

Interpretation Notes
Guideline on Long Term Insurance Policy Replacement (GL27)

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 scope and handling of policy replacement cases under the Guideline on Long Term Insurance Policy Replacement (GL27) (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.

Scope of Application	
Q1	For the purpose of this Guideline, does “long term business” also include accident / health / disability policy with minimal life coverage?
A1	The term “long term business” used in the Guideline bears the same meaning as the same term defined in section 2 of the Insurance Ordinance (Cap. 41) (the “Ordinance”), which, for the avoidance of doubt, shall include life insurance policies which combine long term business and additional business of the nature specified in Part 3 of Schedule 1 to the Ordinance in relation to Class 1 (Accident) or Class 2 (Sickness).
Q2	If the new life insurance policy is to be sold through a licensed insurance intermediary but the existing policy was sold through a means which meets all of the conditions in paragraph 4.4 of the Guideline, will the exemption still apply?
A2	No, the exemption will not apply to new life insurance policy sold through a licensed insurance intermediary. Any questions concerning the application of the exemption conditions stated in paragraph 4.4 of the Guideline should be considered in the context of the sale of the new life insurance policy (rather than the previous sale of the existing policy).

Q3	<p>Paragraph 4.4(d) of the Guideline indicates that a prominent statement must be displayed at the point of sale of the life insurance policy, warning the customer that if the customer is purchasing the life insurance policy to replace an existing life insurance policy, the customer should seek professional advice to understand the associated risks and detrimental consequences of policy replacement.</p> <p>Do authorized insurers or authorized institutions need to provide the definition of “policy replacement” for customers’ reference?</p>
A3	<p>Yes, authorized insurers or authorized institutions should provide a definition or description of “policy replacement” for the customers’ ease of understanding, so that the customers can make an informed decision and consider if they may need to seek professional advice to understand the associated risks and any detrimental consequences of the policy replacement. Authorized insurers or authorized institutions are encouraged to define or describe what is a “policy replacement” in a reader-friendly manner. Authorized insurers or authorized institutions may make reference to the questions in Appendix A of the Guideline to assist the customers comprehend the term “policy replacement”.</p> <p>The IA does not pre-vet any statement referred to in paragraph 4.4(d) of the Guideline, including any explanation on the definition or description of “policy replacement” contained in the statement. Authorized insurers or authorized institutions should ensure that the relevant statement is factually correct, reader friendly and prominently displayed to catch the customers’ attention.</p>
Q4	<p>In respect to keyman life insurance policies, the employer (i.e. the policyholder) may need to surrender the existing life insurance policy and purchase a new life insurance policy upon change of the insured (e.g. resignation of the relevant keyman employed by the policyholder). Is this considered as a policy replacement?</p>
A4	<p>No, that is not considered to be a policy replacement under the Guideline.</p>
Q5	<p>Please advise how to handle life insurance policies with joint policyholders in fulfilling the requirements under the Guideline.</p>
A5	<p>The IA does not prescribe any process for handling life insurance policies with joint policyholders. Authorized insurers and licensed insurance intermediaries should develop appropriate internal controls and procedures for handling policy applications which shall include making sufficient enquiries to the customer(s) of the new life insurance policy as described in paragraph 5.4 of the Guideline.</p>

Policy Replacement	
Q6	When a new life insurance policy is to be placed through a licensed insurance agent who has more than one appointing insurers or through a licensed insurance broker, what measures should the licensed insurance intermediary take to ascertain whether or not the customer is purchasing the life insurance policy as a policy replacement?
A6	<p>Under section 90(a) of the Ordinance, a licensed insurance intermediary must act honestly, fairly, in the best interests of the policy holder concerned or the potential policy holder concerned, and with integrity, when carrying on a regulated activity.</p> <p>Accordingly, paragraph 5.1 of the Guideline provides that a licensed insurance intermediary should take all reasonable steps to ascertain whether the customer is purchasing the life insurance policy as a policy replacement. For example, when a licensed insurance intermediary is handling a new life insurance policy application by a customer, the licensed insurance intermediary should take all reasonable steps to ascertain whether the customer is purchasing the life insurance policy as a policy replacement and if in any way the licensed insurance intermediary becomes aware that the policy holder concerned might be using or intending to use some or all of the funds from his/her existing life insurance policy to fund the purchase of a new life insurance policy, the licensed insurance intermediary should take appropriate steps as described in paragraphs 5.4 and 5.5 of the Guideline to ascertain if the customer is purchasing the life insurance policy as a policy replacement and provide appropriate advice to the customer.</p> <p>For example, if a licensed technical representative possesses or has authorized access to the customer's policy information with different authorized insurers (including but not limited to application status of new life insurance policy and changes made / to be made on existing life insurance policy), the licensed technical representative should take those available information into account and reasonable steps at the point of sale to ascertain whether a customer is purchasing a life insurance policy as a policy replacement.</p>
Q7	<p>Would a customer, who is using or intends to use some or all of the funds arising from below sources from his/ her existing life insurance policy to fund his/her purchase of a new life insurance policy, be considered as conducting policy replacement:</p> <ol style="list-style-type: none"> 1. policy maturity; 2. regular annuity payout; or 3. claims payment?

