

# Italy

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## MARKET TRENDS AND REGULATORY FRAMEWORK

### 1. Please give a brief overview of the insurance and reinsurance markets in your jurisdiction, identifying market trends.

#### Overview

Italy has a well-established and concentrated insurance market where Assicurazioni Generali (the largest Italian company and one of the oldest and most globalised) holds a 25% market share. According to the report of the supervisory authority on insurance companies (*Istituto per la vigilanza sulle assicurazioni private e di interesse collettivo*) (ISVAP) of 31 December 2008, there were 163 companies incorporated under Italian law comprising:

- Life insurance companies: 65.
- Non-life insurance companies: 80.
- Composite companies: 17.
- Specialised reinsurers: 1.
- Business branches with head offices in a non-EU country: 3.

There were also 74 established business branches in Italy with head offices in other EU member states and 903 European businesses operating under the freedom to provide services rule.

Of the branches licensed to pursue business in Italy, their head offices were based in:

- UK: 41%.
- France: 15%.
- Germany: 14%.
- Ireland: 11%.
- Austria and Belgium: 5%.
- Luxembourg: 4%.
- The Netherlands, Slovenia, Spain, and Liechtenstein: 1%.

#### The premium portfolio

In 2008, Italian and foreign portfolio gross premiums decreased by about 8% totalling EUR95 billion (about US\$142.8 billion) (EUR103 billion (about US\$154.8 billion) in 2007), of which EUR93 billion (about US\$139.8 billion) concerned the Italian portfolio (EUR102 billion (US\$153.3 billion) in 2007). Direct Italian business for 2008 totalled EUR92 billion (7% decrease compared to 2007 and in real terms, a 10% decrease).

The premium income from non-life insurance business was EUR37 billion (about US\$55.6 billion) in 2008 (0.6% decrease compared to 2007), and from life insurance business was EUR55 billion (about US\$82.7 billion) (11.2% decrease compared to 2007), comprising 40.7% and 59.3% of the Italian direct portfolio respectively. Due to the global financial crisis, life insurance premiums collected in 2009 are expected to be lower. In contrast, reinsurance cessions were substantially unchanged compared to 2007, accounting for 10.5% of the Italian direct portfolio in non-life insurance business and 2.7% in life insurance business.

#### Market trends

The most notable trend in the insurance market concerns the integration of banking, finance and insurance services. Bank insurance represents the most used insurance policy distribution channel (in 2008, banks and post offices distributed 53.7% of life insurance policies) and financial and insurance activities are increasingly overlapping. Due to the implementation of Directive 2002/87/EC on the supplementary supervision of credit institutions, insurance companies and investment firms in a financial conglomerate, ISVAP, the Bank of Italy and the Italian supervisory authority on financial markets (*Commissione Nazionale per le Società e la Borsa*) (CONSOB) recognised six large Italian financial conglomerates. Two of these, Generali Group and *Unipol Gruppo Finanziario*, were conglomerates conducting most of their business in insurance. Another insurance trend is the recent success of insurance companies operating online resulting in reduced costs.

### 2. What is the regulatory framework for insurance/reinsurance activities?

#### Supervisory authorities

Article 5 of the Private Insurance Code sets out the functions of ISVAP, which supervises the insurance sector by exercising its powers to:

- Enable.
- Prescribe.
- Investigate.
- Protect.
- Repress.

ISVAP adopts all regulations necessary to properly and prudently manage insurance and reinsurance companies, and for transparency and fairness reasons, it discloses all appropriate recommendations or interpretations. In addition, ISVAP performs the activities necessary to promote an appropriate degree of consumer

protection and to provide information on the insurance market, including statistical and economic surveys and gathering input to formulate insurance policy lines. ISVAP also promotes collaboration with other member states' authorities to make supervision over insurance and reinsurance businesses complete, effective and homogeneous, in line with EU law procedures.

### Regulatory framework

The legislation regulating insurance and reinsurance businesses comprises the Private Insurance Code (adopted by Legislative Decree No. 209/2005 and in force since 1 January 2006). It is a comprehensive law comprising 355 articles mainly regulating:

- Insurance and reinsurance companies.
- Insurance and reinsurance business activities.
- Insurance intermediaries.

The Private Insurance Code allows ISVAP to issue regulations in specific areas of insurance law (of which 32 regulations have already been enacted). The Private Insurance Code contains important provisions concerning the disclosure of information under insurance contracts and the policyholder's protection (such as Article 185).

