

**GUIDELINE ON
SALE OF INVESTMENT-LINKED
ASSURANCE SCHEME (“ILAS”)
PRODUCTS**

Insurance Authority

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1. Introduction

- 1.1 The Insurance Authority (“IA”) issues this Guideline pursuant to section 133 of the Insurance Ordinance (Cap. 41) (“Ordinance”), its principal function to regulate and supervise the insurance industry for the protection of existing and potential policy holders and its function to promote and encourage the adoption of proper standards of conduct and sound prudent business practices by authorized insurers and proper standards of conduct by licensed insurance intermediaries. This Guideline also takes account of the Insurance Core Principles, Standards and Guidance and Assessment Methodology (“ICP”) promulgated by the International Association of Insurance Supervisors, in particular ICP 19 which stipulates that the conduct of the business of insurance should ensure that customers are treated fairly.
- 1.2 Linked long term business (as defined in paragraph 2.2(h) below), more commonly known as Investment-linked Assurance Schemes (“ILAS”) products are long term contracts of insurance which provide both life insurance protection and investment options. Customers who purchase ILAS products bear investment risk associated with the product. As ILAS products are long-term in nature, they also often have more restricted liquidity levels as compared with other forms of investments. The charging structure for ILAS products can also be complex, with fees being incurred in relation to both the insurance and investment elements of the contract. Given these features, it is important for authorized insurers and licensed insurance intermediaries to ensure that customers, before they purchase ILAS products, are fully apprised of the nature, key features and risks of such products, as well as the rights and obligations associated with such products. This is the main objective of this Guideline.
- 1.3 The Guideline on Underwriting Class C Business (GL15), which applies to authorized insurers, already stipulates proper standards of conduct and business practices for authorized insurers underwriting linked long term business, i.e. ILAS products, covering requirements in relation to both the design of ILAS products and the sale process for ILAS products. This Guideline supplements GL15 by including more detailed requirements on the sale process for ILAS products and setting out the minimum standards and practices that should be implemented and adopted by authorized insurers and licensed insurance intermediaries in that sale process in order to achieve the objectives stated in this Guideline and ensure fair treatment of customers.

2. Scope and Interpretation

- 2.1 This Guideline applies to all authorized insurers carrying on or advising on linked long term business, and all licensed insurance intermediaries carrying on regulated activities in respect of linked long term business.
- 2.2 In this Guideline, unless the context otherwise specifies:
- (a) “Applicant’s Declarations” means the written declarations which an authorized insurer and licensed insurance intermediary are required to obtain from a customer, as a check-point to assist the authorized insurer and licensed insurance intermediary to focus the customer’s attention on the suitability of the ILAS product for the customer and to confirm the customer’s understanding of the risks associated with the ILAS product (see further paragraph 7 below);
 - (b) “Authorized institution” has the meaning assigned to it by section 2(1) of the Banking Ordinance (Cap. 155);
 - (c) “Base plan” means the ILAS policy issued by the authorized insurer based on a customer’s original application. The base plan does not include any subsequent additional insurance cover purchased (such as top-up investment under the same policy) which are the subject of subsequent application(s) made by the customer on the same ILAS policy;
 - (d) “Customer” bears the same meaning as policy holder or potential policy holder, and those terms are used under the Ordinance;
 - (e) “Date of policy issue” means the date on which the authorized insurer, having accepted an application for an ILAS policy by the policy holder, creates the document that is the policy holder’s ILAS policy;
 - (f) “Financial Needs Analysis” or “FNA” means the assessment of a customer’s circumstances including needs, financial situation, ability and willingness to pay premiums, etc. which an authorized insurer and licensed insurance intermediary are required to undertake before making any recommendation in respect of a suitable life insurance policy to the customer, with the recommendation being based on that assessment. The requirements in relation to an FNA are set out in Guideline on Financial Needs Analysis issued (GL30) by the IA (see further paragraph 5 below);

