
REGULATORY NEWSLETTER

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Merry Christmas!

Santa Claus is finally coming to town! Have you planned your Christmas holidays yet? With Christmas just around the corner, it's time to get ready for our favorite holiday treats. And of course, Christmas just wouldn't be the same without the latest news from the SFC.

REGULATORY UPDATES

Issuers of SFC-authorized investment-linked assurance schemes - Additional Guidance on Internal Product Approval Process

01 Nov 2021

This circular is supplemental to the SFC's Circular entitled "[Guidance on Internal Product Approval Process](#)" (PD Guidance). The purpose of this circular is to provide additional guidance to issuers of SFC-authorized investment-linked assurance schemes (ILAS) on the application of certain existing requirements under the PD Guidance to ILAS.

Additional ILAS Guidance

Product design

ILAS issuers should take into consideration, without limitation, the following when determining the product features of the ILAS.

- a) the level of life insurance protection;
- b) the fee charging model and structure and overall fees and costs borne by an investor;
- c) the number and variety of underlying funds and fund houses for selection;

- d) the premium payment structure and level;
- e) product liquidity

Fee

In view of the hybrid nature of ILAS, ILAS generally have various types of fees to cover the issuers' costs for providing insurance protection and costs for administrating the investment platform offered and other services such as handling investment related transactions and communications with investors. Early surrender or withdrawal charge may also be levied upon early policy surrender or partial withdrawal mainly to pay for distribution and acquisition costs.

Complex product features

ILAS issuers should ensure that the product features are not unduly complex when designing their ILAS products.

- a) whether any features or terms are unnecessarily complicated, are not comprehensible and provide no (or limited) additional value to investors; and
- b) whether multiple variables or complicated formulas are used unnecessarily to determine the return or render the financial impact on policy value or its financial return difficult for investors to understand.

Review and monitoring

Regular reviews of compliance with the Additional ILAS Guidance should be performed by the ILAS issuers as part of their ongoing monitoring obligation and a written confirmation of compliance should be submitted to the SFC every two years for products that are on offer to Hong Kong public.

Such regular review should cover the fees of the ILAS based on the latest comparable alternative products available in the market to ensure compliance with relevant requirements in the PD Guidance and this circular. ILAS issuers should maintain proper records on the above.

1. Enhanced disclosure requirements
2. Compliance procedures
3. Effective date and transitional arrangement
 - a. The Additional ILAS Guidance will apply to new ILAS on 1 November 2021 (Effective Date).
 - b. As for SFC-authorized ILAS in force as of the Effective Date, a transition period of 18 months from the Effective Date (expiring on 30 April 2023) will be provided to ILAS issuers to comply with the enhanced requirements under the Additional ILAS Guidance.

[View Circular](#)

Issuers of SFC-authorized investment-linked assurance schemes (ILAS) - Enhanced Authorisation Process for New ILAS Applications

01 Nov 2021

The purpose of this circular is to introduce an enhanced process for applications for authorisation of new ILAS. The SFC regularly reviews and seeks to improve their authorisation process wherever practicable without compromising investor interests and protection. In January 2014, the SFC introduced the 6-month application lapse policy with a view to enhancing the overall efficiency in the authorisation process. According to the SFC, an authorisation process that is more efficient can also meet the issuers' wish to reduce the "time to market" of their ILAS products for public offering. The Enhanced Process only relates to the authorisation process of a new ILAS application under section 104 of the Securities and Futures Ordinance by the SFC. Applicants are still required to obtain a "no objection" confirmation from the Insurance Authority's (IA) before submission of the new ILAS applications to the SFC.

[View Circular](#)

ENFORCEMENT NEWS

SFC reprimands and fines Fulbright Securities Limited \$3.3 million and suspends its responsible officer for internal control failures

01 Nov 2021

The SFC has reprimanded and fined Fulbright Securities Limited (Fulbright) \$3.3 million for internal control failures relating to its placing activities and recording of client order instructions.

The SFC has also suspended Fulbright's responsible officer, Mr Eric Liu Chi Ming, for six months from 29 October 2021 to 28 April 2022.

The SFC found that Fulbright in August 2018 had failed to:

a) exercise due skill, care and diligence and continuously monitor its business relationship with clients when processing the placement

SFC bans Ma Kwok Ho and Gee King Yip

09 Nov 2021

The SFC has banned Mr Ma Kwok Ho and Mr Gee King Yip, both former licensed representatives of Win Wong Securities Limited (Win Wong), from re-entering the industry for 2 years and 16 months respectively for breaches of the SFC's Code of Conduct.

Ma Kwok Ho

During the period between March 2011 and January 2017, Ma effected discretionary trades in three clients' accounts without obtaining their prior written authorisation.

The SFC considers that Ma failed to act with due skill, care and diligence and in the best interests

subscription applications; and

b) act in the best interests of its clients during the placement.

During the period between 1 November 2017 to 31 July 2019, Fulbright had failed to:

a) properly record and maintain order instructions in relation to a total of 580 client orders;

b) effectively implement policies and procedures, and diligently supervise its account executives;

c) establish and maintain appropriate and effective procedures for its telephone order recording compliance reviews; and

d) report immediately to the SFC after it became aware of its account executives' breaches of the applicable telephone order regulatory requirements.

of the clients.

Gee King Yip

The SFC found that Gee traded in stocks jointly with a client of Win Wong in the client's accounts, without having his own transactions separately recorded and clearly identified as transactions for an employee of Win Wong between May 2015 and August 2016.

Gee also allowed another licensed representative employed by Win Wong to conduct discretionary trades in the account of his other client without obtaining the client's prior written authorisation between November 2011 and October 2016.

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