the relationship or execution of the transaction. The funds, instruments and other financial assets which may have already been acquired by the undertaking are returned, by liquidating the relevant sum via bank transfer to a bank account specified by the customer and held in the customer's name. The transfer of funds is

accompanied by a message indicating to the banking counterpart that the sums are being returned to the customer due to the impossibility of complying with the requirements of customer due diligence.

3. In any case, undertakings shall assess whether to send a suspicious transaction report.

### **Section III - Simplified measures for customer due diligence**

#### **Art. 17**

##### *(General principles)*

1. The possibility is envisaged of applying simplified measures for customer due diligence in the case of low risk of money laundering and/or terrorist financing, specifically identified by law.

2. The simplified procedures for customer due diligence shall apply when the customer falls into the following categories:

- persons referred to in Article 25, paragraph 1, of the Decree;
- public administration offices, or institutions and bodies performing public functions pursuant to the Treaty on European Union, the Treaties establishing the European Communities or the secondary legislation of the European Community;
- persons for whom the Ministry of Economy and Finance, through its decree, after consultation with the Financial Security Committee, has approved the application, in whole or in part, of simplified measures.

#### **Art. 18**

##### *(Implementation procedure)*

1. Pursuant to Article 25, paragraph 4, of the Decree, undertakings collect sufficient information about customers suitable for establishing whether the conditions of low risk of money laundering and terrorist financing exist.

2. Undertakings ascertain the customer's identity by acquiring data relating to the name, legal form, registered office and, if any, tax code of the customer.

3. Undertakings that have reliable systems and procedures for the recognition of customers and of their staff entitled to represent them in the transactions can also use these systems and procedures for the identification and verification of the data relating to the customer and the executor.

4. Undertakings verify continuation of the conditions for application of the simplified procedure, with a modality and frequency determined according to the risk-based approach.

5. For the whole duration of the continuous relationship, undertakings shall retain the information collected and the results of the verifications carried out to determine whether a customer falls into the category of those to whom the simplified due diligence procedure is applied.

Art. 19

*(Abstention from application of simplified procedure)*

1. Undertakings abstain from application of simplified measures and adhere to the ordinary or enhanced requirements of due diligence, unless they intend to abstain from performing the transaction or establishing the continuous relationship and without prejudice to evaluating whether to send the suspicious transaction report, in cases where:

- there are doubts about the truthfulness of the information acquired for the purpose of reconciliation of the customer with the categories referred to in Article 16;
- there no longer exist the conditions for configuration of a low risk of money laundering and terrorist financing – which permits application of the simplified procedure – based on the judgment of the undertakings, which use, to this end, the factors mentioned in Article 5;
- there is, however, a suspicion of money laundering or terrorist financing;
- the European Commission adopts, by reference to a third country, a decision in accordance with Article 40, paragraph 4, of Directive 2005/60/EC; in this case, undertakings cannot apply simplified measures for customer due diligence to credit and financial institutions or companies listed in the third country in question or to other subjects on the basis of situations that meet the technical criteria established by the European Commission in accordance with Article 40, paragraph 1, subparagraph b), of Directive 2005/60/EC.

Art. 20

*(Exemption from customer due diligence requirements)*

1. Undertakings are exempted from performing due diligence in the case of continuous relationships that fall into the following categories:

- a) contracts where the annual premium is no more than 1,000.00 euro or where the single premium is an amount not exceeding 2,500.00 euro;
- b) supplementary pension schemes governed by Legislative Decree no. 252 of 5 December 2005, provided that they do not provide redemption clauses other than those referred to in Article 14 of the decree and that they cannot serve as collateral for a loan outside of the cases provided for by law;
- c) compulsory and complementary pension schemes or similar schemes that provide retirement benefits for which contributions are made by way of deduction from income and the scheme rules do not permit the beneficiaries, except after the death of the owner, to transfer their rights;
- d) any other continuous relationship characterised by a low risk of money laundering and/or terrorist financing which meets the technical criteria established by the European Commission under Article 40, paragraph 1, subparagraph b) of Directive 2005/60/EC, if authorised by the Minister of Economy and Finance with its decree.

