

**Practice Note on the application of requirements in the insurance regulatory framework to specific services provided by licensed insurance brokers on investment choices and premium allocations under Investment-Linked Assurance Scheme Policies (“ILAS Policies”)**

**I. Purpose**

(1) This Practice Note:

(a) relates to licensed insurance broker companies and technical representatives (broker) (collectively referred to as “licensed insurance brokers”) offering or providing “execution-only services”, “advisory investment services”, or “discretionary investment management services” to policy holders in respect of the investment choices and premium allocations under ILAS Policies.

(b) serves as additional interpretation and guidance to authorized insurers and licensed insurance brokers on how certain provisions, standards and practices in the following regulatory instruments apply in relation to the services mentioned in (a) above:

- [GL23: Guideline on "Fit and Proper" Criteria for Licensed Insurance Intermediaries under the Insurance Ordinance \(Cap.41\)](#) (“GL23”);
- General Principle 4 – Competence to Advise - in the Code of Conduct for Licensed Insurance Brokers (“Code of Conduct”) supplementing section 90(c) of the Insurance Ordinance (Cap. 41) (“IO”) which requires that “when carrying on a regulated activity, a licensed insurance intermediary may advise only on matters for which the intermediary is competent to advise”; and
- Section IX – Corporate Governance and Controls and Procedures – in the Code of Conduct, supplementing section 92(1) of the IO in relation, inter alia, to the controls and procedures which a licensed insurance broker company must establish for securing compliance with the conduct requirements in section 90 of the IO by the broker company and the licensed technical representatives (broker) appointed by the broker company on competence to advise.

(2) This Practice Note is not and is not intended to be, a comprehensive guide to the matters mentioned in paragraph (1) above and does not constitute legal advice. Authorized insurers and licensed insurance brokers are advised to seek professional legal advice if they have any questions relating to the application or interpretation of the provisions, standards and practices mentioned in paragraph (1) above.

(3) This Practice Note does not have the force of law and should not be interpreted in a way that would override the provision of any law. The Insurance Authority (“IA”) reserves the right to review and update this Practice Note from time to time. Reference should be made to GL23 and the Code of Conduct regarding potential consequences on breaches of the related provisions therein which this Practice Note supplements.

## II. Interpretation

For the purposes of this Practice Note:

***“Execution-only services”*** refers to services provided by a licensed insurance broker company to a policy holder of an ILAS Policy, whereby the policy holder grants an execution-only authority to the broker company to execute decisions made by the policy holder on fund-choices, investment options or premium allocation under the ILAS Policy and the broker company executes the policy holder’s decisions within the limits of the authority granted. To avoid doubt, in providing “execution-only services” the licensed insurance broker company only executes choices, options and allocations decided upon by the policy holder and in accordance with the policy holder’s instructions. The licensed insurance broker company does not advise the policy holder on the investment fund choice/investment option/premium allocation under the ILAS Policy, nor does it manage these choices/options on the policy holder’s behalf.

***“Advisory investment services”*** refers to services provided by a licensed insurance broker company to a policy holder of an ILAS Policy, whereby the broker company either itself, or by engaging a third party adviser to do so, provides advice and recommendations to the policy holder on (i) the selection or switching of funds/investment options to make under the ILAS Policy; and/or (ii) on the premium allocation to make under the ILAS Policy. The policy holder may rely on such advice or recommendations in deciding which fund/investment option to select or switch into and/or premium allocation to make. To avoid doubt, the services are “advisory only” in that it is the policy holder that makes the decision (whether based on the advice or recommendation or otherwise); the broker company is not making the decision on the policy holder’s behalf.

***“Discretionary investment management services”*** refers to services provided by a licensed insurance broker company to a policy holder of an ILAS Policy, whereby the policy holder grants an authority to the broker company under a contract between the broker and the policy holder, which allows the broker company to make and execute decisions on the policy holder’s behalf (i) as to the selection or switching of funds/investment options to make under the ILAS Policy and/or (ii) on the premium allocation to make under the ILAS Policy, without the need to obtain prior consent for each allocation/transaction from the policy holder. In other words, instead of the broker company only providing advisory investment services, the policy holder is relying on the broker company to make and execute investment decisions on behalf of the policy holder under the ILAS Policy, within the scope of the contractual authority granted.

