

Content

Title :	Directions for Sale of Investment-linked Insurance Products Ch
Date :	2013.01.15
Legislative :	1. Promulgated on July 7, 2008 2. Amended on January 15, 2013
Content :	<p>1. These Directions are drawn up in accordance with Paragraph 2, Article 3 of the Regulations Governing Investment of Investment-linked Insurance.</p> <p>2. Insurance enterprises shall observe these Directions when selling investment-linked insurance products (referred to as the “Product” hereunder).</p> <p>Relevant provisions in the Regulations Governing Offshore Structured Products apply to the Product sold by insurance enterprises if it is linked to an offshore structured product.</p> <p>3. The term “solicitor” as used in these Directions means persons denoted in Article 2 of the Regulations Governing Business Solicitation, Policy Underwriting and Claim Adjusting of Insurance Enterprises.</p> <p>4. The term “professional investor” , “professional institutional investor” and “non-professional investor” depicted in these Directions are defined the same as those in Paragraph 3 and Paragraph 4, Article 3 of the Regulations Governing Offshore Structured Products.</p> <p>With the exception of professional institutional investors, professional investors may apply to an insurance enterprise for change of status to non-professional investors. However insurance enterprises may not accept the application of non-professional investors that do not meet the criteria set forth in the preceding paragraph to apply for change of status to professional investor.</p> <p>Insurance enterprises are responsible for conducting reasonable investigation to verify that an investor meets the qualification criteria for a professional investor and obtaining reasonable and credible corroborative evidence from the applicant.</p> <p>5. Insurance enterprises shall ensure that their solicitors for the Product meet the qualification requirements prescribed by the competent authority, have received complete education and training, and possess professional knowledge concerning the Product.</p> <p>Insurance enterprises shall spot check the promotional materials, advertisements, introductions, product brochures, proposals and related documents used by solicitors at least once every quarter. If any solicitor is found to use unapproved documents, the insurance enterprise shall promptly stop the use and take proper disciplinary action, and shall be held legally liable if any customer sustains damages thereof.</p> <p>6. When selling the Product to customers, insurance enterprises should consider customer suitability and pay attention to avoid selling products that carry excessive risk or have a highly complex structure. The preceding provision does not apply if objective facts show that the customer has</p>

substantial professional knowledge and risk tolerance.

Insurance enterprises shall observe the following when the Product they sell is linked to a structured product:

(1) The insurance enterprise shall adopt a proper method to distinguish and determine whether the applicant is a professional or non-professional investor, unless the Product is not sold exclusively to professional investors.

(2) The insurance enterprise shall make an overall evaluation of the risk tolerance of non-professional investors based on their age, knowledge over the Product, investment experience, financial condition, trading purpose, and understanding of the Product, classify non-professional investors into at least three risk categories, and ask the applicant to give a signature as confirmation that he/she understands the risks involved.

7. When the Product sold by an insurance enterprise is linked to an offshore structured product, the insurance enterprise, the issuer and the master agent of the offshore structured product shall sign a joint written agreement among them in accordance with Article 16 of the Regulations Governing Offshore Structured Products.

When the Product sold by an insurance enterprise is linked to a domestic structured product, the insurance enterprise and the issuer of the domestic structured product shall sign a written agreement that contains the following particulars:

(1) Information and assistance to be provided and responsibilities to be assumed by the issuer as requested by the insurance enterprise for compliance with applicable laws and regulations;

(2) In case the structured product has any of the following events, the issuer shall notify the insurance enterprise within three days from the occurrence thereof, and the insurance enterprise will forward the same information to the applicant:

a. The issuer becomes unable to continue to conduct relevant business due to dissolution, suspension of business, transfer of business, merger or acquisition, cessation of business, voidance or revocation of its permit according to law, or other similar material event;

b. The long-term credit rating of the issuer or guarantor of structured product or the issue rating of the structured product is downgraded;

c. The structured product has a material event as specified in the agreement that materially affects the rights or interests of the applicant or the insured; or

d. Any other event materially affecting the rights or interests of the applicant or the insured.

(3) Where the issuer becomes unable to continue to issue the structured product, it shall assist the investors in carrying out subsequent redemption of the structured product or other relevant matters.

8. Insurance enterprises shall carry out pre-marketing review of the planned investment object of the Product. Except where the Regulations Governing Offshore Structured Products shall be followed if the Product is to be linked to an offshore structured product, the pre-marketing review of other planned investment choices shall include the following items (review is not required if the following items are not applicable):

(1) The legality of the planned investment object.

