

Insurance Authority (“IA”) Circular providing interpretation notes (“Circular”) relating to the Guideline on Sale of Investment-Linked Assurance Scheme (“ILAS”) Products

The Insurance Authority (“IA”) issues this Circular with the aim of providing further guidance to authorized insurers and licensed insurance intermediaries in respect of the sale process of ILAS products under the Guideline on Sale of Investment-Linked Assurance Scheme (“ILAS”) Products (GL26) (the “Guideline”).

This Circular is not intended to be a comprehensive guide and does not constitute legal advice. Authorized insurers and licensed insurance intermediaries are advised to seek professional legal advice if they have any questions relating to the application or interpretation of the relevant provisions of the Guideline.

This Circular 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 Circular from time to time. Unless otherwise specified, words and expressions in this Circular shall have the same meanings as given to them in the Guideline.

General Questions		
Q	1	Paragraph 1.2 of the Guideline specifies that ILAS products are long term contracts of insurance which provide both life insurance protection and investment options. What are the requirement(s) of life insurance protection for ILAS products?
A	1	ILAS products should bring insurance value to customers. At a minimum, therefore, ILAS products should provide a death benefit of at least 105% of the account value of the contracts except annuity policies written under linked long term business which are at the phase of annuitization. Of course, authorized insurers may (and are encouraged to) provide additional insurance benefits beyond this minimum level.
Q	2	Paragraph 4.1 of the Guideline specifies that customers should be given adequate opportunity to consider the risks, key features and the fees and charges structure of the ILAS product (including those of the underlying investment choices) before deciding to purchase the product. What matters should an authorized insurer and licensed insurance intermediary focus on to achieve this?
A	2	Both authorized insurers and licensed insurance intermediaries should provide sufficient time and resources for customers to understand the risks, key features and the fees and charges structure of the ILAS product (including those of the underlying investment choices). Presentation of information should be clear and easily understandable. They should allow customers to contact them for any questions before purchasing the ILAS products. Authorized insurers and licensed insurance intermediaries should also alert customers about their cooling-off rights.
Q	3	Paragraph 4.2 of the Guideline sets out the steps in the sale process of an ILAS product in order to achieve the objectives of the Guideline. Can an authorized insurer and licensed insurance intermediary use digital devices in the sale process?

A	3	The Guideline does not mandate the use of any particular medium (i.e. paper-based application, etc.) in the sale process. As such, authorized insurers and licensed insurance intermediaries may use digital devices in the sale process provided the objectives of the Guideline are achieved and the standards and practices stated in the Guideline are followed. Where signatures are required, digital signatures or other similar signature verification technology are permitted.
Q	4	Paragraph 4.2(i) of the Guideline refers “unusual” features of an ILAS product and requires licensed insurance intermediaries to take additional care when explaining the unusual features at the point-of-sale. What are the “unusual” features of an ILAS product? Are there any specific requirements on the extent of “additional care” to be taken?
A	4	<p>Whether or not a relevant feature(s) is “unusual” should be assessed from the point of view of the customer looking to purchase the ILAS product. As such, it would generally depend on the knowledge and experience of a particular customer, which the licensed insurance intermediary should ascertain during the Risk Profile Questionnaire (“RPQ”) process. Paragraph 4.2(i) references certain types of product features which may be considered “unusual” for guidance, but this list should not be considered as prescriptive or exhaustive.</p> <p>Licensed insurance intermediaries are required to identify and explain the unusual features (in respect of the ILAS product(s) being recommended by the licensed insurance intermediaries) to customers for their understanding. As stated in paragraph 4.3 of the Guideline, authorized insurers, licensed insurance agencies and licensed insurance broker companies are required to put in place an effective operational control mechanism and provide appropriate and regular training to licensed insurance intermediaries and staff, where appropriate, to ensure that the process as set out in this Guideline is duly completed. The relevant operational control mechanism and training should cover the above requirement(s) relating to the unusual features.</p>
		<u>The RPQ Process</u>
Q	5	Paragraph 6.3 of the Guideline states that authorized insurers, licensed insurance agencies and licensed insurance broker companies may develop their own form of RPQ, subject to such RPQ conforming with the objectives, standards and practices in the Guideline. Are there any specific requirements as to the format of and questions that should be included in the RPQ?
A	5	<p>As stated in paragraph 6.1 of the Guideline, the objective of the RPQ process is for an assessment of a customer’s investment risk appetite to be made, and to determine if a particular ILAS product and its underlying investment choices are suitable for the customer, before making a recommendation. Given this objective, the RPQ:</p> <ul style="list-style-type: none"> • may be either presented as a separate form, or included as a section within another point-of-sale document such as the application form; • must be clearly identified with the name of “Risk Profile Questionnaire” or other appropriate set of words that clearly conveys its purpose; and

		<ul style="list-style-type: none"> • must be completed for suitability assessment purposes, before any recommendation of an ILAS product is made to the customer. <p>As stated in paragraph 6.2 of the Guideline, the form of the RPQ should include, as a minimum, questions covering the following areas:</p> <ul style="list-style-type: none"> (a) investment objectives; (b) preferred investment horizon; (c) risk tolerance; (d) financial circumstances; and (e) knowledge (including investment knowledge in derivatives) and experience (including experience in investment and the period of such experience). <p>Licensed insurance intermediaries should assess the customer’s investment knowledge in derivatives before recommending an ILAS product to the customer.</p> <p>In assessing the customer’s investment knowledge in derivatives, licensed insurance intermediaries are required to make appropriate enquiries of and gather relevant information about customers during the RPQ process so as to enable such assessment to be made. Prior trading experience by customers in derivative funds or in selecting derivative funds as underlying investment choice(s)¹ (whether or not such investment choice(s) were made under an insurance product) can be regarded as one of the criteria for assessing investment knowledge in derivatives.</p> <p>If an authorized insurer, a licensed insurance agency or a licensed insurance broker company modifies its RPQ, any such modification must be justifiable on the basis that, (i) the substantive meaning of the information as stated above is retained in spite of the modification; (ii) in spite of the modification, the principle of “fair customer treatment” and the objective of the RPQ in paragraph 6.1 of the Guideline continue to be satisfied; and (iii) the reason(s) for such modification must be documented. Any documentation or record relating to the modification to the RPQ will be subject to the IA’s inspection/review as the IA considers appropriate.</p>
Q	6	Further to Q&A 5, please clarify what should be done in a situation where, in the case of application of a base plan or a top-up investment to an existing ILAS policy, the information collected in the RPQ process by the licensed insurance intermediary is insufficient for an assessment of a customer’s investment risk appetite by the authorized insurer.
A	6	This situation may arise, for example, where the licensed insurance intermediary has used his/her own RPQ form for a customer’s base plan application or top-up investment application, and the form does not exactly align with the RPQ form of the authorized insurer to assess a customer’s investment risk appetite. Given that such ultimate responsibility lies with authorized insurers, in this situation the authorized insurer may either require, via the licensed insurance intermediary, that

¹ This refers to where the customer has either invested in derivative funds before or, for example, selected a derivative fund as a linked investment for an ILAS product which the customer has previously purchased. “Derivative fund” is a fund which is classified as a derivative fund by the Securities and Futures Commission (“SFC”) (currently, a fund with a net derivative exposure of more than 50% of its net asset value under the SFC’s Code on Unit Trusts and Mutual Funds).