### III. Minimum qualifications and experience required for individuals performing the advisory investment services or the discretionary investment management services

- (1) An individual who applies for or to renew a licence to be a technical representative (broker) under the IO must satisfy the IA that he/she is a fit and proper person to perform regulated activities. The “fit and proper” criteria include the minimum education or professional qualifications set out in GL23<sup>1</sup>. Satisfying these education requirements and professional qualification standards are also relevant for the individual to satisfy the competence requirements in General Principle 4 of the Code of Conduct on competence to advise.
- (2) According to GL23, to be able to carry on regulated activities in relation to ILAS Policies, an individual, whether as a responsible officer or technical representative (broker) of a broker company must pass (unless he or she is otherwise exempted) the qualifying examination papers in Long Term Insurance (LT Paper) and Investment-linked Long Term Insurance (“IL Paper”). Only then will the individual be licensed to carry on regulated activities in Long Term Business (including Linked Long Term Business) (i.e. L(I)).
- (3) Whilst the curriculum covered by the IL Paper may be sufficient for licensed insurance intermediaries to carry on basic regulated activities in relation to the introduction and arrangement of ILAS Policies with policy holders, it is not sufficient to enable a technical representative (broker) to provide, on behalf of a licensed insurance broker company, the advisory investment services or the discretionary investment management services in relation to an ILAS Policy. Something more than just the IL Paper is needed in this respect for the technical representatives (broker) to satisfy the minimum fit and proper and competence requirements to be able to provide such specialist services as regulated activities under the IO. This is also true for a responsible officer of a licensed insurance broker company providing such services. Technical representatives (broker) and responsible officers of licensed insurance broker companies providing these services would need to possess appropriate qualifications and additional experience commensurate with the nature of the advisory investment services and the discretionary investment management services being provided.
- (4) To this end, the IA will generally only consider a technical representative (broker) fit and proper (per GL23) and competent (per General Principle 4 of the Code of Conduct) to provide the advisory investment services or the discretionary investment management services in relation to ILAS Policies on behalf of a licensed insurance broker company<sup>2</sup>, if he/she is able to fulfil any one of the criteria stated in **Part A(I) of Annex A** to this Practice Note. Similarly, a responsible officer of a licensed insurance broker company who is responsible for these services provided as part of the regulated activities of the broker company, would be expected to fulfil **Part A(II) of Annex A** to this Practice Note.

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<sup>1</sup> Every individual licensee must have passed the relevant papers of the Insurance Intermediaries Qualifying Examination (“IIQE”) conducted by the Vocational Training Council, the appointed examination body for the IIQE, unless otherwise exempted. For details, please refer to Annex 1 to GL23.

<sup>2</sup> At the same time, as fulfilling the requirement under the Code of Conduct - General Principle 4 – Competence to Advise, whereby a technical representative (broker) is required to have the specific skills or knowledge necessary to carry on the specific types of regulated activities in relation to ILAS Policies.

#### **IV. Controls and procedures**

- (1) Paragraph 6 of GL23 requires a licensed insurance broker company to appoint at least one individual as its (proposed) responsible officer to supervise the carrying on of regulated activities and to ensure adequate and effective policies, controls and procedures are in place for the purpose of compliance with the IO. Section IX of the Code of Conduct also requires a licensed insurance broker company to have proper controls and procedures in place to ensure that the broker company and its licensed technical representatives (broker) meet the General Principles, Standards and Practices set out in the Code of Conduct.
- (2) If a licensed insurance broker company is providing in relation to ILAS Policies, execution-only services, advisory investment services, or discretionary investment management services, the IA will generally consider it as meeting the requirements for controls and procedures in paragraph 6 of GL23 and Section IX of the Code of Conduct in relation to such services if it satisfies the criteria in **Annex B** to this Practice Note relevant to the specific services.

