

Press Release

LCQ13: Regulation of investment-linked assurance schemes

Wednesday, March 18, 2015

Following is a question by the Hon Sin Chung-kai and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (March 18):

Question:

Investment-linked assurance schemes (ILAS), which not only provide life insurance protection but also include investment elements, have become increasingly popular in Hong Kong in recent years. It is learnt that the structure of these products is complicated with numerous fees and charges (such as administration, management and performance fees, as well as surrender, withdrawal and fund switching charges), together with variations in charging ways and time. Quite a number of insured persons who took out ILAS products have relayed to me that they were provided with inadequate information and were even misled or deceived by insurance brokers/intermediaries in the selling process, resulting in their making wrong purchase decisions. For instance, in the selling process, the insurance brokers/intermediaries only placed emphasis on the merits of the products (such as rewards, bonus, free switching of funds and high returns) but did not give a clear account of the restrictions of the products in respect of time horizon, fees and charges as well as early surrender, etc. Not until some insured persons intended to withdraw part of their funds after taking out the policy for a certain number of years did they realise that the time horizon of the products was as long as 25 to 30 years, rather than three to five years as mentioned during the selling process. As the insured persons did not have the means to make contributions on a long-term basis and requested for policy surrender halfway, they were levied high surrender charges by the insurance company. Even if the insured persons chose to suspend their contributions, they had to pay high fund management fees every year thereafter, thus suffering huge losses. In this connection, will the Government inform this Council:

(1) of (i) the number of new ILAS policies, (ii) the annualised premium, (iii) the single premium and (iv) the number of surrendered policies and its percentage in the total number of ILAS policies, in each of the past two years;

(2) given that the relevant self-regulatory organisations approved by the Insurance Authority are responsible for handling complaints relating to the registration and selling behaviour of insurance brokers/intermediaries, whether the authorities have grasped the details of such complaints; whether the Office of the Commissioner of Insurance (OCI), the Securities and Futures Commission (SFC) and the Consumer Council received complaints about ILAS in the past two years; if they did, (i) of the annual number of such complaints and its percentage in the total number of complaints involving the insurance industry, (ii) the nature of such complaints, and (iii) the amount of claims in general;

(3) whether it has assessed the adequacy of the existing legislation on regulating the design of ILAS products, the disclosure of commissions charged by insurance brokers/intermediaries, the fees and charges as well as the selling process, etc. ; and

(4) of the roles of OCI and SFC in regulating the sale of ILAS products by insurance brokers/intermediaries; whether the authorities have plans to step up regulation of the sale of such products by insurance brokers/intermediaries, such as requiring them to register with SFC before selling the products; if they do, of the details; if not, the reasons for that?

Reply:

President,

(1) The statistics on the business of Investment-linked Assurance Schemes (ILAS) in the past two years are set out in Table 1 of Annex.

(2) For complaints concerning ILAS, the Office of the Commissioner of Insurance (OCI) is responsible for handling complaints against insurers, while the three self-regulatory organisations (SROs) (Note) are responsible for handling complaints against insurance intermediaries. A breakdown by the number of ILAS complaints received by OCI and the three SROs in the past two years are set out in Table 2 of Annex.

A breakdown by the number of ILAS complaints received by the

Securities and Futures Commission (SFC) and the Consumer Council are set out in Table 3 of Annex.

We do not have statistics on the amount of claims involved in these complaints.

(3) To enhance protection for policyholders of ILAS products, OCI has issued a Guidance Note on Underwriting Class C Business (GN). Taking effect since January 1, 2015, the GN provides guidance on various areas such as product design, fees and charges, disclosure of information, commission system and selling process etc. It stipulates that product design and fees and charges should be fair, and commensurate with the insurance protection offered by the particular ILAS product. It states that advance payment of commission to insurance intermediaries is strictly prohibited, and requires insurers to follow the stipulated requirements in calculating and disclosing insurance intermediaries' remuneration. On the sale of insurance products, the GN prescribes that insurers should set out in the Important Facts Statements (IFS) product features, including the long-term nature, fees and charges, and surrender penalties of ILAS products, that may easily go unnoticed by policyholders. Policyholders are required to sign the IFS to confirm that they are fully aware of all such features. The GN also stipulates that every application for ILAS policy must include a duly completed Financial Needs Analysis and Risk Profile Questionnaire. If the result of the analysis shows that a potential policyholder has no insurance and investment needs, an insurance intermediary should not recommend any ILAS products and the insurer should not entertain any such application. To ensure policyholders are fully aware of the particulars and features of ILAS products, insurers are required to make post-sale confirmation calls to all ILAS clients.

Other than the requirements set out in the GN, OCI has imposed other regulatory requirements, including restriction on using gifts for sale promotion and according policyholders the right to cancel policies within a 21-day cooling-off period.

Furthermore, SFC is responsible for examining ILAS products intended for public sale, their offering documents (including the Products Key Facts Statements) and promotional materials in accordance with the Securities and Futures Ordinance (SFO) (Cap. 571), unless exemption is granted under the

SFO. Authorisation of ILAS products and their offering documents under sections 104 and 105 of the SFO is subject to compliance of both the applicable clauses of the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products (the Handbook) and other relevant regulatory requirements promulgated by the SFC. A list of Overarching Principles and other specific requirements, including those on information disclosure, are set out in the Handbook.

Since the introduction of the enhanced measures for policyholders of ILAS products, the number of ILAS complaints has dropped from 540 in 2009 to the current level of about 300 annually. OCI will monitor the latest market conditions from time to time, and review the effectiveness of the regulatory measures.

(4) Only insurance intermediaries who have passed qualifying examinations and have been registered with an SRO are allowed to sell insurance products. To ensure that intermediaries selling ILAS products are capable of giving appropriate advice to their clients, they are also required to pass the Investment-Linked Long Term Insurance Examination. Under the existing self-regulatory regime for insurance intermediaries, the three SROs are responsible for overseeing whether the sale conduct of insurance intermediaries is in conformity with the requirements of relevant codes of practice.

OCI is mainly responsible for monitoring the financial position of insurers and their compliance with the Insurance Companies Ordinance (Cap 41). Regarding ILAS products, as mentioned in (3) above, the GN issued by OCI stipulates that insurers must comply with the requirements on product design, fees and charges, disclosure of information, commission system and selling process etc. These requirements address common complaints against insurance intermediaries. For example, insurers selling ILAS are required to put in place a prudent commission system with the level of commission proportionate to insurance intermediaries' sale activities and after-sale services. There is also a restriction on advance payment of commission to insurance intermediaries to preclude aggressive and unscrupulous sale practices and encourage good after-sale services.

As mentioned in (3) above, SFC is responsible for examining ILAS

products intended for public sale, their offering documents (including Products Key Facts Statements) and promotional materials in accordance with the SFO, unless exemption is granted under the SFO.

The Legislative Council is scrutinising the Insurance Companies (Amendment) Bill 2014 for the establishment of an independent Insurance Authority (IIA) and introduction of a statutory licensing regime for insurance intermediaries to replace the current self-regulatory regime. IIA would be vested with sufficient powers to regulate insurance intermediaries, including drawing up codes of conduct and guidelines on the sale of insurance products to make insurance intermediaries strive to comply with regulatory requirements. If a licensed insurance intermediary is found to have committed misconduct, IIA may impose disciplinary sanctions. This would enhance regulation of the insurance sector and strengthen consumer protection. We will monitor the latest market conditions from time to time, and review the effectiveness of the regulatory measures.

Note: i.e. the Insurance Agents Registration Board, the Hong Kong Confederation of Insurance Brokers and Professional Insurance Brokers Association.

Ends