

Interpretation Notes
Guideline on Offering of Gifts (GL25)

The Insurance Authority (“IA”) issues these Interpretation Notes with the aim of providing further guidance to authorized insurers and licensed insurance intermediaries in respect of the Guideline on Offering of Gifts (GL25) (the “Guideline”).

These Interpretation Notes are not intended to be a comprehensive guide and do not constitute legal advice. Authorized insurers and licensed insurance intermediaries are advised to seek professional legal advice if they have any questions relating to the application or interpretation of the relevant provisions of the Guideline.

These Interpretation Notes do 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 these Interpretation Notes from time to time. Unless otherwise specified, words and expressions in these Interpretation Notes shall have the same meanings as given to them in the Guideline.

Section 2 – Interpretation	
<i>Payment of Fees</i>	
Q1	What are the “fees” referring in Paragraph 2.1(e)(i) of the Guideline?
A1	“Fees” mean payments other than commissions as agreed between authorized insurers and licensed insurance intermediaries in relation to the sale of insurance policies or post-sale services.
<i>Discount and Rebate of Premiums</i>	
Q2	What is the difference between “discount of premiums” in Paragraph 2.1(e)(ii) and “rebate of premiums” in Paragraph 2.1(g)(i) of the Guideline?
A2	<p>“Discount of premiums” refers to a discount being applied to the amount of premium payable by a customer under a contract of insurance, as a result of which the amount of premium required to be paid by the customer under the contract would be reduced accordingly at the time of payment. Any discount of premiums complying with the criteria specified in Paragraph 2.1(e)(ii) of the Guideline would not be regarded as a Gift.</p> <p>“Rebate of premiums” in Paragraph 2.1(g)(i) of the Guideline refers to a refund of a portion of the premium previously paid by the policy holder under the relevant policy, as a gratuity directly or indirectly back to the policy holder.</p>
Q3	<p>Can the following promotion programs offered to customers be considered to have the same effect of discount of premiums, fees or charges as specified in Paragraph 2.1(e)(ii) of the Guideline, and would not be regarded as a Gift:-</p> <p><u>Premium Refund</u> Customers pay the full premium at inception and a certain percentage of the premium is subsequently refunded to the customers in the form of a direct discount to the</p>

	<p>renewal premium or by credit to the premium deposit account (PDA) solely for offsetting any future renewal premium payable by the customers.</p> <p><u>Premium Coupon/ Code</u> Customers are given premium coupon/code offered by an authorized insurer to settle the initial premium or renewal premium or deposit it into the PDA solely for offsetting any future premium payable by the customers.</p> <p><u>Credit Card -Cash Reward</u> A customer pays full premium at the point of sales by his/her credit card that offers cash reward for a portion of the premium amount paid. The cash reward can be used to settle the payment of credit card or to redeem a range of benefits or rewards under the credit card loyalty program.</p>
A3	<p><u>Premium Refund</u> The refund of premium previously paid by a customer falls within the definition of premium rebate as described in Paragraph 2.1(g)(i) of the Guideline. It can be offered and paid to the customer in relation to long term insurance products if it complies with the criteria specified in Paragraph 6.2 of the Guideline.</p> <p><u>Premium Coupon/Code</u> Assuming that the use of those premium coupon/code are not subject to any pre-condition that the customer must have first settled any premium payable to the relevant insurer, and if the customers can use those premium coupon/code offered by the authorized insurer to directly offset part of the initial premium or renewal premium payable by them under the policies, such premium coupon/code is considered to have the same effect of “discount of premiums”. It will not constitute a Gift if it complies with the criteria specified in Paragraph 2.1(e)(ii) of the Guideline.</p> <p><u>Credit Card – Cash Reward</u> If the issuer of the credit card used by the customer has a cash reward program based on points earned on any payments made by cardholders using credit cards it issues, if it so happens that the customer uses his/her credit card to pay premium due under a contract of insurance which payment, per the terms of the reward program, enables the customer to accumulate points for a cash reward from the credit card issuer under the reward program, then this would not be considered within the ambit of the Guideline.</p> <p>However, if an authorized insurer or a licensed insurance intermediary enters into an agreement with a credit card issuer to launch a cash reward program which is specific to contracts of insurance issued by the authorized insurer or particular insurer(s) partnered with the licensed insurance intermediary, under the terms of which the authorized insurer or the licensed insurance intermediary will directly or indirectly refund a portion of the premium paid with the relevant credit card as a cash reward to the customers, such cash reward will fall within the definition of “premium rebate” as described in Paragraph 2.1(g)(i) of the Guideline. In this scenario such program can only be offered and payments by the authorized insurer or the licensed insurance intermediary be made to the customer in relation to long term insurance products if the criteria specified in Paragraph 6.2 of the Guideline are met.</p>

