

**By Fax/By E-mail**

Ref : A2-001/02 – J35031

To : Authorized Representatives, Member Companies, The Hong Kong Federation of Insurers (“HKFI”)  
Non-HKFI Insurers using HKFI’s agent registration service

c.c. : Ms Annie Choi, JP, Commissioner of Insurance, Insurance Authority  
Mr Apollo Lau, President, General Agents & Managers Association of HK  
Mr Joseph Sit, President, HK Chamber of Insurance Intermediaries  
Mr Teem Lam, Chairman, The HK General Insurance Agents Association Ltd  
Mr Samuel Lau, President, The Life Underwriters Association of HK Ltd

From : Alice Kong, Secretary General, IARB

Date : 11 January 2010

Subject : **New version of Cooling-off Period and Code of Practice for Life Insurance Replacement**

We are pleased to inform you that the new version of the “Cooling-off Period” and “Code of Practice for Life Insurance Replacement” will take effect on 1 February 2010. Please see the attached for details.

The soft copies of the “Cooling-off Period” and the “Code of Practice for Life Insurance Replacement” can also be downloaded from the website of the HKFI at [www.hkfi.org.hk](http://www.hkfi.org.hk).



AK/jh

# The Hong Kong Federation of Insurers

## Cooling-off Period

### **Introduction**

1. The Cooling-off Period gives purchasers of new life insurance policies a chance to re-think within a reasonable period of time their decision to purchase a life insurance product which is a long term commitment.

### **Scope**

2. The scope of life insurance products to which the Cooling-off Period applies is listed out in Appendix 1 which may be amended or expanded from time to time.

### **Cooling-off Period**

3. The Cooling-off Period is 21 days after the delivery of the policy or issue of a Notice (see clause 4) to the policyholder or the policyholder's representative, whichever is the earlier.
  4. The Notice should inform the policyholder of the availability of the policy and the expiry date of the Cooling-off Period. The Notice should remind the policyholder that he/she has the right to re-think his/her decision to purchase the life insurance product and to obtain a refund of premium paid if the policy is cancelled within the Cooling-off Period. The Notice should also remind the policyholder to contact the Customer Service Department of the insurer directly (service hotline number should be provided) if he/she does not receive the policy contract within 9 days from the issue date of the Notice.
  5. Insurers should keep a copy of the Notice or acknowledgement of receipt of Policy delivery. In case of a reasonable complaint or dispute, insurers will be required to produce evidence to show that the Policy notice or Policy has been delivered.
  6. Life Insurance Members of The Hong Kong Federation of Insurers (HKFI) are advised to:
    - a. specify in their intermediaries' training materials and internal guidelines that insurance intermediaries must:
      - i. inform prospective policyholders of their Cooling-off rights and the expiry date of the Cooling-off Period when policyholders sign their policy application forms; and
      - ii. make all reasonable endeavour to deliver policies to the policyholders within a period of time consistent with Clauses 4 and 6b after the policies are issued if they are vested with the obligation to deliver policies on behalf of the companies.
    - b. devise internal control measures which will ensure and prove that:
      - i. policies are delivered no later than 9 days after the policy issue date; or
      - ii. a Notice to inform policyholders of the availability of the policies and the expiry date of the Cooling-off Period is issued no later than 9 days from the policy issue date;
- and
- c. maintain records in respect of complaints or disputes for cases where clients seek refunds outside the period defined in clause 3 but are refused by the company and to provide these records to the HKFI upon request.

### **Cooling-off Rights**

7. Subject to clauses 8 to 12 below, policyholders have the rights to cancel new policies within the Cooling-off Period and obtain a refund of the premium(s) paid.
8. For all non-linked policies other than non-linked single premium policies, the refund shall be 100% of the premiums paid.
9. For all linked policies and all non-linked single premium life insurance policies, the insurer will have the right to apply a "market value adjustment" (MVA) to the refund of premiums.
10. Any such MVA must be calculated solely with reference to the loss the insurer might make in realizing the value of any assets acquired through investment of the premiums made under the life policy. It shall therefore not include any allowance for expenses or commissions in connection with the issuance of the contract.
11. In the case of a linked policy, the insurer's right to apply a MVA must be disclosed in the Principal brochure, and the basis of calculation must be available for disclosure to the potential policyholder prior to the completion of the application form.
12. For non-linked single premium policies, potential policyholders must be made aware that the insurer has the right to apply a MVA before the policyholders sign the application. This may be done by letter, or within the product brochure.

