

## Frequently Asked Questions ("FAQ")

The following represents the most frequently asked questions to the recent circular describing the new requirements relating to the sale of Investment Linked Assurance Schemes ("ILAS"). The HKFI does not accept any responsibility for individual companies' interpretation and execution of these requirements and the ultimate responsibility must rest with the Company and its Compliance Function.

### 1. Financial Needs Analysis (FNA) (4.1)

- Q. Does the previous threshold on insurers to keep copies of the signed form still apply for non-ILAS policies?
- A. The new ILAS requirements do not have any impact on current practices for non-ILAS products.
- Q. For the 1-year validity in the existing guideline, will it still apply (for both non-ILAS and ILAS)?
- A. "Yes" to non-ILAS, but "No" to ILAS, as every new application for ILAS must be accompanied by the FNA, RPQ and Applicant's Declarations (see 4.1, 4.2 and 4.3 of the circular); despite the fact that the customer may have signed those forms for another ILAS application within 1 year.
- Q. Will the existing requirement on the FNA form still apply, e.g. signature of intermediaries, reason for recommendation etc?
- A. Yes.
- Q. Customer's target horizon for an insurance policy and an investment-linked assurance scheme can be different. To avoid confusion to customer, we suggest to amend question 2 to "What is your target horizon for investment-linked assurance scheme?" and to delete "insurance policy" from the question.
- A. This is a circular and is not meant to represent detailed procedures regarding ILAS. There is sufficient latitude to adopt the amendment if you choose to do so for your company.
- Q. Whether review of customers' needs subsequent to the issue of policy is required to be performed at regular intervals?
- A. This would constitute "best practice" but at this stage is not part of the required procedures. This may change in the future.
- Q. For Q3, what is the meaning of "Money Market Account"?
- A. These are examples of liquid assets; for example, it could be interpreted to mean deposit or forex accounts. However, a detailed answer to this question is not appropriate.
- Q. For Q4, what is the scope of "deviate in any respect from the FNA process"? Does it mean customer refuses to complete FNA Form?
- A. It means any deviation from the FNA process, and could represent a failure to provide all requested information, or details to any one question.
- Q. Sometimes the customer may request bank staff to complete the form on his/her behalf. Given the audio recording is arranged at the bank, is it feasible for customer orally expressing the explanation for deviation and bank staff writes it down for customer?

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- A. It is not a situation that has been considered and while this may be feasible when the bank and the insurer are within the same group, there are definitely issues when this may not be the case. At this stage, we would recommend that you adhere to the proposed procedures and have the customer write the explanation.
- Q. Customers can give any personal reason and there is no requirement for us to validate it (also apply to 4.2 & 4.3)
- A. In most cases this would be the case.
- Q. It is expected that audio recording of the reason(s) can fulfill and replace the requirement of 'handwriting' (also apply to 4.2 & 4.3)
- A. It is not a situation that has been considered and while this may be feasible when the bank and the insurer are within the same group, there are definitely issues when this may not be the case. At this stage, we would recommend that you adhere to the proposed procedures.
- Q. Please confirm as long as we have our own standard questions and answers fulfilling the requirements of Appendix A with an area for customer to provide "other reasons", we are not required to use the exact wording as proposed.
- A. Correct.
- Q. Can the multiple choices in appendix be replaced by exact value/amounts, e.g. by answering "2 years" instead of choosing "1-5 years". If it is allowed, our existing Financial Planning Report can already serve some of the requirements.
- A. This would be acceptable.
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- Q. If the customer chooses to deviate in any respect from the FNA process they must confirm their reasons in writing. What sorts of reasons can/cannot be accepted?
- A. Commonsense must prevail and be decided by Company's internal policy/compliance.
- Q. The customer must set out their specific reasons and "tick boxes" are not permissible. But can we list out "unacceptable reasons" to help customers?
- A. This defeats the whole purpose of avoiding tick boxes.
- Q. Do we accept "client is unwilling to disclose his financial information" as the reason?
- A. Logical, but up to Company's internal compliance policy.

