

**GUIDELINE
ON
LONG TERM INSURANCE POLICY REPLACEMENT**

Insurance Authority

Contents

Page

1.	Introduction.....	1
2.	Interpretation.....	1
3.	Relevant Regulatory Requirements and Status of this Guideline.....	2
4.	Scope of Application.....	4
5.	Policy Replacement.....	5
6.	Important Facts Statement – Policy Replacement.....	7
7.	Internal Policy Replacements.....	8
8.	Complaints Monitoring.....	9
9.	Effective Controls and Procedures to be established by Authorized Insurers, Licensed Insurance Broker Companies and Licensed Insurance Agencies.....	9
10.	Record Keeping.....	10
11.	Commencement.....	10
12.	Transitional Provision.....	10

Question Template - Policy Replacement Appendix A

Important Facts Statement - Policy Replacement Appendix B

1. Introduction

- 1.1 The Insurance Authority (“IA”) issues this Guideline pursuant to section 133 of the Insurance Ordinance (Cap. 41) (“Ordinance”) and its principal function to regulate and supervise the insurance industry for the protection of existing and potential policy holders. This Guideline also takes account of the Insurance Core Principles, Standards, Guidance and Assessment Methodology (“ICP”) promulgated by the International Association of Insurance Supervisors, in particular ICP 19 which stipulates that the conduct of the business of insurance should ensure that customers are treated fairly.
- 1.2 Life insurance policies are long-term contracts of insurance, designed and intended to be in force over multiple years of a person’s life. The terms and conditions of a life insurance policy reflects this intention. A policy holder, having purchased a life insurance policy, may later consider purchasing another life insurance policy to replace (whether in whole or in part) the life insurance policy initially purchased. In these circumstances, the policy holder should be mindful of the disadvantages of making changes to the life insurance policy initially purchased (for example, surrender or withdrawal charges may be incurred). Accordingly, if a policy holder applies to purchase a new life insurance policy and combines this with replacing or making changes to a life insurance policy previously purchased, authorized insurers and licensed insurance intermediaries should ensure the policy holder is fully informed of the consequences of such replacement of changes, so that he/she can make a fully informed decision. The purpose of this Guideline is to address this issue.

2. Interpretation

- 2.1 In this Guideline, unless the context otherwise specifies:
- (a) “Application date” in relation to a life insurance policy which is being purchased by a policy holder, means the date on which the policy holder applies to purchase the policy (i.e. the date on which the application form is signed by the policy holder).
 - (b) “Authorized institution” has the meaning assigned to it by section 2 of the Banking Ordinance (Cap. 155).

- (c) “Customer” bears the same meaning as policy holder or potential policy holder, as those terms are used in the Ordinance.
- (d) “Date of issue” in relation to a life insurance policy to which this Guideline applies (see paragraph 4.2), means the date on which the authorized insurer, having accepted an application for insurance by the policy holder, creates the document that is policy holder’s life insurance policy.
- (e) “Group policy” means a life insurance policy under which a group of employees of a company, partnership or sole proprietor, or members of an organization or other similar group of people, are insured.
- (f) “Life insurance policy”, means a contract of insurance which is classed as long term business as defined under the Ordinance.
- (g) “Policy loan” means a loan made by the authorized insurer to the policy holder under the terms and conditions of the life insurance policy issued to the policy holder by the insurer, including an automatic premium loan.
- (h) “Policy replacement” has the meaning assigned to it by paragraph 5.2 of this Guideline.
- (i) “Total cash value” in relation to a life insurance policy, means the aggregate of the guaranteed value and the non-guaranteed value payable to the policy holder under the terms and conditions of the policy, including the policy value, account value, cash value, cash coupon, dividends, bonuses, interest, etc. payable under the policy.

2.2 Unless otherwise specified, words and expressions used in this Guideline shall have the same meanings as given to them in the Ordinance.

