

Practice Note supplementing Standard and Practice 5.4 of the Code of Conduct for Licensed Insurance Brokers in relation to Client Agreements which a Licensed Insurance Broker Company enters into with a client for Linked Long Term Business

A. Introduction

1. Standard and Practice 5.4(a) of the Code of Conduct for Licensed Insurance Brokers (“Code of Conduct”) provides that a licensed insurance broker company should enter into an agreement with a client, setting out in writing the terms and conditions of business on which the licensed insurance broker will carry on regulated activities for the client, referred to in the Code of Conduct as a “client agreement”.
2. This Practice Note supplements Standard and Practice 5.4(a) of the Code of Conduct by setting out information which the Insurance Authority (“IA”) would expect a licensed insurance broker company (for the purpose of Standard and Practice 5.4(a)) to include, at minimum, in the terms and conditions of its client agreement where the insurance policy which the client is seeking to enter into is linked long term business, more commonly known as an Investment-linked Assurance Scheme (“ILAS”). “Linked long term business” refers to contracts of insurance in Class C (Linked long term) of Part 2 of Schedule 1 to the Insurance Ordinance (Cap. 41). In this Practice Note, a reference to an “ILAS policy” is to a contract of insurance within the definition of “linked long term business”.
3. This Practice Note does 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 this Practice Note from time to time. Unless otherwise specified, words and expressions used in this Practice Note shall have the same meanings as given to them in the Code of Conduct.

B. Content of Client Agreement for Linked Long Term Business

A client agreement for an ILAS policy should include at minimum the following information in its terms and conditions:

1. Full name and address of the client

The full name of the client should be identical to the one appearing in any government official document (e.g. passport, Hong Kong identity card or business registration certificate etc.).

2. Full name and address of the licensed insurance broker company

The full name and licence number of the licensed insurance broker company should be shown.

3. Description of nature of business and services to be provided by the licensed insurance broker company

The client agreement should set out a description of the business and services to be provided by the licensed insurance broker company and this should include the following matters:

- (a) a statement that the licensed insurance broker company acts as the agent of the client;
- (b) the duties and authorities of the licensed insurance broker company in relation to negotiating and arranging any ILAS policy on behalf of the client and providing advice to the client in relation to the policy;
- (c) whether any advice on underlying funds (i.e. those funds or assets to which the value of an ILAS policy is linked) and on choosing or managing investment choices under an ILAS policy is to be provided; and
- (d) whether any regular reviews of the relevant ILAS policy and its underlying investment choices are to be performed and, if so, the extent and frequency of such reviews.

Where the licensed insurance broker company intends to provide services other than in its capacity as a licensed insurance broker (“non-broking services”) in addition to services relating to any ILAS policy and the terms and conditions for those non-broking services are to be included in the same client agreement, the terms and conditions relating to the non-broking services should be stated under different sections which are separate from that for the services relating to any ILAS policy in the client agreement.

4. Remuneration

The client agreement should set out a statement as to how the licensed insurance broker company is being remunerated, i.e. by payment from the client or by payment from the insurer.

If the remuneration is from the client, details should be stated in the client agreement. If the remuneration is from the insurer, in addition to a statement as to how the licensed insurance broker company is being remunerated being included in the client agreement, disclosure of the remuneration should also be made by making reference to the “Practice Note supplementing Standard and Practice 7.1 of the Code of Conduct for Licensed Insurance Brokers in relation to Disclosure Requirements for Remuneration received by a Licensed Insurance Broker Company from an Insurer” and the Important Facts Statement and Applicant’s Declarations (see GL 26 Guideline on Sale of Investment-Linked Assurance Scheme (“ILAS”) Products).

5. Client servicing representative

The client agreement should state:

- (a) The full name and licence number of the licensed technical representative (broker) responsible for negotiating, arranging and providing advice to the client in relation to the ILAS policy; and
- (b) the duties and authorities of the licensed technical representative (broker).

6. Notification

The client agreement should include terms requiring the licensed insurance broker company and client to notify each other in writing of any changes to the information as specified in items 1 to 5 above without the need to execute a new client agreement.

7. Amendment to and termination of client agreement

The client agreement should include provisions in relation to amendments to and termination of the client agreement, which should also address the scenario where the licensed insurance broker company ceases to be licensed.

8. Governing Law

The governing law of the client agreement should be Hong Kong law. The client agreement should also include a jurisdiction clause which selects the jurisdiction in which disputes under or arising in relation to the client agreement shall be decided (e.g. exclusive jurisdiction of the Hong Kong courts).