## 2. Risk Profile Questionnaire (RPQ) (4.2)

- Q. Will a validity period apply to RPQ, similar to that in the current FNA requirement?
- A. Presently, the new requirements apply at the 'point of sale'. For the time being, we would expect an updated RPQ to be submitted with each new application for the same customer.
- Q. Will RPQ be required for fund switching, adding rider or adding lump sum payment?
- A. Presently, the new requirements apply at the 'point of sale'. For the time being, it will not apply to fund switching or top ups.

- Q. Is it a must that the RPQ be titled as "Risk Profile Questionnaire" as our bank partner's RPQ form are named "Personal Investment Risk Profile", which is a standard name used by the bank across the region.
- A. While the circular was quite explicit that the documents must be clearly headed "Risk Profile Questionnaire", we are prepared to allow the latitude you are seeking provided it is clear what the document represents.
- Q. Please clarify whether customers are required to complete a new RPQ when subsequent (i.e. after the application stage) switching/re-direction/top-up investment orders are made, such orders may involve selection of underlying funds of a higher risk level than customers' tolerance level.
- A. Presently, the new requirements apply at the 'point of sale'. For the time being, it will not apply to fund switching or top ups.
- Q. The Federation requires members to exercise extra care when selling ILAS products to vulnerable customers. Apart from the new and enhanced requirements proposed, what other steps does the Federation expect members to take in this regard? Please give details.
- A. It is more appropriate that the Company's Compliance Officer defines and sets internal policy.
- Q. Would the Federation provide a sample Enhanced RPQ in Chinese?
- A. A Chinese version of the circular will be available soon.
- Q. How should recorded telephone calls be managed? Can it be done by recording the content of the telephone call on paper or on computer? Can audio recording do it?
- A. It must be done by audio equipment.
- Q. Can insurance companies elect to follow the post sale controls procedures for ILAS sales as required under HKFI's Circular instead of the audio-recording requirement for sales of investment products in banks? Will HKFI communicate with HKMA in this respect as the requirements by different regulators seem to create a disparity between bancassurance and agency channels, hence (a) a non-level playing field for insurance companies relying on bancassurance channel; and (b) it may create a disparity within an insurer where there are multiple sets of rules / procedures applicable for the same product depending on the sales channel. From a customer's perspective, it will create the same confusion. If we are confident that the new enhanced requirements can provide adequate protection for customers, it should be applied equally for all channels.
- A. The HKMA is the governing regulator for banks and it is their requirement that banks must comply by conducting an audio recording. It is not appropriate for the HKFI's requirements to override this.
- Q. Is the post sale control requirement applicable to all ILAS sales, whether they are bancassurance ILAS sales or not?
- A. Only applicable to non-bancassurance sales.
- Q. For questions covering investment objective, investment horizon, risk tolerance & financial circumstances, it can be carried at either FNA Form or RPQ. Please advise if there's any mis-interpretation about this.

