

Content

Title : Regulations Governing Investment of Investment-linked Insurance [Ch](#)

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Content : Article 1 The regulations are instituted based on paragraph 6 of article 146 of Insurance Act (hereunder called the Act).

Article 2 In order to protect investment rights and interests of the insurance applicant or beneficiary, when entering into an investment-linked insurance contract, the insurer shall follow the Act and other related statutory regulations to state relevant clauses in the contract.

Article 3 The insurer shall fully disclose relevant information when selling investment-linked insurance products, and explain the following items to the insurance applicant with the notification of important information which shall be signed by the insurance applicant when entering into a contract.

1. Various expenses.
2. Investment objects and their possible risks.
3. Related warnings.
4. Other items as regulated by competent authorities.

The directions regarding information disclosure and sales as mentioned in the preceding paragraph shall be instituted by competent authorities separately.

Article 4 The insurer engaging in investment-linked insurance business shall make out an seperate account to record the values of investment assets.

The said seperate account shall meet the following principles:

1. The assets in the seperate account shall be individually managed and;
2. Unless otherwise stated in the regulations, the insurer shall follow the life insurance accounting template submitted to competent authorities by the Life Insurance Association of the Republic of China (hereunder called the Association) to periodically valuate the assets in the seperate account, calculate the benefiting assets value in the seperate account and inform the insurance applicant of the value according to the method agreed in the insurance contract.
3. The assets in the seperate account shall be utilized in conformity to the investment method and object agreed or specified by the insurance applicant.

Article 5 The insurer shall follow one of the following ways in utilizing or managing the assets in the seperate account:

1. The insurer may designate the professionals equipped with financial, securities or other investment experience to utilize and manage the assets in the seperate account. However, in the event that the insure plans to discretionarily invest in the securities regulated in article 6 of

Securities and Exchange Law, the insurer shall separately apply for concurrently engaging in discretionary investment services in accordance with investment business with Securities Investment Trust and Consulting Act.

2. For the investment-linked insurance not having discretionary decision from the insurer on the investment object, the insurer may entrust the enterprise approved by competent authorities or the one concurrently engaging in discretionary investment services to utilize and manage the assets in the separate account. The entrusted enterprise shall be selected according to the capital management outsourcing procedure internally regulated by the insurer and other related statutory regulations. In addition, the insurer shall report the selected enterprise to competent authorities. Also, any change of the selected enterprise shall be reported to competent authority within 15 working days after the change.

The insurer using the assets in the separate account to proceed with investments and transactions in accordance with the preceding paragraph shall keep records in writing which shall be monthly reviewed, reported and filed by law.

Any of the following behaviors is not allowed when the insurer follows the regulations in the first paragraph to utilize and manage the assets in the separate account:

1. Use the assets in the separate account for guarantee.
2. Lend the assets in the separate account to others, but it is not limited to the situation otherwise regulated by competent authorities.
3. Engage in the investment items prohibited by law.

Article 6 The insurer shall manage the assets in the separate account for the interests of the insurance applicant or beneficiary.

The insurer shall send the assets in the separate account to the custodian institution for custody and report the selected custodian institution to competent authorities. Any change of the selected custodian institution shall be reported to competent authority within 15 working days after the change.

The contents of the custody contract shall be provided when the insurance contract defined in chapter 2 is signed by the insurer and insurance applicant, and, according to the custody contract, the assets in the separate account as mentioned in paragraph 1 shall be sent to the custodian institution for custody. Also, the insurer shall report the selected custodian institution to competent authorities, and any change of the selected custodian institution shall also be reported to competent authority within 15 working days after the change.

The custodian institution as referred to in the preceding two paragraphs is a financial institution reaching a certain level of grade as rated by the credit rating agency recognized by competent authorities

The regulations in paragraph 2 and 4 are applicable to the insurer who follow subparagraph 2 of paragraph 1 of the preceding article to commission a trust enterprise approved by competent authority for concurrently engaging in discretionary investment services to utilize and manage the assets in the separate account, in which the assets are under the custody of the trust enterprise.