#### **V. Commencement**

- (1) This Practice Note shall take effect from 1 October 2024 (“Effective Date”).
- (2) There are grandfathering arrangements established for the minimum competence requirements in Annex A. These are set out in Part A(III) of Annex A and apply in relation to the advisory investment services or the discretionary investment management services for ILAS Policies issued prior to the Effective Date.

**5 July 2024**

## **ANNEX A – Minimum criteria for technical representatives (broker) and responsible officers of licensed insurance broker companies**

This Annex outlines the minimum education requirements, professional qualifications or professional experience that a technical representative (broker) and a responsible officer of a licensed insurance broker company are expected to meet if providing the advisory investment services or the discretionary investment management services in relation to ILAS Policies.

### **Part A(I) – Competence requirements for technical representative (broker)**

The IA will generally consider a technical representative (broker) competent to provide the advisory investment services or the discretionary investment management services in relation to an ILAS Policy if he/she fulfils any one of the following:

- (1) The technical representative (broker) is actively licensed in L(I) and also has a Securities and Futures Commission (“SFC”)’s licence under the Securities and Futures Ordinance (Cap.571) (“SFO”) that demonstrates his/her competence and expertise to provide the relevant services.**

To satisfy this:

- (a) for the advisory investment services, the technical representative (broker) would need to be actively licensed in Type 4 Advising on securities (“RA 4”) or Type 9 Asset Management (“RA 9”) under the SFO; and
- (b) for the discretionary investment management services, the technical representative (broker) would need to be actively licensed in RA9 under the SFO.

- (2) The technical representative (broker) is actively licensed in L(I) and holds other professional qualifications in insurance or investment that demonstrates his/her competence and expertise to provide the relevant services.**

If a technical representative (broker) actively licensed in L(I) holds any of the following professional qualifications in insurance or investment, the IA will generally consider this as demonstrating his/her competence and expertise to provide the advisory investment services or the discretionary investment management services in relation to an ILAS Policy:

- (i) Chartered Life Underwriter (CLU) and has passed the elective paper: “HS 328 Investments” of the CLU qualifying examination;
- (ii) Chartered Financial Consultant (ChFC);
- (iii) Certified Financial Planner (CFP);
- (iv) Fellow of the Institute and Faculty of Actuaries of the United Kingdom (FIA/FFA);
- (v) Fellow of the Institute of Actuaries of Australia (FIAA);
- (vi) Fellow of the Society of Actuaries of the United States of America (FSA);
- (vii) Fellow Member of The Actuarial Society of Hong Kong (FASHK) that passed the Life Insurance Examination;
- (viii) has passed the HKSI Foundation Programme Examination by the Hong Kong Securities Institute (FPE);

- (ix) has passed the HKSI Diploma Programme Examination by the Hong Kong Securities Institute (DPE);
- (x) HKSI Institute Practising Certificate by the Hong Kong Securities and Investment Institute;
- (xi) HKSI Institute Specialist Certificate by the Hong Kong Securities and Investment Institute;
- (xii) HKSI Institute Professional Diploma in Financial Markets by the Hong Kong Securities and Investment Institute;
- (xiii) Fellow Member of the Hong Kong Securities and Investment Institute (FHKSI);
- (xiv) Chartered Financial Analyst (CFA);
- (xv) Certified International Investment Analyst (CIIA); or
- (xvi) any other internationally-recognized professional qualifications in finance that are recognized by the SFC's Guidelines on Competence, or which may from time to time be recognized by the IA for the purposes of this Practice Note.