Q4	Under Paragraph 2.1(d)(ii)(B) of the Guideline on Medical Insurance Business (GL31), a Gift does not include any discount of premiums, fees or charges under a contract of medical insurance where the discount is being given by a licensed insurance broker company discounting its commission due in respect of a medical insurance policy it arranges, subject to complying the requirements specified in that paragraph. Would such discount given by the licensed insurance broker company in relation to a medical insurance policy (as defined GL31) be regarded as a Gift under the Guideline?
A4	<p>GL31 applies to medical insurance policies as therein defined (see definition of “medical insurance business” in that GL31). Per that definition a medical insurance policy is a contract of insurance within the definition of “medical insurance business” in GL31 which includes, at Paragraph 2.1(f)(ii) of the definition, “the coverage under a contract of insurance which by its nature is Class 2 (sickness) business, where that contract of insurance is within paragraph 3 of Part 1 of Schedule 1 to the Ordinance (i.e. a contract of insurance which combines long term business with additional business which by its nature is Class 2 (sickness) business)”. A medical insurance policy within the scope of Paragraph 2.1(f)(ii) of the definition “medical insurance business” in GL31 is a long term policy and therefore, on the face of it, may also be within the scope of this Guideline.</p> <p>For clarity, it is confirmed that provided a licensed insurance broker company complies with the requirements set out in Paragraphs 2.1(d)(ii)(B) of GL31 in relation to a medical insurance policy it arranges (even if the medical insurance policy is a long-term policy per Paragraph 2.1(f)(ii) of the definition of “medical insurance business” in GL31), a discount given by the licensed broker company (i.e. given by the licensed insurance broker company discounting its commission) shall not be regarded as a Gift under GL31 or the Guideline.</p>
Section 4 – Scope of Application	
Q5	In respect to a life insurance policy which combines long term business with additional business of the nature specified in Part 3 of Schedule 1 to the Insurance Ordinance (Cap. 41) in relation to Class 1 (Accident) or Class 2 (Sickness), does the Guideline also apply to those additional coverage?
A5	Where an insurance policy combines long term business with additional business of the nature specified in Part 3 of Schedule 1 to the Insurance Ordinance (Cap. 41) in relation to Class 1 (Accident) or Class 2 (Sickness), the additional business shall as respects that contract be regarded as long term business and not as general business. Therefore, the Guideline shall also apply to that additional coverage.
Section 5 – Restrictions on offering Gifts	
Reasonable Assessment	
Q6	In respect to Paragraph 5.3 of the Guideline, what criteria should be considered by the authorized insurers or the licensed insurance intermediaries in performing a reasonable assessment?
A6	The Guideline adopts a principle-based approach which provides authorized insurers and licensed insurance intermediaries some flexibility in offering Gifts to customers when marketing, promoting or distributing Class A and Class D products provided that any Gift they offered would not distract the customers from making an informed

