

New Regulation No. 8/2015: IVASS simplify procedures and requirements in relationship between clients and intermediaries

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On 3 March 2015 IVASS published Regulation No. 8 (the “**Regulation**”) on the simplification of procedures and requirements in the relationship between insurance companies, intermediaries and clients, implementing section 22, paragraph 15 *bis*, of Law Decree of 18 October 2012, No. 179, converted into Law No. 221 dated 17 December 2012.

These new provisions require insurance companies to implement a series of measures simplify relationships between insurance companies, intermediaries and clients in order to facilitate digital relationships, use of certificated electronic mail, digital signatures and online electronic payments.

1. Scope and involved insurance companies

The Regulations apply to the promotion, distribution and management by companies and intermediaries of **life** and **non-life** insurance contracts. Instead the distribution of insurance products pursuant to the IVASS Regulation No. 34 of 19 March 2010 would remain excluded from the scope of the Regulation.

The simplification measures introduced by this Regulation involve, in general, all companies (Italian and EU) operating in Italy as well as all insurance brokers registered in the Register of insurance intermediaries. Only some specific provisions (in particular on use of certified mail and document retention) are limited in their scope only to Italian companies.

2. Certified e-mail address, electronic signature and electronic payment forms

The Regulation requires **Italian companies** and **intermediaries registered in sections A, B and D** of the RUI to **have a certified e-mail address** to be communicated to the client in order to allow its use in their documents and correspondence (section 4 of the Regulation). This certified e-mail address shall be indicated on the website of the company, if existing.

Section 5 of the Regulation requires then that companies and intermediaries **facilitate the use** by clients and contractors of **advanced electronic signature, qualified electronic signature** and **digital signature** technology for the signing of documents relating to the insurance contract and in particular the policy.

The Regulation also requires companies to plan and facilitate the use of electronic payment instruments, including in online forms, to pay insurance premiums, with no charge to clients (section 6 of the Regulation).

3. Transmission of the documentation to the client in electronic form

According to section 7 of the Regulation, companies and intermediaries are entitled to send **to the client the documentation in electronic form** during the pre-contractual and contractual period, provided that the client has given its consent (also by e-mail or voice recording) to use of this method of receipt of the documentation.

The client shall also be specifically informed of the procedures through which he/she may **revoke**, including through e-mail or voice recording, his/her **consent** and return to traditional procedures of transmission documentation. In this case, the company or intermediary may request to the client only charges relating to the press, and the possible transmission of the documents in hard copy as well as the loss of any discount already provided in return to use of electronic means to receipt the documentation.

It is expressly provided that the consent given pursuant to section 7 of the Regulation does **not allow promotional and marketing material and other marketing communications to be sent**.

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The Regulation requires that companies and intermediaries promote the use of e-mail even with regards to the request of information by the clients, complaints, and communications in general (section 9).

4. Retention and request of documents

The Regulation provides the possibility for Italian companies and intermediaries to adopt **procedures that ensure the retention of documents and electronic communications** for clients in accordance with the specific provisions already in force (see Section 57, paragraph 4, of IVASS Regulation No. 5 of 16 October 2006, in accordance with the implementation provisions of the Decree of 7 March 2005 No. 82 on the retention of electronic documents).

Section 7 of the Regulation also foresees that companies and intermediaries - in order to reduce charges for clients - adopt a document management policy that allows them **not to request** - in the process of enrollment of new contracts or in the management of the claims - **documentation already acquired by the insurance company** and still valid.

5. Amendments to the IVASS Regulation 5/2006 on insurance intermediaries

Finally, the Regulation introduces some coordination provisions and makes some amendments to the IVASS Regulation No. 5 of 2006 and IVASS Regulation No. 34 of 2010.

In particular, for insurance intermediation it is provided that the “*Communication on obligations of conduct*” (Annex 7A) can be available (and posted up) on the premises of the intermediary and not delivered by hand to the single client. As to the pre-contractual information of Annex 7B, the information obligation is deemed fulfilled under Regulation only once, regardless of the number of contracts signed by the client and unless there are changes in the data contained therein.

Proof of delivery of the pre-contractual documentation may be given, in the case of transmission of documents by e-mail, by the proof that the e-mail is correctly sent to the client/contractor (section 12).

The Regulation expressly allows the transmission in electronic form of documents due by insurance intermediaries in order to fulfill suitability obligations according to IVASS Regulation No. 5 of 2006.

Finally, the regulation amends IVASS Regulation No. 34 dated 2010, on the promotion and distribution of insurance contracts, in order to uniform sections 8, 10 and 11 of Regulation No. 34 with respect to the provisions of sections 7 and 8 of the new regulation.

6. Entry into force of the new provisions

The Regulation shall enter into force 30 days after its publication on the *Gazzetta Ufficiale*, and considering the organizational impact for the preparation of the necessary technological infrastructure, a period of six months after the entry into force of the Regulation has been provided to fulfill the specific provisions relating to the use of certified e-mail and document management (respectively sections 4 and 11 of the Regulation).