Article 7 The investment method of investment-linked insurance or

change of its investment objects shall be in compliance with statutory laws and regulations and the ones as agreed in the insurance contract.

Article 8 The assets in the separate account and the ones in the insurer's general account are not allowed to be sold, swapped or transferred to each other, but it is not limited to any of the following conditions:

1. Transfer the assets in the general account to the separate account of the investment-linked insurance not having discretionary decision from the insurer on the investment object, so as to establish the separate account and give normal operation of the policy where the assets are transferred into its separate account.
2. Necessary transfer-out of the insurance cost or the expenses regulated in article 3.
3. Protect the interests of the insurance applicant or beneficiary, which shall be approved by competent authorities.

Unless otherwise approved by competent authority in advance to use the underlying assets regulated in paragraph 1 of article 10 in transfer, the transfer shall be made by cash.

Article 9 The directors, supervisors, managers and the persons responsible for utilizing and managing the assets in the separate account shall act as good fiduciaries to carefully and loyally take care of investment and management of the assets in the separate account. They are not allowed to conduct investment related transactions for themselves or the persons beyond the policyholder of the separate account through the information learned in their posts, or reveal the related information to others.

In the event that the issuer or agency of the linked investment objects provided in the investment-linked insurance contract goes bankrupt, the insurer shall aggressively get the redemption according to the best interests of the insurance applicant and beneficiary.

Article 10 Except the discretionary investment services provided by the insurer as agreed by the insurance applicant in the insurance contract, the linked investment objects provided in the investment-linked insurance contract and utilization of the assets in the separate account are limited to the following:

1. Bank deposits.
2. Beneficiary certificates of securities investment trust funds.
3. Offshore funds.
4. Beneficiary securities of mutual trust funds.
5. Real estate investment trust beneficiary securities or real estate asset trust beneficiary securities issued in accordance with Real Estate Securitization Act.
6. Beneficiary securities or asset-backed securities issued in accordance with Financial Asset Securitization Act.
7. Bonds and treasury bills issued by central banks of various countries.
8. Financial bonds.
9. Secured corporate bonds issued by public companies, the ones issued by the companies having credit ratings above a certain level, or the ones trading on foreign stock exchange markets or OTC markets.
10. Structured products.

11. Mortgage-backed securities issued or guaranteed by Fannie Mae, Freddie Mac or Ginnie Mae.

12. Other investment objects as approved by competent authorities.

For the foresaid assets in the separate account, the totality of the proprietary position and other investments of the insurer shall not exceed the limits regulated in article 146 to 146-2, 146-4, 146-5 and 146-7 of the Act.

Article 11 The following are the range for the utilization of objects entrusted to the insurer by the insurance applicant for discretionary investment services:

1. Bank deposits.

2. Government bonds and treasury bills.

3. Financial bonds, convertible time certificates, bankers' acceptances, and bank-backed commercial papers.

4. Corporate stocks issued by public companies.

5. Secured corporate bonds issued by public companies, or the ones issued by the companies having credit ratings above a certain level.

6. Beneficiary certificates of securities investment trust funds and beneficiary securities of mutual trust funds.

7. Taiwan depositary receipts.

8. Beneficiary securities or asset-backed securities issued in accordance with Financial Asset Securitization Act.

9. Real estate investment trust beneficiary securities or real estate asset trust beneficiary securities issued in accordance with Real Estate Securitization Act.

10. Foreign securities.

11. Securities related products.

12. Other investment objects as approved by competent authorities.

The foreign securities as referred to in subparagraph 10 of the preceding paragraph are limited to the following:

(1) Bonds and treasury bills issued by foreign countries' central banks.

(2) Financial bonds, convertible time certificates and mid-term floating rate notes issued by foreign banks.

(3) Stocks and corporate bonds trading on foreign stock exchange markets or OTC markets.

