

## **Practice Note supplementing Standard and Practice 5.4 of the Code of Conduct for Licensed Insurance Brokers in relation to Client Agreements which a Licensed Insurance Broker Company enters into with a client for Linked Long Term Business**

### **A. Introduction**

1. Standard and Practice 5.4(a) of the Code of Conduct for Licensed Insurance Brokers (“Code of Conduct”) provides that a licensed insurance broker company should enter into an agreement with a client, setting out in writing the terms and conditions of business on which the licensed insurance broker will carry on regulated activities for the client, referred to in the Code of Conduct as a “client agreement”.
2. This Practice Note supplements Standard and Practice 5.4(a) of the Code of Conduct by setting out information which the Insurance Authority (“IA”) would expect a licensed insurance broker company (for the purpose of Standard and Practice 5.4(a)) to include, at minimum, in the terms and conditions of its client agreement where the insurance policy which the client is seeking to enter into is linked long term business, more commonly known as an Investment-linked Assurance Scheme (“ILAS”). “Linked long term business” refers to contracts of insurance in Class C (Linked long term) of Part 2 of Schedule 1 to the Insurance Ordinance (Cap. 41). In this Practice Note, a reference to an “ILAS policy” is to a contract of insurance within the definition of “linked long term business”.
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 IA reserves the right to review and update this Practice Note from time to time. Unless otherwise specified, words and expressions used in this Practice Note shall have the same meanings as given to them in the Code of Conduct.

### **B. Content of Client Agreement for Linked Long Term Business**

A client agreement for an ILAS policy should include at minimum the following information in its terms and conditions:

1. Full name and address of the client

The full name of the client should be identical to the one appearing in any government official document (e.g. passport, Hong Kong identity card or business registration certificate etc.).

2. Full name and address of the licensed insurance broker company

The full name and licence number of the licensed insurance broker company should be shown.

3. Description of nature of business and services to be provided by the licensed insurance broker company

The client agreement should set out a description of the business and services to be provided by the licensed insurance broker company and this should include the following matters:

- (a) a statement that the licensed insurance broker company acts as the agent of the client;
- (b) the duties and authorities of the licensed insurance broker company in relation to negotiating and arranging any ILAS policy on behalf of the client and providing advice to the client in relation to the policy;
- (c) whether any advice on underlying funds (i.e. those funds or assets to which the value of an ILAS policy is linked) and on choosing or managing investment choices under an ILAS policy is to be provided; and
- (d) whether any regular reviews of the relevant ILAS policy and its underlying investment choices are to be performed and, if so, the extent and frequency of such reviews.

Where the licensed insurance broker company intends to provide services other than in its capacity as a licensed insurance broker (“non-broking services”) in addition to services relating to any ILAS policy and the terms and conditions for those non-broking services are to be included in the same client agreement, the terms and conditions relating to the non-broking services should be stated under different sections which are separate from that for the services relating to any ILAS policy in the client agreement.

4. Remuneration

The client agreement should set out a statement as to how the licensed insurance broker company is being remunerated, i.e. by payment from the client or by payment from the insurer.

If the remuneration is from the client, details should be stated in the client agreement. If the remuneration is from the insurer, in addition to a statement as to how the licensed insurance broker company is being remunerated being included in the client agreement, disclosure of the remuneration should also be made by making reference to the “Practice Note supplementing Standard and Practice 7.1 of the Code of Conduct for Licensed Insurance Brokers in relation to Disclosure Requirements for Remuneration received by a Licensed Insurance Broker Company from an Insurer” and the Important Facts Statement and Applicant’s Declarations (see GL 26 Guideline on Sale of Investment-Linked Assurance Scheme (“ILAS”) Products).

5. Client servicing representative

The client agreement should state:

- (a) The full name and licence number of the licensed technical representative (broker) responsible for negotiating, arranging and providing advice to the client in relation to the ILAS policy; and
- (b) the duties and authorities of the licensed technical representative (broker).

6. Notification

The client agreement should include terms requiring the licensed insurance broker company and client to notify each other in writing of any changes to the information as specified in items 1 to 5 above without the need to execute a new client agreement.

7. Amendment to and termination of client agreement

The client agreement should include provisions in relation to amendments to and termination of the client agreement, which should also address the scenario where the licensed insurance broker company ceases to be licensed.

8. Governing Law

The governing law of the client agreement should be Hong Kong law. The client agreement should also include a jurisdiction clause which selects the jurisdiction in which disputes under or arising in relation to the client agreement shall be decided (e.g. exclusive jurisdiction of the Hong Kong courts).

