Subject: New Requirements Relating to the Sale of ILAS Products

1 Background

As members will know, there have been substantial changes to the regulatory environment for ILAS products. These include the introduction by the Securities and Futures Commission (the "SFC") of enhanced advertising guidelines and suitability and disclosure requirements and the new requirements of the Hong Kong Monetary Authority (the "HKMA") relating to the sale of ILAS products by banks. In the light of these changes, it is necessary for the Hong Kong Federation of Insurers ("HKFI"), as a self-regulatory body, to enhance its requirements for the sale of ILAS products. The purpose of this circular is to announce these new requirements.

2 Purpose

The purpose of the new requirements is to ensure that customers purchase ILAS products that are suitable for them and consistent with their requirements and risk appetite.

3 Effective date

All member companies who sell ILAS products are required to implement these rules in two stages as follows:

- a) The enhanced Financial Needs Analysis (as per section 4.1 of this circular), Risk Profile Questionnaire (4.2), Applicant Declaration (4.3) and Suitability Check (4.4) must be implemented **no later than 16**th **October 2009**.
- b) The post-sale controls (section 4.5) must be implemented **no later than 31st December 2009.**

This timing allows members to make the necessary changes to their systems to implement and support the new requirements.

4 New and Enhanced Requirements

4.1 Financial Needs Analysis

Building on the HKFI's initiative on needs analysis that took effect in February 2007, every application for an ILAS product must include, or be accompanied by, a financial needs analysis form ("FNA"). The FNA must as a minimum include all the questions and multiple choice options in the suggested form of FNA shown in Appendix A. Member companies may modify the FNA to include additional questions, and may also add additional multiple choice options to the mandatory questions shown in the suggested form of FNA; however, each of the choices shown for the mandatory questions must be included in the FNA.

Neither members nor customers can opt out of the FNA. That would defeat the objective of this initiative. If the customer chooses to deviate in any respect from the FNA process they must confirm their reasons in writing. The FNA form can be designed to accommodate this – see Appendix A – but it is stressed that "tick boxes" indicating non-compliance with the FNA requirement are not permissible; the customer must set out their specific reasons.

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The FNA may be presented as either a separate form, or included as a section within another point-of-sale document such as the proposal form but whichever option is adopted, the FNA must be clearly identified: "Financial Needs Analysis" or an appropriate set of words that clearly conveys the document's purpose and must be signed and dated by all applicants.

These new FNA requirements are in addition to the previously announced requirements of the HKFI's Initiative on Needs Analysis, which took effect in February 2007.

4.2 Risk Profile Questionnaire

Every application for an ILAS product must include, or be accompanied by a Risk Profile Questionnaire ("RPQ"). The purpose of the RPQ is to assess the customer's risk appetite and determine if a particular product and its underlying investment choices (if any) are suitable for them. The form of the RPQ should include, as a minimum, questions covering the following areas:

- 1) investment objectives
- 2) preferred investment horizon
- 3) risk tolerance
- 4) financial circumstances

However, there is no need to duplicate questions in the RPQ and the FNA. Member companies must also exercise extra care when selling ILAS products to elderly or unsophisticated customers or those who may not be able to make independent investment decisions on complex investment products, particularly products with long maturity periods or which attract heavy penalties on early redemption or withdrawal.

The treatment of customers choosing to deviate in any respect from the RPQ process is identical to the FNA requirement described in the FNA section above.

Every application for an ILAS product must include the RPQ, which may either be presented as a separate form, or included as a section within another point-of-sale document such as the proposal form but whichever option is adopted the RPQ must be clearly identified "Risk Profile Questionnaire or an appropriate set of words that clearly conveys the document's purpose and must be signed and dated by all applicants.

4.3 Applicant's Declarations

Every application for an ILAS product must include, or be accompanied by, Applicant's Declarations ("Declarations") in the exact form shown in Appendices B and C. Member companies must not modify the content of these Declarations.

