

31 August 2021

Our Ref: INS/TEC/6/96
By Email Only

To: Chief Executives of authorized insurers carrying on long term business and responsible officers of licensed insurance broker companies and licensed insurance agencies carrying on regulated activities in relation to long term business

Dear Sirs,

Class C (Linked Long Term) Product with Open Architecture (“OA ILAS Products”)

As you are probably aware, there has recently been an incident involving the default of an investment fund which was unauthorized in Hong Kong, being an investment to which a Class C (linked long term) Product with open architecture was linked (“OA ILAS products”). Such OA ILAS products are restricted for professional investors (“PI”) (as defined under the Securities and Futures Ordinance).

To further strengthen policyholder protection, the Insurance Authority (“IA”) sees the need to update its Interpretation Notes (“IN”) relating to the Guideline on Sale of Investment-Linked Assurance Scheme (“ILAS”) Products (“GL26”) and attaches herewith new Q&As to be added to the IN for this purpose. These new Q&As aim to:

- ensure that the licensed insurance intermediaries selling OA ILAS products possess the necessary knowledge and expertise to assess whether a potential customer is a PI (Q&A 31A);
- provide guidance on the analysis and due diligence which should be performed to establish the objectives of the customer in seeking to procure an OA ILAS product and that the proposed product meets those objectives (Q&A 32A);
- avoid OA ILAS products from being used as a vehicle for investments with less governance or regulation to be marketed in Hong Kong (Q&A 32B and 32C on investment and on-boarding);
- ensure customers’ awareness of risks associated with investments made under such OA ILAS products (Q&A 32D on risk disclosure);
- provide guidance in complying with the relevant requirements (Q&A 32E on governance and controls); and

/.....

- provide a transitional period till **30 June 2022** for necessary operational and system changes to be completed to comply with the new relevant requirements (Q&A 34 on implementation transition).

The above requirements have been prepared in consultation with the relevant stakeholders.

Please note that the IA will take into account compliance with the Q&As in the IN when considering compliance with the requirements in GL26. Whilst GL26 does not have the force of law, in the sense that it is not subsidiary legislation and should not be interpreted in a way that would override any provision of law, a non-compliance with its requirements may reflect on the IA's view of the continued fitness and properness of (i) the directors, controllers and key persons in relevant control functions of authorized insurers to which GL26 applies; and (ii) the licensed insurance intermediaries to which GL26 applies and (in the case of licensed insurance broker companies and licensed insurance agencies) their directors, controllers, and responsible officers. The IA may also take guidance from GL26 in considering whether there has been an act or omission likely to be prejudicial to the interests of policyholders or potential policyholders (albeit the IA will always take account of the full context, facts and impact of any matter before it in this respect).

A copy of the newly added Q&As in the IN is attached to this circular. The full set of the Q&As of the updated IN can be downloaded from the website of the IA.

Should you have any questions to this circular, please contact your case officers.

Yours faithfully,

Carol Hui
Executive Director
Long Term Business Division
Insurance Authority

Encl.

c.c. The Hong Kong Federation of Insurers
The Hong Kong Confederation of Insurance Brokers
Professional Insurance Brokers Association
Securities and Futures Commission
Hong Kong Monetary Authority