

2527 3909

2528 3345

By fax: 2869 6794

28 March 2006

Miss Salumi Chan
Clerk to the Legislative Council
Panel on Financial Affairs
Legislative Council
8 Jackson Road
Hong Kong

Dear Miss Chan,

Panel on Financial Affairs
Enhancing the protection for insurance policyholders

Thank you for your letter of 6 March 2006.

(a) To strengthen the regulation of insurance companies

The Commissioner of Insurance, who heads the Office of the Commissioner of Insurance and appointed as the Insurance Authority (IA) under the Insurance Companies Ordinance (Cap. 41) (ICO), is responsible for the regulation of the insurance industry in Hong Kong. The principal function of the IA, as set out in section 4A of the ICO, is “to regulate and supervise the insurance industry for the promotion of the general stability of the insurance industry and for the protection of existing and potential policyholders”. To perform his statutory function, the IA is responsible for authorization and prudential regulation of insurance companies operating in Hong Kong including their compliance with minimum share capital, solvency margin, adequate reinsurance arrangement, fitness and propriety of the directors and controllers as set out in the ICO and to take appropriate regulatory action where necessary. In recognition of the

free market principle under which insurance companies are operated in Hong Kong, section 26(3A) of the ICO stipulates that no power shall be exercisable by the IA to interfere with the commercial decisions of insurers in respect of the wording of insurance policies or premium rates.

In his various complaints lodged with the Office of the Commissioner of Insurance (OCI) and the Chairman of the Financial Affairs Panel of the Legislative Council, Mr Ricky YIP alleged that “insurance companies misled policyholders by exaggerating their projected returns (in the illustration document) and then exonerated themselves by relying on the clause that dividends are not guaranteed”.

Mr YIP’s complaint is in respect of participating policies (generally known as “par policies” or “with profits policies”). These are long-term life policies which provide policyholders entitlement, in addition to certain guarantees such as death benefit and cash surrender value, to share in the investment return of the with-profits fund (pooled fund) through policyholder dividends declared by the insurer from time to time (usually annually). The amount of dividend available for distribution to policyholders is decided by the insurer, who may take into account the performance of the underlying assets making up the fund, any reserve necessary to be retained by the fund to smooth out the volatility of the returns over time, expenses of the insurer and mortality and morbidity experience (i.e. death and other benefits claimed by policyholders during the period). In the declaration of dividend, the directors of an insurer have to obtain from the appointed actuary and duly considered a written report containing his observations and recommendations. The appointed actuary, when exercising his/her professional judgment on allocation of profit, must have regard to the reasonable expectation of policyholders and comply with the Professional Standards (in particular Professional Standard 1) issued by the Actuarial Society of Hong Kong.

Regarding the use of illustration materials by insurance agents in the sale process for participating policies, all insurance companies authorized and operating in Hong Kong are required to comply with the Code of Conduct for Insurers issued by the Hong Kong Federation of Insurers (HKFI). Under Part II of the Code entitling “Advising and Selling Practices”, life insurers are required to ensure that all information contained in their sales materials and illustration

documents is current, correct, expressed in plain language and not misleading to the public (*emphasis added*). The explanation note of “The Standard Illustration for Non Unit-linked Life Policies” issued by the HKFI, which came into effect on 1 September 1998, especially provides that “The projected dividend values included in the illustration are based on the Company’s current dividend scales” (see Explanation (iv) of the sample Illustration attached at Annex). For good customer service, insurers are expected to notify policyholders of any change in the dividend policy and entertain reasonable request for information on the actual dividends declared by the companies over time. Potential customers or policyholders may request assistance from the IA if the insurer refuses to do so.

There are currently 65 insurers authorized to write life insurance policies and over 30 active players in the market. They offer a wide range of products with different features in terms of mortality protection and investment strategy to meet different needs and demands of the market. In addition to the “pooling effect” (i.e. the payment out of the fund for death and other benefits claimed by policyholders), similar to other investment products, the return of the pooled fund is affected by the overall investment environment, the nature of the underlying assets and the investment strategy stipulated for the fund. The Standard of Illustration for Non Unit-linked Life Policies adopted by the industry since 1998, which requires an insurer to use its current dividend rate to illustrate the potential return of the policy, is designed to provide potential customers and policyholders with a more realistic picture so that they can make an informed judgement on the projected non-guaranteed returns of the policy made by an insurer. The IA will continue to work with the HKFI and the Consumer Council to enhance transparency and disclosure and promote a more consistent approach by life insurers in their sale and marketing materials and annual policy statement to facilitate comparison and choice by consumers.

