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# #DeRisk Newsletter



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# ESG

## Insurance and climate risk in Italy: An evolving landscape

*By Angelo Borselli and Roberta Ghezzi*

The Italian insurance supervisory authority (IVASS) recently released its [2025 annual monitoring report on natural disaster risks and sustainability](#). The report provides an overview of the assessment of catastrophe-related exposures and their implications for sustainability.

The analysis is based on a survey conducted on 89 insurance companies operating in Italy in the life and non-life sectors, representing approximately 85% of total market premiums. The report fits in a broader context of growing attention, at both national and European level, on managing catastrophic risks and the strengthening of economic resilience, including through targeted regulatory measures.

The growing frequency and severity of catastrophic events in recent years have made insurance coverage increasingly central from both an economic and a regulatory standpoint. Against this backdrop, in Italy the 2024 Budget Law (Art. 1, paragraphs 101 et seq., Law of 30 December 2023) introduced an obligation for all companies with registered offices or permanent establishments in Italy, and listed in the Companies Register pursuant to Article 2188 of the Italian Civil Code, to take out insurance policies covering damage to land, buildings, plants, and commercial equipment resulting from earthquakes, floods, landslides, and inundations occurring in the national territory.

To ensure the effective implementation of this requirement, the same law delegated the definition of the relevant procedures to a decree issued by the Minister of Economy and Finance and the Minister of Enterprises and Made in Italy. These implementing provisions are set out in Interministerial Decree No. 18 of 30 January 2025.

IVASS's report examines the growing intensity of extreme weather events, highlighting how this trend has translated into a marked rise in economic losses in recent years. As a direct consequence, the growing frequency and intensity of these events have had an immediate impact on the number of claims.

The document highlights the importance of insurance as a key tool for risk management and transfer, underscoring its role in ensuring economic protection and supporting system stability in the face of catastrophic shocks.

The data presented in the report shows a significant increase in damages related to natural events over the period 2018-2023: claims costs rose from approximately EUR1.5 billion-2 billion per year to over EUR7 billion in 2023. At the same time, however, premium income for catastrophic risks amounted to EUR2.8 billion, covering only 7.1% of total claims.

The market shows a high level of concentration: approximately 70% of NatCat policy premiums are allocated to the "fire and other property damage" sector, while the remaining 20-25% are concentrated in the "other non-life insurance" sector. Focusing on climate risks, premium income in 2023 amounted to EUR2.4 billion, with hail representing the predominant share (66.5%), followed by storms (21.1%) and floods (12.4%).

Against this backdrop, 2023 marked a clear turning point, as the ratio of total expenses (claims and costs) to premiums rose sharply to 352%. The situation proved particularly critical for hail risk, which alone accounted for 73.9% of the total value of climate-related claims.

From a methodological standpoint, however, the report highlights that only a limited number of non-life insurers currently adopt modelling and climate risk pricing techniques that fully incorporate the three key dimensions identified in European legislation: risks related to climate change, the combined use of historical and forward-looking data, and the integration of prospective scenarios.

Nevertheless, climate adaptation initiatives are showing a gradual increase. Integration into product design rose from 41.5% in 2022 to 45.8% in 2023, while innovative coverage solutions expanded significantly, increasing from 47.2% to 63.5%, mainly through greater policy customisation and the introduction of additional claims management services.

At the same time, the rise in claims – particularly those linked to extreme weather events – has driven a 38.2% increase in reinsurance cessions, confirming the central role of reinsurance in risk mitigation. In this context, reinsurance plays an essential role in ensuring the stability of the insurance system, as also highlighted in the Reinsurance Advisory Board report *“Closing the gap, not the market. A reinsurer’s blueprint for NatCat resilience in Europe.”*

More broadly, reinsurers contribute significantly to absorbing the impacts of catastrophic events. Global reinsurance capital almost doubled between 2015 and 2024, rising from USD357 billion to USD655 billion, according to Gallagher Re, with an additional USD114 billion in alternative capital.

This level of capacity enables the provision of coverage for NatCat events both in Europe and globally, supporting a more resilient, sustainable, and accessible insurance market. Overall, the evidence emerging from the IVASS report highlights how insurance is becoming an increasingly essential pillar for managing

and absorbing the growing impact of natural catastrophe risks, while at the same time revealing the structural tensions affecting the sector. On the one hand, the widening protection gap and the sharp imbalance between premiums and claims confirm the systemic importance of insurance in safeguarding economic stability and supporting climate adaptation. On the other hand, the rising frequency and severity of events, together with high loss ratios and market concentration, underscore the delicate equilibrium insurers have to maintain between coverage availability and technical sustainability.

Insurance companies face increasing complexity, not only in underwriting and pricing risks – requiring more advanced models, forward-looking data, and scenario analysis – but also in drafting policy terms that clearly allocate risks, and limits in a rapidly evolving risk landscape. These challenges create an opportunity for the insurance sector to strengthen its role as a key enabler of resilience, innovation, and sustainable economic development in the face of future climate-related risks.



# Insurtech

## EIOPA survey on GenAI and insurance: Where are we now?

By Giacomo Lusardi

On 2 February 2026, EIOPA published its EU-wide survey on the adoption of Generative AI (GenAI) in the insurance sector.

The survey, based on responses from 347 insurance companies in 25 countries, shows that GenAI is already widely used: 65% of insurers have implemented the technology and a further 23% plan to adopt it in the next three years. But most applications are still in the proof-of-concept phase, reflecting a cautious and gradual approach.

### The main use cases

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Sixty-four percent of the use cases that emerged from the survey relate to internal productivity functions, operations (document analysis, coding assistants, data extraction), and decision-making support. Customer-facing applications (36%) such as chatbots, voicebots, and marketing content are less mature.

It's significant that most use cases aren't linked to a specific line of business. Many are cross-functional and can be implemented in both life and non-life insurance, particularly in back-office operations and initiatives aimed at improving overall process efficiency.

In terms of the degree of autonomy of the systems, those designed to support human assessments and decisions are common. More autonomous systems and AI agents are on the rise.

