

Ref : Mv141/09

By Fax & By Email

To : Authorized Representatives of Life Insurance Members

From : K Y To, Chairman of Life Insurance Council

Date : 13 November 2009

Subject : **Cooling-off Period**

LIC has been reviewing the Cooling-off Period for further enhancement of consumer protection. After consultation with the Insurance Authority, member companies and intermediary bodies, the LIC has finalized the review of the documents relating to Cooling-off Period. The cooling-off period has been revised to ***21 days after the delivery of the policy or issue of a Notice to the policyholder or the policyholder's representative, whichever is the earlier.***

To minimize dispute with policyholders, a new item 5 has been added in the documents:

"Insurers should keep a copy of the Notice or acknowledgement of receipt of Policy delivery. In case of a reasonable complaint or dispute, insurers will be required to produce evidence to show that the Policy notice or Policy has been delivered."

Members who do not issue notice and only deliver the policy to the policyholder or the policyholder's representative are recommended to keep good record of the delivery details.

The revised documents both in English and Chinese are attached as follows:

- a. Cooling-off Period;
- b. Appendix 1 – Scope of Cooling-off Rights;
- c. Appendix 2 – Wording Guidelines on Announcement of Cooling-off Rights on Application Form; and
- d. Appendix 3 - Wording Guidelines on Announcement of Cooling-off Rights with Policy Issue.

Please note that the original clause 2.5 of the Code of Practice for Life Insurance Replacement has been deleted because of the change, a revised copy is attached for ease of reference.

The implementation date of all the above revised documents must not be later than **1 February 2010**. Since some members may have to re-submit the documents of their ILAS products for authorization by SFC because of this change, we have sought clarification with the SFC on the relevant procedures/arrangements. For details, please refer to the "Frequently Asked Questions Relating to Investment-Linked Assurance Schemes" issued by the SFC via this link: <http://www.sfc.hk/sfc/html/EN/faqs/products/products.html> or contact the case officer.



KY/BF/sw

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THE HONG KONG FEDERATION OF INSURERS

CODE OF PRACTICE FOR LIFE INSURANCE REPLACEMENT

The following Process is intended to prevent the activity of those insurance agents/brokers who misinform or mislead clients into changing **existing individual life insurances** in a way which at the time of the change creates disadvantage to the clients. The assessment of the 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 clients. For the purpose of this Code, any reference to insurance agent(s)/broker(s) shall include the responsible officer(s)/chief executive(s) and technical representative(s).

1. Policy Replacement

1.1 Any transaction involving the purchase of life insurance is construed as a replacement if within 12 months before or after a new life insurance policy[#] ("New Policy") is effected:

- (a) an existing life insurance policy[#] ("Existing Policy") or a substantial part* of the sum insured of its basic life coverage:
 - (i) has lapsed/will lapse; or
 - (ii) was/will be surrendered; or
 - (iii) was/will be converted to reduced paid-up or extended-term insurance under the non-forfeiture provision of the policy;

or

- (b) a substantial part* of the guaranteed cash value of the Existing Policy was reduced/will be reduced including where a policy loan was/will be taken out against a substantial part* of the guaranteed cash value.

([#] *Life insurance policy includes all types of traditional life, annuity and other non-traditional policies.*)

(* *"a substantial part" means "50% or above".*.)

1.2 This list is not conclusive and may be expanded from time to time to include other forms of replacement. For the avoidance of doubt, internal replacement i.e. both the Existing and New Policies are issued by the same insurer, is covered by this Code. However, converting term life insurance to whole life insurance (or some forms of permanent life insurance) under policy provisions of the Existing Policy is **not** construed as a replacement.