- (b) To subject the approved bodies of insurance brokers to statutory regulation

Under the current regulatory regime, The Hong Kong Confederation of Insurance Brokers (CIB) and Professional Insurance Brokers Association (PIBA) are the two professional self-regulatory bodies

approved by the IA in June 1995, in accordance with section 70 of the ICO. Any person who intends to practise as an insurance broker has to be a member of CIB or PIBA or may choose to be registered with the IA and subject to regulation of the respective bodies. Currently, CIB has a membership of 244 and PIBA 226. There is one insurance broker registered with IA.

Part X of the ICO also requires both CIB and PIBA to have adequate provisions in their regulations for their members to comply with the minimum requirements for brokers specified by the IA and to ensure that their members are fit and proper to be insurance brokers and have appropriate systems for disciplinary procedures to deal with breaches of proper conduct by their members. The minimum requirements specified by the IA include qualification and experience of the person to be registered as insurance broker, capital and assets requirement, professional indemnity insurance, keeping of separate client accounts and keeping proper books and accounts. CIB and PIBA are also required under the ICO to be managed or supervised by fit and proper persons and to submit to the IA annually their auditor reports on their members' compliance with the minimum requirements for brokers. These requirements serve to ensure that CIB and PIBA discharge their regulatory functions properly and consistently under the oversight of the IA.

Apart from specifying the minimum requirements, the IA maintains close liaison with both CIB and PIBA and regularly monitors and reviews their supervision measures and procedures to ensure they discharge their professional self-regulatory responsibility effectively and in response to market and professional development. For example, both CIB and PIBA have recently formalised and stepped up on-site inspection of their members to ensure compliance with statutory requirements and code of conduct of the profession. The IA is generally satisfied that the two self-regulatory bodies are performing their regulatory duties properly and effectively but will nevertheless keep the system under review in light of any new market development.

- (c) Consultancy Study on the Feasibility of Establishing Policyholders' Protection Funds (PPFs) in Hong Kong

The objective of the study is to review the existing arrangements for policyholder protection in the event of insurer insolvency, comparison of overseas PPFs schemes, examination of the feasibility of introducing PPFs in Hon Kong, public consultation, analysis of the result of public consultation and identification of preferred PPFs options. The consultant appointed to conduct the study has completed up to the public consultation stage of the study and is preparing a final report and recommendation on the feasibility of introducing PPFs in Hong Kong including, where necessary, identifying the preferred PPFs options for consideration by Government. The consultant is expected to submit its final report within the coming financial year. Upon receiving the final report from the consultant, the Government will consider the way forward taking into account latest international regulatory development, implication for the work of IA and impact on the industry and community.

Yours sincerely,

(Ms Cora Ho)
for Secretary for Financial Services
and the Treasury

Encl.: Chinese version of the response

c.c. Commissioner of Insurance
(Attn: Mr. Richard Yuen)
AA/SFST

Standard Illustration for Non Unit-linked Life Policies

X Y Z LIFE ASSURANCE COMPANY LIMITED

[A] IMPORTANT:
THIS IS A SUMMARY ILLUSTRATION OF THE BENEFITS OF YOUR POLICY AND IN NO WAY AFFECTS THE TERMS AND CONDITIONS STATED IN THE POLICY DOCUMENT.

[B] Proposal Summary for the ABC product

1. Name : _____ Age : _____ Sex : _____ **[C] Smoker / Non Smoker**

2. **[D] Basic Plan Summary (Currency : _____)**

[E] Initial Sum Assured : _____ **[F] Initial Monthly Premium :** _____

3. **Basic Plan – Illustration Summary (Currency : _____)**

[G] End of Policy Year	DEATH BENEFIT			CASH VALUE			[J] Total Premiums
	[H1] Guaranteed	[H2] Non-Guaranteed	[H3] Total	[I1] Guaranteed	[I2] Non-Guaranteed	[I3] Total	
1							
2							
3							
4							
5							
10							
15							
20							
25							
30							
At age 65							

4. **Benefit Summary (Currency : _____)**

Benefit Description	[K] Initial Protection Amount	[L] Initial Monthly Premium
Basic Plan eg. Accidental Death Benefit Double Indemnity Hospital Income		