3. Relevant Regulatory Requirements and Status of this Guideline

3.1 This Guideline should be read in conjunction with the relevant provisions of the Ordinance and all other relevant rules, codes, circulars, and guidelines issued by the IA or other regulatory bodies, including but not limited to the following:

- (a) Section 90(a) of the Ordinance which requires a licensed insurance

intermediary when carrying on a regulated activity to “*act honestly, fairly, in the best interests of the policy holder concerned or the potential policy holder concerned, and with integrity*”;

- (b) Section 90(d) of the Ordinance which requires a licensed insurance intermediary when carrying on a regulated activity to “*have regard to the particular circumstances of the policy holder or the potential policy holder that are necessary for ensuring that the regulated activity is appropriate to the policy holder or the potential policy holder.*”;
- (c) Guideline on Underwriting Class C Business (GL15) issued by the IA;
- (d) Guideline on Underwriting Long Term Insurance Business (other than Class C Business) (GL16) issued by the IA;
- (e) Guideline on Financial Needs Analysis (GL30) issued by the IA;
- (f) Guideline on Cooling-off Period (GL29) issued by the IA;
- (g) Code of Conduct for Licensed Insurance Agents issued by the IA;
- (h) Code of Conduct for Licensed Insurance Brokers issued by the IA; and
- (i) All relevant rules, codes, circulars and guidelines administered or issued by the Hong Kong Monetary Authority.

3.2 This Guideline 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 the provision of any law. A non-compliance with the provisions in this Guideline would not by itself render an authorized insurer or a licensed insurance intermediary liable to judicial or other proceedings. A non-compliance may, however, for example 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 the insurers to which this Guideline applies and (ii) the licensed insurance intermediaries to which this Guideline applies and (in the case of licensed insurance agencies and licensed insurance broker companies) their directors, controllers and responsible officers. The IA may also take guidance from this Guideline in considering whether there has been an act or omission likely to be prejudicial to the interest of policy holders or potential policy holders (albeit the IA will always take account of the full context, facts and impact of any matter before it in this respect).

4. Scope of Application

- 4.1 This Guideline applies to all authorized insurers carrying on long term business, and all licensed insurance intermediaries carrying on regulated activities in respect of long term business.
- 4.2 This Guideline applies in respect of any life insurance policy which a customer applies to purchase after the Effective Date of this Guideline unless any of the exceptions in paragraphs 4.3 or 4.4 apply.
- 4.3 This Guideline does not apply to:
- (a) the purchase of any life insurance policy which is a group policy;
 - (b) a life insurance policy which is sold in a manner which meets all of the conditions in paragraph 4.4 below; or
 - (c) any life insurance policies which an authorized insurer or a licensed insurance intermediary, as the case may be, has obtained the IA's prior written consent to exempt from the requirements of this Guideline (e.g. through the InsurTech Sandbox).
- 4.4 The conditions for the purposes of paragraph 4.3(b) above are:
- (a) the life insurance policy is sold to a customer directly by an authorized insurer, or by an authorized institution in its capacity as a licensed insurance agency of an authorized insurer;
 - (b) the life insurance policy is sold through a digital distribution channel (e.g. webpage or mobile app);
 - (c) the authorized insurer or authorized institution does not provide a recommendation to the customer before or during the point of sale; and
 - (d) in addition to complying with all existing product disclosure requirements, the authorized insurer or the authorized institution displays a prominent statement at the point of sale of the life insurance policy, warning the customer that if the customer is purchasing the life insurance policy to replace an existing life insurance policy, the customer should seek

professional advice to understand the associated risks and detrimental consequences of policy replacement.