### Risks, obstacles and governance

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Among the main risks highlighted by survey participants are hallucinations (inaccurate, complacent, misleading outputs), specific IT vulnerabilities, potential customer data breaches, and problems with explainability of how a particular output was obtained.

Added to these is the challenge of regulatory compliance: several companies report that navigating such a complex regulatory landscape is a significant obstacle, including industry regulations, the AI Act, privacy, and intellectual property.

The human factor is another critical issue. Many companies have highlighted a significant shortage of internal skills, both in finding suitable profiles and in training existing staff. This gap makes it difficult to build in-house teams capable of effectively developing, managing, and governing GenAI systems.

As for governance, the survey shows that 49% of companies now have a dedicated AI policy. But far fewer companies have gone further and adopted comprehensive AI governance.

### Make or buy? How companies procure AI

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The survey revealed a prevailing "make or buy" strategy. Companies generally choose the AI system based on the use case. For general, non-strategic needs, such as increasing internal productivity, insurers tend to buy standard "off-the-shelf" solutions. For core processes where they're looking for a competitive advantage, companies prefer to develop their own solutions. But this doesn't mean having to create Gen AI models from scratch, but rather developing customized in-house applications based on existing third-party or open-source models.

By doing this, companies have greater control over the final application and data, while leveraging the power of market-leading technologies.

## GenAI customization: between retrieval-augmented generation (RAG) and fine-tuning

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On the data front, companies mainly adopt two strategies: RAG and fine-tuning. The survey shows that 38% of respondents use RAG techniques. These allow the model to be enriched with proprietary or contextual knowledge without changing its weights, maintaining control over sources and reducing the risk of hallucinations, with a good balance between cost and performance. In contrast, 21% said they use fine-tuning, a more expensive and complex option that involves retraining the model on internal data to achieve deeper customization. Finally, 27% use neither RAG nor fine-tuning, relying on pre-trained models as they are.

## Agentic AI

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The survey also focuses on agentic AI: of the 957 use cases identified, only 84 fall into this category and are mainly in the early stages of development. Insurers expect an impact mainly in customer-facing applications (49 cases), thanks to more autonomous chatbots and voicebots, while 35 cases relate to back-office activities.

Some use cases are already in production, such as chatbots that provide information on claims or systems that automatically summarize customer calls. In the medium term (3-5 years), wider adoption is expected, especially in core areas such as claims, underwriting, and fraud detection, albeit with significant challenges related to the explainability, traceability, and reliability of autonomous systems.

## How to interpret this data and key points to consider

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The figures show an acceleration in AI adoption in the insurance sector. At the same time, large-scale adoption is being held back by a number of factors. The insurance sector should consider very carefully:

- the complex and evolving regulatory framework, including the AI Act, which requires a shift from sporadic initiatives to an orderly compliance program: mapping use cases, classifying them by risk level, monitoring regulatory developments, and adopting a horizontal and multidisciplinary approach;
- third-party risk with regard to procuring AI from third-party suppliers, to be managed through targeted contract review and new sets of clauses for AI, as part of a procurement process that truly assesses cyber risk, concentration, and business continuity; and
- governance, which must go beyond a mere “AI policy” and become a cross-functional process in the relevant business functions, with clear rules, defined roles and responsibilities, and concrete controls over how AI is used.

For insurance companies, the message is simple, but not one that can be implemented overnight: they need to move quickly, but methodically.



# Non-Life Insurance

## Court of Auditors' authority reform enacted – impact on public officials' liability and insurers

*Written by: David Marino, Leila Bianchi, Valentina Grande*

### Amendments to Law 14 January 1994, No. 20

Law of 7 January 2026 no. 1 has introduced important changes to public officials' liability towards the public purse and new insurance requirements for public officials handling public funds.

The reform applies from 22 January 2026.

These are the main changes.

- **Clarification on liability:** The law defines what constitutes gross negligence for public officials, specifying that clear violations of applicable law, misrepresentation of facts, or denial of facts clearly established by the record are considered gross negligence. However, actions based on prevailing jurisprudence or competent authority opinions aren't considered gross negligence.
- **Liability for damages to the public purse:** Responsibility is limited to intentional misconduct (dolo) in specific cases, such as settlements in mediation or judicial proceedings by public administration representatives, and certain tax-related agreements.
- **Calculation of damages:** When quantifying damages, the possible contribution of the damaged administration is considered. Save in case of fraud, the court must reduce the amount owed, with a cap of 30% of the ascertained damage and in all events not exceeding twice the gross annual salary/compensation of the responsible party.
- **Presumption of good faith:** Political office holders are presumed to act in good faith unless proven otherwise, especially when their actions are supported by technical or administrative officials.
- **Sanctions:** In severe cases, the court can suspend convicted officials from managing public resources for six months to three years.
- **Insurance requirement:** Anyone assuming a role involving management of public resources has to take out insurance against damages caused to the public purse by gross negligence. Insurers will be added to the relevant action before the Court of Auditors.
- **Statute of limitations:** The law clarifies the timing for liability actions, including cases of deliberate concealment of damage.

These provisions also apply to pending actions.



## Amendments to public contract controls

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- **Thresholds and procedures:** Updates the thresholds for public works, services and supply contracts subject to prior legitimacy control by the court, aligning them with current public procurement codes.
- **PNRR/PNC projects:** Special provisions for contracts related to the National Recovery and Resilience Plan (PNRR) and its complementary investments, including mandatory and expedited controls.
- **Regional and local autonomy:** Regions and local entities may choose to subject certain contracts to prior control by the court.

## Advisory activities

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- The central section of the court provides advisory opinions on public accounting matters, especially for projects related to the PNRR/PNC, upon request from central administrations or other public bodies. Opinions must be issued within 30 days, and compliance with these opinions excludes gross negligence.

## Government delegation for reorganisation

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- The government is delegated to reorganise the Court of Auditors within 12 months, aiming to increase efficiency and regulate reimbursement of legal expenses for public officials acquitted of administrative liability.

### • Key principles for reorganisation:

- Central and territorial sections to perform unified consultative, control and judicial functions.
- Strengthening the binding effect of joint section rulings.
- Regulation of the prosecutorial function, including coordination and oversight powers.
- Introduction of rotation and training requirements for magistrates.
- Regulation of disciplinary actions and access to the magistracy.
- Rationalisation of the legal framework and codification of relevant laws.
- Introduction of mechanisms to reduce litigation and allow for early settlement of liability cases.