[M] Total Monthly Premium : _____
 =====

5. Explanation

- (i) The above is only a summary illustration of the major benefits of your policy. You should refer to your agent or the Company for more information or, if appropriate, a more detailed proposal.
- (ii) The Basic Plan Illustration in Section 3 relates only to your Basic Plan excluding any riders or additional benefits as shown in Section 4 (if applicable) and assumes that all premiums are paid in full when due.
- [optional]** (iii) The amount of total premium(s) may differ slightly from the total of the premiums payable in the policy due to rounding differences.
- (iv) The projected dividend values included in the above are based on the Company's current dividend scales and are not guaranteed. The actual dividends paid may change with the values being higher or lower than those illustrated.
- [N1]** (v) As illustrated in the above, you can leave the amount of projected dividends and the cash payments to accumulate with the Company at a special interest rate which will change from time to time. The current interest rate used to illustrate the effect of accumulation in the above is X % pa. This rate is not guaranteed. You can also cash all or part of the amount of projected dividends and the cash payment without affecting the protection amount but the values shown above will be reduced accordingly.
- [N2]** (vi) If the interest rate and assumed dividend scales remain unchanged throughout your policy term, then the future premium on the Basic Plan can be paid out of accumulated dividends (and cash payments) from policy year XX onwards. This is not guaranteed; a change in either the interest rate or projected dividend scale may require you to pay additional premiums to maintain the Basic Plan.

[N3] 6. Declaration (optional)
 I confirm having read and understood the information contained in this summary of illustrated benefits.

Name : _____ Signature : _____ Date : _____

非投資成分壽險利益說明

XYZ 人壽保險有限公司

重要事項：

此乃貴保單保險利益之說明摘要，並不影響保單內所列的條款與規定。

X X X 計劃建議書摘要

1.

姓名：	年齡：	性別：	吸煙者／非吸煙者
-----	-----	-----	----------

2. 基本計劃摘要 (貨幣：)

投保時之保障額：	投保時每月保費：
----------	----------

3. 基本計劃—說明摘要 (貨幣：)

保單年度完結	身故賠償			現金價值			總保費
	保證可得金額	預期可得金額	總額	保證可得金額	預期可得金額	總額	
1							
2							
3							
4							
5							
10							
15							
20							
25							
30							
65 歲							

4. 保障摘要 (貨幣：)

保障項目	投保時之保障額	投保時每月保費
基本計劃 例如：意外死亡保障 雙倍賠償 住院現金		

每月保費總額： _____

5. 說明：

- (i) 上列為貴保單主要利益的說明摘要，如欲得悉更多資料，或索取更詳盡的建議書，請與本公司或閣下的保險代理聯絡。
- (ii) 第三部份顯示的基本計劃說明摘要，並未將第四部份所列之附加或額外保障（如適用者）計算在內，且假設閣下已全數支付應繳保費。
- (iii) 由於需要將金額調整為整數，上列保費總額或會與應繳保費總額稍有出入。
- (iv) 上列預期可得紅利金額乃根據本公司現時之紅利分配加以預測而是沒有保證的。實際獲發之紅利或會比上表所示者較高或較低。
- (v) 如上表所示，閣下可將上述預期可得金額存放於本公司生息，有關息率將不時調整。上表用以計算累積金額之年利率為 x%，但此息率是沒有保證的。閣下亦可選擇提取全數或部份金額。此舉並不會影響保障額，惟上列現金價值將會相應調低。
- (vi) 假如利率及預期紅利分配於保單有效期內維持不變，閣下可於第 x 個保單年度開始，利用積存紅利（及現金給付）支付基本計劃的未來保費。然而，這是沒有保證的，實際情況將隨利率或紅利分配比例更改而變動。屆時，閣下或需額外繳付保費，以維持基本計劃的效力。

6. 聲明：

本人確認已細閱本保險利益說明摘要，並明白當中所載資料。

姓名： _____ 簽署： _____ 日期： _____

Life Insurance Council - Non Unit-Linked Illustrations
Illustration Document

1. **Purpose**

The purpose is to ensure each prospective policyholder is provided as a minimum with a summary illustration of the benefits of a non unit-linked life assurance policy (excluding Universal Life product) where there is some form of return to the policyholder other than a pure death benefit. It must state clearly what is guaranteed and not guaranteed with a comparison of the premiums payable under the terms of the policy. Universal Life products will not be included in this initiative at this stage.

2. **Minimum Requirements**

The minimum information to be included in the Illustration Document of a typical non unit-linked policy (excluding Universal Life policy) with dividends dependent on the Company's future distributable surplus and paying regular cash payments or endowments is set out on the attached sample format.

3. **Company Customisation**

Companies may customise the Illustration Document to include additional information provided that such additional information is not misleading and does not otherwise detract from the information disclosed in the minimum requirements. The illustration document must be prepared on no more than one sheet of A4 paper, if necessary, with printing on both sides in which event there must be an indication that the illustration continues overleaf.

