Frequently Asked Questions on Updated Requirements Relating to the Sale of Investment Linked Assurance Scheme ("ILAS") to Enhance Customer Protection

Disclaimer: The list of questions and answers below are for reference only. Members are advised to consult their own legal counsel as necessary.

Q1: Is it possible to delay adoption of the new requirements beyond 30th June 2013?

A1: No, these new requirements must be implemented fully by the deadline date and Member Companies are encouraged to implement these before then. Under no circumstances will there be any extension.

Q2: Do these new requirements apply to applicants who may undertake fulfilment in Hong Kong but live overseas?

A2: Yes, the new requirements apply to all ILAS customers effecting a policy regardless of overseas residency. In particular, there is no exception to the Post-sale Call ("PSC") requirement.

Q3: Do these new requirements also apply to "Professional Investors"?

A3: Yes, there is no special dispensation for this category of customer.

Q4: If the policy is subject to a trust, is the PSC made to the "settler" or the "trustees?

A4: Theoretically speaking, the call should be made to the person/entity that is effecting the policy. HKFI strongly recommends that Member Companies seek their own legal advice on this particular point. However, HKFI would counsel Member Companies where such trusts are adopted to circumvent the spirit and intention of these new initiatives.

FINANCIAL NEEDS ANALYSIS ("FNA")

Q5: What is the best practice of proposing an ILAS product to a client?

A5: The best practice of proposing an ILAS product is when the client indicates/chooses:

(a) <u>Under Question 1 of the FNA</u> -
both "Life Protection" and "Savings" / "Investment" as his/her purpose of buying the product;

AND

(b) <u>Under Question 1 (Statement of Purpose) of the Important Facts Statement (IFS) and the Applicant's Declarations</u> -
the purpose as one of the following*:
- "Savings with significant life protection",

- "Investment with significant life protection",
- "Savings with minor life protection", or
- "Investment with minor life protection".

*(*life protection level of an ILAS product proposed should match the level of protection the customer is considering)*

If in both the FNA and IFS, the client indicates his/her needs as either "Investment" or "Saving" only and decides to take up an ILAS product as proposed, the client should explain in his/her own hand writing under Option B of "Suitability Declaration".

If in the FNA, the client only indicates "Investment" or "Saving" and after going through the sale flow, he/she is happy with the life benefit features and indicates in the IFS that the purpose is also for life protection as in (b) above, it is acceptable that the client selects Option A of the "Suitability Declaration".

IMPORTANT FACTS STATEMENT ("IFS")

Q6: Is an embedded feature of the policy such as indexation interpreted as a "top up" and therefore subject to the new requirements?

A6: Embedded features of the policy such as contractual increases due to indexation are not "top up" for the purpose of IFS and would not be subject to the new requirements.

Q7: Can you please clarify the situation on top-ups, e.g. would an IFS be required even for top-ups?

A7: As required in 4.4 of HKFI Circular dated 22 April 2013 (Mv037/13), every application (new or top-up) must include an IFS. The new requirement will take effect from 30 June 2013. For new policies effected after 30 June 2013, an IFS would be required for top-ups based on such policies. For policies effected before 30 June 2013, an IFS would be required for top-ups only if it is feasible to do so (e.g. the ILAS is still open for subscription and offering documents are available).

Q8: So, for top-ups on new policies effected after 1st July, 2013 would the Part II - Applicant Declaration in the IFS also be required?

A8: The Applicant Declaration is required only where FNA and RPQ have been performed, or where affordability declaration is required (i.e. for regular premium payment). HKFI suggests Member Companies either produce a specific "top up" IFS or instruct their intermediaries to delete Part II of the IFS if it is not applicable.

Q9: What about the FNA, RPQ and PSC? Are they required for "top-up"?

A9: The current practice continues. FNA, RPQ and PSC are not required for "top-up" but as best practice, intermediaries should conduct regular FNA and RPQ especially where the client's personal circumstances may have changed significantly. To enhance protection for policyholders, insurers may conduct PSC for "top-up" if it is considered prudent to do so.

Q10: What if clients submit top-up requests, direct to the insurers without going via their intermediaries. How do insurers address the practical difficulty in implementing the IFS requirement for such cases?

A10: It is suggested a call is made to the client to clarify that every top-up application must include an IFS and refer the client to professional advisor/intermediary.

Q11: Do insurers need to complete the charges section for top-ups?

A11: For top-ups on new policies effected after 1st July, 2013 this would be required and should be top-up specific.

Q12: Does "cooling off" apply to top-ups?

A12: No, the current practice continues.

Q13: Templates have only been provided for the Agency channel. Will the HKFI be providing ones for other channels, i.e. bancassurance and brokers?

A13: The HKFI will not be providing alternative templates for other channels. Member Companies should be able to apply the principles and format from the Agency ones to suit other channels.

Q14: Insurers are prepared to accept certified copies of the FNA and RPQ from brokers. Will insurers be allowed to accept a certified copy of the IFS as well?

A14: No, different principles apply. Brokers are permitted to submit certified copies of the FNA and RPQ as these may be their own documents. The IFS is a product-related document; so, the Member Company must insist on the original document being submitted before policy issuance.

Q15: Is it acceptable to present the remuneration (including first year and renewal years) as a percentage of the total premium to be paid over the whole premium term? As an example, for an ILAS product with a 30-year premium term and annual premium of HK$10,000, the total premiums expected to be paid will be HK$300,000.

Assuming that the commission scale is as follows:

Year	Commission %	Commission (HK$)
1	50%	5,000
2	20%	2,000
3	10%	1,000
4	10%	1,000
5-30	0%	0

Total	9,000

The total commission to be paid during the 30 years period is HK$9,000. The commission is therefore 3% of the total premium (HK$300,000) expected to be paid over the 30-year premium term.

In case that the remuneration is calculated as % of account value, i.e. trailer fee structure, such trailer fee remuneration need not be included in above calculation but should be separately disclosed as % of account value.

For top-up cases, the remuneration should also be disclosed separately.

A15: This is an acceptable presentation.

Q16: Is an Illustration Document required for a top-up?
A16: No, the current practice continues.

Q17: Please confirm whether sending the signed IFS to the policyholder is merely a recommended requirement or a mandatory requirement.
A17: A copy of the IFS/AD should be attached to the ILAS policy contract to be delivered to the policyholder by the insurance intermediary (See 3.3 on Pages 36 and 40; and second paragraph on Pages 42 and 47).

POST SALE CALLS

Q18: Will a PSC or notification letters be required for top-ups?
A18: The current practice continues and PSC is not required for top-ups. However, insurers may conduct PSC for top-up if it is considered prudent to do so. If so, the post-sales call script and notification letters for top-ups must be prepared following the principles of the new requirements as contained in the Circular.

MISCELLANEOUS

Q19: Will the respective SRO's, e.g. CIB, PIBA, be advising their members of these new requirements?
A19: HKFI is not aware of their specific strategies. However, HKFI will endeavour to find out and recommend that in addition to each Member Company's announcement that they should also communicate these new requirements to their members.