- A. That is correct. There is no need to duplicate questions between these two documents.
- Q. The guideline requests each ILAS application to be accompanied with a RPQ which include (i) Investment Objectives, (ii) Preferred Investment horizon, (iii) Risk tolerance and (iv) Financial circumstances. The "Product Selection Criteria" section of our application form has already satisfied (i) to (iii) while (iv) is recorded in NAF. We believe that we have already fulfilled the requirements. Please advise if otherwise.
- A. This is a question for your Compliance Officer.
- Q. The "Product Selection Criteria" (PSC) section forms part of the application form. Customer signs on the application form to confirm everything including the PSC. Therefore, there is no need for an additional signature (and date) for this section.
- A. A question as to the compliance of the circular should be referred to the in-house Compliance officer.
- Q. It is mentioned: "every application for an ILAS product must include, or be accompanied by a RPQ. We are fulfilling this requirement as we complete the PSC for each application, as the PSC includes all information for question i) to iii) (and iv) in NAF.
- A. Same answer as above.
- Q. Member companies must exercise extra care to elderly or unsophisticated customers, etc. How to define & prove "extra care"?
- A. The Compliance Officer must take responsibility and feel that they have adequately discharged this. It should not be on the basis of doing "just enough".
- Q. How to define elderly (age?), or unsophisticated (year of investment experience?), or those who may not be able to make independent investment decisions? Are they the "vulnerable customer" as illustrated in 4.5?
- A. See answer to the above.
- Q. How to define heavy penalties and early redemption / withdrawal?
- A. See the above answer.
- Q. If the customer chooses to deviate in any respect from the RPQ process they must confirm their reasons in writing. What sorts of reasons can and cannot be accepted?
- A. It is up to the company to decide what is appropriate, but commonsense should prevail.
- Q. Is the customer allowed to tick a check box "Same as FNA", if the reason to deviate FNA & RPQ is the same?
- A. We are trying to avoid tick boxes. The customer could also go straight to Box C on the Applicant's Declaration and explain in his/her own handwriting.
- Q. Any font size or format requirement in the questionnaire?
- A. It is up to each company to prescribe.
- Q. If there is any omission/ incompleteness noted on the forms/declaration received, can client supplement by a separate form?
- A. Yes, but it must be signed by the customer.

- Q. The forms should be signed by applicant(s) only. No signature of life insured is required. Correct?
- A. This may be one and the same.
- Q. It seems the current guideline aims at gauging the risks of underlying assets rather than the structure of the ILAS products. Should consideration be also given to the structure of the ILAS product on top of the risks of the underlying assets? For example, if the ILAS product provides derivatives (equity, currency or commodity linked) feature or attached with gearing (i.e. loans) feature, it will increase the risks of the ILAS product exponentially.
- A. Yes, and must be explained to the client.
- Q. It seems that the current proposal is merely focusing on the risks level of the underlying assets and the corresponding risks appetite of applicants at the time of entering into ILAS product. This might sew the picture down the road as and when the underlying asset/policyholder's circumstances changes.
- A. Presently, these controls are aimed at protecting the customer at the point of sale. This may change in future; however, customers are required to inform the insurance companies if there is any substantial change to the information provided in the forms signed by him/her at the point of sale and prior to policy issue.
- Q. Any standard classification for risk class of each fund? Any source? Should HKFI/SFC provide a common one for the industry?
- A. There is a generally accepted classification.
- Q. How to assess client's risk appetite through RPQ? Any standard questions? Different measures will be applied to different companies if RPQ is not standardized
- A. Again, there is a generally accepted approach to this; companies have to satisfy themselves.
- Q. Can we combine FNA, RPQ, and AD and in one form with one signature?
- A. Depends on whether the client has complied with the FNA and RPQ requirements. The documentation or warranty from the customer must clearly indicate he is signing off all parts of the FNA, RPQ and AD
- Q. How to define "reasonable effort to complete and record telephone calls"?
- A. Compliance officer should define.

### 3. Applicant Declaration (4.3)

- Q. For Section I, in order to cater for the bancassurance business, suggest to amend "(insert name and HKFI registration number of the relevant insurance agent / broker / technical representative)".
- A. Acceptable.
- Q. For Section II, box A and B, Should "Financial Needs Analysis Form" be used instead of "Needs Analysis Form"?

A. As long as it is clear the intention of the document; companies can choose to describe the document as described. This is a change to what was originally outlined in the circular.