		additional information to be provided by the customer, or that the customer complete the authorized insurer's own RPQ form.
Q	7	What is the extent and granularity of the information that should be collected in the RPQ?
A	7	The extent and granularity of the information to be collected in the RPQ may vary depending on the particular circumstances of the target customers and the mode of operation of the distribution channel. In any event, the objective of the RPQ process is for an assessment to be made of a customer's investment risk appetite, and to determine if a particular ILAS product and its underlying investment choices are suitable for the customer, before making a recommendation. The extent and granularity of the information collected should be benchmarked against achieving this objective.
Q	8	What is the validity period of a completed and signed RPQ form?
A	8	A completed and signed RPQ form is valid for 12 months from the date the customer signs it. The customer should be reminded to inform the relevant authorized insurer or the licensed insurance intermediary of any material changes to the information provided during the RPQ process. For the avoidance of doubt, the requirements as set out in paragraph 4.2(e) of the Guideline are also applicable to applications for new base plan(s).
Q	9	Referring to paragraph 4.2(e) of the Guideline, what are the requirement(s) of the RPQ process if a customer purchases a top-up investment from the same authorized insurer or via the same licensed insurance intermediary within 12 months from the completion of the previous RPQ process (in relation to applications for base plan or top-up)?
A	9	<p>In the event that a customer purchases a top-up investment from the same authorized insurer or via the same licensed insurance intermediary within 12 months from the completion of the RPQ process for a previous purchase, the authorized insurer or the licensed insurance intermediary may rely on the information provided in the previous RPQ form provided that the customer confirms, for example, in writing that there have been no material changes in the circumstances to the customer's situation since its completion.</p> <p>Whenever any material change to the information is brought to the authorized insurer's or licensed insurance intermediary's attention, then the authorized insurer or licensed insurance intermediary should ask the customer to complete an updated RPQ for the purpose of assessing the suitability of the top-up investment which the customer purchases. For the avoidance of doubt, top-up investment does not include contractual increases due to indexation.</p>
		<u>IFS, Applicant's Declarations and Remuneration Disclosure</u>
Q	10	What should the presentation format of an Important Facts Statement ("IFS") and Applicant's Declarations be?

A	10	An IFS together with Applicant’s Declarations may be either presented as a separate form, or included as a section within another point-of-sale document such as the application form. In any event, it must be clearly identified as an “Important Facts Statement” and “Applicant’s Declarations” or an appropriate set of words that clearly conveys this purpose.
Q	11	Does the IA have a template for an IFS and Applicant’s Declarations as referenced in paragraph 7.3 of the Guideline? Please clarify the requirement(s) on the customer’s reasons/ considerations for procuring the ILAS policy as set out in paragraph 1 “Statement of Purpose” of the IFS.
A	11	Yes, the template can be found in Appendix 1 . Customer’s reasons/considerations should duly reflect the requirements as set out in paragraph 1.2 of the Guideline, i.e. ILAS products are long term contracts of insurance which provide both life insurance protection and investment options, under paragraph 1 “Statement of Purpose” of the IFS.
Q	12	Paragraph 7.1 of the Guideline indicates that one of the objectives of the IFS/Applicant’s Declarations is to provide disclosure of the licensed insurance intermediaries’ remuneration to the customer. What information on remuneration should be disclosed?
A	12	Authorized insurers are required to calculate and disclose in a fair and consistent manner the “all-year-average” remuneration payable to licensed insurance intermediaries based on the calculation methodology and disclosure format as set out in the Licensed Insurance Intermediaries’ Remuneration Disclosure – Guide on Calculation Methodology and Disclosure Format at Appendix 2 . The IFS must also expressly state that customers may ask their licensed insurance intermediaries for more details in respect of the remuneration information given. Reference should also be made to paragraph 7.6 of the Guideline with regards to the approach that should be formulated in handling such requests/enquiries from customers on remuneration.
Q	13	Can authorized insurers modify the IFS/Applicant’s Declarations and, if so, under what circumstance(s) may they make such modifications?
A	13	The template for the IFS/Applicant’s Declarations has been formulated with the aim of achieving the objectives in relation to these processes stated in paragraph 7.1 of the Guideline. Any modification must only be made if these objectives continue to be achieved in spite of the modification. For this purpose, if modification is contemplated, the following approach should be used. The “Statement of Purpose” must remain free format (i.e. no options should be pre-set as default options). Authorized insurers may make other necessary modifications on the IFS/Applicant’s Declarations with due regard to the features and risks of their ILAS products. Any such modification must be justifiable on the basis that, (i) the substantive meaning of the information (in Appendix 1) is retained in spite of the modification; (ii) in spite of the modification, the principle of “fair customer treatment” and the objectives in paragraph 7.1 of the Guideline continue to be satisfied, and (iii) the reason(s) for such modification must be

		documented. Any documentation or record relating to the modification to the IFS will be subject to the IA’s inspection/review as the IA considers appropriate.
Q	14	Please clarify the requirement(s) on the presentation of information for ILAS products in the IFS, in particular for those with complex charging and tenure-specific structures.
A	14	<p>Authorized insurers are required to ensure that information contained in the IFS for their ILAS products are accurate, in plain language and in legible font size which can be easily understood and read by the average customer. Disclosure on fees and charges in the IFS should provide customers with a clear picture of the overall impact of all fees and charges on the ILAS product.</p> <p>For ILAS products with complex charging and tenure-specific structures, authorized insurers may provide the information in a table format in which all charges throughout the entire tenure are set out. Where an “all encompassing” table is used to show all tenure-specific charges, authorized insurers or licensed insurance intermediaries are required to highlight the specific charges that apply to the period which are applicable to the customer and delete inapplicable charges, as appropriate.</p>
Q	15	Please clarify whether the contents of an IFS may be varied for ILAS products that are distributed through different distribution channels.
A	15	The template in Appendix 1 incorporates certain wordings which should be used where the licensed insurance intermediary is a licensed insurance broker. Authorized insurers and licensed insurance intermediaries should also observe the relevant requirements imposed by the Hong Kong Monetary Authority from time to time with respect to the bancassurance channel, including its specific requirements in relation to the IFS.
Q	16	Paragraph 4.2(g) of the Guideline requires that the IFS/Applicant’s Declarations must be completed for top-up applications. Are there any items of IFS/Applicant’s Declarations which can be exempted for top-up applications?
A	16	<p>Referring to the template provided by the IA (in Appendix 1), all items of the IFS, except paragraph 2 (Cooling-off period) and paragraph 4 (Long-term features) (for some legacy products without a Product Brochure and/or Product Key Facts Statement), should be completed for top-up applications.</p> <p>For the avoidance of doubt, “Section III: Suitability Declaration” of Applicant’s Declarations is required for top-up on ILAS policies where FNA and RPQ have been performed. In the case where the FNA and RPQ processes are not required under the circumstances specified in paragraph 4.2(e) of the Guideline, “Section III: Suitability Declaration” of Applicant’s Declarations should be completed based on the previous FNA and/or RPQ as referred in paragraph 4.2(e) of the Guideline that are being relied on.</p>
Q	17	Please clarify the requirement(s)/the manner under which a completed IFS and Applicant’s Declarations form using the template provided by the IA must be signed and dated by the customer and the licensed insurance intermediary as specified in paragraph 7.4 of the Guideline.

