

GUIDANCE NOTE ON GIFTS

Background

1. The Hong Kong Federation of Insurers ("HKFI") has been asked by the Insurance Authority to develop a Guidance Note governing the offering of gifts in connection with the promotion of investment products.
2. In considering the proper way forward, we have taken into account the positions adopted by the Hong Kong Monetary Authority ("HKMA") and the Securities and Futures Commission ("SFC") as follows:

HKMA

- a. In a circular to its members dated 13 July 2009, the HKMA stated that "*Financial or other incentives (e.g. gifts) to invest in a product should not be used or presented in a way that is likely to divert or mislead investors' focus from the proper consideration of the product.*"

SFC

- b. Paragraph 63 (page 79) of the Consultation Conclusion on Proposals to Enhance Protection for the Investing Public issued by the SFC in May 2010, states "*The Commission would like to clarify that it is not our policy intent to impose a complete ban on the offering of gifts. Distributors are only restricted from offering gifts (except discount of fees and charges) such as supermarket gift coupons and audio visual equipment when they promote "a specific investment product."* It follows that incentives in the form of, say a waiver of a front-end load amounts to a reduction of fees and charges and the offering of any gifts for brand promotion, relationship building or other purposes not directly related to the promotion of a specific investment product will not be bound by this requirement. However, other kinds of gifts that are used for promoting a specific investment product to investors will be restricted."

Section 3.11 of The Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission also issued by SFC stipulates that "*In promoting a specific investment product to a client, a licensed or registered person should not offer any gift other than a discount of fees and charges.*"

Position of HKFI

3. The HKFI supports the principles followed by the two regulators above.
4. Following several rounds of consultation with the General Insurance Council and the Life Insurance Council, the Governing Committee of the HKFI agreed that:
 - a. Member companies should not directly or indirectly offer gifts to promote Investment-Linked Assurance Scheme products. Incentives in the form of, say a waiver of a front-end load amounting to a reduction of fees and charges and the offering of any gifts for brand promotion, relationship building or other purposes not directly related to the promotion of such products will not be bound by this requirement.

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- b. This Guidance Note does not apply to general insurance products since they are not of a long term nature.
- c. The Life Insurance Council will be issuing another Guidance Note specifying in detail their requirements for long term life insurance products.

Implementation

- 5. This Guidance Note has been reviewed by the Insurance Authority. It will take effect from 9 May 2011.