- (g) “Important Facts Statement” or “IFS” means the statement in relation to an ILAS product being recommended which should be provided to a customer and the content of which should include information such as the investment risk, liquidity risk and other risks associated with the product, the fees and charges structure for the product and the fact that the customer has a cooling-off period (see further paragraph 7 below);
- (h) “Linked long term business” refers to contracts of insurance in Class C (Linked long term) of Part 2 of Schedule 1 to the Ordinance. In this Guideline, a reference to an “ILAS product” or “ILAS policy” is to a contract of insurance within the definition of “linked long term business”;
- (i) “Point-of-sale audio recording” means an audio recording that an authorized insurer is required to arrange for a customer to listen to (in lieu of conducting a post-sale call), after the sale process for a base plan of an ILAS product has been completed with the customer (including after the customer having chosen the underlying investment choices in relation to the ILAS product he/she has purchased). The authorized insurer should arrange for the customer to listen to the audio recording at the place where the sale process for the ILAS product was completed, and the content of the audio recording should re-affirm the customer’s understanding of the ILAS product he/she has just purchased (and the underlying investment choices selected) and remind the customer of his/her rights and obligations under the ILAS product (see further paragraphs 4.2(k), 9.3 and 9.4 below); and
- (j) “Risk Profile Questionnaire” or “RPQ” means the questionnaire which a customer is asked to complete in order for an assessment to be made by an authorized insurer or a licensed insurance intermediary of the customer’s investment risk appetite, and to determine if a particular ILAS product and its underlying investment choices are suitable for the customer, before the licensed insurance intermediary makes a recommendation on an ILAS product (see further paragraph 6 below).

2.3 Unless otherwise specified, words and expressions used in this Guideline shall have the same meanings as given to them in the Ordinance.

3. Relevant Regulatory Documents and Status of this Guideline

3.1 This Guideline should be read, where appropriate, in conjunction with the relevant provisions of the Ordinance and all other relevant rules, codes, circulars and guidelines issued by the IA or other regulatory/professional bodies, including but not limited to the following:

- (a) Guideline on Classification of Class C – Linked Long Term Business (GL11) issued by the IA;
- (b) Guideline on Underwriting Class C Business (GL15) issued by the IA;
- (c) Guideline on Offering of Gifts (GL25) issued by the IA;
- (d) Guideline on Long Term Insurance Policy Replacement (GL27) issued by the IA;
- (e) Guideline on Benefit Illustrations for Long Term Insurance Policies (GL28) issued by the IA;
- (f) Guideline on Cooling-off Period (GL29) issued by the IA;
- (g) Guideline on Financial Needs Analysis (GL30) issued by the IA;
- (h) Code of Conduct for Licensed Insurance Agents issued by the IA;
- (i) Code of Conduct for Licensed Insurance Brokers issued by the IA;
- (j) All relevant rules, codes, circulars and guidelines relating to ILAS products administered or issued by the Hong Kong Monetary Authority (“HKMA”); and
- (k) All relevant rules, codes, circulars and guidelines relating to ILAS products administered or issued by the Securities and Futures Commission (“SFC”).

3.2 This Guideline does not have the force of law, in the sense that it is not subsidiary legislation, and should not be interpreted in a way that would override the provision of any law. A non-compliance with the provisions in this Guideline would not by itself render an authorized insurer or a licensed insurance intermediary liable to judicial or other proceedings. A non-compliance may, however, for example reflect on the IA’s view of the

continued fitness and properness of (i) the directors, controllers and key persons in relevant control functions of the authorized insurers to which this Guideline applies; and (ii) the licensed insurance intermediaries to which this Guideline applies and (in the case of licensed insurance agencies and licensed insurance broker companies) their directors, controllers and responsible officers. The IA may also take guidance from this Guideline in considering whether there has been an act or omission likely to be prejudicial to the interests of policy holders or potential policy holders (albeit the IA will always take account of the full context, facts and impact of any matter before it in this respect).

- 3.3 In assessing whether the minimum standards and practices in this Guideline have been duly followed, the IA will adopt a principle-based approach by considering whether the objectives of this Guideline are achieved. The IA may also take into account whether further guidance provided by the IA by way of circulars or other documents on the minimum standards and practices in this Guideline have been followed.

4. Fair Treatment of Customers in the Sale Process for ILAS Products

- 4.1 Authorized insurers and licensed insurance intermediaries should ensure that the sale process for ILAS products is fair to customers. In this regard, the suitability of an ILAS product (including its underlying investment choices) for a customer should be properly assessed with due regards to the customer's circumstances. An ILAS product should only be recommended if it is considered suitable to meet the customer's insurance, financial and investment needs. During the sale process of an ILAS product, the risks associated with the product, its key features and the fees and charges structure (including those of the underlying investment choices) need to be fully disclosed and explained to the customer, and the customer should be given adequate opportunity to consider these before deciding to purchase the product.
- 4.2 To achieve the objectives in paragraph 4.1 above, the sale process for an ILAS product should cover the following steps:
- (a) An adequate suitability assessment in relation to a prospective customer, covering the requirements in paragraphs 4.2(b) to (k) below should be carried out in order to assess whether, based on the customer's circumstances, objectives, needs and priorities, an ILAS product (including its underlying investment choices) is a suitable option.