## 就《持牌保險經紀操守守則》的標準及常規 5.4 項下規定持牌保險經紀公司與客戶為相連長期業務訂立客戶協議一事作補充的應用說明

### A. 引言

1. 《持牌保險經紀操守守則》「《操守守則》」的標準及常規 5.4(a) 規定，持牌保險經紀公司應與客戶訂立協議，並以書面方式列明該持牌保險經紀為客戶進行受規管活動的業務條款及細則。該協議在《操守守則》中稱為「客戶協議」。
2. 本應用說明就《操守守則》的標準及常規 5.4(a) 作補充，訂明若客戶有意訂立的保單為相連長期業務（通稱為投資相連壽險計劃（「投連壽險」））時，保險業監管局（「保監局」）預期持牌保險經紀公司（就標準及常規 5.4(a) 而言）應在該客戶協議的條款及細則中包含的最低限度資料。「相連長期業務」指《保險業條例》（第 41 章）附表 1 第 2 部類別 C（相連長期）的保險合約。在本應用說明中，凡述「投連壽險保單」即指「相連長期業務」定義下的保險合約。
3. 本應用說明不具法律效力及不應被詮釋為可凌駕於任何法律條文。保監局保留不時審閱並更新本應用說明的權利。除非另有指明，本應用說明內所使用的字詞與《操守守則》中所界定者具有相同涵義。

### B. 相連長期業務客戶協議的內容

為投連壽險保單訂立的客戶協議，應最低限度在其條款及細則中包括以下資料：

#### 1. 客戶的全名及地址

客戶的全名應與顯示於任何官方正式文件中的名稱相同（例如護照，香港身份證或商業登記證等）。

#### 2. 持牌保險經紀公司的全名及地址

應顯示該持牌保險經紀公司的全名及牌照號碼。

#### 3. 持牌保險經紀公司所提供的業務及服務性質的敘述

客戶協議應敘述持牌保險經紀公司將提供的業務及服務，而敘述範圍應包括下列事宜：

- (a) 一份聲明以說明該持牌保險經紀公司擔任客戶的代理人；
- (b) 該持牌保險經紀公司在代表客戶洽談及安排任何投連壽險保單，以及就該保單向客戶提供意見方面的職責及權限；
- (c) 會否就投連壽險保單項下的基金（即與投連壽險保單的價值相連的基金或資產）及就選擇或管理該保單項下的投資選項提供任何意見；及

- (d) 會否就相關的投連壽險保單及其項下的投資選項進行任何定期檢閱；如會，則此類檢閱的程度及頻率。

若持牌保險經紀公司除了提供有關任何投連壽險保單的服務之外，亦有意提供其持牌保險經紀身份以外的服務（“非經紀服務”），而該等非經紀服務的條款及細則將包括在同一份客戶協議中，則有關該等非經紀服務的條款及細則的章節，應在該客戶協議中分開列載在不同於有關任何投連壽險保單服務的章節中。

#### 4. 報酬

客戶協議應訂明載述持牌保險經紀公司如何獲得報酬（即由客戶支付還是由保險人支付報酬）的聲明。

若報酬由客戶支付，詳情應列明於客戶協議內。若報酬由保險人支付，則除了在客戶協議內須包括關於持牌保險經紀公司如何獲得報酬的聲明外，亦應參閱《就《持牌保險經紀操守守則》的標準及常規7.1項下規定持牌保險經紀公司披露從保險人所收取報酬一事作補充的應用說明》，以及《重要資料聲明書》及《申請人聲明書》（詳見《銷售投資相連壽險計劃（“投連壽險”）產品指引》（指引26）），就報酬作出披露。

#### 5. 客戶服務代表

客戶協議應列明：

- (a) 負責有關投連壽險保單的洽談、安排及提供意見給客戶的持牌業務代表（經紀）的全名及牌照號碼；及
- (b) 該持牌業務代表（經紀）的職責及權限。

#### 6. 通知

客戶協議應包括條款以規定若上述第1至5項內指明的資料有任何變更，持牌保險經紀公司及客戶須以書面形式通知對方，而無需重新訂立新的客戶協議。

#### 7. 客戶協議的修改及終止

客戶協議應包括有關修改及終止該客戶協議的條文，而該等條文亦應涵蓋該持牌保險經紀公司終止持牌的情況。

#### 8. 規管法律

適用於客戶協議的規管法律應為香港法律。客戶協議亦應包括司法管轄權條款，訂明有權裁定客戶協議項下或有關該協議的爭議的司法管轄區（例如香港法庭具專有司法管轄權）。