## Sanctions for delays in PNRR/PNC procedures

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- Public officials responsible for delays exceeding 10% of the established timeframe in PNRR/PNC-related procedures could face financial penalties ranging from EUR150 to two years of gross annual salary, depending on the severity of the fault.

## Conclusion:

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This reform aims to clarify and modernise the rules governing the liability of public officials, strengthen the preventive and consultative functions of the Court of Auditors, streamline procedures for public contracts (especially those linked to EU recovery funds), and reorganise the court for greater efficiency and transparency. It also introduces new safeguards for public officials and mechanisms to reduce litigation and ensure timely execution of public projects.

# Case Law

## Retroactive application of amended Article 2407 of the Italian Civil Code – Court of Cassation No. 1390/2026 and twin order No. 1392/2026

By Karin Tayel

In its ruling no. 1390 of 22 January 2026, the Supreme Court clarified the scope of the provision in Article 2407, paragraph 2, of the Italian Civil Code, as introduced by Law 35/2025.

The court clarified that the provision doesn't apply to events that occurred before it entered into force on 12 April 2025.

### The case

The court's ruling concerns a liability action brought by a bankruptcy receiver against directors and auditors for mismanagement and failure to supervise.

The court confirmed the joint and several liability of the auditors (Article 2407 of the Italian Civil Code) because they hadn't taken action in relation to grossly prejudicial transactions. The auditors failed to convene a shareholders' meeting to bring an action for liability or to report the matter to the court pursuant to Article 2409 of the Italian Civil Code.

### Why does the Court of Cassation exclude retroactivity?

There have been varied rulings on the issue of retroactive application. Judges in Bari<sup>1</sup> and Rome<sup>2</sup> ruled in favour of retroactive application. But judges in Venice<sup>3</sup>, Brescia<sup>4</sup> and Florence<sup>5</sup> ruled against it.

According to the Supreme Court, it should be noted that the compensation cap isn't a "settlement rule" but a reduction in the amount of compensation already accrued.

The court makes a clear distinction between:

- cases in which a supervening rule governs equitable settlement methods (typically non-pecuniary damage), where application to pending judgments can be discussed; and
- the case in question: pecuniary damage (emerging) from mismanagement/failure to supervise, objectively quantifiable: here, the right arises "in its entirety" with the pecuniary damage and cannot be "cut" afterwards with a legal cap.

The Court of Cassation states that:

- the right to compensation arises with the damage and the quantitative dimension is governed by the legislation in force at that time (unless there's a clear and legitimate transitional provision); and
- applying the ceiling in paragraph 2 retroactively would be equivalent to "reducing ex post" a right that has already arisen.

The court based its decision on the constitutional principles of equal treatment, protection of legitimate expectations and legal certainty.

<sup>1</sup>T. Bari, 24 April 2025

<sup>2</sup>Court of Appeal of Rome, 15 December 2025

<sup>3</sup>Court of Venice, 7 July 2025

<sup>4</sup>Court of Brescia, 10 September 2025

<sup>5</sup>Court of Appeal of Florence, 10 February 2026.

## Twin order no. 1392 of 22 January 2026 issued by the Supreme Court

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The position expressed in judgment no. 1390 was also reiterated in order 1392, issued on 22 January 2026. It also denied the application to ongoing proceedings for prior events, because the rule affects the substance of the right and not merely the methods of assessment.

## The first ruling contrary to that of the Court of Cassation – The Court of Bari’s position

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Despite the clear principle of law mentioned above, the first position opposing the decision of the Supreme Court has already been recorded.

On 23 January 2026 – one day after the Court of Cassation handed down judgment no. 1390 – the Court of Bari reaffirmed the retroactive application of amended Article 2407 of the Italian Civil Code.

The Civil Court of Bari ordered the directors, auditors and auditing firms of the former Banca Popolare di Bari (now BdM Banca) to pay compensation of approximately EUR122 million.

The court addressed the issue of the new provisions of Article 2407, paragraph 2, of the Italian Civil Code, which introduces a cap on the liability of auditors equal to a multiple of their annual remuneration, arguing that it also applies to pending proceedings.

According to the Court of Bari:

- Article 2407 of the Italian Civil Code is, at the very least, broadly procedural in nature, as it affects the criteria for the liquidation of damages.
- Even if classified as a substantive rule, it can still be applied to ongoing proceedings, as it’s intended to regulate the effects of the legal relationship that have not yet been exhausted.
- A distinction must be made between the event giving rise to the offence (governed by the law in force at the time of the conduct) and the assessment/liquidation of damages, which must be carried out in accordance with the law in force at the time of the decision.

Hence the conclusion that the maximum limit on compensation affects the judicial settlement phase and must be applied even without a specific exception by the parties, in accordance with the adversarial principle.

Otherwise, the court denies the retroactive applicability of the new statute of limitations, considering that an extinguishing effect occurring during the proceedings would give rise to issues of unconstitutionality.

## Bill 1426

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Article 2 of Bill No. 1426 (“Amendment to Legislative Decree No. 39 of 27 January 2010 on the liability of statutory auditors and members of the board of statutory auditors in pending proceedings”) provides that the provisions of Article 2407 of the Italian Civil Code apply “also to proceedings pending on the date of entry into force of this law.”

The position expressed by the Court of Cassation could therefore be superseded sooner or later by clarifying intervention by the legislator.

At present, the bill is still in the pipeline.