	<p>decision on whether or not to purchase the product. The authorized insurers and the licensed insurance intermediaries should establish adequate internal policy for this purpose and for conducting the assessment specified in Paragraph 5.3 of the Guideline on a fair customer basis.</p> <p>In performing the said assessment, the authorized insurer and the licensed insurance intermediary should take into account all relevant circumstances in which the Gift is proposed to be offered or made. For example, if an authorized insurer intends to offer a gift, such as supermarket coupon, to customers who successfully purchase from it a Class A or Class D product, the authorized insurer should perform a reasonable assessment on such promotion campaign, taking into account for example (i) the complexity of the insurance product, (ii) the targeted group of the customers and their level of comprehension, (iii) the value of the supermarket coupon relative to the premium amount payable under the insurance policy, as well as (iv) the general principle of “fair customer treatment”, before it comes to a conclusion on whether and how the proposed gift will or will not distract customers from making an informed decision on whether or not to purchase the insurance product. The authorized insurers and the licensed insurance intermediaries should also monitor the feedback on the marketing campaign or programme, such as customer complaints, statistics of lapsed and surrendered policies and policies cancelled within cooling-off period, and take appropriate follow-up actions if necessary.</p>
Section 6 – Premium Rebates and Commission Rebates	
Q7	If an authorized insurer waives the premium payable under a policy for certain period(s) of time (say for the first month or subsequent months), would such premium waiver be considered to be a “premium rebate” or “discount of premium”?
A7	If the premium waiver is offered by the authorized insurer as an upfront discount on premiums payable by the customer under the insurance policy, it would be regarded as a “discount of premium” as described in Paragraph 2.1(e)(ii) of the Guideline. If, however, the premium waiver is offered by the authorized insurer in form of a repayment of a portion of the premiums previously paid by the policy holder under the policy, such premium waiver will be regarded as “premium rebate” as described in Paragraphs 2.1(g)(i) of the Guideline.
Q8	Can authorized insurers issue separate rebate letter to inform their customers of any premium rebate offered by the insurers instead of stating the specific premium rebate in the policy contract?
A8	Under Paragraph 6.2 of the Guideline, premium rebates can be recorded in any one of the following five documents: (1) insurance policy, (2) policy schedule, (3) quotation, (4) offer letter, or (5) promotional material (the terms of which are incorporated by reference into the contract of insurance). Written correspondence from the authorized insurers informing their customers of any premium rebate offer could be regarded as “promotional material” provided that they are incorporated by reference into the terms and conditions of the policy.

Q9	What is the meaning of “the terms of which are incorporated by reference into the contract of insurance” in relation to the promotional material referred to in Paragraph 6.2 of the Guideline?
A9	<p>The meaning here aligns with the intent of Paragraph 6.2 which is that rebates should only take place if they are included and reflected in the contract of insurance between the authorized insurer and the policy holder. It is, after all, the contract of insurance that sets the amount of premium which is due to be paid by the policy holder and which the policy holder is obliged to pay. If this obligation is to be amended (by, for example, a rebate) then that amendment must be recorded so as to amend the contract of insurance.</p> <p>For example, assuming that an authorized insurer runs a promotion such that if a new customer purchases a policy from the insurer and settles the relevant premium payment during a set promotion period, the policy holder will be entitled to a rebate at the end of the 1st policy year of the policy, and the rebate will be applied to off-set the premium payment which is due from the policy holder after the end of the 1st policy year. If the customer makes a purchase under that promotion, the right to the rebate at the end of the 1st policy year must form part of the terms and conditions of the contract of insurance (in order for it to be enforceable against the authorized insurer). This may be achieved by recording the specific terms of the rebate entitlement in the policy itself, or by stating in the promotional material that if the policy holder makes a purchase under this promotion, the terms and conditions entitling the policy holder to the rebate as stated in the promotion materials will form part of the contract of insurance. In the latter case, if relevant terms and conditions are only stated in the promotional material, the authorized insurer or the licensed insurance intermediary is expected to deliver a copy of the promotional material to the policy holder within the cooling off period for his/her record keeping (for the terms and conditions in the promotional material are stated to form part of the insurance contract).</p>
Q10	Under Paragraph 6.13(b) of GL31, if a licensed insurance broker meets the criteria specified in that paragraph, the restriction on rebate of commissions will not apply to the licensed broker company in respect of a medical insurance policy it arranges. Can the licensed insurance broker companies take the same approach in complying with Paragraph 6.2 of the Guideline?
A10	<p>Similar to A4 above, a medical insurance policy within the scope of Paragraph 2.1(f)(ii) of the definition “medical insurance business” in GL31 is a long term policy and therefore, on the face of it, may also be within the scope of this Guideline.</p> <p>For clarity, it is confirmed that provided a licensed insurance broker company complies with the requirements set out in Paragraph 6.13(b) of GL31 in offering and paying a rebate of commission to its customer in relation to a medical insurance policy it arranges, that would also be regarded as being in compliance with the requirements set out in Paragraph 6.2 of the Guideline.</p>
Section 7 – Procedures and Controls	
Q11	In respect to Paragraph 7.1 of the Guideline, what are the requirements for “robust internal procedures and controls” and any examples for illustration?