Further insurance contract rules are listed at Articles 1882 to 1932 of the Civil Code of 1942 (Civil Code).

Article 2 of the Private Insurance Code lists six classes of insurance for the life insurance business and 18 classes of risks for the non-life insurance business. Insurance and reinsurance companies must limit their objectives to pursuing life insurance or non-life insurance classes. The only exception is the simultaneous pursuit of life insurance, and accident and sickness insurance classes (*Article 11, Private Insurance Code*).

## CONTRACTS OF INSURANCE

### 3. What is a contract of insurance for the purposes of the law and regulation in your jurisdiction?

Insurance is a contract whereby the insurer, on payment of a premium, binds itself to compensate the insured party, within agreed limits, for damage caused to the insured by an accident, or to pay a principal sum or an annuity on the occurrence of an event contingent on human life (*Article 1882, Civil Code*).

### 4. Are all contracts of insurance regulated in your jurisdiction?

Insurance contracts are regulated by the Civil Code and Article 2 of the Private Insurance Code lists the classes of insurance for life and non-life insurance businesses. All insurance contracts issued or entered into must be associated with these classes.

A general principle of civil law is contractual autonomy, under which the parties can freely determine the contract's contents within legal limits. This principle has favoured the emergence of insurance contracts used worldwide which are drafted on the basis of international market practice (such as the "contractor's all risks" insurance policies or specialised coverage for ultra-hazardous activities).

Insurance contracts marketed in Italy must be accompanied by an information note containing necessary information, other than advertising, relating to product and insurance company characteristics to enable policyholders and insured persons to understand contractual rights and obligations and, where appropriate, the company's financial position.

## INSURERS AND REINSURERS

### 5. Are insurers and reinsurers regulated in the same way in your jurisdiction?

Insurance and reinsurance activities are reserved activities and their contracts must be documented in writing. Insurance and reinsurance companies are incorporated as joint-stock companies and administrative compulsory winding up is the same for both types of company. However, due to the implementation of Directive 2005/68/EC on reinsurance within the Private Insurance Code, there are also many relevant differences between insurance and reinsurance companies such as the possibility for special purpose vehicles (SPVs) to carry out reinsurance business activities.

### 6. Can insurers or reinsurers carry on non-insurance business? Please summarise any restrictions on their business activities.

There is a legal difference between what a regulated insurance entity can do and what an affiliate of a regulated insurance entity can do. Insurance companies may belong to either insurance or reinsurance groups or to financial conglomerates. In obtaining the required ISVAP licence, insurance and reinsurance companies must specify which classes of life or non-life (re)insurance they intend to offer, and they can only undertake activities that are reasonably ancillary to the (re)insurance business. However, non-insurer affiliates can carry out non-insurance business.

### 7. Are there any statutory limits or other restrictions on, or requirements relating to, the transfer of risk by insurance or reinsurance companies?

The transfer of risk from the insured party to the insurer is an inherent feature of the insurance contract (*Article 1882, Civil Code*). There are no limits or restrictions on the transfer of risk. However, general contract law applies provisions for the nullity of the contract if the purpose of the contract is contrary to mandatory rules or because the purpose is unlawful (*Article 1418, Civil Code*).

## OPERATING RESTRICTIONS

### 8. Does the entity or person have to be authorised or licensed in your jurisdiction? If so, please outline the key steps involved in this process and the requirements that must be satisfied.

#### Insurance/reinsurance providers

ISVAP grants insurance companies authorisation to operate on meeting certain conditions, including the following:

- The company is incorporated as a joint-stock company (*società per azioni*), a co-operative company (*società coop-*

*erativa*) or a mutual insurance company (*società di mutua assicurazione*) whose units are represented by shares, or within the framework of a European company.

- The applicant company has its management and administrative offices in Italy.
- The capital or guarantee fund is:
  - fully paid up;
  - not less than a specific minimum amount varying between EUR1.5 million (about US\$2.3 million) and EUR5 million (about US\$7.5 million) (according to the single classes of insurance);
  - exclusively in cash.
- The company submits a business plan, together with the memorandum and articles of association, describing the initial activity and the organisational and management structure, accompanied by a technical report signed by a certified actuary, setting out the criteria for drawing up the scheme of operations and estimating costs and revenues.
- The holders of qualifying holdings meet specific good standing requirements (under Article 77 of the Private Insurance Code).
- The persons charged with administration, management and control functions meet specific professional, good standing and independence requirements (under Article 76 of the Private Insurance Code).
- There are no close links between the company or other group entities and other natural or legal persons, which may prevent the effective exercise of supervisory functions.
- The company discloses the name and address of the claims representative appointed in each of the other EU member states, if the risks to be covered fall within classes of motor vehicle liability and sea vessel liability, other than carrier's liability.