## Open questions

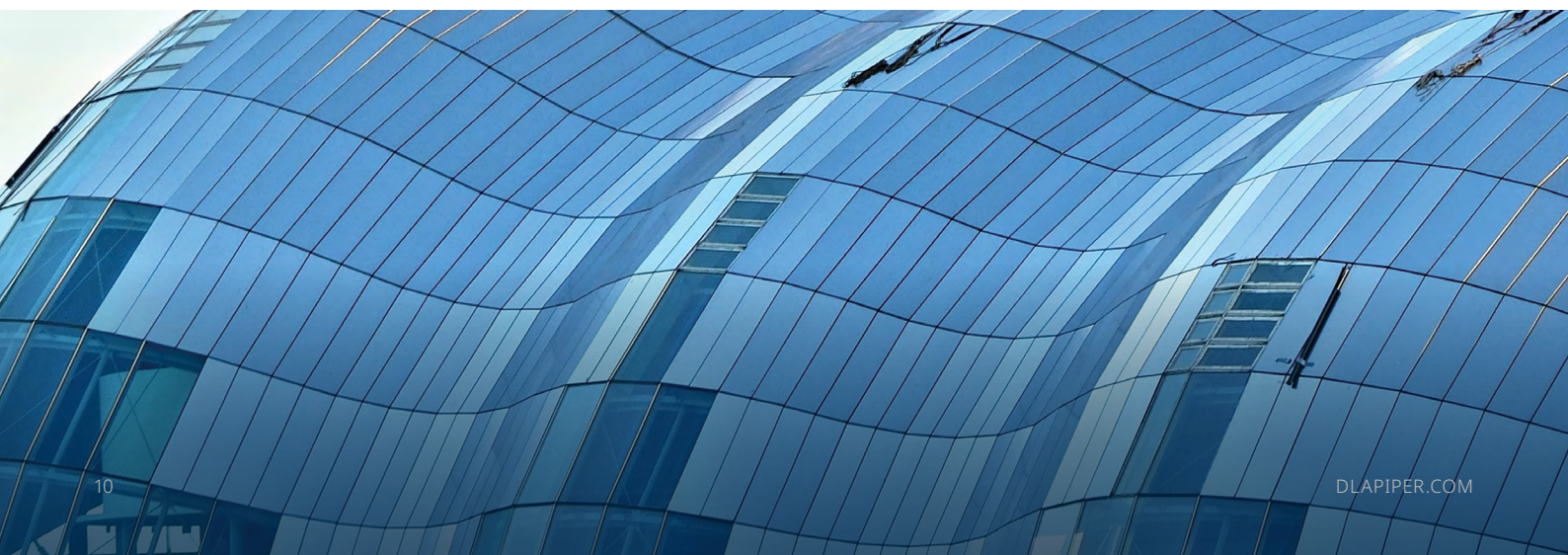
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In addition to doubts about retroactivity, other issues that aren’t covered by the latest rulings of the Supreme Court remain open.

The amended Article 2407 of the Italian Civil Code doesn’t clarify:

- whether the ceiling for auditors refers to the remuneration received or approved; and
- whether the cap applies “per harmful event” or “cumulatively” (some interpretations consider it to apply per event).

Legislative intervention would certainly be desirable on these points.



# Italian supreme court on double track theory

*By Chiara Cimorelli, Ina Doci, Francesca Santovito*

The Italian Supreme Court recently published Order no. 26079/2025, ruling on a unit-linked policy concluded 2011. The Supreme Judge indicated which regulations should apply to unit-linked policies executed at that time, in light of the nature of the products.

The Supreme Court established that the strict investor protection rules under legislative decree no. 58/1998 (the Consolidated Law on Financial Intermediation or TUF) should apply, regardless of who sells the unit-linked products. This is in light of the legislation applicable at that time to unit-linked products as they're generally considered to have a robust financial nature.

According to the Italian Supreme Court, this ruling aims to dismantle the "double track" theory. This theory states unit-linked products are subject to slightly different rules of conduct by the intermediary, depending on who distributes them, ensuring uniform and robust protection for all policyholders.

## Factual background

The claimant, a housewife without income, purchased an insurance policy and paid a single premium of EUR50,000 in 2011. The product was initially presented as a safe investment. It was a unit-linked policy, whose value depended on the performance of an investment fund.

Soon after, the fund began to experience liquidity problems, lost around 40% of its value and was eventually suspended.

The claimant asked for the policy to be surrendered, but the request went unanswered. She decided to sue both the insurance company and the intermediary who distributed the policy.

The claimant argued that the insurance contract was null since she never received a copy of the framework agreement (as requested for financial products by art. 23, para. 1 of the TUF, recalled also by art. 25-bis, para. 1 of the same). She only received the policy certificate and a document attesting that the policy proposal was being processed. The claimant also argued that the intermediary who distributed the product didn't comply with the rules of conduct required by art. 21, para. 1, lett. a) of the TUF and by CONSOB Regulation no. 16190/2007.

The claimant also claimed damages.

The first-instance court rejected the nullity claim but awarded damages, holding the insurance company and intermediary jointly liable. The Court of Appeal confirmed this decision.

## The 'double track' theory and appeal before the Italian supreme court

Both the insurance company and the intermediary appealed to the Italian Supreme Court. They asked the court to rule on:

- whether the policy had a financial or insurance nature;
- whether the rule of the TUF applied in this case;
- the "double track" theory, based on which the Supreme Judge had to assess which conduct rules should apply based on the different distribution channel (ie if the policy is sold by banks or investment firms, the TUF applies since these intermediaries are under CONSOB supervision. If it's sold by traditional insurance intermediaries – agents and brokers – only the Code of Private Insurances applies, under IVASS supervision).

## Supreme court's decision

The Supreme Court confirmed that unit-linked policies like those sold in 2011 are classified as financial products under Italian law regardless of the distribution channel.

The court rejected the "double track" theory and stated that both insurance companies and intermediaries should have complied with TUF obligations in 2011, regardless of the channel of distribution (considering the legislation in force at that time).

Finally, the Supreme Court indicated that the protection of the investor/policyholder was at the time of the sale of the policy paramount, and that the complainant should have received complete and clear information on the products, as required by the TUF and, in particular, by articles 21 and 23, recalled by art. 25-bis.

The court grounded its reasoning on the fact that, at the time the policy was sold, it would have not been logical to offer different levels of protection depending on whether the policyholder dealt with a bank or an insurance intermediary.