5. Policy Replacement

- 5.1 In respect of the purchase of any life insurance policies to which this Guideline applies (see paragraph 4.2 above), the authorized insurer of the policy and the licensed insurance intermediary carrying on regulated activities in relation to the policy, should take all reasonable steps to ascertain whether the customer is purchasing the life insurance policy as a policy replacement.
- 5.2 For the purposes of paragraph 5.1 above, the purchase of a life insurance policy to which this Guideline applies, is a policy replacement if at the time of the application date for the new life insurance policy,
- (a) the customer has or had another life insurance policy (or other life insurance policies) (collectively “existing life insurance policy”);
 - (b) the policy holder(s) of the existing life insurance policy and the life insurance policy being purchased is (are) the same; and
 - (c) in order to fund the purchase of the new life insurance policy, the customer is using, or intends to use, some or all of the total cash value of the existing life insurance policy or any savings made or to be made as a result of reducing the premium payable under the existing life insurance policy, by means of the following:
 - (i) reducing the total cash value or sum insured of the existing life insurance policy, by the customer exercising (or having exercised) a right under the policy (e.g. withdrawal, surrender) or by automatic operation of the terms and conditions under the policy (e.g. lapse, reduced paid-up insurance, extended term insurance); or
 - (ii) by the customer taking out (or having taken out) a policy loan from the existing life insurance policy (whether at the customer’s request or by automatic operation of the policy terms and conditions); or
 - (iii) by the customer suspending premium payment or ceasing to pay

premium under the existing life insurance policy.

5.3 Notwithstanding paragraph 5.2 of this Guideline, the following transactions are not considered to be policy replacements:

- (a) where the new life insurance policy is being effected solely by reason of the existing life insurance policy being converted into the new life insurance policy under the provisions of the existing life insurance policy;
- (b) where the existing life insurance policy and the new life insurance policy are with the same authorized insurer and the new life insurance policy is being effected solely by reason of the existing life insurance policy being converted or migrated into the new life insurance policy under a conversion or migration program offered by the insurer, in which re-underwriting is not required;
- (c) where the only change made to the existing life insurance policy, relates to the coverage under a rider on the existing life insurance policy and no change is made to the life coverage of the basic plan of such policy; and
- (d) where the life insurance policy is purchased in place of an existing life insurance policy cancelled during its cooling-off period (as defined under the Guideline on Cooling-Off Period (GL29)).

5.4 The reasonable steps an authorized insurer or licensed insurance intermediary should take for the purposes of paragraph 5.1 above, include ensuring that sufficient enquiries are made of the customer to find out whether the customer is funding, or intends to fund the purchase of the new life insurance policy using the total cash value of the existing life insurance policy, or using savings from reducing the premium payable under the existing life insurance policy (see paragraph 5.2(c)). At minimum the enquiries to be made of the customer should include the questions set out in the template in Appendix A. These enquiries should be made during the sale process for new life insurance policies and may be incorporated as a separate section of a policy application form. Authorized insurers and licensed insurance intermediaries can modify the questions in Appendix A, use the information collected during the Financial Needs Analysis process (if applicable) and vary the questions to be asked regarding policy replacement depending on the particular circumstances of the customer, subject always to the objective of paragraph 5.1 being met.

5.5 A licensed insurance intermediary should assess and provide advice to the customer on whether the proposed purchase of the new life insurance policy is in the customer's best interests taking account of the reduction in the total cash value or sum insured under the existing life insurance policy and any other adverse consequences to the customer arising from the policy replacement. For this purpose, a licensed insurance intermediary should ask the customer to provide information on his/her existing life insurance policy(ies) so that such assessment may be provided. A licensed insurance intermediary must properly document the information provided by the customer during this assessment process. The factors considered, evaluation, the recommendation(s) made by the licensed insurance intermediary, and reason(s) for such recommendation(s) should also be documented as appropriate.

6. Important Facts Statement - Policy Replacement

6.1 In respect of every new life insurance policy to which this Guideline applies, which has been identified as a policy replacement or a potential policy replacement, the authorized insurer or licensed insurance intermediary should require an "Important Facts Statement - Policy Replacement" ("IFS-PR") as set out in Appendix B to be signed by the customer. The purpose of this is to make the customer aware of the disadvantages which may arise from the policy replacement, so that the customer can consider these disadvantages together with the information and advice given by the licensed insurance intermediary as referenced in paragraph 5.5 above and make an informed decision as to whether or not to proceed with purchasing the new life insurance policy.

6.2 The licensed insurance intermediary dealing with the application for the new life insurance policy which has been identified as a policy replacement should explain to the customer the implications of and risks associated with the policy replacement as identified in the IFS-PR and ask the customer to read the IFS-PR and consider the information contained in it.