2. Undertakings do not apply the exemption and adhere to the obligations of ordinary or enhanced due diligence when there is still suspicion of involvement in money laundering or terrorist financing, regardless of any exemption or threshold.

## **Section IV - Enhanced customer due diligence requirements**

### **Art. 21**

#### *(General principles)*

1. Undertakings apply enhanced measures of customer due diligence where there is a high risk of money laundering and/or terrorist financing, resulting from specific statutory provisions or independent assessment of the undertaking based on the criteria set out in Chapter II, Section I .

Enhanced measures should always be adhered to in the following cases:

- a) remote operation;
- b) politically exposed persons;
- c) transactions with funds from other states;
- d) if a report of a suspicious transaction is sent to the FIU: in this case, the undertaking applies enhanced measures until it deems to be able to exclude the existence of a high risk of money laundering;
- e) in relation to the use of products, operations, technologies that can increase the risk of money laundering and/or terrorist financing. To this end, undertakings make use of the information on the types of operations and trends relating to money laundering and terrorist financing published by the competent international organisations and national authorities. Undertakings also make use of the anomaly indicators of potentially suspicious transactions and models and schema representative of anomalous conduct disseminated by the FIU in accordance with Article 6 of the Decree, as well as the types listed by the FATF.

2. Enhanced due diligence is the adoption of measures characterised by greater depth, extent and frequency in the different areas of due diligence.

### **Art. 22**

#### *(Remote operation)*

1. Operations carried out by the customer or beneficiary without their physical presence in the undertakings are covered by this heading; in the event that the customer or beneficiary is a person other than a natural person, it is considered to be present when the executor is present.

2. Remote operation carried out through systems of telephonic or computer communication requires a special attention on the part of undertakings, given the absence of direct contact both with the customer or the beneficiary, and with the persons who may be appointed by the same.

3. Due diligence is deemed to be complied with, even without the physical presence of the customer and the beneficiary, in the following cases:

- a) when the identification and verification have already been made in relation to a continuous relationship in place;

- b) if the undertaking makes use of due diligence performed by a third party pursuant to Art. 29 et seq. of the decree;
  - c) if the undertaking acquires one or more of the following documents containing the identification data and other information requested for the purposes of due diligence:
    - public deeds, authenticated private documents;
    - qualified certificates used to generate a digital signature associated with electronic documents in accordance with Article 25 of Legislative Decree no. 2 of 7 March 2005;
    - a declaration by the Italian diplomatic mission or consular authority, as specified in Article 6 of Legislative Decree no. 153 of 26 May 1997;
  - d) where undertakings carry out the identification and verification of data related to the customer, beneficiary and executor through the mechanisms and procedures referred to in Article 18, paragraph 3.
4. In cases other than those referred to in paragraph 3, undertakings are required to obtain the identification data and to make the comparison on a copy – acquired by fax, by mail, electronically, or in a similar manner – of a valid ID document from among those referred to in the Technical Annex to the decree.
5. In the cases referred to in paragraph 4, undertakings arrange for a further verification in the manner deemed most appropriate, in relation to the specific risk.
6. If the undertaking is unable to obtain the data and information indicated or is unable to verify the reliability of the same or otherwise to have certainty about the coincidence between the customer to be identified and the person to whom the data and information transmitted refer, or if, from the verifications and measurements carried out, the falsity or inconsistency of the information provided remotely emerges, it does not carry out the operation and does not start the continuous relationship, or terminates the relationship already in place and evaluates whether to report a suspicious transaction.