### **Announcement of Cooling-off Rights on Application Form**

13. A statement as defined in *Wording Guidelines on Announcement of Cooling-off Rights on Application Form* (Appendix 2) must be included on the application form immediately above the space for the signature.
14. The size of the printing for the statement must not be smaller than the print size used for any other declarations on the form. Furthermore, the font size shall not be less than 8.
15. It shall be communicated in the same language(s) as are used for all other sections of the application form.

### **Advice at time of Policy Issue**

16. When the policy is issued, the policyholder must be reminded of the Cooling-off rights attaching to the policy.
17. This may be done by way of a letter from the insurer mailed direct to the policyholder, or a statement on the policy jacket or policy cover (either printed or by way of label).
18. It shall be communicated in the same language(s) as are used for other communication at the time of policy issue.
19. The typeface shall be no smaller than font size 10.
20. For details of the Announcement required, see *Wording Guidelines on Announcement of Cooling-off Rights with Policy Issue* (Appendix 3).

**Scope of Cooling-off Rights**

"Cooling-off" rights will apply as follows:

	<b>Transaction</b>	<b>Do cancellation rights apply?</b>	<b>Cooling-off Period</b>	<b>How to exercise the Cooling-off rights?</b>	<b>Refund Amount</b>
1.	New non linked life policies (excluding single premium policies)	Yes	21 days after the delivery of the policy or issue of a Notice to the policyholder or the policyholder's representative, whichever is the earlier	Policyholder shall within the Cooling-off Period (a) write to the insurance company cancelling the relevant life insurance policy; and (b) return the life insurance policy.	All premium(s) paid
2.	New linked life policies and all single premium life policies	Yes	Same as above	Same as above	All premium(s) paid <u>less</u> Market Value Adjustment (MVA)
3.	Premium increase for increased sum assured	No	N/A	N/A	N/A
4.	Indexation increases exercised under existing policy terms and conditions	No	N/A	N/A	N/A
5.	New rider added to existing life policy	No	N/A	N/A	N/A
6.	Existing policy where the client applies to "convert" e.g. Term basic or Term rider to whole of life	No	N/A	N/A	N/A
7.	General insurance products	No	N/A	N/A	N/A
8.	Group medical	No	N/A	N/A	N/A
9.	Group life insurance	No	N/A	N/A	N/A
10.	Employer sponsored provident fund	No	N/A	N/A	N/A

(effective 1 Feb 2010)

**Wording Guidelines**  
**on**  
**Announcement of Cooling-off Rights on Application Form**

The ability of a policyholder to take advantage of their cancellation rights must be prominently displayed on the application form and clearly explained to him/her by the producing insurance intermediary. Guideline wordings and format as below:-

**(1) For All Non Linked Policies other than Non Linked Single Premium Policies**

***"Cancellation Rights and Refund of Premium(s)"***

I understand that I have the right to cancel and obtain a refund of any premium(s) paid by giving written notice. Such notice must be signed by me and received directly by [Address of the insurer's Hong Kong Main Office] within 21 days after the delivery of the policy or issue of a Notice to the policyholder or the policyholder's representative, whichever is the earlier."

*Note*

(i) The address must be a Hong Kong address.

**(2) For All Linked Policies and all Non Linked Single Premium Policies**

***"Cancellation Rights and Refund of Premium(s)"***

I understand that I have the right to cancel and obtain a refund of any premium(s) paid less any market value adjustment, by giving written notice. Such notice must be signed by me and received directly by [Address of the insurer's Hong Kong Main Office] within 21 days after the delivery of the policy or issue of a Notice to the policyholder or the policyholder's representative, whichever is the earlier."

*Notes*

- (i) Insurers will be required to disclose their rights to apply a MVA and have available details of the basis of calculation of the MVA as part of the sales process and for disclosure before the application is signed.
- (ii) For linked products the right to apply a MVA must be included in the principal brochure.
- (iii) The address must be a Hong Kong address.