2. Customer Protection Declaration Form

- 2.1 A Customer Protection Declaration ("CPD") Form (Appendix) must be completed before the client agrees or makes a decision in relation to the purchase of a New Policy. It is designed to:
- (a) discover any replacement being recommended and if so,
 - (b) ensure that the agent/broker has explained the important consequences; and
 - (c) ensure that the client fully understands the important consequences.
- 2.2 The agent/broker **must** help the client to complete the CPD Form and (if there is any replacement) **must** explain and discuss with the client the full implications of replacing the Existing Policy in relation to financial implications, insurability implications and claims eligibility implications of the replacement and other consideration as stipulated in, but not limited to, the CPD Form. Unless otherwise indicated, the agent/broker must give the reason(s) and/or justification wherever required in the CPD Form in writing as fully as possible.
- 2.3 The completion of the CPD Form will ensure that the client has been informed of the consequences/disadvantages of the recommended replacement or has been given an explanation and/or justification by the agent/broker. The completed CPD Form creates a record of such advice.
- 2.4 The original of the CPD Form shall be kept by the Selling Office and copies must be issued to:
- (a) the client together with the New Policy; and
 - (b) the insurer(s) of the Existing Policy(ies) replaced/to be replaced ("the Non-Selling Office(s)") within 7 business days of the issue date of the New Policy.

The above applies regardless of whether the policyholder of the New Policy is Hong Kong resident or not as long as the New Policy is reported as Hong Kong long term insurance business within the meaning of the Third Schedule to the Insurance Companies Ordinance (Chapter 41 of the Laws of Hong Kong) ("Ordinance").

For the purpose of 2.4(b), "Non-Selling Office" refers to an insurer who is authorized under Section 8 of the Ordinance to carry on long term business in or from Hong Kong.

- 2.5 The copy(ies) of the CPD Form shall be sent to the Authorized Representative(s) and/or a designated addressee/addressees of the Non-Selling Office(s) and can be delivered by post, courier, facsimile and/or emails.
- 2.6 The Selling Office shall maintain complete records of the dispatch of the CPD Form copies, including the original copy, dispatch dates and modes of delivery. These records may be required by the Insurance Agents Registration Board ("the IARB"), the self-regulatory broker bodies ("the Broker Bodies"), the Insurance Authority ("the IA") or the Life Insurance Council ("the LIC") of the HKFI in the process of investigation of a complaint.

- 2.7 In the cases of internal replacement, the insurer concerned should devise internal controls and measures to ensure it discharges its obligations both as the Selling Office and the Non-Selling Office under this Code.

3. Identifying Twisting

- 3.1 Twisting is the making of inaccurate or misleading statements or comparisons to induce a policyholder to replace Existing Policy with other life insurance policy to the policyholder's disadvantage.

Client Initiated

- 3.2 The client may complain about suspected twisting. Any such complaint received by the HKFI 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 or actual incident of twisting (see 3.3 – 3.5). The Selling Office must also write to the client to acknowledge receipt of the complaint and commit to notify the client, within 30 days of receipt, the findings and any suggested arrangements.

Selling Office Initiated

- 3.3 The Selling Office has a duty to control the activities of its sales force. The office must therefore review its internal controls and the CPD Forms to ensure that its agents/the brokers are complying with the Process.
- 3.4 If during the review the office discovers cases of suspected twisting, or has evidence to substantiate that existing policyholders may have suffered because of twisting by its agent(s)/the broker(s), the office must investigate those cases and take action. If twisting has occurred, actions listed in 3.7 and 3.8 below should be taken as appropriate.
- 3.5 The office must recognize that the CPD Form will form an important part of any investigation that may arise and should therefore insist upon and provide training to help its agents to get familiar with the contents of the CPD Form and give explanation and/or justification as fully as possible as required in the CPD Form.

Non-Selling Office Initiated

- 3.6 If an office has evidence to substantiate that existing or ex-policyholders have suffered because of twisting by agent(s) of other office(s)/broker(s), it must investigate. If twisting has occurred, actions listed in 3.7 and 3.8 below should be taken as appropriate.

