

## IVASS LAUNCHES A PROCESS OF PUBLIC CONSULTATION ON NEW PROCEDURES FOR THE MITIGATION OF MONEY LAUNDERING RISK

On December 11, 2019, the Italian Insurance Supervisory Authority ("IVASS") – implementing Articles 15 (*Risk assessment by obligated parties*) and 16 (*Risk mitigation procedures*) of Legislative Decree No. 231 of November 21, 2007 (the "**Decree 231**") – started a public consultation with respect to possible amendments to IVASS Regulation No. 44/2019.

In particular, IVASS published Document No. 4/2019 (the "**Draft Regulation**") including new provisions relating to the establishment of the AML and internal audit function, the appointment of the person responsible for reporting suspicious transactions, and aimed at introducing the methodology for conducting the self-assessment of the risk of money laundering.

In a nutshell, the Draft Regulation:

- a) defines the parameters for identifying the enterprises and intermediaries established without a branch that are required to send the suspicious transaction reports to the Italian Financial Intelligence Unit;
- b) identifies the cases in which the secondary offices of insurance companies with registered offices in another Member State or in an EEA country are allowed not to set up the AML function in Italy, assigning the tasks to the corresponding function of the head office or to a general representative without proxies that prejudice his/her autonomy;
- c) defines the size and organizational requirements for insurance agents and brokers to establish the AML function;
- d) provides that insurance agents and brokers operating in the form of sole shareholding companies are not required to appoint the head of the AML function, unless specific size and organizational requirements are met and the establishment of the AML function is mandatory;
- e) allows secondary branches to benefit from the right to assign tasks to the corresponding function of the head office on condition that at least one of the employees of such function, if employed by the head office, is seconded on a part-time basis to Italy or, in other cases, is in any case domiciled for the office in Italy;
- f) imposes an obligation on established firms without a branch that meet certain requirements to appoint the person responsible for suspicious transaction reports, allowing a choice between different options;
- g) provides that the branch offices of insurance companies having their registered office in another Member State of the European Union or in an EEA country must ensure that an independent audit function verifies compliance with the AML legislation. To this end, branch offices, as an alternative to the establishment of an internal audit function at the secondary office, are allowed to assign the relevant tasks to the corresponding function established at the registered office;
- h) defines the dimensional and organizational requirements linked to production volume, legal form and number of collaborators and employees registered in section e) of the Italian Single Register of Insurance and Reinsurance Intermediaries, on the basis of which insurance agents and brokers are required to set up an internal audit function with tasks limited to verifying AML issues.

In addition, the Draft Regulation amends the modalities to be followed in order to perform the periodic assessment of the money laundering and terrorism financing risks. In particular, elements to be taken into consideration to identify the intrinsic risk and therefore to measure the effectiveness of the controls and procedures put in place to mitigate that risk are indicated.

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Any observations, comments and proposals relating to the measure in consultation must be sent to IVASS by **25 January 2020** to the certified e-mail address [ispettorato@pec.ivass.it](mailto:ispettorato@pec.ivass.it) using the form available on the IVASS website (<https://www.ivass.it/normativa/nazionale/secondaria-ivass/pubbl-cons/2019/04-pc/index.html>).

We are at your disposal for any further information and clarification, as well as to provide assistance in the preparation and transmission of any observations to the Draft Regulation.

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The *Insurance Law* Department of Legance is available to provide any clarifications, also in respect of any specific situation which may be of interest to you.

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