Q. For Section II – Box B of the AD, suggest to provide multiple choices for clients to select, e.g.

My/our declared reason(s) for proceeding the transaction is(are) 本人/吾等聲明繼續交易之原因為:

My/our view on specific market(s)/ asset class(es)/ products 本人/吾等對個別市場資產類別產品持個人見解

My/our desire to take higher risk to earn higher potential return 本人/吾等希望承受較高風險以獲取較高潛在回報

I/we have other adequate liquid assets to sustain the liquidity and cashflow 本人/吾等有足夠流動資產以維持現金流量

Investments above only account for small portion of my/our total wealth 上述投資只佔本人/吾等資產的小部份

My/our specific investment purpose (Please specify) 本人/吾等之特定投資目的(請列明): \_\_\_\_\_

Others (Please specify) 其他(請列明): \_\_\_\_\_

A. This is not acceptable and defeats the purpose of the client expressing their reasons for not complying with the process.

Q. For bancassurance business, can a more extensive disclosure of the product features be allowed in the AD?

A. Yes. Anything that complements or provides more clarification is to be encouraged so long as the minimum contents as required by the circular are present.

Q. What is the definition of "execution only"? Can more detailed guideline re "execution only" be provided?

A. The applicant assumes full responsibility for his decision not to comply and does not engage in the FNA/RPQ process.

Q. If customers choose to deviate in any respect from the FNA process / RPQ, they are required to state the reason(s) in respective forms and the Applicant Declaration - Suitability Declaration (Box C). We expect that customers are only required to complete Box C rather than repeat the reason(s) for 3 times in different documents.

A. Correct.

Q. If we have covered some declaration items in other point-of-sale documents such as the application form, can we simplify the content of the form to avoid duplication or incorporate the relevant content of the declaration into our application form? Can the rule be relaxed to allow slight wording change with the scope same as the requirement in appendix?

A. Companies can choose to design as they see fit as long as the documentation is compliant. See the answer to the above. However, the declarations cannot be edited in any way.

Q. What is the definition of "marketing material" in Appendix B? It is concerned that some of the "marketing materials" such as website, fund performance may not be the core selling documents.

A. It should be considered as any material that was used to conclude the sale.

Q. How to define "sufficient explanation" if customer ticks box B in the Applicant's Declarations (AD)?

- A. Up to the satisfaction of the company and prescribed internal procedures, but commonsense should prevail.
- Q. Customer may tick box C in the AD and provide a reason of "refusal to complete any or all parts of FNA and RPQ". This "allows" customers to blank the FNA and RPQ. What is the difference between the new requirement and the existing in terms of the level of risk control?
- A. If the client chooses this approach there is little we can do. They have chosen to bear the risk themselves and given the reason in their own handwriting.

#### 4. Suitability Check (4.4)

- Q. What are the proposed interim procedures to perform suitability check in Section 4.4 "to deal appropriately with any exceptions", which is conducted through the post-sale controls while in the meantime will not be implemented?
- A. This is a matter for your Compliance Officer and internal controls and procedures.
- Q. Would the Federation propose any objective criteria for assessing suitability to give members a unified standard to follow?
- A. This is not under consideration. This responsibility has to rest with your compliance officer.
- Q. How often and when should a suitability check be performed?
- A. As part of the approval process for new applications; however, 'best practice' would dictate that this is done at each customer review or change in circumstances.
- Q. How long should the record of FNA, RPQ and Declarations be kept? Are both hard and soft (scanned) copy acceptable?
- A. It should be treated in the same manner as all documentation constituting the fulfillment of a new policy. Scanned version would be acceptable.

#### 5. Post-sale controls (4.5)

- Q. For point 3, member companies "must make reasonable efforts to complete and record telephone calls with all "Vulnerable Customers" and with any customers selecting either boxes B or C.....". Please provide guidance on what is "reasonable effort"?
- A. Reasonable efforts could be considered as calling all vulnerable customers and making several attempts to establish contact over several days.
- Q. Is there any requirement on the retention period of the telephone call record?
- A. None is prescribed but it should be held as long as reasonable to protect the company against policyholder claims of mis-selling.
- Q. As mentioned in the draft guideline, "insurers are permitted to accept copies of the FNA and RPQ provided that 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