# Regulatory

## Legal and regulatory updates

Written by: Chiara Cimorelli, Ina Doci, Francesca Santovito

### New IVASS consultation document on MTPL – 23 March 2026

On 23 March 2026 the Italian Insurance Regulatory Authority (IVASS) published consultation document 2/2026 (the Consultation Document). The document covers a draft regulation on the template for the annual report on the prevention of fraud in the motor liability insurance sector concerning:

- a draft Regulation (the Regulation) concerning the template for the annual report on the prevention of fraud in the motor liability insurance sector;
- a revision of the regulations set out in ISVAP Regulation No 44 of 9 August 2012, introducing new data relating to the activities carried out by companies in the fight against fraud; and
- a technological upgrade in the stages of data transmission, reception, validation and recording through the use of the INFOSTAT platform.

Below is a brief summary of the contents of the Regulation.

**Article 3** specifies the scope of application of the Regulation, which applies to insurance undertakings authorised in Italy and to undertakings with their registered office in an EU member state that are authorised to operate in Italy under the freedom to provide services or under the right of establishment authorised to provide compulsory motor vehicle liability insurance within the territory of the Italian Republic.

**Articles 4 and 5** set out, respectively, the purpose and the content of the report described in the Regulations. With regard to the purpose, the text states that the report should provide the information necessary to assess the effectiveness of processes, systems and personnel, to ensure that the company's organisational structure is adequate for the purpose of preventing and combating fraud.

As regards the content of the report, Article 5 stipulates that it consists of four numerical tables and a questionnaire. Each of the tables constitutes an annex to the Consultation Document:

- **Table MANFR\_S2P1** contains data broken down by province, by location of the loss, by type of management (whether in-house or as a designated firm) and by reference year, relating to the following types of claims:
  - claims reported in the reference year, expressed per risk unit;
  - claims exposed to the risk of fraud;
  - claims subject to specific investigation;
  - claims closed without further action following anti-fraud measures;
  - claims for which complaints or legal proceedings have been filed;
  - subject to disallowance
- **Table MANFR\_S2P2** contains the above data relating to claims handled under the CARD scheme.
- **Table MANFR\_S3P1** contains aggregated data on claims or legal proceedings relating to accidents, the company's subsequent involvement in such proceedings, and the relevant outcome.
- **Table MANFR\_S3P2** contains aggregated data on complaints or claims relating to contracts and contractual documentation, including those concerning contracts cancelled due to identity theft and fictitious ownership.

Finally, Annex 5 to the Consultation Paper contains a questionnaire setting out information on the company's organisational structure and the procedures – including IT-related procedures – adopted by the company to prevent and combat the risk of fraud, both when taking out policies and when settling claims.

Regarding the deadlines for submitting the report, the Regulations state:

- Insurance undertakings authorised in Italy must submit the report, approved by the board of directors, within one month of the date of approval of the annual financial statements.
- Undertakings with their registered office in an EU member state, as referred to in Article 3, have to submit the report by 31 May each year.

The technical procedures for submitting the tables and questionnaire are set out in the document entitled “Instructions for the electronic submission of data relating to the regulation on the preparation of the anti-fraud activity report template,” with an Excel spreadsheet illustrating the data layout. Both are available on the IVASS website in the section dedicated to the Motor Liability Insurance and Anti-Fraud Databases.

The draft Regulation repeals ISVAP Regulation No. 44 of 9 August 2012 and IVASS Order No. 1 of 19 March 2013 and will enter into force on the day following its publication in the Official Gazette of the Italian Republic.

Any comments, observations or suggestions with regard to the Regulation should be sent to IVASS by 22 April 2026 to [relazioneantifrode@ivass.it](mailto:relazioneantifrode@ivass.it), using the file attached to the Consultation Document, available [here](#).

The Consultation Document is available [here](#).

## **Italy implements the ‘oncological right to be forgotten’: IVASS Order No. 169 and its impact on insurance – 10 February 2026**

Written by: Chiara Cimorelli, Ina Doci, Francesca Santovito

With Order No. 169 of 15 January 2026 (the Order), the Italian Insurance Supervisory Authority (IVASS) implemented Law No. 193 of 7 December 2023.

The law covers “Provisions for the prevention of discrimination and the protection of the rights of persons who have been affected by cancer.”

The law implements Articles 7, 8, 21, 35 and 38 of the EU Charter of Fundamental Rights. It introduces the “oncological right to be forgotten.” This is the right of people who’ve recovered from cancer not to provide information or undergo investigations regarding their previous medical condition. It applies to cases concerning banking, financial, investment and insurance services.

In implementing this principle, IVASS was the first supervisory authority in the sectors affected by the law to issue detailed provisions.

The Order introduces amendments to IVASS Regulations nos. 40 and 41. They concern, respectively, the distribution and disclosure of information, advertising and the creation of insurance products, replicating the provisions of the law.

The amendments establish that:

- requests for information on the policyholder’s past health status for the purposes of entering into or renewing an insurance contract (or other contract) aren’t permitted if more than ten years have elapsed since the last active treatment of the condition without any recurrence;
- at all stages of access to services (including insurance services), distributors must provide adequate information about the above right;

- no additional costs, limits or charges can be applied to people who’ve been in the circumstances described above compared to the general public of policyholders;
- companies are prohibited from requesting medical examinations for the purpose of entering into new contracts; and
- any information previously acquired on the policyholder’s state of health can’t be used to assess the policyholder’s solvency. The policyholder can take steps to request certification of their current state of health to ask for previous health data held by the distributor/insurance operator to be deleted.

With regard to the above and with reference to Regulation 40, the Order introduces a series of additional information/operational obligations for distributors, in addition to those already contained in the Regulation. The obligations include:

- The obligation to provide pre-contractual information when concluding or renewing an insurance contract on the existence of the oncological right to be forgotten. This article has resulted in the addition of a provision to the Single Pre-Contractual Form (MUP), delivered by distributors to potential policyholders, with the inclusion of wording indicated by the Supervisory Authority.
- The prohibition on acquiring, through health checks/use of information (including previously acquired information) on the state of health of the policyholder/insured person, if more than ten years have elapsed since the last active treatment of the disease.
- The prohibition on the application of limits, costs and additional charges compared to the general public of contractors.
- The prohibition on the use of information on previous oncological pathologies, if already acquired, for risk assessment.