- (b) The completion of a Financial Needs Analysis (“FNA”) in relation to the prospective customer is an imperative step which needs to be completed as part of the suitability assessment. Based on the information gathered in the FNA and any other relevant information provided, the licensed insurance intermediary should explore suitable insurance options for the customer.
- (c) If an ILAS product is considered as a potentially suitable option for the customer, the licensed insurance intermediary should assess the customer’s investment risk appetite. This should be done by means of completing a Risk Profile Questionnaire (“RPQ”) in relation to the customer.
- (d) If, based on the information obtained in the FNA and RPQ processes, and any other relevant information obtained, a particular ILAS product (including its underlying investment choices) is considered to be suitable for the customer, then it may be recommended.
- (e) If, after the ILAS policy has been issued, the customer subsequently applies to make a top-up investment to the policy, the FNA and RPQ processes should be completed. However, the FNA and RPQ processes are not required if the customer purchases a top-up investment from the same authorized insurer or via the same licensed insurance intermediary within 12 months from the completion of the previous FNA and RPQ processes (in relation to applications for base plan or top-up), unless there are material changes in the circumstances of the customer or the top-up investment would result in a mismatch.
- (f) During the sale process of an ILAS product, the customer should be properly apprised of the product features, particularly the fees and charges, including but not limited to surrender or withdrawal charges (if any), as well as the product and investment risks (as set out in paragraph 4.2(j) below) (including those of the underlying investment choices). Accordingly, the licensed insurance intermediary should disclose and explain to the customer, and provide the customer with information on the product (including information on the underlying investment choices), for example, product brochures, product key facts statement and illustration documents, and the customer should be given adequate opportunity to review them and ask questions. Authorized insurers should ensure that all such materials are approved by the SFC (if so required) and are up to date.

- (g) The customer should also be provided with an Important Facts Statement (“IFS”) in relation to the ILAS product being recommended, the content of which should include information such as the investment risk, liquidity risk and other risks associated with the product, the fees and charges structure for the product and the fact that the customer has a cooling-off period. These matters should be explained by the licensed insurance intermediary during the sale process before the customer signs the IFS / Applicant’s Declarations and the application for the product is submitted. The IFS / Applicant’s Declarations must be completed for base plan and top-up applications.
- (h) If a customer refuses to disclose requisite information during the above process(es), the licensed insurance intermediary should clearly explain to the customer that without such information the authorized insurer and licensed insurance intermediary would be unable to comply with the requirements contained in this Guideline, and consequently this would likely result in the authorized insurer rejecting the application. No ILAS products should be recommended to the customer if requisite information is not disclosed by the customer.
- (i) Where an ILAS product (including its underlying investment choices) has any unusual features (e.g. market value adjustment, leverage, investment choices based on hedge funds, or extensive use of derivatives other than for risk management purposes), licensed insurance intermediaries are required to take additional care when explaining these unusual features at the point-of-sale.
- (j) Licensed insurance intermediaries also have the duty to disclose and explain the risks associated with ILAS products (including those of the underlying investment choices), such as counterparty risk, credit risk, liquidity risk, foreign exchange risk, market risk, etc., to customers. They should also take all reasonable measures to satisfy themselves that customers fully understand and accept the features and risks associated with the ILAS products (including those of the underlying investment choices), and such understanding should be documented in writing, signed and dated by customers.
- (k) To re-affirm the customer’s understanding of the ILAS product (including those of the underlying investment choices) purchased, and also to re-affirm that the customer is fully aware of his/her rights and obligations under the ILAS product, the authorized insurer issuing the

product is required to make an audio-recorded post-sale confirmation call within 5 working days of the date of policy issue or conduct a point-of-sale audio recording for the customer to listen to at the end of the sale process for the base plans of ILAS products.

- 4.3 The indicative sale flow referencing the process described above is set out in the flowchart in the Appendix¹. Further details on the key stages in the process and their objectives are also set out in the following paragraphs and Appendix to this Guideline. Authorized insurers, licensed insurance agencies and licensed insurance broker companies are required to put in place an effective operational control mechanism and provide appropriate and regular training to licensed insurance intermediaries and staff, where appropriate, to ensure that the process as set out in this Guideline is duly completed.

