

CIB-GN(4)

(issued on 22 June 2007)

(revised on 8 April 2014, effective from 1 June 2014)

(further revised on 18 December 2014, effective from 1 January 2015)

Guidance Note on Conducting “Know Your Client” Procedures for Long Term Insurance Business (Including Linked Long Term Insurance)

According to Membership Regulation 3.5, the General Committee is issuing this Guidance Note on Conducting “Know Your Client” Procedures for Long Term Insurance Business (Including Linked Long Term Insurance).

Background

CIB Membership Regulation 14.7.2 requires our Members and their Chief Executives and Technical Representatives to use a suitable confidential questionnaire to conduct a “needs analysis” for prospective policyholders in the selling process of long term insurance business.

Prior to the incorporation of this requirement in the Membership Regulations on 10 October 2006, CIB promulgated this practice via General Circular back in October 2002 and provided a sample Confidential Questionnaire for adoption. The said Confidential Questionnaire was circulated again in September 2006 in response to a revision of the Needs Analysis Initiative by the Life Insurance Council of the Hong Kong Federation of Insurers. It was prescribed under this Guidance Note as a sample on 22 June 2007.

As from 1 November 2011, the CIB Regulations for Insurance Brokers Engaged in Advising on Linked Long Term Insurance or Arranging or Negotiating Policies of Linked Long Term Insurance has become effective.

Also as from 1 April 2012, the Guideline on Anti-Money Laundering and Counter-Terrorist Financing (“AML Guideline”) published by the Insurance Authority under section 7 of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance has become effective.

On 22 April 2013, the Life Insurance Council of the Hong Kong Federation of Insurers updated their Requirements Relating to the Sales of Investment Linked Assurance Scheme (“HKFI ILAS Requirements”) which has now been fully implemented.

This Guidance Note was revised on 8 April 2014, with effect from 1 June 2014 to align the guidelines with the aforesaid regulatory development. The revision has adopted a principles-based approach, to the effect that sample Confidential Questionnaire will no longer be provided for adoption.

On 30 July 2014, the Office of the Commissioner of Insurance issued its “Guidance Note on Underwriting Class C Business” (GN15). This GN15 is applicable to all authorized insurers underwriting Class C business, or commonly known as Investment Linked Assurance Scheme (“ILAS”). In early December 2014, the HKFI ILAS Requirements were enhanced accordingly. Whilst the spirit behind it is to ensure fair treatment of clients by the insurance industry at large, its Section 7 (Suitability Assessment) and Section 8 (Advice to Client) are of relevance to business conduct of insurance brokers.

As a result, this Guidance Note is further revised to reflect the additional requirements arising therefrom on the “Know Your Client” Procedures for Long Term Insurance Business (Including Linked Long Term Insurance). A separate and new Guidance Note is also issued to deal with the requirements on product recommendation afterwards. Members are asked to develop appropriate policies and procedures and supervise their business conduct in this regard and to provide adequate training to their registrants and staff members to ensure due observance of the revised requirements.

Record-keeping and Verification

1. Owing to the fact that insurance brokers are independent from insurers, Members should not wholly or substantially rely upon insurers in record-keeping and verification of clients' information.
2. Members should keep documentary records sufficient to demonstrate that the following procedures, i.e. the client identification (as well as the customer due diligence under the AML Guideline), the needs analysis, and if applicable the risk profile, have been followed satisfactorily.
3. Usually insurance brokers should first know the clients, then source from the market and recommend the insurance products that suit the needs of clients, that Members should develop, design and use their own forms or instruments to conduct the procedures. Members who use individual insurer's forms or instruments for this purpose instead shall expect to be asked of how they have conducted the due diligence on product recommendation.
4. If the clients are subsequently to apply for investment-linked insurance, this will inevitably result in their having to fill in similar information onto insurer's Financial Needs Analysis Form and Risk Profile Questionnaire ("RPQ") as per the HKFI ILAS Requirements, that Members should put in place appropriate control and procedures to ensure that the information in the two sets of documents is consistent with each other.
5. The forms or instruments for identification, needs analysis and/or risk profile if applicable may be either presented as separate documents or consolidated into one single document. In any case, Members should ensure that the forms or instruments should be properly completed, dated and signed by both the clients and the intermediary with his/her identity clearly disclosed.
6. Client's circumstances may change over time. Members should conduct the necessary procedures whenever appropriate to update the information on their record, in particular when the circumstances of the client are known to have changed significantly.
7. There may be cases where clients do not provide any or all parts of the information required in the forms or instruments. If a Member would continue to serve its client by arranging any contract of long term insurance, it may insert an appropriate warning statement to safeguard the Member's own interest.