Actions to be Taken

- 3.7 Once twisting is identified as likely to have occurred, the offices concerned should attempt to reach agreement. This imposes an obligation on the offices to keep the client's interest foremost. The client should be kept informed of any material facts or arrangement which may affect his/her interest. Agreement must be reached speedily within a period of 30 days after the identification of the twisting and any follow up actions or arrangement affecting the interest of the policyholder shall be completed within 45 days, i.e. the next 15 days.

3.8 If it is agreed that twisting has occurred:

- (a) The Selling Office must immediately:-
 - (i) report the agent to the IARB or the broker to the Broker Bodies/the IA as appropriate;
 - (ii) suspend the agent from selling any further new life business or suspend accepting any further new life business sold by the broker's chief executive/technical representative who did the twisting;
 - (iii) claw back the commission paid on the case(s) in question; and
 - (iv) write to the client and inform him/her that:-
 - he/she may have been sold policy unprofessionally;
 - in view of this he/she may wish to end the arrangements and reinstate the Existing Policy(ies);
 - he/she has the right to request the return of all paid premium on the New Policy;
 - he/she should make a decision within 30 days; and
 - the selling agent has been suspended and has no further authority to represent the Selling Office to sell new life business, or the Selling Office has suspended accepting any further new life business sold by the broker's chief executive/technical representative who did the twisting.
- (b) The Non-Selling Office should arrange terms for reinstatement of the policies that have been twisted, if the client so wishes. These terms should, to the maximum extent possible, allow the client to return to the same position as if the policy(ies) had never been twisted. Nevertheless, the Non-Selling Office should not be responsible for any payment of claims that occurred during the period that the Existing Policy is surrendered or lapsed as a result of policy replacement. The Selling Office should be responsible for the claim subject to the terms and conditions of the New Policy.

3.9 If offices cannot agree that twisting has occurred, then the complaining client or office can refer the complaint to the IARB, the Broker Bodies or the IA as appropriate which will rule. If it is concluded that twisting has occurred, in addition to deciding on the appropriate disciplinary action against the agent/broker, the IARB, the Broker Bodies or the IA as appropriate would also advise the complainant accordingly of his/her right to reinstate his/her Existing Policy(ies) and request the return of all paid premium on the New Policy.

4. Role of the LIC

4.1 The LIC will review this Code from time to time having regard to experience of its operation and developments in the insurance market.

4.2 If the LIC finds that an insurer has not complied with the Process, it will:

- (a) seek cooperation from the office(s) concerned;
- (b) endeavour to mediate among all parties concerned; and/or
- (c) refer the case to the IA if there is concrete evidence showing non-compliance.

~ End ~

CUSTOMER PROTECTION DECLARATION FORM



香港保險業聯會
The Hong Kong Federation of Insurers

IMPORTANT DOCUMENT! PLEASE STUDY CAREFULLY BEFORE SIGNING!

This is an **IMPORTANT PART** of the Code of Practice for Life Insurance Replacement ("Code") and the Minimum Requirements as specified by the Insurance Authority under the Insurance Companies Ordinance ("Minimum Requirements") but does not form part of the application/proposal. Please refer to the Explanatory Notes before completing this Form.

Name of the Insurer of the New Life Insurance Policy : _____

Application/Proposal Number : _____

Name of Applicant/Proposer : _____

HKID Card/Passport No. of Applicant/Proposer : _____

SECTION A

1. a) **Have you replaced*** in the past 12 months any or a substantial part of your existing life insurance policy(ies) with the above application/proposal?

☐ Yes (Please go to Section B) ☐ No (Please answer question b below)

- b) **Do you intend to replace** in the next 12 months any or a substantial part of your existing life insurance policy(ies) with the above application/proposal?

☐ Yes (Please go to Section B) ☐ No (Please read carefully and sign the Declaration in this Section only)

Declaration by the Applicant/Proposer :

I realize if I answer "No" to both questions above but indeed,

- i) **the above-mentioned application/proposal has replaced any or a substantial part of my existing life insurance policy(ies) in the past 12 months; or**
ii) **my current intention is to replace any or a substantial part of my existing life insurance policy(ies) within the next 12 months by the above-mentioned application/proposal,**

I may jeopardize my future right of redress if I find later that I have been disadvantaged because of such replacement.