Reinsurance companies must be licensed and the requirements necessary to obtain this authorisation are similar to those for insurance companies (except the minimum share capital is between EUR3 million (about US\$4.5 million) and EUR5 million).

#### Marketing insurance/reinsurance services

The insurance intermediaries must be authorised by ISVAP. They are listed in separate sections of the Single Register of Insurance Intermediaries and their registration requirements (set out in the Private Insurance Code and in ISVAP Regulation No. 5/2006) vary depending on whether the subjects are natural persons or companies (for example, individuals must pass a qualifying examination). Natural persons and companies enrolled in any section of the Single Register of Insurance Intermediaries must take out professional indemnity insurance for their activity for at least EUR1 million (about US\$1.5 million) applied to each claim and an aggregate EUR1.5 million per year for all claims, valid throughout the EU, for damages arising from professional negligence and misconduct by:

- Themselves.
- Employees.
- Collaborators.
- Any other persons for whom the intermediary is legally liable.

#### Other providers of insurance/reinsurance-related activities

The professional activity of loss adjusters, consisting of assessing and estimating material injuries resulting from the use, theft and fire to motor vehicles and sea vessels, cannot be exercised by persons not enrolled in a specific list held by ISVAP.

#### 9. Please summarise the main exemptions or exclusions from authorisation or licensing that are available in your jurisdiction, if any.

#### Insurance/reinsurance providers

The licensing requirements in *Question 8* apply exclusively to Italian insurance and reinsurance companies. Unauthorised insurers are prohibited from participating in the insurance business. However, freedom of services is a fundamental principle of the Treaty on the Functioning of the European Union (TFEU) (formerly the EU Treaty). Home country control and co-operation among European Supervisory Authorities (ESAs) enforces this principle for banking, financial and insurance sectors. Consequently, insurance or reinsurance companies with head offices in another member state can carry on their activities in Italy under the right of establishment or the freedom to provide services (*Articles 23 and 24, Private Insurance Code, respectively*).

In both cases, a new formal licence from ISVAP is unnecessary. The supervisory authority of the member state where the insurance company is headquartered must send ISVAP a notification with the information and conditions required by EU law. Under the freedom of establishment rules, within thirty days of receiving notification, ISVAP must inform the home member state's supervisory authority of the general provisions which the insurance company must observe when pursuing business. The insurer can set up its branch and start business in Italy as soon as it receives the notification by ISVAP from the home supervisory authority; or if no notification is received, on expiry of the 30-day deadline. The branch's authorised representative must be empowered to represent the insurance company in connection with all Italian authorities and courts, and to conclude and underwrite the contracts and the other documents relating to the business pursued in Italy.

In relation to the freedom to provide services, the insurer can begin its activity as soon as ISVAP acknowledges receipt of notification by the home supervisory authority.

While insurance companies with head offices in a non-member state are prohibited from carrying on life or non-life businesses in Italy under the freedom of services, they can operate exclusively under the freedom of establishment rules. In contrast, reinsurers with head offices in a non-member state can carry out their business in Italy (either under the freedom of establishment or) under the freedom of services. Consequently, formal ISVAP authorisation is not required under freedom of services.

#### Marketing insurance/reinsurance services

Similar rules concerning the right of establishment and the freedom to provide services in the EU also apply to insurance intermediaries.

**Other providers of insurance/reinsurance-related activities**

Not applicable.

**10. Are there any restrictions on the ownership or control of insurance-related entities in your jurisdiction (for example, age, nationality, qualification or other restrictions)?****Insurance/reinsurance providers**

Owners and persons who control or hold a relevant stake in insurance companies are reviewed by ISVAP to determine their qualifications to control an insurance company. They must meet specific good standing requirements. However, there are no general limitations or prohibitions against foreign entities having an ownership interest in an Italian insurance company. ISVAP issues authorisation for any acquisition in Italian insurance companies on meeting conditions of properly and prudently managing the insurance or reinsurance company, in consideration of the possible impact of the operation on the stability, efficiency and protection of the entity's policyholders.

