

THE LIFE INSURANCE COUNCIL OF
THE HONG KONG FEDERATION OF INSURERS

CODE OF PRACTICE FOR LIFE INSURANCE REPLACEMENT

The following process is intended to prevent the activity of those agents who misinform or mislead clients into changing existing life insurances in a way which at the time of the change creates a real or potential disadvantage to the client. The assessment of this disadvantage may at times be subjective and therefore the success of the process in completely achieving its objective will depend on those involved acting in good faith and at all times in the best interests of the client.

1. Approach

Inappropriate replacement of life insurance policies (hereinafter referred to as "twisting") can be minimized through:

- 1.1 An unambiguous definition of what constitutes twisting,
- 1.2 Improved controls within the sales process to help prevent twisting at the point of sale,
- 1.3 A sound process for identifying twisting when it occurs, and
- 1.4 Adequate sanctions that can be imposed if twisting is proven.

2. Definition of Twisting

Twisting is the making of misleading statements, non-disclosures, misrepresentations and incomplete comparisons to induce an insured to replace existing life insurance with other life insurance resulting in disadvantage to the insured.

Any transaction involving the purchase of life insurance is construed as a replacement if existing life insurance is:

- 2.1 lapsed,
- 2.2 surrendered, or
- 2.3 converted to paid-up insurance.

This list may be expanded from time to time to include other forms of amending existing life insurance which are determined to constitute replacement.

3. Controls at the Point of Sale

A Customer Protection Declaration ("CPD") (see Appendix I) must be completed before the client agrees or makes a decision in relation to the purchase of a new life insurance policy. It is designed to:

- 3.1 discover any replacement being recommended and if so,
- 3.2 ensure that the agent has explained the important consequences.

In the event that the agent explains that there is no disadvantage attaching to the change then the agent must give the reason for this conclusion in writing as fully as possible.

In this way, there is a record that the client has been told of the real or potential disadvantages of the recommended replacement or has been given an explanation, as to why there is no disadvantage. Further, the agent may be protected in the event of a subsequent accusation of malpractice as there is evidence that the policyholder has been advised fully. The original of the CPD will be held by the selling office and a copy will be issued to the client together with the policy.

4. Identifying Twisting

4.1 Client Initiated

The client may complain about suspected twisting. Any such complaint received by the Hong Kong Federation of Insurers or other party will be forwarded to the selling office which must investigate and follow the same process as if it had itself discovered a suspected incident of twisting (see 4.2). The selling office must also write to the client to acknowledge receipt of the complaint and commit to notify the client within 60 days of receipt with the findings and any suggested arrangements.

4.2 Selling Office Initiated

The selling office has a duty to control the activities of its sales force. The office must therefore monitor the CPDs to ensure that its agents are complying with the process.

If during the monitoring the office discovers cases of non-compliance, or is given reason to believe existing policyholders may have suffered because of twisting by its agents, they must investigate those cases and take action. If twisting has occurred, action should consist of the sanctions listed in 4.4 below. If twisting has not occurred, the agents involved should

be re-trained in the compliance process to assure future CPDs are completed correctly.

The office must recognize that the CPD will form an important part of any investigation that may arise and should therefore insist upon and provide training to help agents to make adequate comments in those cases where "no disadvantage" is claimed.

4.3 Non-Selling Office Initiated

If an office believes that existing or ex-policyholders have suffered because of twisting by agents of other offices, it must investigate and will have the right to ask the selling office for the information listed on the Replacement Inquiry Form ("RIF") (see Appendix II). The selling office must provide that information within 10 working days of the request. If twisting has occurred, action should consist of the sanctions listed in 4.4 below.

4.4 Once twisting is identified as likely to have occurred, the offices concerned should attempt to reach agreement. If it is agreed that twisting has occurred, the selling office must immediately

4.4.1 report the agent to the Insurance Agents Registration Board ("the Board") with a recommendation for a suitable disciplinary action,

4.4.2 suspend the agent from selling any further business,

4.4.3 claw back the commission paid on the case/cases in question, and

4.4.4 arrange terms for reinstatement of the policies that have been twisted, if the client so wishes. These terms must, to the maximum extent possible, allow the client to return to the same position he would have been in had the policies not been twisted. This imposes an obligation on the offices to keep the client's interest foremost. Thus agreement must be reached speedily within a period of 30 days.