A7	No, these situations are not considered to be policy replacement under the Guideline.
Q8	If a customer claims that he or she will use his/her existing life insurance policy as a collateral to obtain loan facility to fund his/ her purchase of new life insurance policy, is it considered as a policy replacement?
A8	Yes, it is considered to be a policy replacement under the Guideline. Authorized insurers and licensed insurance intermediaries can consider to include such scenario as an example in the questions in Appendix A of the Guideline as appropriate.
Q9	With respect to paragraph 5.2(c) of the Guideline, would a customer who intends to reduce the premium payable under the existing life insurance policy, but does not intend to use the money “saved / extracted” to fund the purchase of a new life insurance policy, be considered as a policy replacement? (He/she intends to use the money for other purposes.)
A9	Authorized insurers are required to take appropriate measures as described in paragraphs 7.2 and 7.3 of the Guideline to ascertain and reaffirm the customer’s intention to fund the purchase of the new life insurance policy by making changes on the existing life insurance policy and informing him/her of the relevant disadvantages. Further, paragraphs 9 and 10 of the Guideline require authorized insurers, licensed insurance broker companies and licensed insurance agencies to ensure their relevant licensed insurance intermediaries are in compliance with the Guideline, including developing internal controls to ensure reasonable steps are taken in ascertaining whether a customer is purchasing a life insurance policy as a policy replacement, and to maintain proper record.
Q10	If a customer reduced the sum assured of an existing life insurance policy which does not have Total Cash Value throughout the policy term, and then after such reduction in the sum assured, he / she purchases a new life insurance policy which has Total Cash Value. Would this be considered as a policy replacement?
A10	If the customer used some or the entire premium saved under the existing life insurance policy to pay for the premium of a new life insurance policy, it will be considered as a policy replacement.
Q11	With respect to paragraph 5.4 of the Guideline, can authorized insurers: 1. modify the template questions in Appendix A; and/or 2. remove the option of “Not yet decided”?

A11	<p>1. Yes, authorized insurers can modify the wording of the questions in Appendix A to the Guideline but without changing the substantive meaning of the questions. In doing so, authorized insurers must also observe the principle of “fair customer treatment” and document the reasons for any changes made to the questions.</p> <p>2. No, the option of “Not yet decided” cannot be removed.</p>
Q12	<p>Paragraph 5.2(c) of the Guideline specifies that using, or intends to use, some or all of the total cash value of existing life insurance policy to fund a new life insurance policy will be considered as a policy replacement. Can authorized insurers set any threshold when determining it is necessary to contact the customers as described in paragraphs 7.2 and 7.3 of the Guideline?</p>
A12	<p>Authorized insurers are reminded to observe the principle of “fair customer treatment”. When considering if it is necessary to contact the customer for the purpose of reaffirming his/her intention to fund the purchase of the new life insurance policy by making changes on the existing life insurance policy and informing him/her of the corresponding disadvantages, authorized insurers should exercise appropriate judgement and apply a reasonable threshold taking into account relevant factors, such as the reduced premium payable under the existing life insurance policy as a percentage of the premium of that policy before the reduction / the premium of the new life insurance policy, the reduced cash value / sum insured of the existing life insurance policy as a percentage of the total cash value / sum insured of that policy before the reduction, and other relevant factors.</p> <p>Authorized insurers should document internally the justifications for the threshold(s). It is possible that such threshold(s) may vary across different products, depending on the nature and features of each product, provided that each of the thresholds applied by the authorized insurer shall be reasonably justified in accordance with the core principles of the Guideline.</p>
Q13	<p>Assuming a customer currently has two or more life insurance policies, if he/ she is using, or intends to use some or all of the total cash value of one of the policies; or any savings made or to be made as a result of reducing the premium payable under that policy,</p> <p>(i) to purchase a new rider; or</p> <p>(ii) to top up any existing policy of his/ her own,</p> <p>would it be considered to be a policy replacement?</p>
A13	<p>No, it would not be considered as a policy replacement for the purpose of the Guideline in this case. That said, should authorized insurers observe any circumstances which indicate that the intent of purchasing a new rider/ top-up is to</p>