**(3) The licensed insurance broker company provides the advisory investment services or the discretionary investment management services to policy holders in relation to an ILAS Policy, by engaging a third party which is an active SFC licensee in RA4 and/or RA9 (“third party SFC licensee”) to give the advice/recommendations or make the decisions.**

If a licensed insurance broker company provides the advisory investment services or the discretionary investment management services to policy holders in relation to ILAS Policies, by engaging a third party which is an active SFC licensee in RA 4 and/or RA 9 (“third party SFC licensee”) to give the advice/recommendations or make the decisions, then the IA will generally consider the licensed insurance broker company as satisfying the minimum competence and fit and proper requirements in relation to the provision of such services if:

- (a) the third party SFC licensee which has been engaged has the requisite licence under the SFO mentioned in (1) of this Part A(I); and
- (b) the licensed insurance broker company has in place sufficient controls, oversight and monitoring of the third party SFC licensee's performance, including by monitoring the SFC licensee's performance regularly through personnel engaged by the broker company who also have the requisite SFC licence mentioned in (1) of this Part A(I) or one of the qualifications mentioned in (2) of this Part A(I) (such personnel may be technical representatives (broker) of the broker company, or other personnel such as board directors of the broker company with the requisite qualifications and experience mentioned in (1) or (2) of this Part A(I) or the responsible officer of the broker company with the requisite qualifications and experience mentioned in Part A(II) below).

To avoid doubt, since the advisory investment services or the discretionary investment management services in relation to ILAS Policies are provided by the licensed insurance broker company as part of its regulated activities under the IO, the broker company remains ultimately responsible for the provision of such services.

## **Part A(II) – Competence requirements for responsible officers**

- (1) In line with the criteria set out in paragraphs 5.4(a) and 5.4(b) of GL23, at least one of the responsible officer(s) of the licensed insurance broker company is expected to meet the following minimum criteria in order to be considered competent to be responsible for the carrying on of the advisory investment services or the discretionary investment management services in relation to ILAS Policies for which the broker company provides regulated activities:
  - (a) The responsible officer has attained the education or professional qualifications or experience that are required for technical representatives (broker) mentioned in (1) or (2) of Part A(I) above;  
  
**and**
  - (b) The responsible officer possesses a minimum of 5 years' relevant experience (including at least 2 years of management experience) either (i) in the insurance industry involved in the provision of the advisory investment services or the discretionary investment management services in relation to ILAS Policies; or (ii) in the investment industry providing investment advice or discretionary investment management, such as experience in the carrying on RA 4 or RA 9 in Hong Kong or similarly regulated activities elsewhere.
- (2) In assessing the relevance of the responsible officer's industry and management experience, the IA will consider the role and functions to be undertaken by the person and whether the person's experience (gained in Hong Kong or elsewhere) will enable him/her to discharge the responsibilities required of a responsible officer for providing the specific services in relation to ILAS Policies).

## **Part A(III) – When do the competence requirements apply and are there any grandfathering arrangements?**

### **(1) ILAS Policies issued on or after 1 October 2024**

The competence requirements in Part A(I) above for technical representatives (broker) who provide, and in Part A(II) above for responsible officers of licensed insurance broker companies who are responsible for the advisory investment services and/or the discretionary investment management services, apply from 1 October 2024 onwards in relation to ILAS Policies issued on or after that date.

### **(2) ILAS Policies issued prior to 1 October 2024 (grandfathering arrangements)**

Technical representatives (broker) who provide, and responsible officers of broker companies who are responsible for the advisory investment services and/or the discretionary investment management services for ILAS Policies issued prior to 1 October 2024 (“Grandfathered ILAS Policies”),

- (i) may continue to provide/be responsible for the provision of the advisory investment services and/or the discretionary investment management services in relation to Grandfathered ILAS Policies if they meet the competence requirements in Part A(I) or Part A(II) above, as applicable; or
- (ii) may continue to provide/be responsible for the provision of the advisory investment services and/or the discretionary investment management services in relation to Grandfathered ILAS Policies, until 31 July 2027, provided that they comply with the Additional Continuing Professional Development (“CPD”) requirement from 1 August 2024 to 31 July 2027 set out below. From 1 August 2027 onwards, such technical representatives (broker) and responsible officers may only continue to provide/be responsible for the provision of such services on Grandfathered ILAS Policies, if they satisfy the competence requirements in this Part A(I) or Part A(II), as applicable. (If they do not, they must cease providing/being responsible for such services as of 1 August 2027).