The Minister of Productive Activities must, by enacting a regulation, establish the good standing requirements for holders of qualifying holdings (*Article 77, Private Insurance Code*). However, this regulation has not yet been enacted.

**Marketing insurance/reinsurance services**

Licensed insurance intermediaries are reviewed for their qualifications to serve as a licensee (*see Question 12*).

**Other providers of insurance/reinsurance-related activities**

Not applicable.

**11. Do owners or controllers have to be pre-approved by or notified to the relevant authorities before taking, increasing or reducing their control or ownership of the entity?****Insurance/reinsurance providers**

Any person intending to become holder of a qualifying holding in an insurance or reinsurance company must inform ISVAP. Prior ISVAP authorisation concerning acquisition of a holding in an insurance company is required in the following situations:

- Any acquisition, on any basis, of qualifying holdings in an insurance or reinsurance company, at any rate by anyone, of shares in the company where, after taking the shares already owned into account, participation greater than 10% of the company's share capital represented by voting rights is involved.
- The acquisition of control of a company that owns holdings in insurance or reinsurance company. ISVAP authorisation also applies to the direct or indirect acquisition of control through a contract with the insurance or reinsurance company or a provision (such as a shareholders' agreement) in its memorandum and articles of association.

All potential acquirers are required to file an application containing information such as:

- A list of directors.

- A report on the legal and financial structure of the group, to which the proposed acquirer belongs.
- The targets of the acquisition.
- Financing details of the acquisition.

Directive 2007/44/EC substantially tightened the statutory period in which ISVAP must grant or refuse its authorisation.

**Marketing insurance/reinsurance services**

Not applicable.

**Other providers of insurance/reinsurance-related activities**

Not applicable.

**12. Please summarise the key ongoing requirements that the authorised or licensed entity must comply with.****Insurance/reinsurance providers**

Insurance companies authorised to engage in life insurance or non-life insurance business must conduct their activities through appropriate administrative and accounting procedures and an adequate internal control system.

The monitoring of the insured risks and sufficient technical reserves for life and non-life classes of insurance are essential for the prudent and effective management of insurance companies. The assessment of the sufficiency of technical provisions is the function of the actuaries, who perform a permanent control function to enable the insurance company to take all necessary actions promptly. Technical reserves must be covered by assets belonging to the insurance company. When choosing representative assets, the insurance company considers the type of risks and commitments accepted, and the need to secure the safety, yield and marketability of its investments (which must be adequately diversified).

Insurance companies must also:

- Always possess adequate solvency margins in relation to their entire business in Italy.
- Supervise the insurance intermediaries who market their insurance policies.
- Pay a yearly supervision contribution to ISVAP.
- Draw up their financial statements according to the relevant outlines prepared by ISVAP and must regularly send ISVAP all requested data, information, acts and documents.

**Marketing insurance/reinsurance services**

The ongoing requirements of insurance intermediaries vary depending on the section of the Single Register of Insurance Intermediaries in which they are registered.

However, there are some common obligations. Premiums paid to intermediaries and the amounts to be used for claims payments and managed through the intermediary must be kept in separate accounts. Insurance intermediaries must pay a yearly supervision contribution to ISVAP. In addition, the intermediaries must renew their professional indemnity insurance policy annually and must regularly update their professional knowledge.

### Other providers of insurance/reinsurance-related activities

Loss adjusters must comply with the ongoing requirements set out by ISVAP Regulation No. 11/2008.

### 13. Please outline the possible consequences of an entity failing to comply with applicable legal and regulatory requirements (including the disciplinary powers any relevant regulators have, as well as possible customer remedies).

#### Insurance/reinsurance providers

ISVAP supervises the technical, financial and assets and liabilities management of insurance and reinsurance companies and their compliance with the applicable insurance laws and regulations. To achieve this, ISVAP can:

- Request information.
- Order the production of documents.
- Order the performance of necessary controls.

Sanctions for non-compliance with applicable legal and regulatory requirements include:

- Civil fines and penalties.
- Suspension or revocation of the insurer's licence.
- Imposition of a "cease and desist" order.

In addition, insurance contracts concluded with an unauthorised company or with an insurer prevented from concluding new business are void. In serious cases, ISVAP may appoint a receiver to the insurance company, and the receiver can take possession and control of the insurer's property and businesses. Criminal penalties can apply to intentional conduct, such as pursuing insurance business without authorisation.