#### Art. 23

##### *(Politically exposed persons – PEPs)*

1. Persons residing in other EU member states or in non-EU countries who hold or have held important public positions are considered at higher risk of money laundering as they are more exposed to potential corruption, together with their family members and the people who are known to be linked to them.
2. The qualification as PEPs assumes importance for the customer, the beneficiary and the beneficial owner.
3. Each undertaking defines the procedures to verify whether the customer, the beneficiary or the beneficial owner enters within the concept of politically exposed person; the intensity and extent of verification are related to the degree of risk associated with the various continuous relationships and operations required, in accordance with the principle of proportionality. In order to identify whether a given customer, beneficiary or beneficial owner enters within the concept of PEPs, undertakings, in addition to obtaining the relevant information from the customer or beneficiary, make use of additional sources, such as, for example, official websites of the authorities of the countries of origin, or commercial databases.

4. If the customer, the beneficiary or the beneficial owner meets the definition of PEP, the initiation, continuation of the continuous relationship, or the transaction is authorised by the Director General or a person who performs an equivalent function or a person belonging to senior management delegated to do so. Those entrusted with the authorisation for the establishment of relationships decide on possibility of subsequent loss of status of the politically exposed person and the consequent application of ordinary measures of due diligence.
5. Undertakings, on the basis of a risk-based approach, assess whether to apply enhanced customer due diligence measures to persons who, originally identified as PEPs, have ceased to hold their public office for more than one year.
6. In the case of transactions or continuous relationships with PEPs, undertakings take adequate measures to establish the source of funds used in the relationship or in the transaction. To this end, levels of detail proportional to the risk of money laundering, require a specific statement from the customer to verify the information on the basis of publicly available documents and/or on the basis of certificates of the persons referred to in Article 11, paragraph 1, of the Decree.
7. Constant control during the relationship is carried out in a more intense and frequent manner than that applied to relationships characterised by lower risk of money laundering and terrorist financing.
8. If the undertaking is unable to obtain the data and information or is unable to verify their reliability, it does not start the transaction, does not start the continuous relationship, or terminates the relationship already in place and evaluates whether to report a suspicious transaction.
9. Undertakings define the procedures for verifying whether the customer, the beneficiary or the beneficial owner who reside in the national territory are persons who hold or have held prominent public office on the basis of the criteria referred to in the Technical Annex of the decree. Where operations with these people present a high risk of money laundering or terrorist financing, the undertakings apply the provisions of this Article, also with regard to the immediate family members of such persons or to those with whom they are known to have close ties.

## **Section V - Implementation by third parties of customer due diligence requirements**

### **Art. 24**

#### *(Scope and responsibilities)*

1. The fulfilment of the requirements of customer due diligence can be carried out by third parties, without prejudice to the full responsibility of the undertaking obliged to comply with those requirements.
2. Undertakings can make use of third parties for all phases of due diligence, except for the constant control referred to in Art. 14.

3. This Chapter does not apply to relationships of outsourcing in the context of which the providers of outsourced services are considered, in accordance with their respective contracts, as an integral part of the undertaking.

#### Art. 25

##### *(Persons authorised to fulfil customer due diligence requirements)*

1. For the purposes of these Regulations, third parties include:
  - a) persons who may carry out all the phases allowed for due diligence:
    - national entities referred to in Article 11, paragraph 1, of the Decree, as well as their branches established in equivalent third countries;
    - Community banks and financial institutions;
    - banks having their registered and administrative office in equivalent third countries.
  - b) Entities that can perform only the identification and verification of the identity of the customer, beneficiary, executor, beneficial owner:
    - brokers and agents referred to in Art. 30, paragraph 7, of the decree;
    - insurance intermediaries referred to in Article 109, paragraph 2, subparagraphs a) and b) of the Code, pursuing life insurance business, as well as those referred to in sub paragraph d) of that regulation, except - for the latter – for the provisions of subparagraph a), when they have fulfilled the requirements of customer due diligence, in relation to a previous continuous relationship or transaction.
2. The requirements of due diligence cannot be performed by:
  - a) one of the entities referred to in paragraph 1, subparagraph a), when the undertaking considers that it cannot apply the simplified due diligence measures referred to in Chapter II, Section IV, in application of the provisions set out therein;
  - b) entities that are not physically present in any country.