### ***Additional CPD Requirement of 2 hours for Grandfathered ILAS Policies***

Technical representatives (broker) and responsible officers who wish to continue to provide/be responsible for the provision of the existing advisory investment services and/or the discretionary investment management services in relation to Grandfathered ILAS Policies, until 31 July 2027, despite not meeting the new competency requirements, may continue to provide such services if they complete 2 additional compulsory CPD hours (i.e. on top of the minimum number of CPD hours for both technical representatives (broker) and responsible officers<sup>3</sup> set out in GL24) which focus on the topics related to investment management or investment advice. For these purposes, each such technical representative (broker) and responsible officer will be expected to keep records to demonstrate they have attended the additional 2 CPD hours during the following CPD Assessment Periods<sup>4</sup>:

- from 1 August 2024 to 31 July 2025
- from 1 August 2025 to 31 July 2026; and
- from 1 August 2026 to 31 July 2027

The IA will spot-check technical representatives (broker) and responsible officers to ascertain compliance (whether during inspections or by issuing requests or at the time a renewal for licence is made). The IA reserves the right to penalize the failure to complete the additional 2 CPD hours, with a public reprimand. (For the avoidance of doubt this will be in addition to any CPD penalty imposed for failure to comply with the standard CPD requirement (15 hours per Assessment Period, with 3 of these on “Ethics or Regulations”).

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<sup>3</sup> For the minimum number of CPD hours, please refer to Guideline on Continuing Professional Development for Licensed Insurance Intermediaries (“GL24”) and its Interpretation Notes updated from time to time by the IA.

<sup>4</sup> Each “Assessment Period” begins on 1 August of a year and ends on 31 July of the following year.



## **ANNEX B – Minimum expectations on corporate governance and controls and procedures**

If a licensed insurance broker company provides execution-only services, advisory investment services or discretionary investment management services in relation to ILAS Policies, it must have in place policies and procedures adequate and proportionate to the nature, scale and complexity of those services.

In Parts B(I) and B(II) below we set out a non-exhaustive list of the type of governance, controls and procedures the IA would generally expect a licensed insurance broker company to establish in relation to such services (depending on the nature, scale and complexity of the particular services being provided).

(Note: Unless otherwise specified, the control measures in Parts B(I) and B(II) below should cover all 3 types of specific services in relation to ILAS Policies.)

### **Part B(I) – Control measures in relation to technical representatives (broker) appointed by the licensed insurance broker company**

- (1) Before enabling the provision of the services covered by this Practice Note in relation to ILAS Policies, a licensed insurance broker company should set its own competence and experience requirements on relevant qualifications and/or number of years of relevant experience corresponding to the sophistication of each specific type of services the broker company intends to provide in relation to ILAS Policies. This set of requirements should be applied to the technical representatives (broker) who will provide such services on behalf of the broker company or the third parties the broker company engages to assist in providing such services.
- (2) The terms and conditions, documented arrangement, contract or (broker) agreement entered into between the authorized insurer issuing ILAS Policies and a licensed insurance broker company providing the services (as covered by this Practice Note) in relation to such ILAS Policies, should reflect the scope of the specific types of services to be provided by the broker company. If the licensed insurance broker company is providing more than one type of services, it should have in place arrangements with the authorized insurer to enable the insurer to distinguish which type of services is being provided in relation to each ILAS Policy.
- (3) A licensed insurance broker company should ensure suitable and appropriate training is provided to its technical representatives (broker) who are providing the services and that records of such training are maintained.
- (4) A licensed insurance broker company should regularly review or check whether its technical representatives (broker) remain compliant with the competence and experience requirements set by the broker company and by the authorized insurer issuing the ILAS Policies. The frequency of review or checks should be either annually or before sending a switching or top-up instruction to the insurer.