I hereby authorize the Insurer of the new life insurance policy to give the Insurance Agents Registration Board, the Hong Kong Confederation of Insurance Brokers, the Professional Insurance Brokers Association, the Insurance Authority, the Hong Kong Federation of Insurers, the insurer(s) of the life insurance policy(ies) that is/are being or has/have been replaced (if applicable) or other parties, as required for proper administration/implementation/execution of the Code and the Minimum Requirements, a copy of this Form and any related records or information.

Signature of the Applicant/Proposer

Date (D / M / Y)

* Notes: Please refer to clause C of the Explanatory Notes for the definition of "Replacement".

SECTION B

Attention: A policyholder would usually suffer losses if he/she chooses to replace his/her existing life insurance policy(ies), especially within the first few years of the policy term. The intent of this Form is to ensure that the Agent/Broker has already explained to you in detail any real and potential disadvantages in replacing your existing life insurance policy(ies). You are advised to study the pamphlet titled "Life Insurance Policy Replacement – What you need to know" issued by the Insurance Authority and provided by the Agent/Broker before you complete this Form.

The Agent/Broker shall explain to you the full implications of replacing your existing life insurance policy(ies) with the new life insurance policy.

The Agent/Broker **MUST HELP YOU** complete all items below and tick where appropriate.

Please write down the life insurance policy(ies) replaced/to be replaced and complete items 2 to 6 :

Name of insurer(s) : _____

Policy Number(s) : _____

You are strongly advised :

- a) To consult the insurer(s) of your existing life insurance policy(ies) for further information (**please note that this Form will be copied to the insurer(s) of your existing life insurance policy(ies) you indicate above**);
- b) **NOT** to cancel your existing life insurance policy(ies) until the new life insurance policy is issued; and
- c) To use **additional blank paper(s)** if the space provided in this Form for answer is not enough, but remember to sign and ask the Agent/Broker to sign on the additional paper(s).

2. Financial implications of the replacement :

a) You could be paying the policy set-up cost TWICE – the set-up cost is usually two years premiums or 10% of single premium of the basic life insurance policy replaced/to be replaced (This is for reference only; the Agent/Broker should advise you of the estimated loss for this replacement).	Estimated Loss HK\$: _____ If no loss or if estimated loss is less than two years premiums or 10% of single premium of the basic life insurance policy replaced/to be replaced, please give reason and justification : _____ _____ _____
b) You may have to pay HIGHER premiums under the new life insurance policy because you are older.	Will the annualized premiums be HIGHER under the new life insurance policy for the same sum insured? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, please give reason : _____ _____ _____
c) The projection of future values of the new life insurance policy may be higher than the existing life insurance policy(ies), but the projected values in most cases depend on the performance of the insurers and may NOT be guaranteed.	Guaranteed Cash Values on the policy anniversary dates immediately after age 65 (if one of the policies or all policies mature(s) before age 65, please fill in the Guaranteed Cash Values on the policy anniversary dates of each policy in the earliest maturity year) : On the policy anniversary date of the calendar year of _____ , Guaranteed Cash Value(s) of the existing life insurance policy(ies) HK\$: _____ On the policy anniversary date of the year indicated above, the Guaranteed Cash Value of the new life insurance policy HK\$: _____ _____

3. Insurability implications of the replacement :

Some coverage may be denied or a higher premium may be charged due to changes in : a) health conditions; b) occupation; c) lifestyle/habit, e.g. smoking/drinking; or d) recreational activities, e.g. hazardous sports, etc.	Has the Agent/Broker explained to you the implication(s) of changes in each of the conditions listed on the left-hand side in this replacement? a) <input type="checkbox"/> Yes <input type="checkbox"/> No b) <input type="checkbox"/> Yes <input type="checkbox"/> No c) <input type="checkbox"/> Yes <input type="checkbox"/> No d) <input type="checkbox"/> Yes <input type="checkbox"/> No
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4. Claims eligibility implications of the replacement :