A	17	<p>A completed IFS and Applicant’s Declarations form must be signed and dated by the customer and the licensed insurance intermediary in the following manner:</p> <ul style="list-style-type: none"> (a) The customer and the licensed insurance intermediary must sign and date the IFS and the declaration in “Section I: Disclosure Declaration” under the Applicant’s Declarations to confirm that the customer understands and accepts the highlighted features of the product. (b) The customer and the licensed insurance intermediary must sign and date the declaration in “Section II: Affordability Declaration” under the Applicant’s Declarations for a policy in respect of which regular premium payments are required. (c) The customer must tick one of either Box A or B in “Section III: Suitability Declaration” under the Applicant’s Declarations: <ul style="list-style-type: none"> (i) Box A should be ticked where the licensed insurance intermediary and the customer agree that the product (and its underlying investment choices) is suitable for the customer, based on the information provided by the customer as part of the Financial Needs Analysis (“FNA”) and RPQ processes. (ii) Box B should be ticked by the customer in a situation where the product (and/or its underlying investment choices) may not be suitable for the customer based on the information disclosed in the FNA and RPQ. In addition, whenever Box B is ticked, the customer must provide sufficient explanation as to why he/she has decided to proceed with the application, notwithstanding that the product (and/or its underlying investment choices) may not be suitable. (iii) The customer and the licensed insurance intermediary must sign and date at the bottom of “Section III: Suitability Declaration” under the Applicant’s Declarations.
		<p><u>Effective Controls and Procedures in relation to Suitability Checks and Product Disclosure</u></p>
Q	18	<p>Paragraph 8.2 of the Guideline requires that, where appropriate, authorized insurers should follow up via the licensed insurance intermediaries concerned, e.g. in case of mismatch. Under what circumstances is a mismatch considered to arise and what follow-up actions should be taken when a mismatch does arise?</p>
A	18	<p>When a licensed insurance intermediary recommends an ILAS product (including its underlying investment choices) which does not meet the needs or affordability of, or match the risk profile, etc. of the customer based on the information collected during the FNA and RPQ processes, this is regarded as a “mismatch”. Authorized insurers, licensed insurance agencies and licensed insurance broker companies must put in place appropriate control measures to handle mismatch cases based on the principle of “fair customer treatment”. Where a mismatch exists and the licensed insurance intermediary makes a recommendation despite the mismatch, the licensed insurance intermediary is required to clearly explain the mismatch to</p>

		<p>the customer and why (despite the mismatch) the product (including its underlying investment choices) is still recommended to the customer. The licensed insurance intermediary must also document the details of the explanation.</p> <p>In respect of any recommendation made under the circumstances as described above, the authorized insurer should, during the underwriting process, review and assess the reasonableness of such recommendation and satisfy itself that the mismatch case has been handled in accordance with the control measures it has put in place, before accepting the application.</p> <p>Reference should also be made to Guideline on Financial Needs Analysis (GL30) for requirements on mismatch situations.</p>
Q	19	<p>Paragraph 8.3 of the Guideline specifies that authorized insurers, licensed insurance agencies and licensed insurance broker companies should have effective controls in place to ensure customers are aware of the possible risks associated with switching investment choices or placing top-up investment after policy inception that may become inconsistent with their risk profile. What type of controls would be considered as effective?</p>
A	19	<p>(1) <u>At the point of sale of base plan of ILAS products</u></p> <p>Licensed insurance intermediaries should alert the customers of the possible risks associated with switching investment choices or placing top-up investment after policy inception that may become inconsistent with their risk profile.</p> <p>(2) <u>Processing the switching instructions or top-up investments after policy inception</u></p> <p>(a) Authorized insurers should put in place appropriate measures to ensure customers are aware of the possible risks of mismatch caused by switching or topping up investments, e.g. by way of appropriate warning statements in the paper forms or online platforms for switching investment choices or for placing top-up investments. Customers should also be reminded to read the information of the underlying investment choices as set out in the Investment Choice Brochure and other relevant documents.</p> <p>(b) Authorized insurers should assess the suitability of the investment choices before processing switching instructions into a derivative fund² as an underlying investment choice(s) or top-up investments. Authorized insurers should have effective controls in place for identifying transactions where the investment choice(s) selected by the customer for switching into a derivative fund as an underlying investment choice(s) or placing a top-up investment has a risk rating higher than that customer's last known risk tolerance level or when a customer without investment knowledge in derivatives wishes to select a derivative fund as an underlying investment choice(s). If the investment choice(s) selected by a customer does not match the risk profile/knowledge (including investment knowledge in derivatives) of the customer, the authorized insurer (either directly or via the relevant licensed insurance intermediary) should warn the customer of the possible risk associated with the mismatch and that the selected investment</p>

² Please see Footnote 1 for details.

choice(s) may not be suitable for him/her and invite the customer to conduct an RPQ if he/she would like to switch into a derivative fund as an underlying investment choice(s) or place top-up investments that would result in a mismatch.

(c) Authorized insurers should ensure that the customers understand the nature and risks of the derivative fund-underlying investment choices and has sufficient net worth to be able to assume the risks and bear the potential losses of trading in the derivative fund-underlying investment choices.

(d) Where the risk level of the derivative fund that is the underlying investment choice(s) which the customer intends to select, fails to match the risk profile of the customer after conducting the RPQ, the customer should be advised that switching to the intended derivative fund as the underlying investment choice(s) does not match his / her risk profile and such switching may not be in his/her best interest. If, despite the advice, the customer insists on switching to the intended derivative fund as the underlying investment choice(s) that does not match his/her risk profile, the customer must provide sufficient explanation for this and confirm in writing as to why he/she still decides to proceed with the switching application for the authorized insurer's assessment.

(e) Where appropriate, authorized insurers should issue a warning message to the customer that the derivative fund which is customer's selected underlying investment choice(s) does not match the risk profile of the customer. If the transaction is assessed to be unsuitable for the customer, the authorized insurer may only proceed to effect the transaction if to do so would be in accordance with the principle of "fair customer treatment", with the relevant justification(s) being documented in writing.

(f) Records of the warning and other communications with the customer as mentioned above should be kept.

(g) For the avoidance of doubt, whenever there is any circumstance(s) where an authorized insurer or a licensed insurance intermediary solicits or makes a recommendation in relation to switching investment choice(s), the assessment as set out in (b) to (f) above should be performed, to ensure suitability of the investment choice(s), irrespective of whether the investment choice(s) being switched into are derivative funds or non-derivative funds.

(h) Authorized insurers may adopt alternative equivalent mechanisms to the above effect where appropriate.

(i) For the avoidance of doubt, please also refer to the requirements as set out in Q&A 17 above which are applicable to top-up investment(s).

(j) For the avoidance of doubt, authorized insurers (either directly or via licensed insurance intermediaries) should also invite customers to conduct an RPQ whenever there are material changes to the customers' circumstances which are brought to the authorized insurers' or licensed insurance intermediaries' attention.

(k) Authorized insurers should use the time available during the transitional period as specified in Q&A 33 below to review the process for ensuring compliance.

		<p>(3) <u>Disclosure of risks associated with dividend payout investment choices</u></p> <p>In addition to the disclosure of “Risks Associated with Investment Choices with an Objective to Distribute Cash Dividends on a Regular Basis” in the IFS template, authorized insurers and licensed insurance intermediaries should disclose such risks to the customer at the point of sale of the base plan and also upon switching or top-up investments, through other means, e.g. by way of appropriate risk disclosure statements on authorized insurer’s website, investment choices switching instruction paper form, or other communication means such as dividend payout notices to customers.</p>
Q	20	<p>Referring to the requirements in paragraph 8.3 of the Guideline (i.e. requirement to have effective controls in place to ensure customers are aware of the possible risks associated with switching investment choices or placing top-up investment after policy inception that may become inconsistent with their risk profile), what should be the acceptable approach in relation to the customers whose ILAS policies had already been issued before the RPQ requirements became effective, such that authorized insurers do not have relevant records of the risk profiles of such customers?</p>
A	20	<p>For ILAS policies issued before the RPQ requirements became effective, authorized insurers may set the risk profile of the customers of those ILAS policies to “low risk” profile.</p> <p>Authorized insurers and licensed insurance intermediaries are also recommended to use the RPQ process to assess the customer’s latest investment risk appetite if it is considered prudent to do so.</p>
		<u>Post-Sale Controls</u>
Q	21	<p>Paragraphs 4.2(k) and 9.3 of the Guideline require authorized insurers to conduct either post-sale calls or point-of-sale audio recordings for base plans of ILAS products. What are the requirement(s) in relation to top-up plans of ILAS products?</p>
A	21	<p>Authorized insurers are recommended to conduct post-sale calls for top-up plans of ILAS products if it is considered prudent to do so.</p> <p>All requirements relevant to post-sale calls under “Post-Sale Controls” in paragraph 9 of the Guideline and this Circular including those as set out in <u>Appendix 3</u>, except paragraph 3 (proper disclosure of product documents) (for some legacy products without a Product Brochure and/or Product Key Facts Statement) and paragraph 11 (cooling-off right), should be followed as appropriate. Authorized insurers can modify the requirements having due regard to the sale process (for example, post-sale control requirements relevant to FNA and RPQ processes are not required taking into account the requirements as set out in paragraph 4.2(e) of the Guideline). Any such modification must be justifiable on the basis that, (i) the substantive meaning of the information (in <u>Appendix 3</u>) is retained in spite of the modification; (ii) in spite of the modification, the principle of “fair customer treatment” and the objectives in paragraph 9.1 of the Guideline continue to be satisfied, and (iii) the reason(s) for such modification must be documented. Any documentation or record relating to the modification will be subject to the IA’s inspection/review as the IA considers appropriate.</p>