#### Marketing insurance/reinsurance services

There are similar penalties for insurance intermediaries, including suspension or revocation of the intermediary's licence.

### Other providers of insurance/reinsurance-related activities

There are similar penalties for loss adjusters including suspension or revocation of the loss adjuster's licence.

### 14. Are there any restrictions on the persons to whom insurance/reinsurance services and contracts can be marketed or sold?

All individuals who buy insurance must have an insurable interest in the coverage.

However, restrictions on the persons to whom insurance contracts can be sold are the same as those applying to persons who, according to civil law, do not have the capacity to perform legal acts (for example, because they are minors or have been declared interdicted or disabled). The general legal provisions on defective consent (such as mistakes, duress and fraud) resulting in annulment also apply to insurance contracts.

## REINSURANCE

### 15. To what extent can/must a reinsurance company monitor the claims, settlements and underwriting of the cedant company?

Reinsurers are also legally required to have an adequate internal control system in the same way as insurers. The extent to which a reinsurer can monitor claims, settlements and underwriting of the cedant company is usually set out in the reinsurance contract. Reinsurance contracts generally require ceding companies to provide the reinsurer with recurring reports containing information on claims and settlements reported or paid in a certain period. Generally, the reinsurer's monitoring of the ceding company is conducted according to market practice standards.

### 16. What disclosure/notification obligations does the cedant company have to the reinsurance company?

Disclosure and notification obligations are set out in the reinsurance contracts negotiated between the parties.

## INSURANCE POLICIES

### 17. Please outline the main general form and content requirements for insurance policies in your jurisdiction, including a description of the most commonly found clauses.

Insurance laws and regulations provide for a detailed set of contractual documentation that varies depending on the kind of products offered. Italian insurance companies and foreign insurance companies carrying on business in Italy under the freedom of establishment or the freedom of services rules must submit the documentation to policyholders, before concluding the contract. This includes:

- An information note containing the policy declarations, which identifies:
  - the insured party;
  - the insured party's address;
  - the insuring company;
  - what risks or property are covered;
  - the policy limits;
  - any applicable deductibles;
  - the coverage clauses, which describes the covered perils, or risk assumed, and describes the nature of the coverage.
- General terms and conditions of the insurance policy together with the special insurance clauses, describing the rules of conduct, duties and obligations required for coverage. These documents usually also contain the exclusion clause, which limits coverage by describing property, perils, hazards or losses arising from specific clauses which are not covered by the policy.
- A glossary with relevant definitions.

- The insurer's proposal form that must be completed with the data of the policyholder, the insured party and the beneficiaries of the insurance policy.

Life insurance policies also contain a synthetic schedule, which summarises the most relevant provisions of the policy. An informative prospectus drafted by the issuer according to CONSOB outlines, must accompany the offer of financial products issued by insurance companies.

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**18. Please identify any terms found in insurance policies in your jurisdiction that are implied by law or regulation (identifying the applicable laws or regulations and any mandatory provisions).**

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Insurance contracts are mass market contracts containing standard conditions. In the insurance business, there are usually imbalances between the insurer and the insured party. However, to counteract this, insurance policies have an implied duty of good faith, which requires the parties to engage in mutual fair dealing. The duty of good faith forms the basis of the Civil Code's provisions concerning material change in risk as well as the discipline of misrepresentations by the insured party.

In addition, before conclusion of and during the term of the contract, insurance companies and intermediaries must (*Article 183, Private Insurance Code*):

- Act with diligence, fairness and transparency towards policyholders and insured persons.
- Acquire from policyholders the information necessary to evaluate their insurance or pension needs and act in a manner that they are always appropriately informed.
- Make arrangements to identify and prevent (where reasonably possible) conflicts of interest and, in case of conflict, alert policyholders of the possible adverse effects. They must also manage conflicts of interest to exclude any detrimental consequences for policyholders.
- Achieve independent, proper and prudent financial management and take adequate measures to safeguard the rights of policyholders and of insured persons.

Insurers must also comply with precise drafting criteria. For example, clauses setting out forfeitures, voidness, limitations of coverage or costs to be borne by the policyholder or insured party must be shown in highlighted characters.

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**19. What customer protections are generally included in insurance policies to supplement relief available under general law?**

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Several legal provisions supplement consumer protection to the insured party (for example, insurance policies offered in Italy must be written in Italian).