#### Art. 26

##### *(Contents and procedure for fulfilment of obligations)*

1. Due diligence requirements shall be deemed satisfied by an appropriate certificate issued by the third party that it has taken steps to fulfil them on its own in the presence of the customer in relation to the establishment of a continuous relationship which is still in place.
2. The certificate must be traceable to the certifying third party, through suitable measures, and must be submitted by the certifying third party and not by the customer. The certificate can be submitted on paper or via computer and independently, or in connection with specific transactions.
3. In order to standardise the process of acquiring information, the responsible undertakings can arrange for specific forms for the issuance of certificates.

4. The certificate should expressly confirm proper fulfilment of anti-money laundering obligations by the certifier, in relation to the various activities carried out. The content of the certificate varies depending on the specific requirement of due diligence for which it is directed. Based on this criterion, the certificate must contain:

- a) the identification data of the customer, the beneficiary, the executor and the beneficial owner for the purposes of compulsory identification;
- b) an indication of the types of sources used to establish and verify the identity;
- c) information about the nature and purpose of the continuous relationship to be established and the occasional transaction to be performed in order to fulfil its requirement. It is not sufficient to produce a general certification that the continuous relationship is not pursuing illegal purposes or that the financial means used do not have an illicit origin.

5. Copies of the documents and information obtained must be made available at the time of verification by the responsible undertaking (if verification is not carried out in accordance with paragraph 4, subparagraph b), or sent promptly by the third party, at the request of the undertaking responsible for due diligence.

6. For the purposes of identification of the customer, the certificate may be submitted through:

- a) the transmission of a bank transfer effected on an account for which the customer has been identified in person and contains the identification code assigned to the customer by the undertaking which has to perform remote identification. In this case, the undertaking receives the communication from the customer of the identification data, assigns the identification code to the same customer; the customer communicates it to the bank with which the relationship is entertained which, in turn, verifies the correspondence of the identification data and shows the code in the bank transfer sent to the undertaking together with the above-mentioned identification data;
- b) the use of a payment card, issued by a third party with whom the holder has been identified in person, in the manner indicated below:
  - the customer requests the establishment of a continuous relationship from the undertaking that must identify him or her remotely, providing its own identification data and that of his or her payment card;
  - the undertaking charges the payment card for an amount agreed with the customer, sending to the third party which issued the payment card a special order accompanied by an identification code, as well as the identification data of the customer;
  - the third party which issued the payment card verifies the correspondence of the identification data and communicates to the customer the above-mentioned identification code;
  - the customer communicates this code to the undertaking which must perform remote identification.

Art. 27

*(Obligations of undertakings making use of third parties)*

1. The undertaking responsible for due diligence evaluates whether the information gathered and the verifications carried out by third parties are appropriate and sufficient for the purposes of satisfying the requirements prescribed by law.
2. If the verification referred to in paragraph 1 gives a negative result, the responsible undertaking, depending on the case and the circumstances:
  - a) informs the certifying third party of any irregularities or inconsistencies in the documentation received;
  - b) makes the necessary corrections or additions;
  - c) fulfils directly the requirements of due diligence;
  - d) refrains from establishing a continuous relationship or carrying out the transaction, evaluating whether to make a report to the FIU where the conditions referred to in Art. 41 of the decree exist.
3. In the context of the procedure for the collection and exchange of information with third parties, the responsible undertaking:
  - a) defines the phase of due diligence delegated to third parties;
  - b) identifies the data and information that are required to be transmitted by third parties, and the manner and timing of the transmission;
  - c) prepares instruments, in paper or electronic format, for the timely exchange of information flows;
  - d) verifies, within the limits of professional diligence, the truthfulness and correctness of the received documents and the reliability of the information derived from them;
  - e) acquires, if necessary, additional information from third parties themselves, from the customer or from other sources.