A11	The Guideline adopts a principle-based approach on the requirements for “robust internal procedures and controls” which shall enable authorized insurers and licensed insurance intermediaries to identify, establish and maintain sufficient and adequate internal procedures and controls to ensure day-to-day compliance with the requirements under the Guideline, taking into account, among other matters, the organization structure, the ongoing monitoring, training resources provided to the staff, the complexity of the products, the targeted group of customers and their level of comprehension. From the IA’s perspective, strong compliance processes and corporate governance are imperative responsibilities for authorized insurers and licensed insurance intermediaries.
Q12	In respect to the record keeping requirement under Paragraph 7.1 of the Guideline, are authorized insurers and licensed insurance intermediaries required to maintain adequate record of any kind of Gifts offered to customers?
A12	For the record keeping on Gifts offered by an authorized insurer or a licensed insurance intermediary, adequate records should be maintained either on individual customer basis or at the marketing campaign/event level, and to demonstrate compliance with the applicable requirements. Proper records of matters such as the purpose, period, products, target customers, the type and arrangement of Gifts offered by the authorized insurer or the licensed insurance intermediary, and also information of the insurance products concerned should be maintained. If a reasonable assessment is required under Paragraph 5.3 of the Guideline, details of the assessment (including but not limited to the factors considered, any (external or internal) advice obtained, the assessment process and conclusion made) should be properly recorded as well.
Q13	How long should the record of Gifts be kept under Paragraph 7.1 of Guideline?
A13	Authorized insurers and licensed insurance intermediaries should establish and follow their own procedures and internal record retention standards for proper record keeping of their business activities and compliance with the codes and guidelines of the IA and other regulatory bodies. As a general principle, if a Gift can only be redeemed after a certain period of time, the record regarding such Gift should be kept for a reasonable period of time beyond the relevant redemption period to ensure that the customers could redeem such Gifts and that such records can be made available to the IA and other regulatory bodies upon request.
Annex – Permitted Gifts	
Q14	Does any of the following scenario fall within the scope of Permitted Gifts under Paragraph (d) in the Annex to the Guideline? (a) For relationship building purpose, an authorized insurer is sponsoring a licensed insurance broker company’s internal functions in cash, e.g. the broker company’s own annual dinner or Christmas event, provided that such sponsorship is not linked to any purchase of insurance products, distribution volume or pre-determined level of sales of any Relevant Products.

	<p>(b) In showing support to an event organized by a licensed insurance broker company to be attended by its customers, an authorized insurer purchases a number of tickets to the events for its staff and/or paying a fee/charge for being invited as speakers at the event, provided that those sponsorship does not relate to any pre-determined level of sales of any Relevant Products.</p> <p>(c) An authorized insurer provides support to a customers' event arranged by a licensed insurance broker, including providing venue, food and beverage, speaker and/or arranging the entire event for the licensed insurance broker company's customers, and the authorized insurer is invited to introduce its background, insurance concepts and any Relevant Products.</p> <p>(d) An authorized insurer is arranging and paying for events/seminars to be attended by a licensed insurance broker company's clients or prospective clients.</p> <p>(e) An authorized insurer is providing CPD training to a licensed insurance broker company.</p>
A14	<p>The objective of this Guideline is clearly stated in Paragraph 1.2, namely to prevent Gifts or other similar gratuities being used in the marketing, promotion or distribution of insurance products in such a way as to influence or distract customers when it comes to making informed decisions in relation to insurance products (particularly Class A, Class C or Class D Products) and the suitability of such products to meet their insurance needs and other circumstances. To achieve this objective, restrictions in the Guideline apply to Gifts to a customer and also to Gifts by an authorized insurer to a licensed insurance broker representing a customer, in the marketing, promotion or distribution of Class A, Class C or Class D Products.</p> <p>Each of the above scenarios focuses on situations involving the provision of certain support by an authorized insurer to a licensed insurance broker company concern whether or not such support would fall within Permitted Gifts (d) in the Annex to the Guideline. It should be noted that the answer(s) will always depend on the facts particular to any given situation with a holistic consideration and the objective of the Guideline in mind. As such, whilst the following answers provide a general guidance, ultimately the determining factor as to whether or not the Guideline applies in a specific situation (and if it does, whether the situation falls within the scope of Permitted Gifts (d) in the Guideline) will be : <i>“whether the sponsorship or the support being provided by the authorized insurer to the licensed insurance broker result in a customer of the licensed insurance broker being influenced or distracted (by such sponsorship or support) in making an informed decision during the marketing or promotion of Class A, Class C or Class D products to the customer”</i></p> <p>Notwithstanding the following answers, an authorized insurer and a licensed insurance broker should always consider the above-mentioned determining factor before providing and accepting the sponsorship or the support envisaged. With that in mind the guidance provided in respect of the scenarios is as follows:</p> <p>Regarding scenario (a)</p>