	circumvent the requirements as stipulated in the Guideline, they should take appropriate follow-up actions to ensure that customers are treated fairly.
Important Facts Statement - Policy Replacement (“IFS-PR”)	
Q14	Can authorized insurers modify the IFS-PR?
A14	<p>No. Authorized insurers must adopt the IFS-PR in full and require the licensed insurance intermediaries to explain the relevant implications and associated risks in the IFS-PR to the customer concerned, taking into consideration the circumstances of the policy replacement.</p> <p>For example, if a customer intends to withdraw policy value (without insurability and claims eligibility implications) from one of his/her existing life insurance policies to fund his/her purchase of a new life insurance policy, the licensed insurance intermediary must explain the applicable implications and associated risks to the customer (including items 1, 4, 5, 6, 7 and 8 in the IFS-PR and any other implications and associated risks relevant to the customer concerned). In addition to the requirements stated in paragraph 5.5 of the Guideline, authorized insurers and licensed insurance intermediaries should ensure the customer understands the relevant implications and associated risks listed in the IFS-PR.</p>
Q15	In respect to paragraph 6.1 of the Guideline, can a customer opt-out the requirement on signing an IFS-PR set out in Appendix B to the Guideline?
A15	<p>If the answer of the template questions in Appendix A to the Guideline is “Yes” or “Not yet decided”, the licensed insurance intermediary must explain the IFS-PR to the customer, and the IFS-PR should be signed by both the licensed insurance intermediary and the customer.</p> <p>The licensed insurance intermediary should also, in accordance with the requirements in paragraph 5.5 of the Guideline, assess and provide advice to the customer on whether the purchase of the new life insurance policy is in the customer’s best interests, taking into account any adverse consequences to the customer arising from the policy replacement.</p> <p>The licensed insurance intermediary must properly document the information provided by the customer during this assessment process, as well as any factors considered, the evaluation conducted, the recommendation(s) made by the licensed insurance intermediary and the reason(s) for such recommendation(s).</p>

Q16	Paragraph 6.3 of the Guideline states that authorized insurers must provide a copy of the IFS-PR to the customer on or before the issue date of new life insurance policy. Would it be acceptable to deliver the IFS-PR to the customer on or before the delivery of the policy contract?
A16	To align with the Guideline on Cooling-off Period (i.e. GL 29) which requires the life insurance policy be delivered to the customer within nine (9) calendar days of the date of policy issuance, it is acceptable for authorized insurers to enclose a copy of the signed IFS-PR at the same time of delivering the life insurance policy to the customer.
Q17	In respect to paragraph 6.3 of the Guideline, if customers complete the new business application via digital form on iPad or other electronic devices, how is the phrase “original” defined in this scenario?
A17	The digital copy of the signed IFS-PR kept by the insurer can be regarded as an “original” if the application process is conducted through electronic means.
Q18	In respect to paragraph 6.3 of the Guideline, can authorized insurer provide a copy of the completed IFS-PR to the customer via E-mail / digital channel?
A18	Yes, however, authorized insurer should take reasonable steps to ensure the copy of the signed IFS-PR is duly delivered to the relevant customer and the customer is genuinely notified that the copy of IFS-PR is available to him/her.
Q19	Must the IFS-PR form be signed in Hong Kong by the concerned customers who request any changes on existing life insurance policy subsequent to their application for the new life insurance policy?
A19	Customers are not necessarily required to sign an IFS-PR in this situation. However, authorized insurers must determine in accordance with the requirements in paragraph 7.3 of the Guideline if it is necessary to contact the customer for the purpose of reaffirming his/ her intention to fund the purchase of the new life insurance policy by making changes on the existing life insurance policy and informing him/ her of the corresponding disadvantages.
Internal Policy Replacement	
Q20	If Automatic Premium Loan (“APL”) is incurred on a monthly basis, are authorized insurers required to make follow up actions every month? Would the follow up actions taken be valid for a certain period and no further actions need to be taken if APL or policy loan repeatedly occur in a certain period of time?