The rules for the completion of the Declarations are as follows:

- 1) The applicant(s) must complete the Declarations. They cannot opt-out of this requirement.
- 2) The applicant(s) must sign the declaration of "Section I: Disclosure Declaration" to confirm they understand and accept the highlighted features of the product.
 - a) If the product has any unusual features or risks such as (without limitation) market value adjustment, foreign exchange risk, leverage, investment choices based on hedge funds, or extensive use of derivatives other than for risk management purposes, then the sales representative must explain these to the full satisfaction and understanding of the applicant(s) prior to signing. All

applicant(s) must sign and date at the bottom of "Section I: Disclosure Declaration".

- 3) The applicant(s) must then tick one of either boxes A, B or C in "Section II: Suitability Declaration".
 - a) Box A should be ticked where the sales representative and the applicant(s) agree that the product is suitable, based on the information provided by the applicant(s) as part of the FNA and RPQ.
 - b) Box B should be ticked by the applicant(s) in situations where the applicant(s) are unwilling to disclose sufficient information for suitability to be assessed, or where it is assessed that the product may not be suitable for the applicant(s) based on the information disclosed in the FNA and RPQ. In addition, whenever box B is ticked, an applicant must in his or her own handwriting provide sufficient explanation as to why he/she has determined to proceed with the application, notwithstanding that the product may not be suitable for him/her.
 - c) Box C should be ticked if the applicant(s) fails to comply with any part of the process, including but not limited to refusal to complete any or all parts of the FNA and RPQ, or the applicant(s) wishes to progress the sale on an "execution only" basis. The applicant(s) must set out their reasons and provide these in their own handwriting.
 - d) All applicant(s) must sign and date at the bottom of "Section II: Suitability Declaration".

The Declarations can either be presented as a separate form, or as a separate single page within another point-of-sale document such as the proposal form. The Declarations' document or section must be clearly titled: "Applicant's Declarations".

4.4 Suitability Check

Member companies must establish operational controls to ensure that the FNA, RPQ and Declarations are duly completed.

Further, member companies must establish a process to verify whether the ILAS product sold, and key features such as the premium amount and term are considered suitable for the applicant(s) based on the information disclosed by the applicant(s), and to deal appropriately with any exceptions (as per section 4.5 of this circular).

Special consideration is required where business is introduced by an insurance broker, including Independent Financial Advisors ("IFAs") acting in the capacity as an insurance broker. It is important that in performing the Suitability Check and any exceptions (as per Section 4.5 of this circular) that the applicant(s) fully understand that the Insurance Company is not responsible for the advice given by the insurance broker. To facilitate this differentiation, a specific Applicant Declaration (see Appendix C) has been prepared for this purpose and must be used for business introduced from this intermediary type.

4.5 Post-sale controls

Member companies will be aware that the HKMA has announced a requirement for banks to make audio recordings of ILAS sales. The HKFI's task force on the Report by HKMA on Distribution of Structured Products determined that applying this recording requirement to other sales channels, such as agents, was not practical. However, since this would create a difference between sales channels, member companies must implement the following additional post-sale controls ("Post-sale Controls") for non-bancassurance ILAS sales:

- 1) Copies of the risk disclosure statement for the relevant ILAS product and the signed Applicant's Declarations (as per Appendix B of this circular) must be sent to the customer with the policy.
- 2) A notice informing the customer that copies of the customer's FNA and RPQ are available for inspection and advising where and how the customer may access these documents must be sent with the policy to the customer. This applies in whole or part to all clients whether they have completed boxes A, B or C.
- 3) Before the expiry of the cooling-off period, member companies must make reasonable efforts to complete and make audio recording of telephone calls with all "Vulnerable Customers" and with any customers selecting either boxes B or C of Section II of the Declarations, to confirm their consent to both the Disclosure Declaration and the Suitability Declaration (a "Post-sales Call").