6.3 The originals of the signed IFS-PR should be kept by the authorized insurer of the new life insurance policy which is the subject of the application. The authorized insurer must provide a copy of the IFS-PR to the customer on or before the date of issue of the new life insurance policy.

6.4 Authorized insurers should maintain complete records of the signed IFS-PRs dispatched to customers applying for new life insurance policies which have been identified as policy replacements. Such records should include the signed IFS-PRs, the dispatch date and mode of dispatch of the copies of the signed IFS-PRs to customers. Such records should be made available to the IA for inspection as soon as practicable upon request.

7. Internal Policy Replacements

7.1 An “internal policy replacement” means the purchase of a new life insurance policy which is considered to be a policy replacement (per paragraph 5.2 above), where the authorized insurer of the new life insurance policy is also the insurer of the customer’s existing life insurance policy.

7.2 Authorized insurers should implement processes for checking their internal records and databases to identify internal policy replacements by reference to the criteria listed in paragraph 5.2 above, as follows. Whenever an application is received for a new life insurance policy, an authorized insurer should check:

- (a) whether as at the application date, the customer has, or had at any time during the 12 months immediately prior to the application date, an existing life insurance policy with the authorized insurer; and
- (b) if so, whether any of the matters in paragraph 5.2(c)(i), (ii) or (iii) above has taken place in respect of the existing life insurance policy during the 12 months immediately prior to the application date.

If the matters in paragraph 7.2(b) above are identified, the authorized insurer shall determine if it is necessary to contact the customer for the purpose of reaffirming his/her intention to fund the purchase of the new life insurance policy by making changes on the existing life insurance policy and informing him/her of the corresponding disadvantages.

7.3 Where a new life insurance policy is applied for by a customer who is identified by the authorized insurer as having an existing life insurance policy with the insurer (by reason of the checks carried out in paragraph 7.2 above), but this is not considered to be a policy replacement at the time of such application, the insurer should have processes in place to continue to monitor the existing life insurance

policy for any changes during the 12 months immediately following the application date for the new life insurance policy, which may indicate a policy replacement (per paragraphs 5.2(c)(i), (ii) and (iii)). If, as a result of such monitoring any of the matters in paragraphs 5.2(c)(i), (ii) or (iii) is identified, the authorized insurer shall determine if it is necessary to contact the customer for the purpose of reaffirming his/her intention to fund the purchase of the new life insurance policy by making changes on the existing life insurance policy and informing him/her of the corresponding disadvantages.

8. Complaints Monitoring

8.1 Authorized insurers should keep track of complaints in relation to policy replacement cases (and keep records of such complaints), and perform on-going monitoring on the complaint trends. If any abnormality is found, proper management action shall be taken to identify the root causes of the complaints and remedial action should be taken.

9. Effective controls and procedures to be established by authorized insurers, licensed insurance broker companies and licensed insurance agencies

9.1 Authorized insurers should develop internal controls to ensure their appointed licensed insurance individual agents and licensed insurance agencies comply with the requirements under this Guideline and that the applications for life insurance policies made through licensed insurance brokers also comply with the requirements of this Guideline. Such controls should cover:

- (a) controls to ensure reasonable steps are taken to ascertain whether a customer is purchasing a life insurance policy as a policy replacement, with appropriate records being maintained to evidence these steps (see section 5 above);
- (b) controls to ensure that, where a policy replacement is identified, the customer is provided with an IFS-PR, signs the IFS-PR and is made aware of the disadvantages which may arise from the policy replacement, with appropriate records being maintained to evidence these (see section 6 above);
- (c) controls to ensure there is an effective mechanism to identify and handle internal policy replacement cases (see section 7 above);

- (d) controls to identify possible cases where licensed insurance intermediaries have evaded the control measures or assisted or abetted customers to do so (e.g. the customer signs an IFS-PR form before being provided with the opportunity to read and understand the form), take remedial action if necessary including in respect of the licensed insurance intermediary concerned; and
- (e) controls to identify policy replacement cases which are suspicious (e.g. licensed insurance intermediaries who have solicited a significant number of new life insurance policies for the insurer which are policy replacements), identify the root cause and take remedial action if necessary.