**Chapter III**  
**Special cases**

Art. 28

*(Contracts on behalf of other persons)*

1. In cases where the continuous relationship takes the form of a contract on behalf of other persons, even in the form of a collective policy, the policyholder assumes the status of a customer and the insured party, the owner of the interest protected by the insurance contract, assumes the status of the beneficial owner of the ongoing relationship .

Art. 29

*(Fulfilment of obligation of payment of insurance premium)*

1. Payment of insurance premiums - excluding additional premiums/payments, to which the contractor is not bound by contractual obligation - represents the fulfilment of a specific contractual obligation, can usefully be performed also by a person without a specific representational power. In this case the fulfilling person assumes the position of executor.

**Chapter IV**

**Recording obligations**

Art. 30

*(Recording obligations)*

1. Undertakings record information in the AUI according with the decree and the provisions of the Bank of Italy, bearing the implementing provisions for the maintenance of a single computer archive and the simplified recording procedures .

2. The data and information recorded in AUI must match with the corresponding data contained in the compulsory registers.

3. The information is recorded in a timely manner and no later than the thirtieth day following the completion of the transaction or at the opening, variation and termination of the ongoing relationship.

4. The terms referred to in paragraph 3 run from the day on which undertakings received the data from the persons referred to in Article 109, paragraph 2, subparagraph a) and b) of the Code or other third parties acting on behalf of the same.

**Chapter V**

**Insurance agents and brokers**

Art. 31

*(Customer due diligence)*

1. The insurance intermediaries referred to in Article 109, paragraph 2, subparagraphs a), b) and d) of the Code within the scope of insurance mediation, in accordance with and in fulfilment of the provisions of Articles 9, 10, 11, 12, 15, 16, paragraphs 1 and 3, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 applicable to them:

- a) identify and verify the identity of the customer, the beneficial owner, the executor and, at the time of payment of the insurance service, the beneficiary;

- b) store in paper or electronic format the documents acquired for purposes of identification of the persons referred to in subparagraph a);
- c) immediately make available to undertakings the information and documents acquired for fulfilment of the obligations of customer identification referred to in Chapter II;
- d) observe the behaviour of the customer on completion of the transaction or establishment of an ongoing relationship, and report to the undertakings in accordance with the provisions in the relevant agreements and/or instructions.

**Art. 32**

*(Recording obligations)*

1. The insurance intermediaries referred to in Article 109, paragraph 2, subparagraphs a), b) and d) of the Code fulfil recording obligations, promptly communicating to the undertakings, including with the use of computer systems, and in any case no later than the thirtieth day after completion of the transaction or at the opening, variation and termination of the ongoing relationship, the data and information in accordance with provisions of the Bank of Italy, bearing the implementing provisions for the maintenance of the single computer archive and the simplified recording procedure, with reference to the activity carried out.
2. For insurance intermediaries referred to in Article 109, paragraph 2, subparagraph b) of the Code, the requirements of communicating data to undertakings concerning transactions of premium collection and of payment of sums to the insured, exist exclusively if these activities are expressly provided for in the agreement signed or ratified by the undertakings.

**Chapter VI**

**Final provisions**

**Art. 33**

*(Repeals)*

1. Under the terms of Article 35, ISVAP circular no. 361 of 27 January 1999 is repealed.

**Art. 34**

*(Publication)*

1. This Regulation is published in the Official Journal of the Italian Republic, in the Bulletin and on the IVASS website.

Art. 35

*(Entry into force)*

1. This Regulation shall enter into force with effect from 1 January 2015.
2. With respect to ongoing relationships, the provisions of these Regulations shall apply, on the first useful contact, to all those in existence at that date, whether or not made before the entry into force of the decree.

The President