The Post-sale Controls will not apply to bancassurance ILAS sales, as an audio recording should already have been made during the fulfillment process. However, member companies must implement the Post-Sale Controls for all other sales channels, including, without limitation, customers introduced by independent intermediaries such as brokers and IFAs acting in the capacity as an insurance broker.

To ensure compliance with the Post-sales Call requirements Member companies must prepare and follow a script for the Post-sales Call. The HKFI will shortly be indicating a minimum set of questions that should be incorporated in this script, however member companies are entitled to develop their own version provided it includes at least these questions.

In determining who is a "Vulnerable Customer" to whom a Post-sales Call must be made, account must be taken of the following matters, including but not limited to:

- Age a customer over 65 is a Vulnerable Customer
- Level of education a person whose education level is "primary level" or below, is a Vulnerable Customer
- Financial means a person who has "limited means" or no regular source of income or both is a Vulnerable Customer

All member companies, <u>including bancassurers</u>, are required to maintain a register of policies issued to "Vulnerable Customers" or customers selecting either boxes B or C of the Declarations or both. This register must be capable of being audited and rendering appropriate data for both industry and key stakeholders' needs such as the Office of the Commissioner of Insurance.

4.6 Certification of Copies of FNA and RPQ

Insurers are permitted to accept copies of the above documents provided they are appropriately certified. In respect of banks this should be certified by the bank branch manager and bear the bank's chop. For Independent Financial Advisors ("IFA"), insurers will accept copies provided they are certified by the Responsible Officer designated by the authorized representative of the IFA.

5 Updated ILAS Information Brochure

In the interests of improved customer education, the HKFI is in the process of preparing an updated version of the ILAS Information Brochure. It is expected that this revised brochure will be made available before the end of September 2009.

APPENDIX A: Financial Needs Analysis ("FNA") Form

The following questions form the minimum required content of the FNA form: What are your purposes of buying our product? (tick one or more) ☐ Life Protection ☐ Savings ☐ Investment ☐ Accident ☐ Education ☐ Health Protection ☐ Retirement ☐ Others (Please specify_____ What is your target horizon for insurance policy/investment linked assurance scheme? (tick one) □ < 1 year</p> ☐ 1-5 years ☐ 6 - 10 years ☐ 11-20 years □ > 20 Years 3. Your capacity to pay premiums for insurance or to contribute to investments: a. What is your average monthly income from all sources in the past 2 years? (tick one or more) i. □ Specific amount: Not less than <u>HK\$</u> per month or ii.

In the following range: a) ☐ less than HK\$4,000 b) ☐ HK\$4,001 - HK\$9,999 c) 🗆 HK\$10,000 - HK\$19,999 d) ☐ HK\$20,000 - HK\$49,999 e) ☐ HK\$50,000 - HK\$100,000 f) □ over HK\$100,000. b. What is your approximate current accumulative amount of liquid assets? Please specify amount: [HK\$ ____] Note: Liquid assets are assets which may be easily turned into cash, for example, cash, money in bank accounts, money market accounts, actively traded stocks, bonds and mutual funds and US Treasury bills. However, real estate, coin collection and artwork are not considered to be liquid assets. c. For how long are you able to contribute to an insurance policy and/or investment plan? (tick one) □ < 1 year ☐ 1-5 years ☐ 6 - 10 years \square 11 -20 years \square > 20 Years d. Approximately what percentage of your income would you be able to use to pay your monthly premium for the entire term of the insurance policy/investment plan in c. above? (tick one) i) \(\square 10\% - 20\% ii) 21% - 30% iii) □ 31% - 50% iv) □ >50%

e. In c	onsidering your ability to	make payments, wh	hat are your sources	of funds?
(tick	cone or more)			
i)	□ salary			
ii)	☐ income			
iii)	□ savings			
iv)	☐ income from other inv	estments		
v)	☐ accumulative savings	& investments		
vi)	□ others (Please specify)		
4. If you choose reason(s) in	e to deviate in any respec writing.	t from the FNA prod	cess, you must indic	ate your
(Applicant	t must complete explanati	on in own handwriti	ing in this box)	
Applicant's Name	and Signature	Date	 e	5

Note: You are required to inform us (the insurance company) if there is any substantial change of information provided in the form before the policy is issued.