Identification

8. Common personal particulars should be recorded, and whenever necessary verified, for identification purpose. They should include but not limited to: full name, date of birth, nationality, identity document type and number, residential address, and contact number(s).
9. When it is a trustee who will be the prospective applicant and/or the prospective policyholder, the identification procedures, as well as the procedures for the needs analysis (and if applicable those of the risk profile), should be conducted on the beneficiary owner.
10. In case of corporate clients, the AML Guideline asks that the following information should be obtained and verified: full name, date and place of incorporation, registration or incorporation number, registered office address and business address (if different).

Needs Analysis

11. Members should recognize the importance of the need to identify and understand the client's goals, needs, resources and priorities before they could come up with any suitable recommendations, that the Members should develop appropriate questions to find out such information of the client's circumstances.

12. In order to assess clients' needs, Members should ensure that they understand, among others, the clients':-
- 12.1 existing and potential financial commitments (and liabilities) arising from his/her family and marital status, and from his/her own aspirations (or lifestyle), including but not limited to the time horizon (e.g. target retirement age) and the magnitude of those financial commitments;
 - 12.2 income streams from his/her occupation, business, assets or others (e.g. spouse or child support or alimony), including but not limited to the reliability and magnitude of those income streams, client's age at policy inception and ability to afford the product including ability to pay regular premiums throughout a policy payment term;
 - 12.3 different financial needs, priorities and circumstances or requirements, at least in terms of insurance (or protection), saving, or investment.
13. Members should ensure that the financial information of the client to be collected would allow them to assess and to advise the client on his/her capability to commit to any new or additional long term insurance policy, i.e. on whether the client could afford to pay at the premium level for the full term of a regular-premium policy to be recommended, or whether the client could afford to set aside a lump sum of liquid assets for the specified term of a single-premium policy. Special attention should be given to clients who are dependent financially on other person or with an unstable income, e.g. dividends/interest of financial assets.
14. Members should include specific questions, where appropriate, asking for details of all existing long term insurance policy(ies) taken out by the client which is/are not matured, lapsed, or surrendered. In other words, information of any life or investment-linked insurance policies owned by the client that are in-force, paid-up, suspended or under premium holiday should be solicited from the client.

Risk Profile

15. This is related to giving advice on underlying funds or assets of the Linked Long Term Insurance policy. If clients are not going to consider any Linked Long Term Insurance, or they have concluded a written understanding with the Members that neither the Members nor their registrants would be required to advise on any underlying funds or assets of Linked Long Term Insurance policy, no risk profile procedures on the client is required to be conducted under this Guidance Note. This shall not however affect the requirements of completing insurers' RPQ under the HKFI ILAS Requirements at the time of applying for Linked Long Term Insurance policy by the client.
16. Clients' risk profile would usually include their (i) investment objectives, (ii) investment knowledge and experience, (iii) preferred investment horizon, (iv) risk attitude and appetite, and (v) risk tolerance or capacity. Members should develop and use appropriate risk profile questionnaires to understand and record the clients' risk profile in this regard, and the risk profile procedures should be conducted whenever appropriate to update the record, in particular when the circumstances of a client are known to have changed significantly.
17. Over time, clients' circumstances and risk profile may change, and so may the client's funds portfolio under each Linked Long Term Insurance policy. Members may or may not be aware of the changes in the funds portfolio, as some clients may switch funds on their own initiative or directly with the insurers, without consulting or informing Members and/or their registrants. When Members and/or their registrants are not involved in the fund selection, they are not duty-bound to alert clients of any mismatch between their risk level of the portfolios and risk profiles, but when such mismatch is identified when the risk profile procedures are conducted under point 16 above, Members and their registrants should serve a health warning to the clients of the mismatch.

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