(i) Scenario (a) concerns the provision of sponsorship by an authorized insurer to a licensed insurance broker company for the broker company's annual dinner or Christmas event. Although not stated in the question, assuming that this is a staff only event with no customers present and there are no specific terms and conditions imposed on the sponsorship linking the amount of the sponsorship to the meeting of production targets for business placed by the broker with the insurer. The sponsorship is also not tied to the marketing, promotion or distribution of any Relevant Products. The situation would fall within the scope of Permitted Gifts under the Paragraph (b) in the Annex to the Guideline.

(ii) Regarding scenarios (b) and (c)

Scenarios (b) and (c) involve support being provided by an authorized insurer to an event organized by the licensed insurance broker company for its clients and question of whether such support is allowed by reason Permitted Gifts (d) in the Annex to the Guideline. The following should be noted in this respect:

- Permitted Gifts (d) permits the provision of sponsorship and support for "customer information events". This recognizes that such events form an important role in providing information to customers about insurance related issues, so that customers can take these issues into account when assessing their insurance needs. However, to fall within Permitted Gifts (d), primarily the event must be a "customer information event". In this regard, there is a clear bright line between a "customer information event" (i.e. an event the purpose of which is to provide information to customers which would fall within Permitted Gifts (d)) and an event which places customers in a position where buying a Class A, C or D Product is the reciprocation expected of them in return for attending of the event. The latter would not fall within the scope of Permitted Gift (d) and the restrictions in the Guideline would apply.
- Assuming it is a "customer information event" the authorized insurer could provide sponsorship under Permitted Gifts (d), provided that such sponsorship is not in the form of subsidy or cash equivalents and not directly or indirectly linked to the distribution volume of or a pre-determined level of sales of Class A, C or D Products.
- In both scenarios (b) and (c) above, assuming such sponsorship is not directly or indirectly linked to the distribution volume or a pre-determined level of sales of Class A, C or D Products (which is imperative for Permitted Gifts (d) to apply). In this context, therefore, an authorized insurer purchasing a slot as a speaker to deliver information at a "customer information event" would probably fall within the scope of Permitted Gift (d) as would purchasing tickets for the staff of the authorized insurer to attend the event. As regards the provision of sponsorship and support such as venue, food and beverage, since these are effectively provided to the customers who attend, a degree of common sense should be exercised to ensure such arrangement, (e.g. in the form of venue, and/or food and beverage) is not so lavish as to

	<p>place the customer in a position whereby by attending such event they are influenced or distracted by a sense of reciprocation to have to purchase a Class A, C and D policy of the authorized insurer.</p> <ul style="list-style-type: none"> ▪ If the sponsorship is to be in the form of a straight payment by the authorized insurer of cash or cash equivalents to the licensed insurance broker, then it would not fall within the scope of permitted by Permitted Gifts (d) (by reason of the provisions stated in Permitted Gifts (d)) and the restrictions in the Guideline would apply. <p>Regarding scenario (d)</p> <p>(iii) As regards the “customer service events” arranged by authorized insurers to be attended by licensed insurance brokers and their customers (per scenario (d) above), the same type of considerations as set out in answer (ii) above would apply.</p> <p>Regarding scenario (e)</p> <p>(iv) There would appear to be no issue with an authorized insurer providing CPD training to a licensed insurance broker company. If, however, there are to be any gifts provided at the CPD training, consideration should be given as to whether the Guideline applies to such Gifts and if so how.</p>
Q15	<p>What is the meaning of “relevant and reasonable” as stated in Paragraph (f) in the Annex to the Guideline?</p>
A15	<p>A range of ancillary services are commonly offered in relation to a Relevant Product, for example health seminars, on-line health information, medical check-up or medical consultancy services. However, authorized insurers and licensed insurance intermediaries should perform their own reasonable assessment on each Relevant Product in deciding whether the proposed ancillary services are reasonably considered to be relevant to its underwriting or the insurance coverage provided to the policy holder concerned taking into account his/ her personal circumstances and whether they may unduly influence or otherwise distract customers from making their purchases decision. Only ancillary services that are reasonably considered to be so relevant and offered to the customer at no extra charge can fall within the scope of Permitted Gifts under Paragraph (f) in the Annex to the Guideline.</p>