5. The FNA Process

- 5.1 The objective of the FNA process is for an assessment of a customer's circumstances including needs, financial situation, ability and willingness to pay premiums, etc., to be made before a recommendation in respect of a suitable life insurance product (including an ILAS product) is made to the customer. Authorized insurers and licensed insurance intermediaries should use the FNA process as part of the sale process for an ILAS product to achieve this objective.
- 5.2 Where, in the FNA process the prospective customer indicates that one of the customer's objectives for seeking an insurance product is "investment", information must be collected during the FNA process about whether the customer is able and willing to make his/her own decision to choose and manage different investment choices available under an ILAS product before an ILAS product should be introduced or recommended to the customer.
- 5.3 The detailed requirements for the FNA process are set out in the Guideline on Financial Needs Analysis (GL30).

¹ The flowchart in this Guideline is an updated version of the flowchart in the Annex to GL15.

6. The RPQ Process

- 6.1 The objective of the RPQ process is for an assessment of a customer's investment risk appetite, and to determine if a particular ILAS product and its underlying investment choices are suitable for the customer, before making a recommendation. Authorized insurers and licensed insurance intermediaries should use the RPQ process as part of the sale process for an ILAS product to achieve this objective.
- 6.2 As a minimum, the RPQ should aim to ascertain, the customer's:
- (a) investment objectives;
 - (b) preferred investment horizon;
 - (c) risk tolerance;
 - (d) financial circumstances; and
 - (e) knowledge (including investment knowledge in derivatives) and experience (including experience in investment and the period of such experience).
- 6.3 Authorized insurers, licensed insurance agencies and licensed insurance broker companies may develop their own form of RPQ, subject to such RPQ conforming with the objectives, standards and practices in this Guideline.
- 6.4 A completed RPQ form must be signed and dated by the customer and the licensed insurance intermediary.

7. IFS, Applicant's Declarations and Remuneration Disclosure

- 7.1 The objective of an IFS is to set out important facts including the key product features and risks in relation to an ILAS product being recommended, for the customer's attention. The objective of the Applicant's Declarations is to provide a check-point to assist the authorized insurer and licensed insurance intermediary to focus the customer's attention on the suitability of the ILAS product for the customer and to confirm his/her understanding of the risks associated with it. A further objective of the IFS and Applicant's Declarations process is to provide disclosure of the licensed insurance intermediaries' remuneration to the customer. Authorized insurers and licensed insurance

intermediaries should use the IFS and Applicant's Declarations process as part of the sale process for an ILAS product to achieve these objectives.

- 7.2 It is for the authorized insurer of an ILAS product to create and produce the IFS form including the Applicant's Declarations for the product. The Applicant's Declarations should require the customer to declare that he/she has received, read and understood the following documents in relation to the product:
- (a) product brochure;
 - (b) product key facts statement;
 - (c) illustration document;
 - (d) investment choice brochure; and
 - (e) any other document as may be specified by the IA and other regulators from time to time.
- 7.3 The template issued by the IA from time to time by way of circular, for an IFS and Applicant's Declarations including the disclosure of licensed insurance intermediaries' remuneration, should be followed and should be adopted in terms of structure, groupings and signatures.
- 7.4 A completed IFS and Applicant's Declarations form must be signed and dated by the customer and the licensed insurance intermediary.
- 7.5 Authorized insurers, licensed insurance agencies and licensed insurance broker companies are required to put in place mechanisms to ensure the customer's understanding of the information provided during the sale process, including key product features and risks as well as his/her rights and obligations, as evidenced in the IFS/ Applicant's Declarations.
- 7.6 In addition to the disclosure of remuneration made in the IFS, authorized insurers and licensed insurance intermediaries should observe the following principles in handling requests/enquiries from customers on remuneration and formulate an approach to handle such requests/enquiries in accordance with such principles:
- (a) disclosure must be made and should not be refused;

- (b) the remuneration amount and methodology should be accurate, and not misleading to customers;
- (c) disclosure must be clear and given in such a way that it can easily be understood by average customers; and
- (d) a common approach should be taken for all products and customer groups.

8. Effective Controls and Procedures in relation to Suitability Checks and Product Disclosure

8.1 In assessing whether a particular ILAS product (including its underlying investment choices) sold is suitable for the customer and proper product disclosure has been made, authorized insurers, licensed insurance agencies and licensed insurance broker companies are required to establish effective controls and procedures to:

- (a) verify whether the key features of that ILAS product and the underlying investment choices chosen are considered suitable for the customer, including whether the premium amount and payment term are considered suitable for the customer based on the information disclosed;
- (b) verify whether the licensed insurance intermediary has taken due account of the reasons/considerations as set out by the customer in the "Statement of Purpose" paragraph of the IFS, together with all other relevant information;
- (c) verify whether the licensed insurance intermediary has properly disclosed and explained the key features and risks of the ILAS product (including its underlying investment choices) as well as the customer's rights and obligations during the sale process; and
- (d) handle appropriately any exceptions in accordance with the post-sale controls as set out in paragraph 9.