(4) Offshore funds.

(5) Mortgage-backed securities issued or guaranteed by Fannie Mae, Freddie Mac or Ginnie Mae.

Article 12 Unless otherwise regulated by competent authorities, the following behaviors are not allowed for the insurer in utilizing the objects as mentioned in the preceding article:

1. Make loans.

2. Have transaction behavior with the investment assets in the separate account of other investment-linked insurance or the ones in the insurer's general account. However, it is not limited to the situation where the deal is done through stock exchange markets or securities firms' business outlets and there is no intention for the occurrence of the corresponding transaction.

3. Invest in the stocks or corporate bonds issued by the insurer.

4. Invest in the stocks, corporate bonds or financial bonds issued by the

interested party of the insurer.

5. Invest in the securities underwritten by the securities underwriter having conflict of interest with the insurer.
6. Invest in private-placement securities.
7. Engage in securities credit transactions.
8. Lend or borrow securities.

Article 13 In the event that the investment objects of investment-linked insurance are the ones regulated in subparagraph 7 to subparagraph 11 of paragraph 1 of article 10, they shall pass a certain level of grade rated by the credit rating agency approved by competent authorities.

The preceding paragraph is also applicable to the investment-linked insurance in which the investment objects include government bonds, bonds or mortgage-backed securities as regulated in subparagraph 3 and 5 of paragraph 1 and subparagraph 1, 2, 3 and 5 of paragraph 2 of article 11.

Article 14 In the event that the investment objects of investment-linked insurance are beneficiary certificates of securities investment trust funds, those beneficiary certificates of securities investment trust funds shall be the ones approved by competent authorities or coming into effect upon declaration for placement and issuance. In case that the investment objects are offshore funds, those offshore funds shall be the ones approved by competent authorities or coming into effect upon declaration for local placement and sales. However, the situation is not limited to exchange traded funds (ETFs) trading on either local or foreign securities exchange markets.

In the event that the investment objects of investment-linked insurance are beneficiary certificates of mutual trust funds, they shall be approved by competent authorities.

The structured products used as the investment objects of investment-linked insurance are the products either combining fixed-income products and financial derivatives or structured notes.

The limits and restrictions on the investment objects listed in paragraph 1 of article 10 and article 11 are to be regulated separately by competent authorities.

Article 15 The assets in the separate account shall be valued according to the market price on the given valuation date as agreed in the investment-linked insurance contract, and the assets detailed list shall be prepared according to related statutory regulations. However, they are not limited to the proprietary position of the insurer and the investment risk partially taken by the insurer as agreed in the insurance contract.

Article 16 The insurer shall follow the regulations below in exercising their voting right for the stocks held in the separate account of investment-linked insurance.

1. Unless otherwise provided by law, the voting right shall be exercised by the involved personnel designated by the insurer.
2. When exercising the voting right, the insurer shall do to meet the best interests of the policyholder of investment-linked insurance, and is not allowed to directly or indirectly participate in the business run by the company issuing the stock, or have improper arrangements.
3. Prior to attending the shareholders' meeting held by the company issuing the stock held in the separate account of investment-linked insurance, the

insurer shall evaluate and analyze how to properly exercise the voting right, and give a summary.

4. The insurer shall register and manage the notifications and attendance tickets of the shareholders' meetings held by the companies issuing the stocks held in the separate account of investment-linked insurance, and keep records of evaluation and analysis of exercising the voting right, decision making procedure and execution results in writing which shall be numbered, filed and kept for at least 5 years.

When attending the beneficiary meeting held by the securities investment trust fund issuing the beneficiary certificate held in the separate account of investment-linked insurance, the insurer shall do to meet the best interests of the policyholder of investment-linked insurance in exercising their voting right, and follow subparagraph 3 and 4 of the preceding paragraph.