With reference to Regulation 41, IVASS clarifies in the Order that introducing additional information requirements determines the natural derogation from the principle set out in the previous IVASS Order no. 147/2024. According to this previous order, the maximum length of the Additional DIPs couldn’t exceed three pages. IVASS has clarified in the results of the consultation on the Order that the information requirements apply to all insurance products, except those relating to motor vehicle liability insurance. Even with regard to the Additional DIPs, IVASS has indicated specific wording to be included in new sections of the document.

Neither the law nor the Order clarify the impact of the new regulatory provisions on existing contracts.

The law merely requires the (insurance) operator to delete data relating to the customer’s previous state of health at the customer’s request and not to take the data into account when assessing the customer’s solvency, without providing further guidance, which may be expected from the implementing measures.

The Order doesn't clarify these aspects.

It's clear that – once it enters into force on 10 February – the law will apply to insurance contracts entered into or renewed after that date. But there's no guidance on how operators should act regarding existing contracts – outside of cases of new contracts or renewals – when they receive confirmation that the condition has been met.

One of the aims of the law is to avoid individuals who have recovered from an illness being treated differently compared to the general public. But the Order doesn't provide any operational guidance on this point. For example, should a portion of the premium be refunded in the event of advance payment in a single instalment, once certification of recovery has been received?

The authorities whose areas are affected by the law should – in consultation with the Data Protection Authority – provide clear guidance to avoid any unequal treatment between users of banking, financial and insurance services covered by the law.

### **Oncological right to be forgotten and insurance pre-contractual documentation – 27 January 2026**

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IVASS Order no. 169/2026 concerning the oncological right to be forgotten and amending and supplementing IVASS Regulations no. 40/2018 and no. 41/2018 (the Order) was published on 26 January 2026 in the Official Gazette of the Italian Republic.

From this 27 January 2026, the 15 days provided by IVASS will begin to run, allowing insurance undertakings to adapt to the changes introduced by the Order and, specifically, to modify the MUPs and Additional IPIDs.

### **Oncological right to be forgotten and precontractual documentation – 23 January 2026**

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On 15 January 2026, IVASS issued Order no. 169/2026 concerning the oncological right to be forgotten and amending and supplementing IVASS Regulations no. 40/2018 and no. 41/2018 (the Order).

Law no. 193/2023 introduces a ban on insurance companies and intermediaries requesting information on the health status of clients who have previously suffered from oncological pathologies. The ban applies when clients take out or renew insurance contracts, when a certain amount of time – which varies according to the pathology and the client's age – has passed without the illness returning.

The Law indicates that the oncological right to be forgotten needs to be expressly mentioned in the documentation to conclude or renew insurance contracts.

IVASS has also introduced new provisions in IVASS Regulations no. 40/2018 (Regulation 40) and no. 41/2018 (Regulation 41), modifying the insurance precontractual information documentation.

## Amendments and additions to regulation 40

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The Order adds some new definitions in Regulation 40 on the oncological right to be forgotten and introduces the new articles 56-bis and 56-ter.

Art. 56-bis indicates that distributors, when concluding or renewing an insurance contract, have to provide the policyholder with the information on the oncological right to be forgotten. This information must be included in the single pre-contractual form, s.c. MUP.

The MUPs are amended with indications on the oncological right to be forgotten.

Art. 56-bis also provides that distributors cannot ask the client or obtain any information about previous oncological conditions. If distributors have such information, it cannot be used either in the precontractual phase to determine the terms and conditions to be applied to the client (eg limitations, exclusions, premium amount) nor during the execution of the contract itself for assessing the risk of the transaction or of the solvency (eg to establish the amount of the insurance benefit).

Article 56-ter states how the policyholder or the insured exercises their oncological right to be forgotten. The policyholder has to send certification to the distributor to certify the existence of the necessary requirements for the oncological right to be forgotten. Once the certification has been submitted, distributors have to delete the information held on the policyholder's or the insured person's past oncological condition in the next 30 days. The certification has to be retained for ten years.

## Amendments and additions to Regulation 41

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The Order adds some new definitions on the oncological right to be forgotten. It also introduces amendments to the Life, IBIPs, Multi-risk and non-life Additional IPIDs on this right.

The Order indicates that the printed version of the Additional IPIDs can have an additional page than what it's required by Regulation 41 to add information on the oncological right to be forgotten (and to add information on the newly introduced Insurance Arbitrator).

The Order enters into force the day after its publication in the Italian Official Gazette.

Insurance undertakings and intermediaries have to comply with the Order (and modify MUPs and Additional IPIDs) within 15 days from its publication on the Italian Official Gazette.

The Order hasn't yet been published in the Italian Official Gazette. We'll keep you posted in this respect.

You can read the Order, and the modified MUPs and Additional IPIDs, in Italian, [here](#).

## EIOPA launches consultation on IRRD – 12 January 2026

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On 9 December 2025, the European Insurance and Occupational Pensions Authority (EIOPA) published on its website a set of seven consultation papers to support the implementation of the Insurance Recovery and Resolution Directive (the IRRD or the Directive).

The Directive, which must be transposed into national law by 28 January 2027, aims to establish a harmonised framework for crisis management in the European insurance sector, enhancing financial stability and policyholder protection.

### Scope of the consultation

The proposals cover:

- **Pre-emptive recovery plans:** insurers will have to prepare detailed plans outlining corrective measures and crisis scenarios.
- **Criteria for simplified obligations:** conditions under which smaller or less complex undertakings can apply reduced requirements.
- **Qualitative and quantitative indicators:** capital and liquidity metrics to monitor financial soundness and trigger timely recovery actions.
- **Independence of valuers:** rules to ensure autonomy and impartiality of entities assessing assets and liabilities during resolution.
- **Contractual recognition of stay powers:** mandatory clauses allowing authorities to temporarily suspend contractual rights in resolution scenarios.
- **Valuation of derivative liabilities:** technical standards for determining the value of derivative positions under stress conditions.

### Deadlines

- **Public consultation:** open until 20 March 2026 via EIOPA's online portal
- **National transposition:** by 28 January 2027.
- **Directive application:** January 2027.

