

(only the Italian version is authentic)

REGULATION no. 7 of 02 December 2014

REGULATION CONCERNING THE IDENTIFICATION OF THE DEADLINES AND THE ORGANISATIONAL UNITS RESPONSIBLE FOR IVASS ADMINISTRATIVE PROCEEDINGS, PURSUANT TO ARTICLES 2 AND 4 OF LAW NO. 241 OF 7 AUGUST 1990

IVASS
(Institute for the Supervision of Insurance)

HAVING REGARD to articles 2 and 4 of Law no. 241 of 7 August 1990, and subsequent amendments, pursuant to which the national public bodies establish, in accordance with its own laws, the deadlines within which its own proceedings must be terminated and identify the relative organizational units responsible;

HAVING REGARD to Legislative Decree No. 209 of 7 September 2005, as amended, regarding the Code of Private Insurance;

HAVING REGARD to articles 23 and 24 of Law no. 262 of 28 December 2005, setting out "Provisions for the safeguard of the savings and regulation of financial markets" regarding proceedings for the adoption of individual provisions;

HAVING REGARD to article 13 of 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 IVASS;

HAVING REGARD to the Decree of the President of the Republic of 12 December 2012 laying down the IVASS Articles of Association, entered into force on 1 January 2013;

HAVING REGARD to IVASS organisation regulation, approved by the Board Resolution no. 46 of 24 April 2013 and subsequent amendments and additions;

HAVING REGARD to IVASS Regulation no. 3 of 5 November 2013 on the implementation of the provisions of article 23 of Law no. 262 of 28 December 2005, concerning the procedures for the adoption of regulatory and general measures of IVASS;

HAVING REGARD to ISVAP Regulation no. 2 of 9 May 2006 of implementation of articles 2 and 4 of Law no. 241 of 7 August 1990, determining the deadline of conclusion and the organisational units responsible for ISVAP proceedings and subsequent amendments and supplements;

GIVEN the opportunity to adapt the implementing provisions of the cited articles of Law no. 241 of 7 August 1990, determining the terms of conclusion and the organisational units responsible for the IVASS proceedings, also in the light of the intervening legislative amendments;

adopts the following:

REGULATION

Art. 1
(Scope)

1. This regulation applies to the procedures for which IVASS is responsible for adopting the final decision and to the procedural phases carried out by IVASS of procedures for which other public administrations are responsible for adopting the decision. Annexes 1, 2 and 3 contain the list of proceedings and procedural phases, respectively, relative to the supervision of (Annex 1), to contracts (Annex 2) and to internal administration (Annex 3).
2. For each of the proceedings or phases indicated in Annexes 1, 2 and 3, are identified: the organisational unit which is responsible for the investigation and for any other procedural fulfilment, the reference regulation and the relative deadline for their conclusion. The variations of the tasks attributed to the individual organisational units listed in the Annexes are updated directly in the same Annexes, and do not entail amendments to the present regulation.
3. For the proceedings indicated in Annexes 1, 2 and 3, the deadlines for conclusion of more than 90 days take into account the nature of the public interest safeguarded, of the particular complexity of the proceeding and IVASS' administrative organisation.
4. The sanctioning and disciplinary procedures, provided by the Code of Private Insurance referred to by Legislative Decree no. 209 of 7 September 2005, title XVIII, from chapter I to chapter VII and chapter VIII, are respectively governed by IVASS Regulation no. 1 of 8 October 2013 and by IVASS Regulation no. 2 of 8 October 2013

Art. 2
(Organisational unit and person responsible for the proceeding)

1. The organisational unit responsible for the investigation and of every other procedural fulfilment is that indicated in Annexes 1, 2 and 3.
2. The person responsible for the procedure is the principal of the organisational unit, who may assign responsibility for the proceeding to another employee assigned to the same unit.
3. The person responsible for the procedure shall perform the functions referred to in article 6 of Law no. 241 of 7 August 1990, with respect to the provisions referred to in article 6-*bis* of the same law.
4. The Secretary General exercises the replacement power referred to in article 2, paragraph 9-*bis* of Law no. 241 of 7 August 1990, in cases in which the silence of the Administration is not equivalent to consent.

Art. 3
(Own-initiative proceedings)

1. For own-initiative proceedings, the deadline for the conclusion of the proceeding shall be calculated from the date of receipt of the request. Requests sent via fax or by email are valid if the conditions required by article 38 of Decree of the President of the Republic no. 445 of 28 December and by article 65 of Legislative Decree no. 82 of 7 March 2005 are met.

2. The request is provided in the forms established by the regulation in force and by the IVASS regulations published on the IVASS website, laying down indications of the documents to attach to the same request and the necessary modules.
3. In the case of incomplete or irregular request, the person responsible for the proceeding makes timely communication to the applicant, and where not otherwise provided, not beyond the deadline of thirty days, indicating the reasons for its incompleteness or irregularity. In this case, the deadline of the proceeding is re-set to the date of reception of the complete request.
4. When, during the course of the proceeding, the applicant provides new documents or notifications on his own initiative, that may modify essential elements of the request, the presentation of the documents or notifications constitutes a new request. In this case, the deadline for the conclusion of the proceeding is again re-set to the date of arrival of said documents or notification.