8.2 Licensed insurance intermediaries are required to verify and ensure that all available information obtained from customers are not contradictory. Authorized insurers are also required to verify all available information during their underwriting process and reject applications for ILAS products if any of

the requirements in this Guideline are not met. Where appropriate, authorized insurers should follow up via the licensed insurance intermediaries concerned, e.g. in case of mismatch.

- 8.3 ILAS products may have a common feature to allow customers to switch their investment choices and to place top-up investment after policy inception. Authorized insurers, licensed insurance agencies and licensed insurance broker companies should have effective controls in place to ensure customers are aware of the possible risks associated with switching investment choices or placing top-up investment after policy inception that may become inconsistent with their risk profile.

9. Post-Sale Controls

- 9.1 The objectives of post-sale controls is to reaffirm customers' understanding of the ILAS policy that they have purchased, and that they are fully aware of their rights and obligations under the ILAS policy. The requirements in this paragraph 9 supplement and provide further details on the post-sale control requirements in paragraph 12 of GL15.
- 9.2 Authorized insurers should send the following documents along with the issued policy to the customer upon the completion of the sale process:
- (a) copies of the signed IFS and Applicant's Declarations; and
 - (b) a notice (i) informing the customer that his/her original signed FNA and RPQ are available for inspection; and (ii) advising where and how the customer may access these documents.
- 9.3 Authorized insurers should conduct either post-sale calls or point-of-sale audio recordings for base plans of ILAS products sold via all distribution channels. For bancassurance channel, authorized insurers and licensed insurance intermediaries have the duty to observe the relevant requirements imposed by the HKMA, including the requirement for audio recordings of the sale of ILAS products.
- 9.4 During the post-sale calls or point-of-sale audio recordings which authorized insurers are required to conduct, authorized insurers should confirm the following with the customer:
- (a) the details in the suitability assessment as set out in both the FNA and

RPQ;

- (b) the details in the IFS and Applicant's Declarations; and
- (c) whether proper product disclosure and explanation has been made by the licensed insurance intermediary to the customer.

Authorized insurers should keep the relevant post-sale call recordings or point-of-sale audio recordings in accordance with the relevant provisions under the Personal Data (Privacy) Ordinance (Cap. 486) or any other requirements imposed by the Office of the Privacy Commissioner for Personal Data from time to time.

9.5 Authorized insurers should remind the customers of their rights to contact them if the customer disagrees with any of the matters communicated during the post-sale process and/or wishes to make any enquiries before the expiry of the cooling-off period. In the event of disagreement or an uncertain reply by a customer, the authorized insurer should follow-up either directly or through the relevant licensed insurance intermediary with the concerned customer. If such follow-up is made through the licensed insurance intermediary, then the licensed insurance intermediary should report back on the latest situation to the authorized insurer as soon as practicable after following-up.

9.6 Licensed insurance intermediaries should remind customers of the importance of post-sale calls and the cooling-off period and should not abet customers to evade post-sale control measures implemented by authorized insurers.

10. Certification of Copies of FNA and RPQ

10.1 Authorized insurers should retain the original signed FNA, RPQ and IFS/Applicant's Declarations for record purpose and provide such documents for the IA's inspection as soon as practicable upon request.

10.2 For business introduced by authorized institutions and licensed insurance brokers, authorized insurers may accept copies of the original signed FNA and RPQ provided that those documents are properly certified by the representatives of authorized institutions and licensed insurance brokers, who have no conflict of interest with the sale of the relevant ILAS policy.

11. Documentation and Record Keeping

- 11.1 Authorized insurers, licensed insurance agencies and licensed insurance broker companies should put in place proper documentation systems for each of the processes/ requirements in this Guideline, where applicable. Apart from the policy documents, FNA, RPQ and the IFS/Applicant's Declarations, records relevant to the post-sale controls should also be maintained.
- 11.2 Authorized insurers, licensed insurance agencies and licensed insurance broker companies should provide the records for the inspection, review and investigation by the IA and other relevant regulatory bodies as soon as practicable upon request.

12. Commencement

- 12.1 This Guideline shall take effect from 23 September 2019 ("Effective Date").

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**INDICATIVE SALE FLOW OF
INVESTMENT-LINKED ASSURANCE SCHEME (“ILAS”)
PRODUCTS**