Article 17 In case of dissolution and liquidation, the remaining assets left in the separate account after deducting the debts and expenses incurred due to closing the separate account shall be distributed to the insurer and insurance applicant or beneficiary according to the ratios of the beneficiary equity entitled respectively to the insurer and insurance applicant as listed in the separate account.

Article 18 When entering into an investment-linked insurance contract, the insurer and insurance applicant shall agree on a currency used in amount receipts and payments which include premium, insurance benefit, expenses, but it is not allowed to agree on a currency to be used in conversion between the NT dollar and a foreign currency. However, in the event of foreign-currency- denominated investment-linked annuity insurance in which the linked investment objects will be totally disposed, sold and converted into the spot annuity insurance with general account after the expiry of the annuity accumulation period, it can be agreed in the contract to pay the annuity in NT dollars.

The insurer engaging in the foreign-currency-denominated investment-linked insurance business and following the proviso of the preceding paragraph to pay annuity in NT dollars shall be approved by the Central Bank of Republic of China.

The assets in the separate account of the foreign-currency- denominated investment-linked insurance contract are limited to foreign-currency- denominated investment objects. The insurer and insurance applicant shall agree on the payment/receipt method in advance, and all the payments and receipts shall be handled through the foreign currency deposit account. However, the foregoing provisions do not apply to any of the following situations:

1. Payment of annuity in NT dollars in accordance with the proviso in the first paragraph.

2. The insurer and the insurance applicant have agreed that on the date the living benefits of another foreign currency insurance contract entered between the insurer and the insurance applicant becomes payable, the living benefits will be used to pay for the premiums of another same-currency insurance contract and the beneficiary of the living benefits and the applicant of the insurance contract to be paid for are the same person.

For the NT dollar-denominated investment-linked insurance contract, the

exchange settlement shall be made in accordance with the Regulations Governing the Declaration of Foreign Exchange Receipts and Disbursements or Transactions regulated by the Central Bank of the Republic of China.

2. The insurer and the insurance applicant have agreed that on the date the living benefits of another foreign currency insurance contract entered between the insurer and the insurance applicant becomes payable, the living benefits will be used to pay for the premiums of another same-currency insurance contract and the beneficiary of the living benefits and the applicant of the insurance contract to be paid for are the same person. For the NT dollar-denominated investment-linked insurance contract, the exchange settlement shall be made in accordance with the Regulations Governing the Declaration of Foreign Exchange Receipts and Disbursements or Transactions regulated by the Central Bank of the Republic of China.

Article 19 The insurer shall meet the following qualifications in selling the investment-linked insurance with discretionary investment services:

1. The ratio of proprietary capital to risk capital in the recent year shall comply with the adequacy ratio regulated in paragraph 1 of article 143-4 of the Act.

2. No grave punishment or no penalty up to more than NT\$3 million in total from competent authorities in the recent year. However, it is not limited to those who have made significant improvement and been approved by competent authorities.

3. Value at Risk has been applied to the risk assessment for their foreign investment, and the risk assessment shall be conducted at least once a week.

4. A risk control committee in the board of directors, or a risk control division with a risk chief or an executive in the equivalent rank shall be placed in a company to take full charge of overall risk control.

5. Based on the number of complaints filed during the past year with the competent authority, or with any institution designated thereby, the enterprise was among the 80 percent of life insurers having the lowest composite score with respect to complaint rate for non-claim related matters, complaint rate for claims adjusting matters, and number of processing days. However, it is not limited to those who could submit reasonable explanation and are approved by competent authorities.

The value at risk as referred to in subparagraph 3 of the preceding paragraph shall be calculated on weekly basis with at least three years of sampling period, or on daily basis with at least one year of sampling period. The sample data shall be updated at least once a week and the confidence level shall be at least 99%. In addition, monthly back-test shall be conducted.

Prior to applying for concurrently engaging in the discretionary investment business in accordance with Securities Investment Trust and Consulting Act, the insurer shall meet the qualification listed in paragraph 1 and approved by competent authorities.