Art. 4
(Ex-officio procedures)

1. Except where provided in Annexes 1, 2 and 3, for proceedings initiated ex officio, the initial deadline shall begin from the first enabling instrument of IVASS.
2. In the presence of enabling instruments originating from other public administrations, the initial deadline shall begin from the date of reception of the enabling instrument by IVASS.

Art. 5
(Communication of initiation of proceeding)

1. Where no impediments exist deriving from particular needs to accelerate the proceeding, the initiation of the same proceeding is personally communicated to the subjects to which the final measure is destined to produce effects, and to those who, by law, shall intervene. Communication of initiation of the proceeding contains the indications referred to in article 8 of Law. No. 241 of 7 August 1990.
2. When, due to the number of recipients, personal communication is not possible, or is particularly burdensome, IVASS publishes the appropriate forms of advertising on its institutional website, to announce the initiation of the proceeding, indicating the reasons that justify the exemption.
3. Without prejudice to the right of IVASS to adopt, even before the communication referred to in paragraph 1, precautionary measures in cases where provided by law.

Art. 6
(Participation in the proceeding)

1. Subjects that have the right to participate in the proceeding may:
 - a) view the acts pursuant to article 10, letter a), of Law no. 241 of 7 August 1990, without prejudice to the exclusions provided by article 24 of the same law and by the relative implementing regulation;
 - b) present reports and documents.

Art. 7
(Suspension and interruption of deadlines)

1. Unless otherwise provided by law or regulation, the deadlines for the conclusion of the proceeding may be suspended only once for the acquisition of information or certification relating to facts, conditions or qualities not attested to in documents already in IVASS' possession, or that may not be directly acquired from other public administrations.
2. In view of the complexity of the investigative activities necessary for the supervisory procedures or for the proceedings phases, the deadlines may also be suspended when it is necessary to make inspections or acquire opinions from other Administrations or Authorities.
3. The deadlines fixed for the conclusion of the proceedings that presuppose agreements or understandings between IVASS and other foreign Public Administrations or Authorities may be suspended until the finalisation of these agreements or understandings.
4. In the cases indicated in the preceding paragraphs, the deadlines resume from the date of receipt of the supplements to the investigations and, in case of inspections, from the date of delivery of the inspection report to the inspected body. In any case, the suspension may not exceed one hundred eighty days. After that term, IVASS proceeds on the basis of the documentation in its possession, independently from the information or certifications requested.
5. IVASS communicates the suspension of the proceeding to the interested parties, indicating the start date and specifying that the proceeding deadline resumes from the receipt of the investigation supplements or from the delivery date of the inspection report to the inspected body.
6. Further hypotheses of suspension or interruption of the proceeding conclusion deadlines, established by law, remain unchanged.

Art. 8
(Communication of the impeding reasons against the acceptance of the request)

1. In own-initiative proceedings, IVASS communicates to the applicant, first of the rejection, the reasons preventing the application from being accepted.
2. Within a term of ten days from receipt of the communication referred to in paragraph 1, the applicant may present observations, accompanied by supporting evidence. This communication interrupts the deadline to conclude the proceeding, that resumes from the date of receipt of the observations or, in the absence thereof, from the expired deadline of the term referred to in the first sentence.
3. In the grounds for the final decision, reasons are given for the possible non-acceptance of the observations presented pursuant to paragraph 2. Failures or delays attributable to IVASS may not be cited among the reasons preventing acceptance of the application.
4. The provisions referred to by this article do not apply to bankruptcy proceedings.

Art. 9

(Conclusion of the proceedings)

1. The deadlines envisaged in Annexes 1, 2 and 3 for the conclusion of the proceedings refer to the adoption of the final decision, except where provided by paragraph 2.
2. The deadlines referred to in Annexes 1, 2 and 3 for the conclusion of the phases of the proceedings for which IVASS is responsible, that conclude with measures of other Authorities, refer to the provision of the act adopted by IVASS.
3. For proceedings or phases of proceedings not included in Annexes 1, 2 and 3, and for which the deadline for conclusion is not established by law or regulation, a term of 90 days shall apply, to whose effect apply articles 3, paragraph 1 and 4, paragraph 1. Similar term applies to the treatment of any other application and request.

Art. 10

(Repeals and transitional provisions)

1. Regulation No. 2 of 09 May 2006 is repealed from the date of entry into force of this Regulation, without prejudice to the provisions of paragraph 3.
2. The provisions of this regulation apply to administrative proceedings initiated after its entrance into force.
3. The authorisation procedures, pending at the date of entry into force of this Regulation, shall remain subject to the provisions of Regulation No. 2 of 09 May 2006.
4. Any regulatory reference to Regulation no. 2 of 09 May 2006 is to be understood as made to this Regulation.

Art. 11

(Publication)

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

Art. 12

(Entry into force)

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

On behalf of the Joint Directorate
The President