APPENDIX B: Applicant's Declarations (for business introduced by insurance agents)

INVESTMENT LINKED ASSURANCE SCHEME APPLICANT'S DECLARATIONS

Section I: Disclosure Declaration

The insurance intermediary, (insert name and registration number of the relevant insurance agent), has conducted a financial needs analysis for me and I have read the risk disclosure statements as stated in the Principal Brochure and marketing materials of the product(s) that I am applying for. I declare and agree that I fully understand and accept the following relating to my application(s) for this insurance policy:

- Product features including the policy term and all charges and fees;
- Amount of premium and premium term;
- Any loss that I may suffer as a result of early surrender of my policy; any cash withdrawal; premium reduction; and any permissible premium suspension/premium holiday entitlement.
- Investment returns are not guaranteed;
- Potential loss associated with any market value adjustment;
- The potential risks as disclosed in the risk disclosure statements, returns, and losses associated with my investment(s);
- If I switch my investment choices, I may be subject to a charge and my risk may be increased or decreased, I have the right to seek professional financial advice when in doubt.

Applic	ant's Name & Signature Date
Section	on II: Suitability Declaration
l unde	rstand and agree that <i>(tick one only)</i> :
A D	the features and risk level of the product(s) and my selected mix of underlying investment choices are suitable for me based on my disclosed current needs and risk profile as indicated in the Needs Analysis Form and Risk Profile Questionnaire.
OR B	despite the fact that the features and/or risk level of the product(s) and/or my selected mix of underlying investment choices may not be suitable for me based on my disclosed current needs & risk profile as indicated in the Needs Analysis Form and Risk Profile Questionnaire, I confirm that it is my intention and desire to proceed with my application(s) as explained below:
OR C	(If Box B is ticked, then Applicant must complete explanation in own handwriting in this box) despite the fact that I am required to complete the Financial Needs Analysis and Risk Profile Questionnaire to ensure that the product(s) to be purchased are suitable for me, I confirm that it is my intention and desire to proceed with my application(s) without complying with the said requirement for the reason(s) below:
	(If Box C is ticked, then Applicant must complete explanation in own handwriting in this box)

l acknowledge l	should not	purchas	e this p	roduct and	or the se	elected mix	c of und	lerlying i	nvestment
choices unless l	understan	d these	and their	r suitability	has beer	n explaine	d to me	and tha	at the final
decision is mine.				•		•			

Applicant's Name & Signature	Date

Note: 1 For the purpose of this Declaration, the singular shall impart the plural; the word "I" shall include "we"; & the word "my" shall include "our". For joint applicants, all applicants must sign both sections.

2 You are required to inform your agent or us (the insurance company)if there is any substantial change of information provided in the form before the policy is issued.

APPENDIX C: Applicant's Declarations (for business introduced by insurance brokers including Independent Financial Advisors ("IFA") acting in the capacity as an insurance broker)

INVESTMENT LINKED ASSURANCE SCHEME APPLICANT'S DECLARATIONS

Section I: Disclosure Declaration

The insurance broker, (insert name and registration number of the relevant insurance broker), has conducted a financial needs analysis for me and I have read the risk disclosure statements as stated in the Principal Brochure and marketing materials of the product(s) that I am applying for. I declare and agree that I fully understand and accept the following relating to my application(s) for this insurance policy:

- Product features including the policy term and all charges and fees;
- Amount of premium and premium term;
- Any loss that I may suffer as a result of early surrender of my policy; any cash withdrawal; premium reduction; and any permissible premium suspension/premium holiday entitlement.
- Investment returns are not guaranteed;
- Potential loss associated with any market value adjustment;
- The potential risks as disclosed in the risk disclosure statements, returns, and losses associated with my investments;
- If I switch my investment choices, I may be subject to a charge and my risk may be increased or decreased, I have the right to seek professional financial advice when in doubt.
- Any investment and asset allocation advice associated with this insurance policy formulated by the
 insurance broker is based on information given to them in the process of completion of a Needs Analysis
 Form / Risk Profile Questionnaire, it is not by the insurance company that manufactures and issues the
 product ("Insurance Company"). The Insurance Company does not assess the investment or asset
 allocation risk at any time during this process.