Q	22	Referring to the requirements in paragraph 9.4 of the Guideline, please clarify the content requirement(s) of the scripts for post-sale calls or point-of-sale audio recordings.
A	22	Authorized insurers are required to prepare the scripts which meet at least the minimum requirements as set out in Appendix 3 and indicate the objectives of post-sale calls or point-of-sale audio recordings. Authorized insurers can modify the scripts having due regard to reflect accurately their specific products and corresponding features. However, any such modification must be justifiable on the basis that, (i) the substantive meaning of the information (in Appendix 3) is retained in spite of the modification; (ii) in spite of the modification, the principle of “fair customer treatment” and the objectives in paragraph 9.1 of the Guideline continue to be satisfied, and (iii) the reason(s) for such modification must be documented. Any documentation or record relating to the modification to the scripts will be subject to the IA’s inspection/review as the IA considers appropriate.
Q	23	With reference to paragraphs 4.2(k) and 9.4 of the Guideline, please clarify the requirement(s) on the timeline and minimum number of attempts of conducting the post-sale calls.
A	23	Authorized insurers are required to make the post-sale calls within 5 working days of the date of policy issue (i.e. T plus 5 working days, where T is the date of policy issue). They are required to use their best endeavours (e.g. through various channels such as SMS alert, emails, other social networking platforms or apps as a means of advance arrangement) to make the post-sale calls and must make a minimum of 4 attempts for calling at different times of the day and different days of the week.
Q	24	With reference to paragraphs 9.4 and 9.5 of the Guideline, please clarify the requirement(s) on the follow-up actions by authorized insurer or licensed insurance intermediary in the event of disagreement or uncertain/negative replies by a customer during a post-sale call or in case the customer cannot be reached or the post-sale call cannot be completed properly.
A	24	<p>In the event of disagreement or an uncertain reply by a customer during a post-sale call, the authorized insurer should follow-up either directly or through the relevant licensed insurance intermediary with the concerned customer. If such follow-up is made through the licensed insurance intermediary, then the licensed insurance intermediary should report back on the latest situation to the authorized insurer as soon as practicable after following-up, so that the authorized insurer is able to conduct follow-up calls within the next 5 working days to clarify the areas of concern with the customer before the expiry of the cooling-off period.</p> <p>In case of any negative replies received from the customer during a post-sale call, the authorized insurer is required to investigate the concerned areas. The authorized insurer is also required to put in place a proper mechanism to detect any potential non-compliance issue(s) and to ensure compliance with the relevant sale requirements. Authorized insurers should take appropriate actions in the event of negative replies from customers including, for example, where the customer opts to rescind the policy, providing full premium refund without market value adjustment when there is a substantiated non-compliance issue(s).</p>

		<p>In case the customer cannot be reached or the post-sale call cannot be completed properly, the authorized insurer is required to send a confirmation letter (alongside an email or SMS alert that draws the customer’s attention to the importance of the confirmation letter) or, if previously agreed by the customer as a means of communication, a confirmation email to the customer in which the key areas/concerns and information of the policy are drawn to his/her attention. Authorized insurers should follow up with any confirmation letters which are returned mail(s), according to their internal returned mail policy.</p> <p>Authorized insurers are also required to put in place proper measures for monitoring post-sale calls, e.g. analysis on success rate of post-sale calls in terms of different distribution channels or different producing teams, where appropriate.</p>
Q	25	Q&A 24 specifies that the authorized insurer is required to send a confirmation letter/email to the customer in which the key areas/concerns and information of the policy are drawn to his/her attention. Please clarify the content requirement(s) of the confirmation letter/email.
A	25	<p>The confirmation letter/email to the customer should include, as a minimum, the information as set out in Appendix 3. For ease of reading, the contents and the font size must be legible. Such confirmation letter/email should also set out the means for the customer to contact the authorized insurer for any disagreement on the points as set out during the post-sale process and/or enquiries before the expiry of the cooling-off period. Authorized insurers can modify the confirmation letter/email having due regard to reflect the key areas/concerns and information of the policy. However, any such modification must be justifiable on the basis that, (i) the substantive meaning of the information (in Appendix 3) is retained in spite of the modification; (ii) in spite of the modification, the principle of “fair customer treatment” and the objectives in paragraph 9.1 of the Guideline continue to be satisfied, and (iii) the reason(s) for such modification must be documented. Any documentation or record relating to the modification to the scripts will be subject to the IA’s inspection/review as the IA considers appropriate.</p>
Q	26	In the case that authorized insurers adopt point-of-sale audio recordings (“PSAR”) in lieu of post-sale calls for any cases of applications for ILAS products, are there any specific requirements that should be met by the authorized insurers?
A	26	<p>In the case that authorized insurers adopt PSAR in lieu of post-sale calls for any cases of applications for ILAS products, the following requirements should be met:</p> <ul style="list-style-type: none"> (a) the PSAR must be conducted in the offices of the authorized insurers; and (b) an employee of the authorized insurer is required to attend, manage and witness the whole PSAR process. Such employee should have no conflict of interest with the sale of the relevant ILAS product, i.e. the employee must not be entitled to, or obtain, any incentives, commission or any other kind of remuneration based on the sale of the relevant ILAS policy.
Q	27	Further to Q&A 26, please clarify the relevant requirement(s) for PSAR.
A	27	Authorized insurers are allowed to adopt either of the following approaches for conducting the PSAR:

		<p>(a) when the sale process has been completed and all necessary forms, documents in relation to the application have been completed and signed by the customer, an employee or a service provider of the authorized insurer will activate an on-site audio recording device to conduct the PSAR; or</p> <p>(b) if no audio recording devices are available, all relevant documents will be passed to the authorized insurer’s call centre staff (who should have no conflict of interest with the sale of the relevant ILAS product) who will conduct the PSAR with the customer over the telephone upon the completion of the sale process. The discussion should be recorded.</p>
		<u>Certification of Copies of FNA and RPQ</u>
Q	28	Paragraph 10.1 of the Guideline specifies that authorized insurers should retain the original signed FNA, RPQ and IFS/Applicant’s Declarations for record purpose. Can electronic copies instead of hard copies be retained? With reference to paragraph 10.2 of the Guideline, please also clarify the requirement(s) of “no conflict of interest with the sale of the relevant ILAS policy”.
A	28	Electronic copies can be retained instead of hard copies. Representatives who have “no conflict of interest with the sale of the relevant ILAS policy” include those who would not be entitled to, or obtain, any incentives, commission or any other kind of remuneration based on the sale of the relevant ILAS policy.
		<u>Documentation and Record Keeping</u>
Q	29	Referring to paragraph 11.1 of the Guideline, please provide some example(s) of “records relevant to the post-sale controls”.
A	29	Records relevant to the post-sale controls include, for example, the relevant post-sale call recordings or point-of-sale audio recordings, confirmation letters/emails and the emails/SMS alerts, as well as analysis on success rate of post-sale calls in terms of different distribution channels or different producing teams.
		<u>Others</u>
		<u>Special Attention in relation to ILAS Products with Open Architecture</u>
Q	30	Paragraph 2.2(h) of the Guideline specifies that a reference to an “ILAS product” or “ILAS policy” is to a contract of insurance within the definition of “linked long term business”. Please clarify whether the Guideline is applicable to the sale of ILAS products with Open Architecture (“OA ILAS”)? What types of ILAS products would constitute OA ILAS?
A	30	<p>Yes. An OA ILAS product is an ILAS product which allows the customer to choose his/her investments on his/her own to be held in his/her OA ILAS policy (rather than being limited to a list of investment choices set by the authorized insurer).</p> <p>Even though OA ILAS products are characterised by not having a list of investment choices set by authorized insurers, the Guideline is applicable to the sale of OA ILAS products. As such, the requirements in relation to (and not limited to)</p>

		assessing whether such product (including the underlying investments/ assets) is suitable for the customer based on his/her circumstances, objectives, needs and priorities, apply.
Q	31	Paragraph 4.2 of the Guideline specifies the requirements for the sale process for an ILAS product. Given the unique nature of OA ILAS products, please clarify under what circumstance(s) an OA ILAS product may be recommended to a customer.
A	31	<p>Authorized insurers and licensed insurance intermediaries should restrict selling OA ILAS products only to Professional Investors³ with investment and tax/estate planning objectives.</p> <p>An OA ILAS product may only be recommended if a customer, who must be a Professional Investor, indicates in the FNA and IFS that his/her objective(s) of procuring an insurance product is for investment and tax/estate planning.</p> <p>In general, OA ILAS products should only be considered for customers who have an overseas residency. As such, OA ILAS products should not be considered for a customer who does not have an overseas residency, unless such customer has special reasons for acquiring an OA ILAS product. Such reasons must be documented and clearly stated in the IFS.</p> <p>During the sale process for an OA ILAS product, a licensed insurance intermediary should not market, promote or offer any funds to the customer.</p> <p>Authorized insurers and licensed insurance intermediaries should ensure that customers who procure OA ILAS products are aware of the additional risks associated with such products (e.g. and without limitation (i) counterparty/valuation/liquidity/market risks, (ii) the fact that their investments are not set by authorized insurers and (iii) whether or not their investments are SFC-authorized funds), before executing customers' investment instructions in relation to the customers' choices. Records should be documented and retained for this purpose.</p>
Q	32	With reference to paragraphs 8 and 11 of the Guideline, please clarify the area(s) for which authorized insurers should pay special attention in respect of the sale of OA ILAS products given the unique nature of such products.
A	32	<p>Proper risk and underwriting control measures should be put in place by authorized insurers to ensure, among other matters, that customers are Professional Investors who are procuring the product for investment and tax/estate planning objectives.</p> <p>Authorized insurers should also put in place risk governance and management control measures to ensure strict compliance with the requirements relevant to OA ILAS products. Special care should be paid to the risks associated with the relevant investments, in particular, any in-kind investments, upon investment onboarding process.</p>

³ "Professional Investor" has the meaning assigned to it by Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571).

		For monitoring and inspection purpose, authorized insurers, licensed insurance agencies and licensed insurance broker companies should retain proper documentation and supporting evidence for the sale process of OA ILAS product. Authorized insurers, licensed insurance agencies and licensed insurance broker companies should provide such documentation and evidence for the IA's and other relevant regulatory bodies' inspection as soon as practicable upon request.
		<u>Transitional Period</u>
Q	33	The Effective Date of the Guideline is 23 September 2019. Is there any transitional period to enable authorized insurers and licensed insurance intermediaries to align their documentation, controls and processes with the requirements of the Guideline and the details set out in this Circular?
A	33	<p>Prior to 23 September 2019 with regards to the matters covered by the Guideline and this Circular, authorized insurers and licensed insurance intermediaries were required to comply with the requirements set by the self-regulatory organizations (“SROs”) being the Hong Kong Federation of Insurers (“HKFI”) in relation to authorized insurers and licensed insurance agents and the Hong Kong Confederation of Insurance Brokers (“CIB”) and the Professional Insurance Brokers Association (“PIBA”) in the case of licensed insurance brokers.</p> <p>The objectives and minimum standards and requirements in the Guideline do not represent a substantive change to the SRO's requirements. It is recognized, however, that in view of the more prescriptive detailed matters set out in this Circular (particularly the adoption of the revised template and the processes with regard to how to address mismatch situations in Q&A 18 and switching of investment choices and placing of top-up investment after policy inception in Q&A 19 above), an appropriate period may be required for authorized insurers and licensed insurance intermediaries to transition their documentation, controls and processes to align with the requirements set out in this Circular. A transitional period of 12 months from the Effective Date (i.e. from 23 September 2019 to 22 September 2020) will therefore apply in respect of the requirements set out in this Circular (“Transitional Period”). During this Transitional Period, authorized insurers and licensed insurance intermediaries may (without it prejudicing their compliance with the Guideline) continue to comply with the requirements previously set by the SROs (including those set out below under the heading “Relevant SRO Requirements”), whilst they update their documentation, controls and processes to align with this Circular. This Transitional Period shall apply only to ILAS policies issued prior to the end of the Transitional Period. By the end of the Transitional Period, authorized insurers and licensed insurance intermediaries will be expected to have updated their documentation, controls and processes to align with this Circular. For the avoidance of doubt, authorized insurers and licensed insurance intermediaries should continue to comply with all the relevant rules, codes, circulars and guidelines relating to ILAS products administered or issued by HKMA, SFC or other regulatory/professional bodies (as applicable) during and after the Transitional Period.</p> <p><i>Relevant SRO Requirements</i></p> <p>(a) Requirements relating to ILAS products issued by the HKFI:</p>

		<ul style="list-style-type: none"> a. “Updated Requirements Relating to the Sale of Investment Linked Assurance Scheme (“ILAS”) to Enhance Customer Protection” (version effective from 1 January 2016); and b. Frequently Asked Questions on Updated Requirements Relating to the Sale of Investment Linked Assurance Scheme (“ILAS”) to Enhance Customer Protection (version effective from 22 October 2013); <p>(b) Requirements relating to ILAS products issued by the CIB:</p> <ul style="list-style-type: none"> a. “Guidance Note on Conducting “Know Your Client” Procedures for Long Term Insurance Business” (version effective from 1 January 2016); b. “Guidance Note on Client Agreement for Linked Long Term Insurance Business” (version effective from 22 July 2011); c. “Guidance Note on Product Recommendation for Long Term Insurance Business” (version effective from 1 January 2016); d. “Membership Regulations” (version effective from 15 July 2015), particularly Regulations 14.7.2, 14.7.6 and 14.8; and e. “Regulations for Insurance Brokers Engaged in Advising on Linked Long Term Insurance or Arranging or Negotiating Policies of Linked Long Term Insurance” (version effective from 1 November 2011); <p>(c) Requirements relating to ILAS products issued by the PIBA:</p> <ul style="list-style-type: none"> a. “Code of Conduct for Insurance Brokers Conducting Investment Linked Business” (version effective from 1 March 2014); b. “Guidance Note on Conducting Investment Linked Business” (version effective from 1 January 2015); c. “Membership Regulations” (version effective from 1 February 2015) particularly paragraph 3A; and d. Circular “Updates on OCI’s GN15 & PIBA’s Guidance Note on Conducting Investment Linked Business” dated 24 December 2014.
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IMPORTANT FACTS STATEMENT AND APPLICANT'S DECLARATIONS
INVESTMENT-LINKED ASSURANCE SCHEME ("ILAS") POLICY