a) The benefits under a life insurance policy may not be payable if the life insured commits suicide within a certain period of the policy's issue date. Your	a) Period in the "Suicide Clause" expires on : Existing life insurance policy(ies) : _____
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<p>new life insurance policy may restart the period in the "suicide clause".</p>	<p>(D / M / Y)</p> <p>New life insurance policy :</p> <p>Number of months from the new policy's issue date</p>
<p>b) The benefits under a life insurance policy may not be payable if information on the application was incomplete. The benefits under your existing life insurance policy(ies) will be payable, in the absence of fraud, if this incomplete information is not discovered within the "contestability period" (usually two years). Your new life insurance policy may restart the "contestability period".</p>	<p>b) "Contestability period" expires on : Existing life insurance policy(ies) :</p> <p>(D / M / Y)</p> <p>New life insurance policy :</p> <p>Number of months from the new policy's issue date</p>
<p>c) Where replacement including twisting of life insurance policy has occurred and you opt for reinstatement of your policy by the Non-selling office, the benefits under your existing life insurance policy(ies), once surrendered or lapsed, will NOT be payable for any claims arising thereafter; and the benefits under the new life insurance policy will be payable subject to the terms and conditions of the new life insurance policy.</p>	<p>c) Has the Agent/Broker explained to you the implications of this replacement for claims payment, if any, as indicated on the left-hand side?</p> <p style="text-align: center;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p>
<p>5. Other considerations :</p>	
<p>a) List riders/supplementary benefits you have under the existing life insurance policy(ies) but will not have under the new life insurance policy.</p>	<p>_____</p> <p>_____</p>
<p>b) List reasons why the new life insurance policy is more suitable for your needs and objectives.</p>	<p>_____</p> <p>_____</p>
<p>c) Have you been advised by the Agent/Broker of any alternatives to replacing the existing life insurance policy(ies)?</p>	<p style="text-align: center;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p>
<p>6. Declaration by the Applicant/Proposer :</p>	
<p>I declare that I have read and discussed the relevant item(s) of this Form with the Agent/Broker. I understand and accept the financial and other implications of changing my existing insurance arrangement as explained by the Agent/Broker.</p> <p>I also declare that I have received a copy of the pamphlet titled, "Life Insurance Policy Replacement – What you need to know", issued by the Insurance Authority.</p> <p>I realize if I have not fully understood this Form, in signing this Declaration I may jeopardize my future rights of redress if I find later that I have been disadvantaged because of this replacement.</p> <p>I hereby authorize the Insurer of the new life insurance policy to give the Insurance Agents Registration Board, the Hong Kong Confederation of Insurance Brokers, the Professional Insurance Brokers Association, the Insurance Authority, the Hong Kong Federation of Insurers, the insurer(s) of the life insurance policy(ies) that is/are being or has/have been replaced or other parties, as required for proper administration/implementation/execution of the Code and the Minimum Requirements, a copy of this Form and any related records or information.</p> <p style="text-align: center;">(Warning :</p> <p style="margin-left: 40px;">a. You must read all items carefully and check that the Agent/Broker has completed with you all the information on this Form before you sign your name here.</p> <p style="margin-left: 40px;">b. Please do not sign a blank Form or leave any space blank.)</p> <p>Signature of the Applicant/Proposer _____</p> <p>Date (D / M / Y) _____</p>	
<p>7. Declaration by the Agent/Broker :</p> <p>I declare that I have explained fully the above listed items and the related implications of the decision of the Applicant/Proposer in regard to replacing the existing life insurance policy(ies), and have not made any inaccurate or misleading statements or comparisons nor withheld any information which may affect the decision of the Applicant/Proposer.</p> <p>Signature of the Agent/Broker _____</p> <p>Agent/Broker's name in full _____</p> <p>Insurance Agent/Broker Reg. No. _____</p> <p>Date (D / M / Y) _____</p>	