- (2) The fees to be charged by the planned investment object and the reasonableness of such fees.
 - (3) The investment objectives and policies of the planned investment object, its investment strategies, past performance, and risk-return relationship, and their reasonableness.
 - (4) The accuracy and full disclosure of information in the prospectus and investor brochure of the planned investment object.
 - (5) Evaluation of conflict of interest involving the insurance enterprise.
 - (6) Risk level of the planned investment object.
9. Insurance enterprises shall establish proper internal control system and risk management system for the sale of the Product and implement them rigorously. Those systems shall contain at least the following particulars:
- (1) Rules for the management of solicitors for the Product.
 - (2) Guidelines for Know Your Customer.
 - (3) Guidelines for monitoring unusual or suspicious transactions.
 - (4) Guidelines for insurance business solicitation.
 - (5) Mechanism for preventing insider trading and conflict of interest.
 - (6) Procedure for handling customer dispute.
10. The “Rules for the management of solicitors for the Product” mentioned in Point 9 herein should contain the qualification requirements, professional training, professional code of ethics, compensation, and performance review system for solicitors.
- To enhance the quality of solicitors, insurance enterprises shall provide them with ongoing training as required and draw up standard operating procedures for solicitors of the Product according to the established rules for compliance by them.
11. The “Guidelines for Know Your Customer” mentioned in Point 9 herein shall contain at least the following particulars:
- (1) Solicitation principle: Ask the customer to provide relevant financial information; if the customer declines to provide such information, the solicitor should note the same on the application form and ask the customer to sign at where noted for confirmation.
 - (2) Underwriting principle: The insurance enterprise should set out underwriting criteria and circumstances under which customer’s application will be rejected or accepted.
 - (3) Underwriting review principle: The insurance enterprise should establish underwriting review procedure and assess the customer’s investment capability. Customers who decline to provide relevant financial information should be subject to more rigorous review and underwriting procedures or be rejected.
 - (4) Double spot check principle: The insurance enterprise should set out the guidelines for spot checking whether the solicitor has fully informed the customer and for checking product suitability for the customer.
 - (5) Use of customer data and confidentiality principle: The insurance enterprise should set out the scope and hierarchy of customer data access and maintenance, and establish control mechanism to prevent the leakage and abuse of customer data.
12. The “Guidelines for monitoring unusual or suspicious transactions” mentioned in Point 9 herein shall contain at least the following particulars:

(1) Establish a management mechanism for recognizing, tracking and handling unusual or suspicious transactions.

(2) Establish exception management mechanism for dealings with high-risk customers.

(3) Establish the training mechanism for preventing money laundering.

13. The “Guidelines for insurance business solicitation” mentioned in Point 9 herein shall contain at least the following particulars:

(1) Establish management rules for producing advertising or promotional materials and control procedures for the transmission, dissemination or promotion of such materials.

(2) Establish a set of product suitability policies, including the classification of customer risk levels and product risk level, providing products commensurate with the customer’s risk tolerance, not allowing non-professional investors to invest in structured products not commensurate with their suitability level or invest in structured products exclusively for professional investors, and establish a control mechanism to prevent solicitors from engaging in improper selling activities.

(3) When selling the Product, disclose in a timely manner risks, Return on Investment in connection with the Product and other relevant information to customers, and provide relevant sales documents, including at least product prospectus. If the Product is linked to a structured product, provide the customers additionally with information on return on investment and risk disclosure statement, Chinese prospectus and Chinese investor brochure on the structured product.

(4) The sales documents of the Product shall be produced in accordance with the Compliance Matters for Disclosure of Information on Investment-linked Insurance, of which, a product prospectus shall be given to the applicant for keeping. If a proposal is provided, the proposal shall have two copies and one of the copies, which is signed by the applicant for confirmation after reading shall be attached to the application form.

(5) Establish transaction control mechanism to prevent offering customers with products or services surpassing customer’s financial capability or unsuitable for the customer, and to prevent solicitors from engaging in unauthorized or illicit sales activities.

(6) Where the Product is linked to an offshore structured product, insurance enterprises shall fulfill their obligation to inform in accordance with the Regulations Governing Offshore Structured Products and relevant rules. The same shall apply if the Product is linked to a domestic structured product.

14. The “Mechanism for preventing insider trading and conflict of interest” mentioned in Point 9 herein shall contain at least the following particulars:

(1) Establish information security, firewall and other information segregation policies to prevent abuse of information by unauthorized persons.

(2) Establish employee code of conduct.

(3) Insurance enterprises and solicitors of the Product shall not directly or indirectly request, agree on a time to receive, or receive illicit money, property or other benefits from the issuer of the investment object, and this provision shall be included into the audit items under the

compliance system of the insurance enterprise.

(4) Solicitors of the Product shall not take the amount of commissions or compensation they will receive as sole consideration in selling the Product. Nor shall solicitors engage in solicitation by inducing customers to purchase the Product with promise of gain or inducing customers to switch policy.

(5) The charge of fees in connection with the sale of the Product shall comply with the Compliance Matters for Disclosure of Information on Investment-linked Insurance.

15. The “Procedure for handling customer dispute” mentioned in Point 9 herein shall contain at least the procedure for handling complaint, procedure for responding to complaint and procedure for complaint investigation.

16. Insurance enterprises shall include the contents of these Directions into the operating procedures for their internal control operations in accordance with Subparagraph 2, Paragraph 1, Article 5 of the Regulations Governing the Implementation of Internal Control and Audit Systems by Insurance Enterprises, and carry out internal audit and self-inspection accordingly.

Business units of an insurance enterprise that handle solicitation, underwriting and maintenance of the Product shall carry out special self-inspection on a monthly basis. Its internal audit unit shall carry out special audit of the sales operation of the Product at least on a quarterly basis.

17. Insurance enterprises shall rigorously demand insurance agents, insurance brokers, co-selling partners or co-marketing partners they do business with to observe these Directions and the self-regulatory rules for the sale of investment-linked insurance products, and include such demand in the agreement signed with them to step up management.

The self-regulatory rules for the sale of investment-linked insurance products will be set out by The Life Insurance Association of the Republic of China.

18. For insurance enterprises that violate the provisions in these Directions in the sale of the Product, the competent authority may mete out appropriate disciplinary action in view of the severity of violation in accordance with the Insurance Act.