Applicant's	Name & Signature Date								
Section II:	Suitability Declaration								
I understan	d and agree that (tick one only):								
A D	The features and risk level of the product(s) and my selected mix of underlying investment choices are suitable for me based on my disclosed current needs and risk profile as disclosed to my insurance broker during the completion of a Needs Analysis Form and Risk Profile Questionnaire. These needs have been assessed by the insurance broker, and not by the Insurance Company								
В	despite the fact that the features and/or risk level of the product(s) and/or my selected mix of underlying investment choices may not be suitable for me based on the information disclosed to my insurance broker during the completion of a Needs Analysis Form and Risk Profile Questionnaire, I confirm that it is my intention and desire to proceed with my application(s) as explained below:								
OR C	despite the fact that I am required to complete the Financial Needs Analysis and Risk Profile Questionnaire to ensure that the product(s) to be purchased are suitable for me, I confirm that it is my intention and desire to proceed with my application(s) without complying with the said requirement for the reason(s) below:								

(If Box C is ticked, then Applicant must complete explanation in own handwriting in this box)

I acknowledge I should not purchase this product 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.

I understand that the Insurance Company :-

- (a) does not provide/accept any responsibility for the financial advice given by my appointed insurance broker who acts on my behalf and independently of the Insurance Company; and
- (b) will retain copy(ies) of the completed Needs Analysis Form and Risk Profile Questionnaire for record purpose but will have no responsibility for reviewing/assessing whether a particular insurance product and any underlying investment choices are suitable for me in light of my personal circumstances.

Applicant's Name & Signature	Date	
Declaration by Intermediary		
I,(print name of Intermed explained the contents of the Applicant choice.	liary and Registra Declarations to the	tion number), confirm that I have fully he Applicant in a language of the Applicant's
Name and Signature Date		

- Note: 1. For the purpose of this Declaration, the singular shall impart the plural; the word "I" share include "we"; & the word "my" shall include "our". For joint applicants, all applicants must sign both sections.
 - 2. You are required to inform your intermediary or us (the insurance company) if there is any substantial change of information provided in the form before the policy is issued.

財務需要分析表格

申請人姓名及簽署

財務需要分析表格之基本內容必須具備以下問題:

1.	閣下選購本公司產品的目的爲何?(可選多於一項) □ 人壽保障 □ 儲蓄 □ 投資 □ 意外 □ 退休 □ 教育 □ 醫療保障 □ 其他 (請詳述
2.	閣下投購保單/投資相連壽險產品計劃的目標年期爲 (只可選其中一項): □ < 1 年 □ 1-5 年 □ 6-10 年 □ 11-20 年 □ > 20 年
3.	閣下繳付保費或支付投資項目的負擔能力:
	a. 在過去兩年裡,閣下由所有收入來源所得的每月平均收入爲(可選多於一項): i. □ 請註明金額:每月不少於港幣 \$
	b. 閣下現時累積的流動資產約有多少? 請註明金額:[<u>港幣\$</u>
	註:流動資產指可以容易變現爲現金的資產,例如現金、銀行存款、貨幣市場戶口、交投活躍的股票、債券、共同基金及美國國庫券等。然而,房地產、錢幣收集及藝術品均不屬於流動資產。
	c. 閣下可支付保單及/或投資計劃的年期爲 (選其中一項): □ < 1 年 □ 1-5 年 □ 6-10 年 □ 11-20 年 □ > 20 年
	d. 就閣下在 c 所選擇的保單/投資計劃之整段年期內,閣下每月可承擔的保費佔閣下個人收入的比率爲 (選其中一項): □ 10% - 20% □ 31% - 50% □ 21% - 30% □ > 50%
	e. 閣下考慮繳付能力時,請註明資金來源(可選多於一項): □ 薪金 □ 其他投資的收入 □ 收入 □ 以入 □ 以入 □ 以付(請詳述
4.	如閣下選擇不填報上述財務需要分析,閣下必須書面詳述有關原因。 (申請人必須在此親筆填寫解釋)