The selling office must then write to the client and inform him that:

- . he may have been sold policies unprofessionally;
- . in view of this he may wish to end the arrangements and reinstate the original policies;

- . he should give his decision within 30 days;
- . the selling agent has been suspended and has no further authority to represent the selling office to the client.

4.5 If offices cannot agree either that twisting has occurred or on the terms for reinstatement of the policies that have been twisted, then the complaining client or office will submit the case to the Board which will rule. If it is concluded that twisting has occurred, then the Board will direct the sanctions 4.4.2 - 4.4.4. The decision of the Board will be final.

4.6 For complaints to be investigated, they must be made within two years of the issue date of the related replacement life insurance policy.

5. Role of the Professional Standards Committee

The Professional Standards Committee of the Life Insurance Council will monitor that the process is working satisfactorily and is being complied with.

If during the monitoring, the Committee finds that an office has not complied with the process, it will have the right to seek cooperation from the office concerned. It may ultimately recommend that the Life Insurance Council terminate membership of that office if a clear pattern of non-compliance is seen.

CODE OF PRACTICE FOR LIFE INSURANCE REPLACEMENT
壽險轉保守則

CUSTOMER PROTECTION DECLARATION
客戶保障聲明書

**Life Insurance Council of the
Hong Kong Federation of Insurers**

**香港保險業聯會
壽險總會**

CUSTOMER PROTECTION DECLARATION

客戶保障聲明書

Selling Office 營銷保險公司 : _____

Name of the Customer 客戶姓名 : _____

Name of the Agent 代理姓名 : _____

Proposal/Application No.in relation to this Declaration
本聲明涉及的建議書/申請書編號 : _____

Dear Customer 客戶們 :

Since you are considering the purchase of new life insurance, it is important that this form is properly completed as it demonstrates that your financial interests have been protected. The agent will retain the original and a copy will be attached to your policy when it is issued. This form is designed and introduced by the Life Insurance Council of the Hong Kong Federation of Insurers. It is an important part of the Code of Practice for Life Insurance Replacement but does not form a part of any policy or contract between you and the insurer.

閣下現正考慮購買新人壽保單，故務請將本聲明書填妥，以為保障閣下財務利益的證明。代理將保留本聲明書的正本，副本將在保單簽發時隨保單奉上。本聲明書由香港保險業聯會壽險總會擬定。此聲明書乃「壽險轉保守則」的重要部份，但並非其所附保單的組成部份。

SECTION 1 第一部份

If you do not have any existing policies or if you have any existing policies but do not intend to stop paying premiums on them or significantly alter them, please tick the applicable box below and sign at the end of this section.

如閣下現時並無持有保單，或持有保單但不打算停止繳付其保費或作出重大更改，請在以下適當方格內加「✓」號，並在本部份末簽署作實。

1.1 I declare that I do not have any existing life insurance policies.
本人聲明現並無持有任何以本人名義所簽的壽險保單。

1.2 I declare that I have one or more existing life insurance policies. I do not, however, intend to stop paying premiums or significantly alter them as a result of the purchase of any new life insurance under the aforesaid proposal/application.
本人聲明現持有一份或以上壽險保單，但本人不打算因購買前述的建議書/申請書的壽險保單而停止繳付現有保單的保費或作出重大更改。

Otherwise, please tick the following box, sign at the end of this section and complete Section 2.

如上述不適用，請在以下方格內加「✓」號，同時在本部份末簽署，然後繼續填妥第二部份。

1.3 I declare that I have one or more existing life insurance policies and in relation to my decision to buy new life insurance under the aforesaid proposal/application, I intend to stop premiums or significantly alter my existing policies.
本人聲明現持有一份或以上壽險保單。本人因決定購買前述的建議書/申請書的壽險保單，而打算對現有保單停止繳付保費或作出重大更改。

Date 日期 (D日/M月/Y年)

Signature by the Customer 客戶簽署

Declaration by the agent 代理聲明 :

This Customer Protection Declaration is presented and explained to the abovenamed customer by me at _____

(Location) on _____ (Date).
(D/M/Y)

本「客戶保障聲明書」於 _____ (日期) 在 _____ (地點) 由本人遞交予上述客戶，並向其解釋內容。

Date 日期 (D日/M月/Y年)

Signature by the Agent 代理簽署

SECTION 2 第二部份

If you have ticked 1.3 of Section 1, it is important that you understand the implications of any decision affecting your existing policies. The agent will help you with this and before you make such an important decision you should ask the agent to fully explain the following points:

請注意：如閣下在第一部份第1.3項加「✓」號，閣下必須明白有關決定對閣下現有保單的影響。在閣下作出這一重要決定前，代理將會協助閣下了解有關影響。閣下應要求代理詳細解釋以下各點：

2.1 Benefit Illustrations 利益說明

Illustrations of the benefits you will receive from your existing policies or from any replacements will help you assess the relative merits of the existing and suggested arrangements. However, such illustrations are not normally guaranteed and the actual outcome will depend on the future performance of the policies in question.