**(3) Format of Wording**

Should be prominent and no less than 8 font size, and

- (a) In bold type no smaller than the main type font used on the application form,
- (b) Be communicated in the same language(s) as are used for all other sections of the application form, and
- (c) On the application form immediately above the place for the clients signature.

**Wording Guidelines**  
**on**  
**Announcement of Cooling-off Rights with Policy Issue**

An announcement must be prominently made at the time of policy issue clearly reminding the policyholders of their Cooling-off rights. Policyholders should also be advised that they have the rights to call the company direct if they wish to further understand their rights. Guideline wordings and format as below:

**(1) Wording**

***"Your Right to Change Your Mind***

If you are not fully satisfied with this policy,  
you have the right to change your mind.

We trust that this policy will satisfy your financial needs. However, if you are not completely satisfied then you should

- return the policy, and
- attach a letter, signed by you, requesting cancellation.

The policy will then be cancelled and the premium(s) paid will be refunded (\*).

These cancellation rights have the following conditions :

- Your request to cancel must be signed by you and received directly by our [Address of the insurer's Hong Kong Main Office] within 21 days after the delivery of the policy or issue of a Notice to the policyholder or the policyholder's representative, whichever is the earlier and
- No refund can be made if a claim payment has been made.

Should you have any further queries you may contact [ ] and we will be happy to explain your cancellation rights further."

**Notes**

- \* For all linked Policies and all Non Linked Single Premium Life Policies add "less a deduction of the amount (if any) by which the value of your investment has fallen at the time when your cancellation letter is received by us."

**(2) Announcement Format**

Insurers may decide to make this announcement either by:

- (a) display on policy jacket / cover, or
- (b) separate notice, from the Insurer mailed direct to the client.

The announcement must be prominently displayed and no smaller than 10 font size.

# THE HONG KONG FEDERATION OF INSURERS

## CODE OF PRACTICE FOR LIFE INSURANCE REPLACEMENT

The following Process is intended to prevent the activity of those insurance agents/brokers who misinform or mislead clients into changing **existing individual life insurances** in a way which at the time of the change creates disadvantage to the clients. The assessment of the disadvantage may at times be subjective and therefore the success of the Process in completely achieving its objective will depend on those involved acting in good faith and at all times in the best interests of the clients. For the purpose of this Code, any reference to insurance agent(s)/broker(s) shall include the responsible officer(s)/chief executive(s) and technical representative(s).

### 1. Policy Replacement

1.1 Any transaction involving the purchase of life insurance is construed as a replacement if within 12 months before or after a new life insurance policy<sup>#</sup> ("New Policy") is effected:

- (a) an existing life insurance policy<sup>#</sup> ("Existing Policy") or a substantial part\* of the sum insured of its basic life coverage:
  - (i) has lapsed/will lapse; or
  - (ii) was/will be surrendered; or
  - (iii) was/will be converted to reduced paid-up or extended-term insurance under the non-forfeiture provision of the policy;

or

- (b) a substantial part\* of the guaranteed cash value of the Existing Policy was reduced/will be reduced including where a policy loan was/will be taken out against a substantial part\* of the guaranteed cash value.

(<sup>#</sup> *Life insurance policy includes all types of traditional life, annuity and other non-traditional policies.*)

(\* *"a substantial part" means "50% or above".*)

1.2 This list is not conclusive and may be expanded from time to time to include other forms of replacement. For the avoidance of doubt, internal replacement i.e. both the Existing and New Policies are issued by the same insurer, is covered by this Code. However, converting term life insurance to whole life insurance (or some forms of permanent life insurance) under policy provisions of the Existing Policy is **not** construed as a replacement.