[Name of authorized insurer]

Name of the ILAS Policy:

PART I – IMPORTANT FACTS STATEMENT

You should carefully consider the information in this statement and the product documents (including the Product Brochure, Product Key Facts Statement, and the Illustration Document). **If you do not understand any of the following paragraphs or do not agree to any particular paragraph or what your licensed insurance intermediary has told you is different from what you have read or understood from this statement, please do not sign the confirmation and do not purchase the ILAS policy.**

You may request the Chinese version of this statement from your licensed insurance intermediary. 閣下可向銷售的持牌保險中介人索取本文件的中文版本。

SOME IMPORTANT FACTS YOU SHOULD KNOW

- (1) **Statement of Purpose:** Please set out your reasons/considerations for procuring this ILAS policy. The licensed insurance intermediary is required to take due account of the reasons/considerations as set out by you, together with other relevant information, in assessing whether a particular ILAS policy is suitable for you. (*Customer must set out your own reasons/considerations.*)

- (2) **Cooling-off Period:** You have the right to cancel this ILAS policy and get back your original investments (subject to market value adjustment) within the cooling-off period, which is the period of **21 calendar days** immediately following either the day of delivery of (i) the policy; or (ii) the Cooling-off Notice to you or your nominated representative containing the information regarding your right within the cooling-off period, whichever is the earlier. For details of how you can exercise this right, please refer to the application form.
- (3) **No Ownership of Assets and No Guarantee for Investment Returns:** You do not have any rights to or ownership over any of the underlying/reference investment assets of this ILAS policy. Your recourse is against [pre-printed name of the authorized insurer] only. You are subject to the credit risk of [pre-printed name of the authorized insurer]. Investment returns are not guaranteed.

(4) **Long-term Features (delete wherever inapplicable):**

(a) **For complex charge structure:**

Upfront charges: An upfront charge will be deducted upfront from the premiums you pay as charges and will not be available for investment. **This means that the remaining amount of premiums available for investment will be lower than your premiums paid.** The upfront charge is calculated as follows:

$$\text{Upfront Charge} = \text{Premiums received} \times \text{Upfront Charge \%}$$

<u>Policy year</u>	<u>Upfront charge %</u>	<u>% of premium received available for investment after upfront charge</u>
1	A%	(100 – A)%
2	B%	(100 – B)%
3	C%	(100 – C)%
4	D%	(100 – D)%
5...

For simple charge structure:

Upfront charges: [% Range] of the premiums you pay for the first [] policy years will be deducted upfront as charges and will not be available for investment. **This means that the remaining amount of premiums available for investment may be as low as []% of your premiums paid in this period.**

(b) **For complex charge structure:**

Early surrender/withdrawal charges: You will be subject to an **early surrender or withdrawal charge (“Early Termination Charge”)** and **possible loss of entitlement to bonuses**, if policy termination or surrender, partial withdrawal, or suspension of or reduction in premium payment occurs within a prescribed period before the end of the policy term. The Early Termination Charge is calculated as follows:

$$\text{Early Termination Charge} = \text{Account Value withdrawn/surrendered/lapsed} \times \text{Early Termination Charge \%}$$

<u>Policy year</u>	<u>Early Termination Charge %</u>
1	A%
2	B%
3	C%
4	D%
5...

For simple charge structure:

Early surrender/withdrawal charges: You will be subject to an **early surrender or withdrawal charge (“Early Termination Charge”)** and **possible loss of entitlement to bonuses**, if policy termination or surrender, partial withdrawal, or suspension of or reduction in premium payment occurs within the initial [] years of the policy term.

(c) **Loyalty bonuses:** You will be entitled to a loyalty or special bonus if you meet certain conditions. For details, please refer to the product documents of this ILAS policy.

- (5) **Fees and Charges:** Some fees/charges will be deducted from the premiums you pay and/or your ILAS policy value, and will reduce the amount available for investment. Accordingly, **the return on your ILAS policy as a whole may considerably be lower than the return of the underlying/reference funds you selected.** For details, please refer to the product documents of this ILAS policy.
- (6) **Switching of Investment:** If you switch your investment choices, you may be subject to a charge and your risk may be increased or decreased.
- (7) **Risks Associated with Investment Choices with an Objective to Distribute Cash Dividends on a Regular Basis:** If you choose any investment choice which aims to distribute cash dividends on a regular basis, please note that the distribution of cash dividends is **NOT GUARANTEED**. Also, the distribution of cash dividends may be/effectively be paid out of the capital of the corresponding underlying fund of the investment choice, which may therefore result in a drop in the unit price of that investment choice.
- (8) **Premium Holiday:** Please check with your licensed insurance intermediary and the product documents whether and under what specific conditions a premium holiday (during which premium payment is suspended) may be taken. If your ILAS policy allows a premium holiday, you should note that:
- (a) Premium holiday means that you may temporarily suspend your regular premium payments. It **does not mean that you are only required to make premium contribution during the initial contribution period.**
 - (b) As all relevant fees and charges will continue to be deducted from your ILAS policy value during the premium holiday, **the value of your ILAS policy may be significantly reduced.**
- (9) **Risk of Early Termination:** Your ILAS policy may be automatically early terminated and you could lose all your premiums paid and benefits accrued if any condition of automatic early termination is triggered. This may happen if you fail to make premium contribution (for regular premium payment), or if your policy has very low or negative value (e.g. poor investment performance, exercise of premium holiday), etc. For details, please refer to the product documents of this ILAS policy.
- (10) **Licensed Insurance Intermediaries' Remuneration:** If you take up this ILAS policy, the (licensed insurance agent/licensed insurance broker) will on average receive remuneration of HK\$ x . x per HK\$100 of the premium that you pay.

The remuneration is an average figure calculated on the assumption that you will pay all the premiums throughout the entire premium payment period. It covers all payments to the (licensed insurance agent/licensed insurance broker) directly attributable to the sale of this policy (including upfront and future commissions, bonuses and other incentives).

[Note: Only print the relevant sections below]

[For remuneration structure where payments are made over a number of years and not at a flat rate] The amount of remuneration actually receivable by the (licensed insurance agent/licensed insurance broker) may vary from year to year and is higher in the first policy year/early policy years.

[For remuneration structure which involves non-monetary benefits] Certain benefits that are immaterial, not directly attributable to the sale of this policy and not readily convertible to cash are not included from the calculation.

[For whole-life premium payment policies] As this policy involves whole-life premium payment, a 30-year period has been adopted for calculating both the total premiums and the total remuneration.

You are entitled to make enquiry with your (licensed insurance agent/licensed insurance broker) if you wish to know more about the remuneration that he/she/they may receive in respect of this policy.

I (“customer”) confirm that I have read and understood and agree to be bound by paragraphs above.

_____	_____	_____
Name of Customer	Signature of Customer	Date
_____	_____	_____
Name of Licensed Insurance Intermediary	Signature of Licensed Insurance Intermediary	Date

PART II – APPLICANT’S DECLARATIONS

Section I: Disclosure Declaration

- I (“customer”) confirm that the licensed insurance intermediary, (insert name and registration number of the relevant licensed insurance intermediary), has conducted a Financial Needs Analysis and a Risk Profile Questionnaire for me.
- I have received, read and understood the following documents:
 - Product Brochure
 - Product Key Facts Statement
 - Illustration Document
 - Investment Choice Brochure

- # [Other documents provided]

- # I fully understand and accept the potential loss associated with any market value adjustment, where the authorized insurer has the right and absolute discretion under certain situations (e.g. early policy surrender) to apply a downward/negative market value adjustment to the ILAS policy.