The IRRD is aiming to create a consistent European approach to managing insurance failures, preventing systemic contagion and safeguarding policyholder interests. Insurers should start reviewing their recovery planning processes and contractual frameworks to comply with the upcoming requirements.

## IVASS publishes first update to national TIBER-IT cybersecurity framework – 17 December 2025

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On 11 December 2025 IVASS published an update about the National TIBER-IT Guide for Advanced Cybersecurity Testing for the Italian Financial Sector (TIBER-IT Guide) made by Italy's Central Bank, CONSOB and IVASS.

TIBER-IT stands for Threat Intelligence Based Ethical Red-Teaming – Italia, and it implements TIBER-EU at national level. The aim is to simulate potential cyber-attacks by reproducing the tactics, techniques and procedures of real threat actors. The European Central Bank introduced the TIBER-EU in 2018.

The DORA Regulation, which came into force in 2025, made these testing tools mandatory for financial entities of major importance. Known as Threat-Led Penetration Testing (TLPT), the tools help the financial system verify digital operational resilience.

The competent authorities of each member state are responsible for identifying which financial entities have to use these testing tools. They base their decision on qualitative and quantitative criteria defined in (EU) Delegated Regulation 2025/1190.

In the first update of the TIBER-IT Guide (TIBER-IT update), in line with the DORA Regulation, Italy's Central Bank, CONSOB and IVASS have identified which financial entities will have to conduct security tests at least every three years:

- financial entities defined in article 2, paragraph 2, of the DORA Regulation, including:
  - insurance and reinsurance undertakings
  - insurance intermediaries, reinsurance intermediaries and ancillary insurance intermediaries
  - institutions for occupational retirement provision
  - credit institutions
  - account information service providers
  - trading venues
  - management companies
  - credit rating agencies
  - crowdfunding service providers
- payment systems
- technological support or network infrastructures
- Poste Italiane S.p.A.
- financial intermediaries as defined in article 106 TUB (Consolidated Banking Law)
- service providers of the aforementioned entities

Other financial entities can carry out a voluntary test and can send questions regarding the operation of TIBER-IT to: [tiber-it@bancaditalia.it](mailto:tiber-it@bancaditalia.it).

The TIBER-IT Guide states that the competent authority will formally notify the financial entity required to perform the tests. Then the TIBER Authority (ie the competent authority that runs all the activities related to a TIBER-IT test) will notify the financial entity when the process starts.

While the TLPT is mandatory for entities identified by competent authorities, the voluntary TLPT test is used mainly as a prudential supervisory tool. The process is the same for both the mandatory and the voluntary test. The main purpose is to increase the cyber resilience of the entity being tested, including taking advantage of the learning opportunities experienced during the test.

In accordance with the TIBER-EU framework and the provisions in DORA, it's also possible to carry out cross-border TLPTs or TLPTs involving multiple financial entities. Multiparty testing – which includes joint tests and pooled tests – is especially useful for entities that operate in multiple countries or share the same technological infrastructure or ICT providers.

## **Supervisory fee set by IVASS – 15 December 2025**

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On 12 December 2025 IVASS issued Order no. 166 on the determination of the percentage for calculating management charges to be deducted from the insurance premiums collected in 2026 to calculate the supervisory fee on insurance and reinsurance activity (the Order).

The Order establishes that, for the 2026 financial year, the rate for management fees to be deducted from premiums collected is set at 4.4% of the premiums.

## **TIBER-IT – 12 December 2025**

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On 11 December 2025 IVASS published news on its website regarding an update of the National TIBER-IT Guide for Advanced Cybersecurity Testing for the Italian Financial Sector (TIBER-IT Guide) made by Italy's Central Bank, CONSOB and IVASS.

As you might be aware, TIBER-IT stands for Threat Intelligence Based Ethical Red-Teaming – Italia and implements at national level TIBER-EU, a tool that simulates potential cyber-attacks by reproducing the tactics, techniques and procedures of real threat actors, first introduced by the European Central Bank in 2018.

The DORA Regulation, which came into force in 2025, made the use of such testing tools, known as Threat-Led Penetration Testing (TLPT), mandatory for financial entities of major importance to the financial system to verify their digital operational resilience.

The financial entities for which these testing tools are mandatory are identified by the competent authorities of each member state on the basis of qualitative and quantitative criteria defined in (EU) Delegated Regulation 2025/1190.

Italy's Central Bank, CONSOB and IVASS have published the first update of the TIBER-IT Guide (TIBER-IT update) in line with the provisions of the DORA Regulation. It identifies the financial entities for which the security tests are mandatory at least every three years:

- financial entities as defined in article 2, paragraph 2, of the DORA Regulation, including:
  - insurance and reinsurance undertakings
  - insurance intermediaries, reinsurance intermediaries and ancillary insurance intermediaries
  - institutions for occupational retirement provision
  - credit institutions
  - account information service providers
  - trading venues
  - management companies
  - credit rating agencies
  - crowdfunding service providers
- payment systems
- technological support or network infrastructures
- Poste Italiane S.p.A.
- financial intermediaries as defined in article 106 TUB (Consolidated Banking Law)
- the service providers of the aforementioned entities

Other financial entities wishing to carry out a voluntary test can also send questions regarding the operation of TIBER-IT to the following address: [tiber-it@bancaditalia.it](mailto:tiber-it@bancaditalia.it).

With regard to the operation of the TLPT, the TIBER-IT Guide provides that the competent authority identifies the financial entity required to perform the tests by means of formal notification. Subsequently, the TIBER Authority (ie the competent authority who runs all the activities related to a TIBER-IT test) will notify the financial entity of the start of the process.

The differences between a mandatory TLPT and a voluntary test lie essentially in the mandatory nature of the former and its use as a prudential supervisory tool for the latter. The process for performing the individual test is the same, and the main purpose is to increase the cyber resilience of the entity being tested, including by leveraging the learning opportunities experienced during the test.

Finally, in accordance with the TIBER-EU framework and the provisions contained in DORA, there is the possibility of carrying out cross-border TLPTs and/or TLPTs involving multiple financial entities, especially in the case of entities operating in multiple countries and/or sharing the same technological infrastructure or ICT providers: so-called multiparty testing, which includes joint tests and pooled tests.