Article 20 The discretionary investment business that the insurer is approved for engaging in the form of commission for the assets in the separate account of investment-linked insurance refers to the sale of the investment-linked insurance with discretionary investment services from the

insurer (hereunder called discretionary investment-linked insurance), in which assets in the separate account of discretionary investment-linked insurance are discretionarily decided and utilized by the insurer.

Article 21 The assets in the separate account of discretionary investment-linked insurance shall be put under custodian institutions' custody separately by insurance product in accordance with paragraph 3 and 4 of article 6.

Article 22 In addition to the investment-linked insurance related information required to be disclosed and the items required to be stated as regulated in the Regulations Governing the Conduct of Discretionary Investment Business by Securities Investment Trust Enterprises and Securities Investment Consulting Enterprises, the following items shall also be stated in the discretionary investment-linked insurance contract and insurance product prospectus:

1. Insurance contract:

- (1) Insurance contract conversion clause.
- (2) Responsibility ascription for trading beyond authority.
- (3) Other items required to be stated as regulated by competent authorities.

2. Insurance product prospectus:

- (1) The items regarding the characters, scope, operating principles, fee collection methods, prohibitions, the legal relationship among the policyholder, insurer and custodian institution, and operation methods of the discretionary investment-linked insurance.
- (2) Analysis methods, information sources and investment strategies to be used for discretionary investment assets.
- (3) The education and experiences of division heads and associated persons engaging in the discretionary investment-linked insurance business.
- (4) Income statements and balance sheets for the past two years.
- (5) Explanation of the litigation or non-litigation cases occurring in business practices
- (6) Warnings of investment or trading risks, characteristics of investment or trading objects, possible risks and statutory restrictions, etc.

Any change in the preceding product prospectus which may result in material influence on policyholder's rights and interests shall be reported to competent authority for future reference.

The insurance contract of discretionary investment-linked insurance and its related documents shall be kept for at least five years after termination or invalidation of the contract.

Article 23 The insurance applicant of the discretionary investment-linked insurance contract is eligible to apply to the insurer for converting the contract into other discretionary investment-linked insurance contract with different investment strategy. In this case, the insurer cannot reject it except that the change in the insurance category, period or sum assured may increase the insurer's insurance risk.

By handling the application for contract conversion, the insurer shall institute contract conversion and dispute mediation regulations and announce them.

In the event that the contract conversion fee is required, the insurer shall inform the insurance applicant in advance when accepting the

conversion application.

Article 24 In the event that the investment or transaction range increases or decreases due to change in statutory regulations after the discretionary investment-linked insurance contract being signed, the insurer shall notify the insurance applicant no less than 60 days before the change.

In this case, the insurance applicant may submit objection and apply to terminate the insurance contract during the foresaid period, and the insurer shall not collect any surrender fee from the insurance applicant.

Article 25 The accounting system of the separate account of discretionary investment-linked insurance shall be in accordance with Generally Accepted Accounting Principle, the regulations stipulated by the Association and relevant statutory regulations.

Article 26 For the insurance contract, unless otherwise agreed, the insurer shall respectively calculate the policy account value of each insurance applicant according to the separate account of discretionary investment-linked insurance on every business day.

Article 27 Based on the separate account of discretionary investment-linked insurance, the insurer shall make out an account book stating the processing status of the separate account of discretionary investment-linked insurance, and periodically prepare a utilization status report. Within four months after the end of the fiscal year, the insurer shall prepare a year-end report on the assets in the separate account of discretionary investment-type insurance according to the separate account of respective piece of discretionary investment-linked insurance, send to competent authorities and make announcement after being audited and certified by the certified public accountant.

Article 28 In the event that the insurer violates the regulations resulting in harm to the rights and interests of the insurance applicant or beneficiary, competent authorities may follow the regulations of the Act to punish the insurer according to the level of the violation.

Article 29 The regulations shall come into force on the day of their promulgation.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System