- (5) As the provision of the advisory investment services or the discretionary investment management services is of specialist nature, and not a part of the product features of an ILAS Policy issued by the authorized insurer, whenever the policy holder indicates a need for the advisory investment services or for the discretionary investment management services on different investment options / investment choices under an ILAS Policy, the licensed insurance broker company should ensure that the policy holder and the licensed insurance broker company enter into a separate agreement<sup>5</sup> to cover the terms and conditions on which such services is to be provided. The licensed insurance broker company should also notify the relevant authorized insurer, in writing, when it is engaged to provide such services (and which services) on an ILAS Policy and when those services are terminated. For execution-only services, the authority to the licensed insurance broker company granted in the client agreement should be limited solely to the scope of execution-only i.e. the authority only to execute decisions made by and instructed by the policy holder.
- (6) A licensed insurance broker company should have processes in place to clearly distinguish which type of services is being provided so that it only provides the services within the scope of the authority granted by the policy holder.
- (7) A licensed insurance broker company should have in place a suitability assessment mechanism that complies with the IO, the Code of Conduct, applicable Guidelines and relevant regulatory instruments issued by the IA from time to time. In particular, if a licensed insurance broker company is providing the services mentioned in this Practice Note in relation to an ILAS Policy and a fund selection/switching or premium allocation instruction on the ILAS Policy is submitted that raises the risk of a mismatch, the broker company should ensure the requisite suitability assessment is performed, at minimum, according to the 'Guideline on Sale of Investment-Linked Assurance Scheme ("ILAS") Products' ("GL26") and the Interpretation Notes relating to GL26.

**Part B(II) – Control measures in relation to policy holders engaging a licensed insurance broker company for the services covered by this Practice Note**

- (8) Where a licensed insurance broker company is engaged by a policy holder to provide any of the services covered by this Practice Note, it should:
  - (a) obtain confirmation from the policy holder of the policy holder's understanding that the services are optional services;
  - (b) enter into a separate client agreement with the policy holder which sets out clearly the terms and conditions on which the services are to be provided, the authority given, the risks related to the services, and the remuneration for the services;
  - (c) ensure that the terms and conditions relating to remuneration in the client agreement set out clearly how the services are to be remunerated, the level of remuneration, the

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<sup>5</sup> The separate agreement should, at minimum, requires that the broker company be responsible (i) for providing adequate and accurate disclosure, on an ongoing basis, of the amount and basis of calculation for the fees or remuneration in respect of advisory investment services or discretionary investment management services and the frequency with which such fees or remuneration are payable, and (ii) for disclosing the matters in such a way that it can be easily understood by policy holders.

- payment arrangement on the remuneration for such services<sup>5</sup> and the fact that the remuneration for such services are not part of the features of the ILAS Policy; and
- (d) ensure that the terms and conditions in the client agreement allow the policy holder to terminate the services at any time without any penalty being paid.
- (9) Licensed insurance broker companies must ensure that any and all instructions (including execution-only instructions) submitted on behalf of the policy holder are legitimate and are strictly within the scope of the authority granted to the broker company by the policy holder. If required by the authorized insurer, the licensed insurance broker company is obliged to provide proof of the services agreed by the policy holder and the corresponding competency or qualifications of the technical representatives (broker), responsible officer and the third party (as applicable) to the insurer.
- (10) Licensed insurance broker companies should take reasonable steps to carry out a client's instructions accurately and promptly, and notify the client as soon as practicable in case of any delay or failure to carry out the instruction.
- (11) A licensed insurance broker company should, at minimum, issue a written confirmation to the policy holder after executing a switching or top-up instruction under any of the services covered by this Practice Note.

The responsible officer of a licensed insurance broker company should be ultimately responsible for implementing the controls and procedures mentioned.

**Part B(III) – When should the corporate governance and controls and procedures in Part B(I) and Part B(II) be in place?**

The relevant corporate governance and controls and procedures in Part B(I) and Part B(II) should be in place as of the Effective Date of this Practice Note i.e. 1 October 2024 in relation to all ILAS Policies for which a licensed insurance broker company is providing execution-only services, advisory investment services or discretionary investment management services.