## 2. Customer Protection Declaration Form

- 2.1 A Customer Protection Declaration (“CPD”) Form (Appendix) must be completed before the client agrees or makes a decision in relation to the purchase of a New Policy. It is designed to:
- (a) discover any replacement being recommended and if so,
  - (b) ensure that the agent/broker has explained the important consequences; and
  - (c) ensure that the client fully understands the important consequences.
- 2.2 The agent/broker **must** help the client to complete the CPD Form and (if there is any replacement) **must** explain and discuss with the client the full implications of replacing the Existing Policy in relation to financial implications, insurability implications and claims eligibility implications of the replacement and other consideration as stipulated in, but not limited to, the CPD Form. Unless otherwise indicated, the agent/broker must give the reason(s) and/or justification wherever required in the CPD Form in writing as fully as possible.
- 2.3 The completion of the CPD Form will ensure that the client has been informed of the consequences/disadvantages of the recommended replacement or has been given an explanation and/or justification by the agent/broker. The completed CPD Form creates a record of such advice.
- 2.4 The original of the CPD Form shall be kept by the Selling Office and copies must be issued to:
- (a) the client together with the New Policy; and
  - (b) the insurer(s) of the Existing Policy(ies) replaced/to be replaced (“the Non-Selling Office(s)”) within 7 business days of the issue date of the New Policy.

The above applies regardless of whether the policyholder of the New Policy is Hong Kong resident or not as long as the New Policy is reported as Hong Kong long term insurance business within the meaning of the Third Schedule to the Insurance Companies Ordinance (Chapter 41 of the Laws of Hong Kong) (“Ordinance”).

For the purpose of 2.4(b), “Non-Selling Office” refers to an insurer who is authorized under Section 8 of the Ordinance to carry on long term business in or from Hong Kong.

- 2.5 The copy(ies) of the CPD Form shall be sent to the Authorized Representative(s) and/or a designated addressee/addressees of the Non-Selling Office(s) and can be delivered by post, courier, facsimile and/or emails.
- 2.6 The Selling Office shall maintain complete records of the dispatch of the CPD Form copies, including the original copy, dispatch dates and modes of delivery. These records may be required by the Insurance Agents Registration Board (“the IARB”), the self-regulatory broker bodies (“the Broker Bodies”), the Insurance Authority (“the IA”) or the Life Insurance Council (“the LIC”) of the HKFI in the process of investigation of a complaint.

- 2.7 In the cases of internal replacement, the insurer concerned should devise internal controls and measures to ensure it discharges its obligations both as the Selling Office and the Non-Selling Office under this Code.

### **3. Identifying Twisting**

- 3.1 Twisting is the making of inaccurate or misleading statements or comparisons to induce a policyholder to replace Existing Policy with other life insurance policy to the policyholder's disadvantage.

#### *Client Initiated*

- 3.2 The client may complain about suspected twisting. Any such complaint received by the HKFI or other party will be forwarded to the Selling Office which must investigate and follow the same process as if it had itself discovered a suspected or actual incident of twisting (see 3.3 – 3.5). The Selling Office must also write to the client to acknowledge receipt of the complaint and commit to notify the client, within 30 days of receipt, the findings and any suggested arrangements.

#### *Selling Office Initiated*

- 3.3 The Selling Office has a duty to control the activities of its sales force. The office must therefore review its internal controls and the CPD Forms to ensure that its agents/the brokers are complying with the Process.
- 3.4 If during the review the office discovers cases of suspected twisting, or has evidence to substantiate that existing policyholders may have suffered because of twisting by its agent(s)/the broker(s), the office must investigate those cases and take action. If twisting has occurred, actions listed in 3.7 and 3.8 below should be taken as appropriate.
- 3.5 The office must recognize that the CPD Form will form an important part of any investigation that may arise and should therefore insist upon and provide training to help its agents to get familiar with the contents of the CPD Form and give explanation and/or justification as fully as possible as required in the CPD Form.

#### *Non-Selling Office Initiated*

- 3.6 If an office has evidence to substantiate that existing or ex-policyholders have suffered because of twisting by agent(s) of other office(s)/broker(s), it must investigate. If twisting has occurred, actions listed in 3.7 and 3.8 below should be taken as appropriate.

#### *Actions to be Taken*

- 3.7 Once twisting is identified as likely to have occurred, the offices concerned should attempt to reach agreement. This imposes an obligation on the offices to keep the client's interest foremost. The client should be kept informed of any material facts or arrangement which may affect his/her interest. Agreement must be reached speedily within a period of 30 days after the identification of the twisting and any follow up actions or arrangement affecting the interest of the policyholder shall be completed within 45 days, i.e. the next 15 days.