Name of Customer	Signature of Customer	Date
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Name of Licensed Insurance Intermediary	Signature of Licensed Insurance Intermediary	Date
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Section II: Affordability Declaration (For regular premium payment)

- I (“customer”) anticipate that my disposable income and/or savings is/are sufficient to pay the regular premium payments for the entire payment term of the ILAS policy; and
- I confirm that I am willing to pay the premiums for the entire payment term of the ILAS policy.

Name of Customer	Signature of Customer	Date
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Name of Licensed Insurance Intermediary	Signature of Licensed Insurance Intermediary	Date
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delete as appropriate

Section III: Suitability Declaration

I (“customer”) understand and agree that (tick one only):

A the features and risk level of the ILAS policy and my selected mix of underlying investment choices are suitable for me based on my disclosed current needs and risk profile, etc. as indicated in the Financial Needs Analysis and Risk Profile Questionnaire.

OR

B despite the fact that the features and/or risk level of the ILAS policy and/or my selected mix of underlying investment choices may not be suitable for me based on my disclosed current needs and risk profile, etc. as indicated in the Financial Needs Analysis and Risk Profile Questionnaire, I confirm that it is my intention and desire to proceed with my application(s) as explained below:

(If Box B is ticked, customer must complete explanation in this box.)

I acknowledge I should not purchase this ILAS policy and/or the selected mix of underlying investment choices unless I understand these and their suitability has been explained to me and that the final decision is mine.

[For business introduced by licensed insurance brokers:

I understand that the authorized insurer will retain copy(ies) of the completed Financial Needs Analysis and Risk Profile Questionnaire for verification purpose.]

Name of Customer Signature of Customer Date

Name of Licensed Insurance Intermediary Signature of Licensed Insurance Intermediary Date

Notes:

1. In this Statement & Declaration, “I” refers to customer. The singular shall include the plural; the word “I” shall include “we”; & the word “my” shall include “our”. For joint customers, all customers must sign all sections.

2. The customer(s) are required to inform the licensed insurance intermediary or us (the authorized insurer) if there is any material change of information provided in these Declarations before the policy is issued.

Licensed Insurance Intermediaries' Remuneration Disclosure
Guide on Calculation Methodology and Disclosure Format (the "Guide")

1. Purpose

- 1.1 This Guide is issued pursuant to paragraph 10.2 of the Guideline on Underwriting Class C Business (GL15) and pursuant to question 12 of the Circular to Guideline on Sale of Investment-Linked Assurance Scheme ("ILAS") Products.
- 1.2 This Guide sets out (a) a clear and uniformed methodology to calculate the remuneration provided to licensed insurance intermediaries for the sale of ILAS products; and (b) a clear and uniformed format for the disclosure of such remuneration to customers who procure ILAS products.
- 1.3 The objective of such remuneration disclosure is to enhance the transparency of the sale of ILAS products and allow customers to consider whether there exists any potential conflicts of interests and whether the remuneration would affect the licensed insurance intermediaries' recommendation relating to the ILAS product concerned.

2. Key Principles

- 2.1 The overarching principle for the calculation methodology is that the remuneration figure disclosed must be accurate, realistic and meaningful to the customers.
- 2.2 The disclosure format must be simple and understandable by an average customer.

3. Duty of Authorized Insurer's Director, Controller, Key Person in Relevant Control Function and Appointed Actuary

- 3.1 Authorized insurers underwriting linked long term business are required to strictly adhere to the calculation methodology and disclosure format. Any deviation is not allowed unless the Insurance Authority's ("IA") prior written consent has been obtained. In case of doubt, authorized insurers are advised to consult the IA.
- 3.2 It is the duty of the Appointed Actuary to ensure that the calculation follows the prescribed methodology in this Guide using sound actuarial principles and that the calculation is accurate. He/she has to sign off the worksheet for audit purpose by the IA.
- 3.3 Any attempt to circumvent the methodology and format prescribed in this Guide would be regarded as an act or omission likely to be prejudicial to the interests of policy holders or potential policy holders. This may also reflect on the IA's view of the continued fitness and properness of the directors, controllers, key persons in relevant control functions and Appointed Actuaries of the authorized insurers. Further, as far as Appointed Actuaries are

concerned, this may constitute a non-compliance with professional standards under section 15C of the Insurance Ordinance, and may render the incumbent not acceptable to the IA.

- 3.4 The IA will carry out random audit from time to time, with or without prior notice. In determining whether the prescribed methodology has been duly followed, and whether certain payments should be included in the calculation or not, the IA will consider the substance and nature of payments. The name or form of the payments adopted by authorized insurers is only one factor to be taken into account but not conclusive by itself as to whether the substance of this Guide has been met.

4. Distribution Channels Covered

- 4.1 The calculation methodology and disclosure format apply to all distribution channels.
- 4.2 For licensed insurance broker companies and licensed insurance agencies, the calculation applies to the remuneration at corporate level i.e. the remunerations paid to licensed insurance broker companies/licensed insurance agencies for the sale of ILAS products.
- 4.3 For licensed individual insurance agents, the calculation applies to the remuneration paid to licensed individual insurance agents for the sale of ILAS products.
- 4.4 For authorized institutions, the calculation applies to the remuneration paid to individual authorized institutions. For the avoidance of doubt, authorized insurers are required to calculate the remuneration figure using data specific to the authorized institution (i.e. commission rate, remuneration payments, etc. applicable to the authorized institution concerned).
- 4.5 Accordingly, the wordings in the disclosure statements in the Important Facts Statement (“IFS”) specified in paragraph 10 should be suitably modified with respect to the different features and requirements for a specific distribution channel.

5. Ground Rules

- 5.1 For ease of reference, calculations should be based on the assumption of a single premium in the sum of HK\$1,000,000, and regular premium in the sum of HK\$120,000 per annum.
- 5.2 Premiums payable throughout the entire premium payment period of the ILAS policy concerned should be included.
- 5.3 For whole-life premium payment term, a term of 30 years should be used as the proxy for both the denominator and the numerator.
- 5.4 In case where the actual underwriting experience in the preceding 3 years for the relevant premium payment term exhibits higher than historic average lapse rate, rendering it unrealistic to assume full payment of premiums over the whole premium payment term of the policy, adjustments should be made for both the remuneration and the premium figures. Authorized insurers are required to seek the IA’s prior written consent for making the adjustments in such cases.

- 5.5 For new products, authorized insurers are required to project the relevant figures based on the business and financial plan for the product using sound actuarial principles and assumptions.
- 5.6 Annual review of the relevant assumptions and figures based on the latest data is required. If there is any change to the assumptions or figures, both the calculation and the remuneration disclosure statement should be updated.
- 5.7 Subject to paragraph 5.4 above, in the calculation of future payments to the licensed insurance intermediaries (e.g. renewal commission, trailer fee, bonuses etc.), no allowance should be provided for any assumptions on lapse of policy, the termination of business relationship with any licensed insurance agencies or licensed insurance broker companies or the departure of any licensed individual insurance agents.

