

Decree-law n. 95 of 6 July 2012, converted into law n. 135 of 7 August 2012

Art. 13

Establishment of the Institution for the supervision of insurance

1. To ensure the full integration of supervision over the insurance sector also through a closer relationship with the banking supervision, *Istituto per la vigilanza sulle assicurazioni* (IVASS – the Institution for the supervision of insurance) shall be set up with its headquarters in Rome. The provisions on the regulatory, off-site and on-site supervisory powers as well as on the sanctioning powers exerted by Consob (the National Commission for Listed Companies and the Stock Exchange) over authorised entities and insurance undertakings, as well as over the products referred to under art. 1 (1, w-bis) of legislative decree n. 58 of 24 February 1998 and the relevant implementation regulation, shall at any rate remain applicable.
2. IVASS shall have legal personality under public law.
3. IVASS shall perform its activity on the basis of the principles of organisational, financial and accounting autonomy, as well as of transparency and cost-effectiveness, and keep the annual supervisory fees envisaged by, Title XIX, Chapter II of legislative decree n. 209 of 7 September 2005 (Code of Private Insurance).
4. IVASS and the members of its bodies shall perform their activity in full autonomy and independence, and shall not be subject to the directives of other public or private entities. IVASS may disclose data to the Minister of Economic Development and to the Minister of Economy and Finance in aggregated form only.
5. Once a year IVASS shall transmit a report on its activity to the Parliament and the Government.
6. Without prejudice to articles 25-bis, 30 (9), 32 (2) and 190 of legislative decree n. 58 of 24 February 1998, IVASS shall perform the duties formerly assigned to *Istituto per la vigilanza sulle assicurazioni private e di interesse collettivo* (ISVAP) as per art. 4 of law n. 576 of 12 August 1982 (Reform of insurance supervision) and art. 5 of legislative decree n. 209 of 7 September 2005.
7. (Deleted)
8. (Deleted)
9. (Deleted)
10. The bodies of IVASS shall be:
 - a) the President;
 - b) the Council;
 - c) the Directorate referred to under art. 21 of the Statute of the Bank of Italy, in its enlarged composition as described in para. 17.
11. The President of IVASS shall be the Director General of the Bank of Italy.
12. The President shall be the legal representative of IVASS and chair the Council.
13. The Council shall consist of the President and two Councillors, chosen among persons of unquestioned integrity, independence and professional expertise in insurance matters, appointed by decree of the President of the Republic upon a resolution adopted by the

Council of Ministers at the initiative of the President of the Council of Ministers, acting on a proposal from the Governor of the Bank of Italy and in agreement with the Minister of Economic Development.

14. The two Councillors shall be appointed for a term of office of six years, renewable once. The emoluments of each post shall be established by decree of the Minister of Economic Development, adopted upon proposal by the Governor of the Bank of Italy.

15. The Council shall be responsible for the overall administration of IVASS.

Going into details, the Council shall:

- adopt the organisational regulation of IVASS;
- decide on the legal and economic treatment of IVASS staff and adopt the relevant regulation;
- adopt the measures regarding appointment, assignment, promotion and termination of service of staff;
- give the positions of senior level;
- approve the agreements concluded with trade unions;
- manage the fees from supervised entities;
- examine and approve the budget;
- exercise the further powers indicated by the Statute and decide on any issue that the enlarged Directorate considers should be referred to it.

16. Within the scope of its authority, the Council may grant mandates also to individual Councillors or to managers of IVASS for the adoption of measures that do not require discretionary assessments, and define the relevant object and limits in accordance with the rules laid down by the Statute.

17. The Directorate of the Bank of Italy shall be enlarged by the addition of the two Councillors referred to under para. 13 solely for the purposes of the performance of the institutional functions assigned to IVASS in insurance matters.

18. The enlarged Directorate will be responsible for setting guidelines and for the strategic direction of IVASS and will have the power to take all measures of external importance relating to the performance of IVASS' institutional functions in matters of insurance supervision.

19. Within the scope of its authority, the enlarged Directorate may grant mandates to the President, to individual Councillors, to managers of IVASS or Committees, Commissions or Colleges laid down by the Statute, and define the relevant object and limits in accordance with the rules laid down by the Statute.

20. The approval of IVASS' annual report referred to under para. 5 of this article and the adoption of regulatory measures shall at any rate be the exclusive responsibility of the enlarged Directorate.

21. The adoption of secondment measures and the granting of special mandates, including the appointment of the delegates to the European Insurance and Occupational Pensions Authority (EIOPA), in relation to IVASS managers shall also fall within the province of the enlarged Directorate.

22. In case of need and emergency the measures falling within the province of the enlarged Directorate may be taken by the individual Councillors individually, subject to joint ratification.

23. The enlarged Directorate shall be informed by the President of IVASS on the most important facts regarding the administration of IVASS.

24. In the first application, IVASS Statute shall be decided by the Directorate of the Bank of Italy and approved by decree of the President of the Republic, acting on a proposal from the President of the Council of Ministers, in agreement with the Ministry of Economic Development, subject to a prior resolution of the Council of Ministers.