註:若本表格上填報的資料有重大改變,閣下在保單未簽發前必須通知本公司。

日期

投資相連壽險計劃申請人聲明書(由保險代理銷售的業務)

甲部 - 披露聲明

保險中介人(填上有關保險代理/經紀的姓名及登記號碼)已爲本人分析財務需要,本人 已閱讀本人所申請計劃的主要推銷刊物及銷售資料內之風險披露說明。本人聲明及同意本人完全明白並接受以下有關本人申請投購本保單的資料:
 產品特色,包括保單年期及所有收費與費用:

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註:1就本聲明而言,單數等同複數;「本人」包括「我們」的涵義;及「本人的」包括「我們的」 的涵義。若爲聯名申請人,所有申請人必須在甲、乙兩部內簽署。 2本表格內提供的資料如有更改, 閣下在保單未簽發前需要通知本公司或閣下的中介人。

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本. A		白並同類根據本	人填	寫「	財	修 需	要	分才	忻 」	及	. г	風	險	承:	擔負	能力	丁間	卷	. 1	時	向	保	險紹	艺紀	披匐	复白	勺現
或		時需要組合均	及投	〔〕)	()厥(贯次	, ,	有 F	鍋店	탿뱌	ıΖ	特	色	及:	其 🏻	虱颅	貞級	別	興	本	人	所:	選擇	累的	相關	 割 抄	と資
B		儘管根 及投資 合可 :	風險	概为	, ,	有關	產。	品。	之朱	与色	及	/	或	風	颁系	及另	4 及	/	或	本	人.	潠:	摆的	力相	關和	子官	子組
		(如注	選擇	$\lceil B \rfloor$	項	,	請。	14	必多	頁親	≇	於	此	欄/	为办	是供	共原	因)								
नि																					_						
或 C		儘管本 品適合 意欲申	本人	,但	[本ノ	人確	務制認力	导要	夏分 令丁	析述	原	及因	「月	1. 険	重新	擔任	能,關	力問要	引名 水	多」的作	情	以祖况	確保 下,	R 所 本	選購人打	事的 丁第	產
		(如道					'請,	14	公 多	夏親	筆	於	此。	欄片	为敖	是供	t.原	因)							_	7
本ノ本ノ	人確認人的智	思,除非活票要,否	本人	清楚	了解不應	選集	產品	和產	相品品	關:	投了	資料	頁目	的最	選終	擇的	組力	合植	· 1	 位 得	手 禿	基本	產	品女	山何	切	合
(i)	對獨將保	自保險公 日立代表 日留已塡 日日及其	我的妥的	保險	胳臂	需要	分	折	· 及	5 Г	風	險	承:	擔負	能力	5 間	粉	1	副:	本作	作	記録	綠之	用	,但	至	保
		申請	人姓?	名					-			申記	請力	人資	簽署	2				•	3			日	期		

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本人(填上有關保險中介人的姓名及登記號碼)確認已採用申請人選擇之語言,向申請人詳盡解釋「申請人聲明書」的內容。

姓名及簽名

日期

註:1就本聲明而言,單數等同複數;「本人」包括「我們」的涵義;及「本人的」包括「我們的」 的涵義。若爲聯名申請人,所有申請人必須在甲、乙兩部內簽署。 2本表格內提供的資料如有更改, 閣下在保單未簽發前需要通知本公司或 閣下的中介人。