### **IVASS Order amending IVASS Regulation no. 7/2014 on administrative proceedings – 5 December 2025**

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On 3 December 2025, IVASS published Order no. 164 amending IVASS Regulation no. 7/2014 on IVASS administrative proceedings and IVASS units responsible for them (respectively, the Order and the Regulation).

The amendments by the Order to the Regulation arise from the need to update Annex 1 of the Regulation, which lists the supervisory proceedings carried out by IVASS and the timing of each proceeding. The new requirements stem mainly from developments in European and national legislation.

Article 1 of the Order replaces Annex 1 of the Regulations and introduces new proceedings regarding:

- financial conglomerates with a predominant insurance business;
- the identification by IVASS of financial entities to be subjected to threat-led penetration test (TLPT) introduced by the DORA Act;
- the Insurance Arbitrator Board;
- the Guarantee Committee; and
- the payment in instalments of pecuniary sanctions imposed by IVASS.

Article 2 of the Order provides that it will enter into force the day after its publication in the Italian Official Gazette.

## How the insurance arbitrator is affecting product documentation: News from IVASS – 4 December 2025

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On 3 December 2025, IVASS published Order no. 163/2025. It introduces new information obligations for insurance companies and intermediaries regarding their precontractual documentation, websites and social network profiles. The changes reflect the upcoming entry into force of the insurance arbitrator.

The order contains amendments to the MUPs (Unique Precontractual Form) that insurance distributors have to provide to prospects. It introduces amendments to the additional IPIDs for the various classes of insurance business. All insurance companies and intermediaries (which joined the scheme of the insurance arbitrator) will have to implement these changes by 14 January 2026.

## Impacts of the Insurance Arbitrator on Product Documentation: News from IVASS – 26 November 2025

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IVASS has published Order no. 163/2025 (the Order) introducing new information obligations regarding the precontractual documentation, websites and social network profiles of insurance companies and intermediaries reflecting the upcoming entry into force of the insurance arbitrator.

The Order contains a number of amendments to the MUPs (Unique Precontractual Form) to be provided insurance distributors to the prospects, and to the additional IPIDs for the various classes of insurance business which all the insurance companies and intermediaries (which joined the scheme of the insurance arbitrator) had to implement by 14 January 2026.



# Tax

## IVCA on foreign life insurance policies held through fiduciary arrangements: clarifications and guidelines

*By Antonio Longo e Angela Dulcetti*

The Italian Ministry of Enterprises and Made in Italy (hereinafter, also MIMIT) has issued guidance on the operational and supervisory issues related to managing tax on the value of insurance contracts (IVCA) concerning foreign life insurance policies held through fiduciary arrangements.

The guidance submitted to the Ministry concerns cases where foreign life insurance policies are issued by insurance companies that don't act as withholding agents, so the IVCA has to be directly paid by the policyholder/insured. However, where the policy is held in a fiduciary arrangement, the fiduciary company makes the payment in its own name but on behalf of the settlor.

As a result, the funds used for the payment belong to the settlor, the payment is made by the fiduciary company via form F24, and the resulting tax credit is formally registered in the name of the fiduciary company, although it substantively pertains to the settlor.

Upon maturity or surrender of the policy, the substitute tax on capital income must be calculated by the fiduciary company (in the absence of a foreign withholding agent). Since the IVCA paid annually almost always exceeds the final tax due, a tax credit typically arises.

The Italian Revenue Agency, in Circular No. 41/E/2012, clarified that any excess tax must be refunded to the substituted taxpayer and that the fiduciary company can recover the credit through offsetting, refund, or carryforward.

However, based on the same circular, the credit remains formally attributed to the fiduciary company and is recovered through its own tax positions (forms 770/F24), resulting in a lack of full traceability at the level of the individual settlor.

This solution gives rise to several issues in relation to Ministerial Decree of 16 January 1995, including the potential breach of the prohibition on cross-offsetting, the prohibition on assuming financial commitments, and the requirement to operate solely on the basis of pre-existing funds.

According to the MIMIT, aligning with the solution proposed by Assofiduciaria (dated 7 March 2014), the IVCA excess may be treated as a "transferable" tax credit to the policyholder (or their heirs) through certification issued by the withholding agent.

Accordingly, the taxpayer/settlor may report the credit in the Italian Personal Income Tax Return (Modello Redditi PF), in Section RM, on the basis of the certification issued by the fiduciary company (in this case, SER-FID). This section is intended for substitute taxes, related tax credits, and refundable credits pursuant to Article 38 of Presidential Decree No. 602/1973.

In conclusion:

- the IVCA excess can be attributed to the policyholder or their heirs through certification issued by the withholding agent (ie the fiduciary company), which must also undertake not to claim the refund in its own name;
- the taxpayer/settlor or their heirs can report the credit in the Personal Income Tax Return (Modello Redditi PF – Section RM), or alternatively request a refund pursuant to Article 38 of Presidential Decree No. 602/1973.

That said, the certification mechanism largely resolves the inconsistencies between tax procedures and the rules set out in Ministerial Decree of 16 January 1995, as the refund of the excess constitutes a right of the settlor and doesn't entail any financial advance by the fiduciary company (since the refund is claimed directly by the client). However, this solution must be complemented by appropriate internal organisational measures.

In particular, it would be advisable to implement:

- the establishment of a segregated account for each settlor, to be used for IVCA funding, F24 payments, management of accrued credits, reimbursements, and offsets relating solely to that settlor;
- an IVCA tracking sheet for each policy, detailing funding, payments, credits, usage, excesses, and residual balances;
- additional clauses in fiduciary mandates providing for, inter alia: waiver of early reimbursement, prohibition of cross-offsetting, authorisation to segregate funds, obligation for the fiduciary to issue certification, as well as the fiduciary's commitment not to claim a refund or offset the certified tax excess and, correspondingly, the settlor's commitment not to seek reimbursement from the fiduciary;
- an annual statement to the settlor summarizing IVCA paid, accrued credits, certified credits, any excesses, and the balance of the segregated assets.

The guidance issued by the MIMIT represents a significant step towards addressing the operational issues related to managing IVCA in the context of foreign life insurance policies held through fiduciary arrangements.





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