Generally, non-life insurers must compensate the insured party for damage resulting from the accident, in the manner and to the extent contractually stipulated. In addition, under the Consumer Code, clauses such as those that require the insured party to

produce documents that cannot reasonably evaluate the grounds of the claim are void.

An important protection granted to the insured party under life insurance policies is the right to withdraw (that can be exercised by the policyholder within 30 days from the time when he was informed the contract had been concluded).

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**20. Please identify examples of standard policies or terms produced by trade associations or relevant authorities, if any, and explain how these can be obtained.**

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Examples of standard terms and outlines of information notes are usually prepared by ISVAP (or by CONSOB for financial products issued by insurance companies). The Italian Association of Insurance Companies (*Associazione Nazionale fra le Imprese Assicuratrici*) (ANIA) (*see box, Main insurance/reinsurance trade organisations*) is active in providing its members with standard insurance policies.

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**21. What must be established to trigger a claim under an insurance policy?**

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An insured party can make a claim to the insurer if it incurs a loss within policy limits, which is not covered by policy exclusions.

In relation to property damage insurance, within three days from when the accident occurred or from when the insured party had knowledge of the accident, the insured party must give notice of the accident to the insurer or the agent with power to contract (*Article 1913, Civil Code*).

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**22. Please provide brief circumstances in which third parties can claim under an insurance policy?**

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There are limited circumstances where a third party can make a claim under an insurance policy. Typically, the third party must be named as an additional insured party in the policy or contractual terms. For example, if the insured party dies, the beneficiaries of a life insurance policy have the right to obtain the payment from the insurer under the policy conditions. Third parties can claim under the insurance policy if the claim has been assigned or subrogated.

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**23. Is there a time limit outside of which the insured/reinsured is barred from making a claim?**

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Claims for payment of premium instalments are limited to one year from maturity of each instalment (*Article 2952, Civil Code*). Other claims arising from an insurance contract have a one-year limitation period, and those arising from a reinsurance contract have a two-year limitation period from the day when the fact on which the right is based occurred. In third party liability insurance, the limitation period runs from the day when the injured third person requested compensation from the insured party or brought an action against him. Notice to the insurer of the claim of the injured third person, or of the action brought by him sus-

pendes the limitation period until the injured person's claim has been liquidated and made collectible.

#### 24. Can the original policyholder or other third party enforce the reinsurance contract against a reinsurer?

A reinsurance contract does not create a relationship between the insured party and the reinsurer, except for special legal provisions relating to privileges in favour of the policyholders as a group (*Article 1929, Civil Code*).

#### 25. What remedies are available for breach of an insurance policy?

Breach of insurance policy is considered a breach of contract. The remedy for any breach of contract is the right to sue (or arbitrate if required by the contract) to recover losses.

### INSOLVENCY

#### 26. Please outline the regulatory framework for dealing with distressed or insolvent insurance or reinsurance companies, or other persons or entities providing insurance or reinsurance related services.

The Private Insurance Code sets out safeguards, reorganisation and winding-up measures for Italian insurance and reinsurance companies. In particular, depending on the severity of the circumstances, ISVAP may appoint a commissioner to fulfil individual acts or a provisional administrator.

In addition, the Minister of Productive Activities, on ISVAP's proposal, can order the administrative and control bodies of the insurance or reinsurance company and/or the insurer or reinsurer itself to be compulsorily wound up when:

- There are serious administration irregularities or serious violations of rules of law, administrative provisions or articles of association regulating the insurance or reinsurance company's activity.
- Serious financial loss is foreseen.

### TAX

#### 27. Briefly describe the tax treatment for insurers, reinsurers, and other persons or entities providing insurance and reinsurance-related services in your jurisdiction.

Insurance companies are subject to corporate income tax (*Imposte sul Reddito delle Società*) (IRES) at 27.5%. IRES taxable basis is calculated by applying to the result of the profit and loss account certain adjustments in accordance with tax law. With specific reference to insurance companies, the change in value of compulsory technical reserves is used to determine the IRES taxable basis up to the maximum amount provided by law. The change in value of the claim reserves for insurance agreements of non-life insurance, for the portion relating to its long-period component (75% of the reserve amount), is deductible in the relevant

### MAIN INSURANCE/REINSURANCE TRADE ORGANISATIONS

#### Italian Association of Insurance Companies (*Associazione Nazionale fra le Imprese Assicuratrici*) (ANIA)

**Main activities.** ANIA is the main insurance and reinsurance trade organisation. It represents its members and their interests to the Italian Parliament, the government and other political institutions, trade unions, consumer associations and so on.