Amendments to the Statute of IVASS, adopted by the enlarged Directorate, shall be approved by the same procedure

25. The Statute shall lay down rules on IVASS organisational structure, and in particular it shall:

- establish detailed rules on the competences of IVASS bodies;
- provide that the enlarged Directorate may appoint a Secretary General to deal with current business, as delegated by the Council;
- set out the internal workings of the bodies and, in this context, establish the presence and deliberative quorum of collegial bodies, and envisage that the enlarged Directorate may take the measures falling within its competence only by the presence of at least one of the two Councillors referred to under para.13;
- define principles and criteria for the granting of mandates by collegial bodies;
- define the conditions for exercising of the institutional functions in case of need and emergency;
- lay down rules on incompatibility and principles for the adoption of a code of ethics for both, staff and the members of the bodies;
- define criteria for the possible secondment of employees from the Bank of Italy to IVASS or from IVASS to the Bank of Italy;
- lay down rules on the advice and representation of IVASS in legal proceedings.

26. The Statute, taking into account the function of IVASS, shall set criteria for the optimisation of resources, the reduction of the costs of operation and of employing external expertise and services.

27. For the performance of its functions IVASS may use the technical infrastructure of the Bank of Italy.

28. At the date of entry into force of this decree the bodies of ISVAP shall fall from office and ISVAP's President shall assume the role of Commissioner for the ordinary and extraordinary administration of the Institution and keep the economic treatment connected with the previous role, reduced by 10%.

29. The Special Commissioner shall report, at least every fifteen days, to the Director General of the Bank of Italy, on the activity performed and measures taken by ISVAP. During the transitional stage ISVAP shall continue to be represented before the courts through Avvocatura dello Stato (the State Legal Advisory Office).

30. Not later than 120 days from the date referred to under para. 28 of this article the Councillors referred to under para. 13 shall be appointed and the Directorate of the Bank of Italy shall prepare the Statute of IVASS.

31. On the date of entry into force of the Statute the Special Commissioner shall automatically cease to hold office.

32. On the same date ISVAP shall be cancelled and IVASS shall be its successor to all the tasks, competences, powers, rights and obligations. The financial and instrumental resources of ISVAP shall be transferred to IVASS. ISVAP staff shall be transferred to IVASS and automatically keep their original legal, economic and pension treatment. IVASS staff shall be determined within a number equal to the transferred permanent staff members which were in the services of ISVAP.

33. Within 120 days from the takeover of the functions of ISVAP, IVASS Council, after having consulted the trade unions, shall draft the legal, economic and pension treatment of IVASS staff, it being understood that such treatment may in no case imply any budgetary costs in addition to those already envisaged under the previous ISVAP organisation.

34. Within 120 days from the takeover of the functions of ISVAP, IVASS Council shall draft a reorganisation plan taking into account the principles established by the Statute in line with para. 25 of this article. At any rate the plan shall realise savings compared to the total cost of running ISVAP.

35. On the date of the takeover by IVASS of the functions of ISVAP, the keeping of the list of loss adjusters referred to under art. 157 and foll. of legislative decree n. 209 of 7 September 2005 and any other power attributed to ISVAP in this field, shall be transferred to Consap Spa - Concessionaire for public insurance services.

36. On the same date the management of the Information centre envisaged by art. 154 and art. 155 of legislative decree n. 209 of 7 September 2005 shall be transferred to Consap Spa.

37. The Ministry of Economic Development will make provision for assigning a quota of the fees referred to under para. 3 of this article to Consap Spa by means of decree, after having consulted IVASS, for the expenses incurred in the exercise of the functions referred to under paragraphs 35 and 36.

38. A regulation issued in line with art. 17 of law n. 400 of 23 August 1988, to be adopted within two years of the entry into force of this decree, shall make provision for the establishment of a private Institution in the form of an association, to which the powers and competence regarding the Single Register of insurance and reinsurance intermediaries shall be transferred along with the supervision over the entities recorded in the register. The regulation may envisage, in line with the principles of simplification and proportionality, a review of the categories of entities for which registration in the Register will be compulsory. This institution will be subject to supervision by IVASS. The regulation shall also make provision for the procedure for appointing members of the Institution and the transfer to it of the functions and powers temporarily attributed to IVASS, as well as of the necessary powers to impose sanctions.

39. IVASS' accounts will be audited by external auditors in the manner established for the Bank of Italy by art. 27 of the Statute of the European System of Central Banks and of the European Central Bank (ESCB), without prejudice to the controls already performed by the State Audit Office on ISVAP pursuant to art. 4 of law n. 576 of 12 August 1982 as amended by legislative decree n. 209 of 7 September 2005.

40. Articles 9, 10, 11, 12, 13, 14 and 17 of law n. 576 of 12 August 1982 and art. 13 (2), of law n. 335 of 8 August 1995 shall be deleted as from the date of entry into force of IVASS statute. All provisions incompatible with the rules referred to under the preceding paragraphs shall be repealed as well.

41. (Deleted)

42. Starting from the date referred to under paragraphs 40 and 41 and without prejudice to the provisions of para. 40 of this article, any reference to ISVAP contained in legal provisions or in other regulations shall have to be considered as referred to IVASS. As to the provisions governing the management of the tasks referred to under paragraphs 35 and 36 of this article, any reference to ISVAP shall be considered as referred to Consap Spa.

43. The measures adopted by ISVAP in the exercise of the functions and powers transferred to IVASS shall remain in force until IVASS adopts any new provisions on the regulated matters.