A20	<p>As stated in paragraph 7.3 of the Guideline, authorized insurers should have processes in place to continue monitoring the existing life insurance policy for any changes during the 12 months immediately following the application date for the new life insurance policy, for ascertaining if there may be a policy replacement.</p> <p>In the case of APL incurred on an existing life insurance policy as stated in paragraph 5.2(c)(ii) of the Guideline, authorized insurers should keep track of the relevant policy to determine if it is necessary to contact the customer for the purpose of reaffirming his/her intention to fund the purchase of the new life insurance policy by making changes on the existing life insurance policy and informing him/her of the corresponding disadvantages.</p>
Q21	<p>Paragraphs 7.2 and 7.3 of the Guideline specify that authorized insurers should implement processes for checking internal records to identify any internal policy replacement during the 12 months immediately prior to or following the application date. If any of the matters in paragraphs 5.2(c)(i), (ii) or (iii) of the Guideline is identified, the insurer shall determine if it is necessary to contact the customer for the purpose of reaffirming his/ her intention and informing him/her of the corresponding disadvantages.</p> <p>If the insurer determines it is necessary to contact the customer, please elaborate what needs to be conducted to fulfill this requirement.</p>
A21	<p>Authorized insurers are expected to use their reasonable endeavors to contact the customer to inform him/ her the risks and implications of policy replacement by referring to the IFS-PR.</p> <p>The means of communication may vary but must reasonably meet the customer’s expectation. For example, where the customer indicates that he/ she needs a face-to-face meeting with a licensed insurance intermediary to hear about the risks and implications of policy replacement, such meeting should be arranged so far as possible.</p> <p>Authorized insurers should put in place an effective mechanism to identify and handle internal policy replacement with clear internal policy properly documented as evidence.</p>
Q22	<p>If authorized insurers determine it is necessary to contact the customer pursuant to paragraphs 7.2 and 7.3 of the Guideline but are unable to reach the customers or the customers refuse to go through the corresponding disadvantages of policy replacement, what follow up actions should be taken?</p>

A22	<p>If the authorized insurer still cannot reach the customer after making reasonable number of attempts, for example via the phone or other means of contact, or the customer refuses to go through the implications of policy replacement, the authorized insurer may consider informing the customer the disadvantages of the policy replacement in writing.</p> <p>If contact is made by way of telephone, authorized insurers may determine the timing for making phone calls and the number of attempts to be made, however it must be reasonable and fair to the customers.</p>
Q23	<p>What actions should authorized insurers take if internal policy replacement is identified after the cooling-off period?</p>
A23	<p>Authorized insurers should contact the customer for the purpose of reaffirming his/her intention to fund the purchase of the new life insurance policy by making changes on the existing life insurance policy and informing him/her of the relevant disadvantages of the policy replacement. If any abnormality is found, authorized insurers should take any necessary and timely remedial actions.</p>
Q24	<p>If internal policy replacement is identified during the application process of new life insurance policy, must IFS-PR be completed by both licensed insurance intermediary and customer before the policy can be issued?</p>
A24	<p>The Guideline does not prohibit authorized insurers issuing a policy in the circumstance described. However, authorized insurers should, as soon as practicable, contact the customer for the purpose of reaffirming his/ her intention to fund the purchase of the new life insurance policy by making changes on the existing life insurance policy and informing him/ her of the relevant disadvantages. That said, authorized insurers should consider the implication of the cooling-off rights of the customers if the reaffirmation takes place after the issuance of policy. If any abnormality is found, authorized insurers should take any necessary and timely remedial actions.</p>
Q25	<p>Can authorized insurers proceed with the customer's policy change request with financial impact that may be considered as policy replacement (e.g. partial surrender, policy loan, withdrawal, etc.) immediately before contacting the customer to reaffirm his/ her intention on policy replacement?</p>

A25	The Guideline does not prohibit authorized insurers proceeding with the customer's request in the circumstance described. However, if an authorized insurer considers that it is necessary to contact the customer for the purpose of reaffirming his/ her intention to fund the purchase of the new life insurance policy by making changes on the existing life insurance policy and informing him/ her of the relevant disadvantages, it should do that as soon as practicable. If any abnormality is found, the authorized insurer should take any necessary and timely remedial actions.
-----	---

- End -

September 2020