

## *Italy Insurance Alert : IVASS and CONSOB complete the implementation of the Insurance Distribution Directive in Italy*

On 4 August 2020 the Italian insurance regulator IVASS and financial markets regulator CONSOB completed the implementation of EU Directive 2016/97 on insurance distribution, by publishing (IVASS) Regulation 45/2020 and Provision 97/2020, and (CONSOB) Resolution 21466/2020.

### **Summary**

These set out further requirements on insurance product oversight and governance ("POG"), and clarify and align the rules on distribution of insurance-based investment products ("IBIPs").

In particular, as regards POG, **Ivass Regulation 45:**

1. reaffirms the principle that, before marketing, providers must implement a POG for each new insurance product and for each material change to it, all consistent with article 30-decies of the Italian Code of Private Insurance and articles 3-9 of EU Regulation 2017/2358;
2. identifies the tasks and responsibilities of the boards of directors (of insurance undertakings and *manufacturer de facto*, too) involved in approval and distribution of insurance products. This means that:
  - i. a board of directors must approve and review the POG at least annually;
  - ii. the entity's compliance body must monitor the development and periodic review of the POG in order to ensure compliance with current legislation. It must also prepare and submit the report required by article 30 of IVASS Regulation 38/2018, referring to all relevant assessments and analyses carried out, including those on distribution strategy, the direct distribution activity carried out and the key critical issues that have emerged;
3. identifies all matters that must be taken into consideration in order to identify both the target market and the negative target market;
4. defines the information flow between insurance companies and distributors by means of a binding agreement (which is subject to regular review), so as to regulate such flow and ensure a proper product development process in order to protect customers;
5. determines the distribution mechanisms for insurance products according to the relevant market - such to prevent distribution to the negative target market;
6. provides specific control obligations for distributors of insurance products registered in Sections A, B and F of the RUI, and regulates collaboration between intermediaries involved in the distribution of insurance products.

**Ivass Provision 97/2020:**

1. amends IVASS Regulation 23/2008, laying down rules on transparency of premium and civil motor liability insurance terms;
2. amends IVASS Regulation 24/2008 on complaints, in particular:

- (i) any branch of another EU insurance company, or one operating here under the FOS regime, which receives over 20 complaints a year must now (within 60 days of 31 December) publish an annual website report detailing their handling of those complaints, with brief details as to nature and outcome. Such reports by domestic insurance companies must also include the number, subject-matter and outcome of complaints received by intermediaries registered under section (d) of the RUI;
  - (ii) modifies article 10-sexies (*Complaint handling by intermediaries registered in section d*) of the RUI) such that they must give the relevant insurance companies details of all complaints received, including as to the acts or omissions of the insurance companies themselves;
3. amends IVASS Regulation 40/2018 on distribution of insurance products in connection with (i) horizontal collaboration between intermediaries (ii) pre-contractual information (i.e. the relevant annexes concerning information on the distributor and the product offered (iii) a distributor's obligation to give the policyholder a declaration that the insurance product is suitable to his requests and needs (iv) cross-selling (v) record-keeping (vi) professionalism and training requirements and (vii) phone records;
  4. amends IVASS Regulations 40/2018 (on insurance and reinsurance distribution) and 41/2018 (on transparency, disclosure and design of insurance products) by introducing specific rules on distribution of IBIPs by insurance undertakings and by intermediaries other than those registered under section (d) of the RUI;

Lastly, **CONSOB Resolution 21466/2020** amends the CONSOB Regulation on Intermediaries as regards the distribution of IBIPs by (a) intermediaries registered under section (d) of the RUI and (b) EU banks and investment firms validated in Italy as insurance intermediaries, with new provisions on (i) POG (ii) pre-contractual information (iii) suitability, appropriateness, mandatory advice and cross-selling (iv) inducements and (v) conflicts of interest.

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In summary, these new rules aim to complete regulation and control of insurance companies and distributors of their products, and to ensure uniformity in the rules for IBIPs, regardless of the distribution channel. POG regulation clarifies distributors' obligations, including the identification of the particular target market, and introduces specific rules for the exchange of information between manufacturers and distributors. There are particular provisions for product approval and distribution processes relating to IBIPs, and the new legislation aims to ensure the effectiveness of the supervisory system and thus better safeguard consumers' interests.

Furthermore, IVASS has set out new rules on procedures for presentation and management of complaints and on transparency of premiums and civil motor liability insurance terms, and additional provisions seek to clarify and align the rules on distribution of IBIPs and set out specific provisions on POG.

### Next steps

Regulation 45/2020 (as regards POG), Provision 97/2020 and (CONSOB) Resolution 21466/2020 all generally come into force from **31 March 2021**.

This is however subject to various exceptions. One of these concerns certain provisions (on inducements) that apply to intermediaries other than those registered under section (d) of the RUI. These particular changes will apply from 31 March 2022.

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Regarding regulatory matters, **BTG** provides assistance to domestic and foreign operators throughout the whole business chain (authorization process, corporate governance, product development, distribution, special transactions). The team assists also insurance companies in all product design issues, including relations with IVASS and CONSOB, periodical review of product literature, structure of innovative products with financial contents, use of technical reserves, etc.. Finally, the team also assists in all matters with EIOPA and the EU.

Our professionals will continue to monitor the new legislation impact and will work closely with our clients to strategize responses to any issue.

Meanwhile, should you have any questions about this topic or how it may impact your business, please contact our professionals. Our team is up to date on the latest developments and are ready to assist you immediately. Also, please continue to check and reference our website and other announcements made by key organizations.

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For further advice please contact your usual **BTG** team member.



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