6. Methodology

- 6.1 The “all-year-average” approach should be adopted in the calculation, i.e. total payments to the licensed insurance intermediary directly attributable to the sale of the ILAS product as a percentage of the total premium payable over the whole premium payment term.
- 6.2 The remuneration to be included should cover all monetary and non-monetary remuneration payable to the licensed insurance intermediary involved in the sale of the ILAS policy, including the basic commission, renewal commissions, trailers, facilitation fees, referral fees, production bonuses, persistency incentives, overriding commissions etc.
- 6.3 Exemptions for in-kind rewards are generally not allowed, except with the IA’s prior written consent. The IA will consider such requests only if:
 - (a) they are immaterial (relative to the other monetary and non-monetary remuneration for the concerned ILAS product);
 - (b) they are not readily convertible to cash or cash-equivalent; and
 - (c) they are not directly attributable to the sale of the concerned ILAS product.
- 6.4 In calculating trailers based on account values of ILAS policies, the cumulative premium payable before deduction of fees and charges should be used as the proxy for the account value.
 - (a) For regular premium products, the trailer payable within the premium payment term would be included for the calculation of “all-year-average”.
 - (b) For single premium products, the trailer payable within the period with surrender charges would be included for the calculation of “all-year-average”.
- 6.5 All bonuses and/or persistency incentives attributable to the sale of the relevant ILAS products should be included.
 - (a) For the calculation of such bonus/incentives, suitable allocation of an appropriate amount of bonus/incentives to the relevant ILAS product should be made if such ILAS product is part of a pool of the product portfolio.

- (b) All calculations should be based on actual data in the preceding 3 years except where ILAS products with a history of less than 3 years, in which cases all data available should be based on. In any event, all calculations should be based on sound actuarial principles.

7. Disclosure Format

- 7.1 Authorized insurers are required to calculate the all-year-average for each ILAS product (and each distribution channel employed) and disclose in the IFS for base plan and top-up applications. For the avoidance of doubt, all-year-average for top-up can be disclosed either in a separate IFS (for existing policy holders of closed ILAS products) or in the IFS of the base plan.
- 7.2 Separate figures should be disclosed for ILAS products with both single and regular payment mode.
- 7.3 For regular payment ILAS products with variable payment term, authorized insurers may adopt a banding approach (i.e. the highest of individual bands with maximum of 5-year interval, or the highest of premium payment term) in disclosing the all-year-average for ease of compliance.

Requirements of Post-sale Controls

1. Introduction

- 1.1 Authorized insurers are required to ensure that the purpose of the post-sale control is explained to customers and that it is a regulatory requirement to conduct post-sale control.

2. Performance of Financial Needs Analysis (“FNA”) and Risk Profile Questionnaire (“RPQ”)

- 2.1 Authorized insurers are required to confirm with customers that FNA and RPQ processes have been performed by the licensed insurance intermediaries based on the information provided by the customers before any ILAS products were recommended to the customers.
- 2.2 They are required to confirm with customers the answers they have provided in the FNA and RPQ processes and that different insurance options have been compared by the licensed insurance intermediaries based on information provided by the customers in the FNA and explained to the customers before any ILAS products are recommended to the customers.

3. Proper Disclosure of Product Documents

- 3.1 Authorized insurers are required to confirm that the licensed insurance intermediaries have disclosed and explained to the customers the marketing literature, including Product Brochure (“PB”), Product Key Facts Statement (“KFS”), Important Facts Statement (“IFS”)/Applicant’s Declarations, and other relevant materials in which the key features and risks of the product, the level of all charges and fees and the risk disclosure statements (including those of the underlying investment choices) were set out.
- 3.2 Authorized insurers are also required to confirm that the customers are given adequate opportunity to consider the risks associated with the product, its key features and the fees and charges structure (including those of the underlying investment choices) before the customers purchase the product, and the customers have received the relevant marketing literature, understood and accepted the features and risks associated with the ILAS products (including those of the underlying investment choices).
- 3.3 Authorized insurers are required to draw customers’ attention to the fact that copies of the IFS and Applicant’s Declarations which customers read and signed during the application process are attached to the ILAS policy which will be delivered to them by the authorized insurer or the licensed insurance intermediary. They should also remind the customers to read the important information and facts contained therein.

4. Confirmation of the Purchase of ILAS Policy and Affordability

- 4.1 Authorized insurers are required to confirm with customers the names of the authorized insurers who provided the relevant ILAS products that the customers have purchased and the names of the licensed insurance intermediaries who recommended such ILAS products to the customers, and the customers' objectives of purchasing the ILAS products as stated in their FNA and IFS and Applicant's Declarations.
- 4.2 They are required to confirm that the customers understand the premium amount and the premium term of their ILAS policies.
- 4.3 They are also required to remind the customers that they should not purchase the ILAS products if they do not intend or expect to be unable to continue with the premium payment for the whole payment term they have chosen. In the event that premium is not paid, the customers may suffer a loss resulting from fees and charges being continued to be deducted from the cash value of the policies.

5. Understanding of Upfront and Withdrawal/Surrender Charges

- 5.1 Authorized insurers are required to confirm the customers' understanding that an upfront fee will be charged on the premium paid before an investment is made, where applicable.
- 5.2 They are also required to confirm the customers' understanding that a withdrawal fee or surrender charge will be deducted from the cash value of the ILAS policies for early withdrawal or surrender of the ILAS policies (as the case may be).

6. Understanding of Penalties, Fees and Charges

- 6.1 Authorized insurers are required to confirm with the customers that they are aware of the types of penalties, fees and charges (including penalties and charges for premium reduction, early encashment, cash withdrawal, temporary suspension of premium payment, switching of investment choices and market value adjustment for cooling-off cancellation, etc.) which are applicable to their policies and that such penalties, fees and charges have been clearly explained to them by the licensed insurance intermediaries.

7. Understanding Potential Risk of Investments

- 7.1 Authorized insurers are required to draw the customers' attention to the risks inherent in their investment choices which are set out in the marketing literatures (e.g. KFS, PB, investment choice brochure, etc.) that have been provided to them. They should also remind the customers that investment returns are not guaranteed. Each investment choice is subject to market and interest rate fluctuations, and the value of their investment choices may go down or up. Past performance is not indicative of future performance of an investment. High risk investment choices may be subject to higher volatility.
- 7.2 Authorized insurers are required to draw the customers' attention to the market value adjustment on their ILAS policies, which is determined at the sole discretion of authorized insurers under certain situations where applicable.

- 7.3 For those customers who have chosen investment choices which may distribute cash dividends on a regular basis, authorized insurers should draw the customers' attention to the associated risks of such feature.

8. Confirmation/Switching of Investment Choices/Top-up Investments

- 8.1 Authorized insurers are required to confirm the investment choices chosen by the customers and draw the customers' attention if their investment choices belong to the risk category higher than their risk profile.
- 8.2 They are required to draw the customers' attention to the types of potential charges and changes in risk levels of the investment choices following a fund switching instruction or placing of top-up investment in investment choices that are inconsistent with their risk profiles. They should also remind the customers of their rights to seek professional financial advice as the customers consider appropriate.

9. Licensed Insurance Intermediaries' Remuneration

- 9.1 Authorized insurers are required to seek the customers' confirmation of understanding that the licensed insurance intermediaries are remunerated from every HK\$100 premium they paid and that they have the right to request details of the licensed insurance intermediaries' remuneration.

10. Confirmation of Suitability

- 10.1 Authorized insurers are required to confirm the understanding and agreement of the customers on their choice of Box A or Box B as set out in "Section III: Suitability Declaration" under the Applicant's Declarations, and explain the suitability of the ILAS product (including its underlying investment choices) with due regard to customers' answers in the FNA and RPQ processes, their reasons/considerations as set out in "Statement of Purpose" under the IFS and the explanations as set out in "Section III: Suitability Declaration" under the Applicant's Declarations, where applicable.
- 10.2 They are required to remind the customers that the customers should not purchase the ILAS policies and/or the selected mix of underlying investment choices unless their suitability have been explained to their understanding. The customers should make an informed decision in purchasing the relevant ILAS product(s) (including its underlying investment choices).

11. Cooling-off Right

- 11.1 Authorized insurers are required to draw customers' attention to their cooling-off right and the expiry date of the cooling-off period.