9.2 Licensed insurance broker companies and licensed insurance agencies are also required to develop and implement internal controls to ensure that they and their licensed technical representatives (broker) and licensed technical representatives (agent), as the case may be, comply with the requirements of this Guideline.

10. Record Keeping

10.1 Proper records should be maintained by authorized insurers, licensed insurance broker companies and licensed insurance agencies in respect of policy replacement matters including but not limited to the required documentation set out in this Guideline for inspection and review by the IA.

11. Commencement

11.1 This Guideline shall take effect from 23 September 2019 (“Effective Date”).

12. Transitional Provision

12.1 The IA recognizes that authorized insurers and licensed insurance intermediaries to which this Guideline applies may require time to update their documentation, controls and processes to align with the requirements in Sections 5 to 10 of this Guideline. 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 in Sections 5 to 10 of this Guideline (“Transitional Period”). In respect of life insurance policies to which this Guideline applies, where the application date for the policy is during this Transitional Period, authorized insurers and licensed insurance intermediaries may either comply with the requirements in Sections 5 to 10 of this Guideline or the requirements issued by The Hong Kong Federation of Insurers in its document entitled [“The Code of Practice for Life Insurance Replacement”](#) (version effective from 1 February 2010), which is hereby adopted solely for the Transitional Period.

September 2019

Question Template – Policy Replacement

Name of Insurer of this application : _____

Application/Proposal Number : _____

Name of Applicant/Proposer : _____

In order to fund the purchase of your new life insurance policy, are you using, or do you intend to use some or all of the funds arising from your existing life insurance policy, or any savings made by reducing the premium payable under your existing life insurance policy? For example, such funds or savings may arise from:

- a) surrendering / partially surrendering your existing life insurance policy to obtain its surrender value
- b) taking out a policy loan (including automatic premium loan) from your existing life insurance policy
- c) withdrawing policy values from your existing life insurance policy (e.g. cash out dividends or redeem fund units etc.)
- d) lapsation of your existing life insurance policy (e.g. by non-payment of premium)
- e) exercising the right to a premium holiday under your existing life insurance policy

Yes

Not yet decided

No

Please check one appropriate box only

Warning: Please answer the above question carefully. Making changes on your existing life insurance policy may not be in your best interest. Your licensed insurance intermediary must explain to you the financial implications, insurability implications and claims eligibility implications of such changes. For this purpose, your licensed insurance intermediary may require certain information on your existing life insurance policy. You may need to approach the insurer of your existing life insurance policy to obtain accurate and up to date information on your existing policy.

If your answer is “Yes” or “Not yet decided”, your licensed insurance intermediary must explain the “Important Facts Statement – Policy Replacement” to you.

Signature of the Applicant/Proposer

Date (DD / MM / YYYY)

Signature of
Licensed Insurance Intermediary

Date (DD / MM / YYYY)

Full name of
Licensed Insurance Intermediary

Type of License and License No.

Important Facts Statement - Policy Replacement

This “Important Facts Statement – Policy Replacement” (“IFS-PR”) aims to help you understand the factors to be considered and the risks involved in replacing your existing life insurance policy with a new life insurance policy. Your licensed insurance intermediary should explain to you the implications and associated risks involved in replacing your existing life insurance policy.

If you do not understand any of the following paragraphs or the advice or information provided to you by your licensed insurance intermediary is different from the information in this IFS-PR, please **do not sign** this IFS-PR and **do not proceed** with replacing your existing Life Policy.

SOME IMPORTANT FACTS YOU SHOULD KNOW

Please read carefully before signing.

Your insurance intermediary shall explain the content to you.