W [www.ania.it/chi\\_siamo/index.asp](http://www.ania.it/chi_siamo/index.asp)

#### Italian Association of Insurance and Reinsurance Brokers (*Associazione Italiana Brokers di Assicurazioni e Riassicurazioni*) (AIBA)

**Main activities.** AIBA is the Italian association of insurance and reinsurance brokers.

W [www.aiba.it](http://www.aiba.it)

#### Brokers' Trade Association (*Associazione Categoria Brokers*) (ACB)

**Main activities.** ACB is the Italian brokers' trade association.

W [www.acbbroker.it](http://www.acbbroker.it)

#### National Trade Union of Insurance Agents (*Sindacato Nazionale Agenti di Assicurazione*) (SNAA)

**Main activities.** This is the national trade union for insurance agents.

W [www.snaservice.it/web/index.php](http://www.snaservice.it/web/index.php)

#### Italian Association of Loss Adjusters for Fire and Other Risks (*Associazione Italiana Periti Liquidatori Assicurativi Incendio e Rischi Diversi*) (AIPAI)

**Main activities.** This is the Italian association for loss adjusters for fire and other risks.

W [www.aipai.org](http://www.aipai.org)

tax year for up to 30% and the excess amount is deductible in equal instalments in the following 18 years.

Dividends, capital gains or losses on shares that qualify for the participation exemption rule and unrealised capital gain and losses on shares and similar instruments qualify for determining the IRES taxable basis if they relate to investments benefiting policyholders of life insurance products where the risk is borne by the policyholders.

A 0.35% tax also applies to the amount of mathematical reserves relating to life insurance business accounted in the financial statements, with certain exemptions (for example, death risk agreements, permanent invalidity or non self-sufficiency agreements, pension funds and social security insurance policies). The

amount of tax paid can be used to future payments relating to withholdings or substitutive taxes to be applied by the insurance companies in connection with payment of capital income deriving from certain insurance policies.

Italian insurance companies are also subject to the regional income tax (*Imposta Regionale sulle Attività Produttive*) (IRAP) at 3.9% (this rate varies according to different regional legislations). IRAP taxable basis is calculated as the sum of the results of the life division and the non-life division, from the profit and loss account, less certain non-deductible items, such as expenses relating to personnel, depreciation of receivables, and so on. Negative interest incurred in any tax year is deductible up to 96% of its amount.

Insurance premium tax (IPT) is levied on a proportional basis varying from 2.5% (for example, personal accident or health) to 21.25% (for fire and theft). The taxable basis is the premium, without deductions, and all additional amounts including all sums paid to the insurer. Additional charges may apply to certain insurance policies. No IPT applies to life insurance policies and to financial products issued by insurance companies subscribed after 1 January 2001. Certain reinsurance agreements may also be exempt. Unless agreed otherwise, IPT can be charged to the insured party.

## DISPUTE RESOLUTION

### 28. Are there special procedures or venues for dealing with insurance or reinsurance complaints or disputes in your jurisdiction?

Before litigation is initiated, natural and legal persons, as well as consumer associations with a legitimate interest in consumer protection, can file complaints with ISVAP for non-compliance with Private Insurance Code rules by:

- Insurance and reinsurance companies.
- Insurance intermediaries.
- Loss adjusters.

ISVAP opens a summary investigation and makes a decision within 120 days from the day it received the complaint.

Aside from this, there are no special procedures or venues for insurance or reinsurance disputes. These disputes are brought in the competent legal court or before an arbitration panel if arbitration is contractually provided for.

### 29. Please give a brief overview of the main dispute resolution methods used to settle reinsurance claims.

Most reinsurance contracts contain terms requiring binding arbitration to settle disputes. This dispute resolution method is used to resolve issues concerning damage assessment or other technical aspects of reinsurance contracts. Typically, arbitration occurs in front of a panel of three active or retired insurance or reinsurance professionals who resolve disputes based on industry custom and practice.

## REFORM

### 30. Please summarise any proposals for reform of the law, regulation or rules in your jurisdiction relating to the provision of insurance or reinsurance services.

The implementation of EU Directives and their further amendments impact reform in the insurance sector. Similarly, minimum solvency requirements and the proposed EU Regulation establishing a European Securities and Markets Authority will drive legal and regulatory changes.

## CONTRIBUTOR DETAILS

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