代理若能說明閣下現有保單或任何建議的轉保安排所獲得的利益，將有助閣下評估及比較兩者的優劣。但所說明的利益通常並非保證，實際利益視乎有關保單的投資回報而定。

Please tick the box which most accurately describes your understanding of the financial merits of the new arrangements.

請在以下適當方格內加「✓」號，以表明閣下了解新壽險保單的財務利益安排。

- | | |
|--|--|
| <input type="checkbox"/> real or potential disadvantage
有實在或潛在的不利影響 | <input type="checkbox"/> no disadvantage (the agent must comment below)
沒有不利影響（代理必須在下面空欄註釋） |
|--|--|

2.2 Insurability 可保性

If you effect new policies your state of health, occupation, recreational activities may be reviewed by the insurance company. You should be aware that if any significant change has occurred you may be denied some cover or be charged a premium higher than standard.

如閣下訂定新保單，保險公司將會審查閣下的健康狀況、職業和消遣。閣下應知道，若上述各項有重大改變，閣下可能得不到某些保障，或要付出較高的保費。

Please tick the box which most accurately describes your understanding of the insurability merits of the new arrangements.

請在以下適當方格內加「✓」號，以表明閣下了解新壽險保單的可保性利益安排。

- | | |
|--|--|
| <input type="checkbox"/> real or potential disadvantage
有實在或潛在的不利影響 | <input type="checkbox"/> no disadvantage (the agent must comment below)
沒有不利影響（代理必須在下面空欄註釋） |
|--|--|

2.3 Claims 索償

A new policy may have different policy provisions and also may result in a new start for incontestability and suicide clause time periods. This could result in a claim being denied that would have been paid under an existing policy.

新保單可能訂明不同的條款，而且亦可能導致「不得異議條款」及「自殺條款」的時限，須重新計算。因此，在現有保單下本可獲得的賠償，轉保後可能會被拒絕。

Please tick the box which most accurately describes your understanding of the claims eligibility merits of the new arrangements.

請在以下適當方格內加「✓」，以表明閣下了解新壽險保單的索償利益安排。

- | | |
|--|--|
| <input type="checkbox"/> real or potential disadvantage
有實在或潛在的不利影響 | <input type="checkbox"/> no disadvantage (the agent must comment below)
沒有不利影響（代理必須在下面空欄註釋） |
|--|--|

Comments by the Agent (If there is insufficient space, comments are to be made on a separate piece of paper which should be signed by the customer and the agent and attached to this Declaration.)

代理註釋（如有需要，可另附頁書寫，客戶和代理均須在附頁上簽署。）

Other Information 其他資料

Please state here any other information that you have been given by the agent which has affected your decision in regard to your existing policies. 如代理提供其他資料影響閣下就現有保單所作的決定，請在下面列出。

When you have completed Section 2, please sign the following declaration. 閣下填妥第二部份後，請簽署下述聲明。

I declare that I have read the contents of this section of the form and discussed them with the agent. I understand and accept the financial and other implications of changing my existing insurance arrangements.

本人聲明：本人已詳閱並與代理討論本部份的內容。本人了解及接受因轉保後所帶來的財務及其他影響。

I hereby authorize the selling office to give either the Hong Kong Federation of Insurers or other parties as required for proper administration of this Code of Practice a copy of this Customer Protection Declaration and any records or information in regard to the life insurance policy I have taken out by means of the proposal/application mentioned in this Declaration.

本人現授權營銷保險公司，就本人按本聲明書所述建議書／申請書而訂定的壽險保單，向香港保險業聯會或其他需執行本守則的保險公司提供本「客戶保障聲明書」副本及其他有關記錄或資料。

Date 日期 (D日/M月/Y年)

Signature by the Customer 客戶簽署

Declaration by the agent 代理聲明：

I declare that I have explained fully the above listed points and related implications of the decision of the customer in regard to the existing policies.