4. **Rates/Values**

The non guaranteed rates and values adopted in producing the illustration have either to be those used currently by the company or if different then this must be clearly stated. Companies are reminded that no misleading statement, promise or representation is made in the illustration, and that the Appointed Actuary has a responsibility to take all reasonable steps to ensure that the company's incoming policyholders should not be misled as to their expectations.

5. **Illustration Preparation**

An Illustration Document must be prepared by the Company in conjunction with each policy to be issued. This document can be provided to the prospective policyholder for review prior to signing the application form in which case the prospective policyholder must sign a Declaration as stated in Section 6 of the attached sample in respect of the illustration of benefits and premiums which will be those stated in the policy. Alternatively, if the Declaration is not signed, the Illustration Document, without the Declaration, must be issued simultaneously with the provisions of the LIC Cooling-Off Initiative or at policy delivery.

6. **Language**

The Illustration Document will be in the same language(s) as used by the Company in its other pre-sale literature if the Declaration is signed prior to signing the application form, otherwise, in the same language(s) as used for other communication at the time of policy issue.

7. **Complaints or Disputes**

Companies are required to maintain records in respect of complaints or disputes arising from the issue of the Illustration Document and to provide these records to the HKFI upon request.

8. **Commencement Date**

The requirement to provide an Illustration Document will come into effect on 1 September 1998 but companies are encouraged to comply with this request before this date.

**Life Insurance Council - Non Unit-Linked Illustration
- Illustration Document Explanatory Notes to Companies**

- A. This “health warning” requires to be stated clearly in the format shown at the beginning of all Illustration Documents.
- B. The Illustration Document is to be provided for each non unit-linked product/policy/plan offered by the Company but not in relation to a pure term assurance where no return is provided except on death, nor for Universal Life type products.
- C. If a Smoker/Non Smoker discount is provided then the appropriate class must be stated otherwise this section may be blank.
- D. Where the plan/product/policy is made up of a basic plan plus riders then the key elements of the basic plan without riders is to be provided.
- E. Where the sum assured varies, the initial sum assured is to be stated.
- F. The initial modal premium actually paid by the policyholder is to be stated.
- G. Illustrations of benefits are to be provided for the years stated for not less than 30 years and at age 65 or on the maturity of the policy if earlier.
- H1. The amount of Guaranteed Death Benefit will be the sum assured plus any guaranteed cash payments or endowments being payable up to the specified policy year plus any interest rate accumulation if the interest is guaranteed and if the policyholder has the option of leaving these benefits with the Company (please refer to Explanation (v)).
- H2. Non guaranteed Death Benefit refers to the total of the non-guaranteed elements (eg. Dividends, bonuses or coupons) projected to be paid by the Company.
- H3. The Total Death Benefit will include any projected dividends, reversionary bonus or terminal bonus and accumulated guaranteed cash payment or endowments paid by the Company plus any interest rate accumulation (please refer to Explanation (iv) and (v)).
- I1. Guaranteed Cash Value refers to the total of the values the Company guarantees to pay upon total surrender of the policy provided premiums are fully paid but if the company offers no guaranteed cash values then the amounts shown must be zeros.
- I2. Non Guaranteed Cash Value refers to the total of the non-guaranteed elements (e.g. Dividends, bonuses or coupons) projected to be paid by the Company upon surrender of the policy provided premiums are fully paid. Where there is no Guaranteed Cash Value, Explanatory Note 5(iv) must be replaced as follows :-
- “The projected Non-Guaranteed Death Benefits above are based on the Company’s current dividend scales and are not guaranteed. The Non-Guaranteed Cash Value is a projection on the Company’s current surrender value basis and current dividend scales, both of which are not guaranteed. The actual values paid may change with the values being higher or lower than those illustrated”.
- I3. Total Cash Value is the total value of the policy including all guaranteed and non-guaranteed amounts (i.e. I1 plus I2).
- J. The total premiums each year are the accumulated premiums actually due to be paid by the policyholder.
- K. The protection amount may be a sum assured or the value of a regular payment as in the case of Hospital Income for any riders attaching to the policy.

- L. This is the initial modal premium actually paid by the policyholder.
- M. This is the total modal premium paid by the policyholder for the basic plan and its riders (if applicable) which may differ from the sum of the individual modal premiums depending on the rounding convention used by the Company.
- N1-N3. Inclusion of these Explanations and the definition of cash payments, etc as well as the rates of interest will depend on the individual circumstances of each Company and their products.
- O. The date on which the illustration is printed is to be provided for possible future reference.