Financial Implications

1. **Informed Decision:** Life insurance policies usually last for a long period of time. If you surrender / take out policy loan from / withdraw policy values from / suspend or stop paying premium / reduce the premium payable on your existing life insurance policy, particularly during the early years of the policy period, you will usually suffer loss, including by way of having to pay charges. You should carefully compare your existing life insurance policy against the new life insurance policy you intend to purchase, and assess whether replacing your existing life insurance policy is in your best interests before you make a final decision.
2. **Difference between cash value from Surrender/ Lapse and total premium paid under your existing Life Policy** - The cash value that you may receive from surrendering your existing life insurance policy or allowing your existing life insurance policy to lapse, may be less than your total premium paid. This means that you may suffer a loss. Further, you may incur surrender charges if you surrender your existing life insurance policy or allow it to lapse.
3. **Policy Loan Interest** - The issuing insurer of your existing life insurance policy may charge you interest starting from the loan drawdown date. You should carefully review your regular statements to understand the opening and ending loan balance as well as the interest amount charged in the relevant period. Your existing life insurance policy may be terminated if the accumulated loan amount (and interest) exceeds a specified level of the account value / cash value of your existing life insurance policy.
4. **Withdrawal/ Partial Surrender Charges** - You may be subject to withdrawal charges or partial surrender charges within a prescribed period before the end of the policy term of your existing life insurance policy. For the new life insurance policy you intended to purchase, you may be subject to other early surrender / withdrawal charges within a prescribed period before the end of the term of the new life insurance policy.
5. **Policy Set-up Cost and Remuneration for licensed insurance intermediaries** – If you purchase a new life insurance policy, a substantial part of the initial premium may be used to pay for policy administration costs incurred by insurers and remuneration for the licensed insurance intermediaries. As a result, you may incur additional cost for replacing your existing life insurance policy.

6. **Higher Premium** - You may have to pay higher premium under the new life insurance policy in view of the difference in age, changes of health conditions, occupation, lifestyle / habit, and recreational activities (as compared with when you purchased your existing life insurance policy).
7. **Loss of Financial Benefit under the existing life insurance policy** - You may lose the financial benefit accumulated over the years (e.g. loyalty bonus or dividends) or to which you may be entitled (e.g. terminal bonus or dividends) under the existing life insurance policy.
8. **Financial Benefits under the New Life Insurance Policy Not Guaranteed** - The illustrated benefits of a new life insurance policy may NOT be guaranteed and whether they can be achieved depend on the performance of the issuing insurer of the new life insurance policy. If the new life insurance policy is an investment-linked assurance scheme policy, the illustrated benefits are based on assumed rates of return only.

Insurability Implications

9. **Changes in Coverage** - If you purchase a new life insurance policy and use it to replace an existing life insurance policy, some benefits, which are the policy features of the existing life insurance policy, may not be covered under the new life insurance policy due to changes in age, health conditions, occupation, lifestyle / habit or recreational activities. Also, riders / supplementary benefits under your existing life insurance policy may not be available under the new life insurance policy.

Claims Eligibility Implications

- 10 Benefits under the existing life insurance policy will no longer be payable to you if you surrender the policy or allow it to lapse. Besides, you may need to start a new waiting period in respect of certain benefits (e.g. medical, critical illness, suicide or incontestability) under the terms and conditions of the new life insurance policy.

Declaration

By the Insurance Intermediary

I declare that I have discussed and explained the implications and associated risks (including the above listed items) to the Applicant/Proposer regarding his/her decision to replace his/her existing life insurance policy with a new life insurance policy. I further declare that I have not made any inaccurate or misleading statements or comparisons, or withheld any information which may affect the decision of the Applicant/Proposer.

Signature of the
Licensed Insurance Intermediary

Full Name of the
Licensed Insurance Intermediary

Type of Licensed and Licensed No.

Date (DD/MM/YY)

By the Applicant/Proposer:

I understand the content of the above listed items.

Warning: you must read all items carefully and check that the licensed insurance intermediary has explained all the information on this IFS-PR before you sign this IFS-PR.

Signature of the
Applicant/Proposer

Full Name of the
Applicant/Proposer

Date (DD/MM/YYYY)