本人聲明：本人已向客戶詳釋上述所列各點，於轉保後所帶來的影響。

Date 日期 (D日/M月/Y年)

Signature by the Agent 代理簽署

INSTRUCTION TO AGENT

代理指引

1. This Customer Protection Declaration forms an important part of the Code of Practice for Life Insurance Replacement which is a key component of the Code of Practice for Administration of Insurance Agents.
本「客戶保障聲明書」是「壽險轉保守則」的重要部份，而後者則是「保險代理管理守則」的主要組成部份。
2. The whole process is to ensure those involved in selling life insurance act in good faith and at all times in the best interests of the client. It also serves to help protect the agent from subsequent allegation of mis-representation.
此項程序是要確保壽險銷售人員必須真實誠信，經常照顧客戶的最佳利益，並有助於保障代理，避免事後被指責錯誤陳述。
3. This Declaration shall be completed for each new individual life policy proposed/applied by a customer.
本聲明書須連同在客戶建議／申請每份新個人壽險保單時填妥。
4. It is comprised of three parts. The first part is for use of identification. Please fill in the full names of the customer and the agent as well as the proposal/application number which relates to this Declaration.
本聲明書有三部份。第一部份記錄個人資料，客戶及代理均須填寫姓名和保單的建議書／申請書編號。
5. Please ask the customer to complete Section 1 so as to identify whether a replacement of life insurance is to occur. The proposal will not be accepted unless one, and only one, of the boxes is ticked.
本聲明書第一部份由客戶填寫，以確定壽險轉保的情況有否出現。客戶須在適當方格內註「✓」號，建議書才生效。
6. The customer shall sign Section 1 and the agent shall countersign it and mark down the location and time the meeting is held.
客戶須在第一部份簽署，並由代理副署，及註明會面的地點及時間。
7. Section 2 shall be completed only if the customer has ticked 1.3 of Section 1.
如客戶在第一部份第1.3項註「✓」號，才須填寫第二部份。
8. The agent must fully explain and discuss with the customer any real or potential disadvantage of changing his/her existing insurance arrangements in relation to benefit, insurability and claims eligibility.
代理須向客戶詳釋及說明，轉保後對其利益、可保性和索償資格等安排可帶來的實在或潛在的不利影響。
9. The agent must provide comment whenever “no disadvantage” is ticked against any of the points listed.
如客戶在第二部份所列各點，選擇「沒有不利影響」，代理必須逐一註釋。
10. The agent shall advise the customer to record other information he is given which has affected the decision in regard to his existing policies.
代理須提示客戶記錄由代理提供的其他資料，該些資料可影響客戶對其轉保的決定。
11. The agent shall read and explain the declaration in Section 2 to the customer before the customer signs it.
在客戶簽署第二部份的聲明前，代理須向客戶讀出及解釋聲明的內容。
12. The agent shall also declare on the form that he has explained fully the implications of the decision of the customer in regard to his existing policies.
代理亦須在聲明書內聲明已向客戶詳釋轉保後所帶來的影響。
13. The Agent shall inform the customer that a copy of the Customer Protection Declaration will be attached to the policy when it is issued.
代理須通知客戶「客戶保障聲明書」副本將在保單簽發時隨保單奉上。
14. The Agent shall return the completed Customer Protection Declaration to the selling office together with the related proposal/application form.
代理須將填妥的「客戶保障聲明書」連同有關建議書／申請書交回營銷保險公司。

**Life Insurance Council of the Hong Kong Federation of Insurers
Code of Practice for Life Insurance Replacement
REPLACEMENT INQUIRY FORM**

To : _____

From : _____

Date : _____

Re : Name of Agent _____

ID Card No. _____

Actions taken by the policyholders listed below lead us to believe that the above agent may be twisting business from our account. Please send us all Customer Protection Declarations for policies sold to these clients by the agent since _____. If any of the CPDs show that “no disadvantage” was claimed in any part of Section 2, please also disclose the information in respect of the relevant policies, namely, policy number, date of issue, term, policy type and benefits illustration.

The Code of Practice for Life Insurance Replacement requires you to provide this information within 10 working days.

List of Policyholders

Name

ID Card No.

Signature

Name in Print