

L.N. 8 of 2021

Insurance (Special Purpose Business) Rules

(Made by the Insurance Authority under section 129A of the Insurance Ordinance (Cap. 41))

1. Commencement

These Rules come into operation on the day on which section 8 of the Insurance (Amendment) Ordinance 2020 (17 of 2020) comes into operation.

2. Interpretation

In these Rules—

authorized financial institution (認可財務機構) means an authorized institution as defined by section 2(1) of the Banking Ordinance (Cap. 155);

bank (銀行) means any institution carrying on business similar to—

- (a) the banking business within the meaning of the Banking Ordinance (Cap. 155) as carried on by an authorized financial institution; or
- (b) the business of taking deposits within the meaning of the Banking Ordinance (Cap. 155) as carried on by an authorized financial institution;

collective investment scheme (集體投資計劃) means a collective investment scheme as defined by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

corporation (法團) has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

eligible ILS investor (合資格保險相連證券投資者) has the meaning assigned to it by rule 3;

insurance-linked securities (保險相連證券) has the meaning given by section 129A of the Ordinance;

recognized clearing house (認可結算所) has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

recognized exchange company (認可交易所) has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

recognized exchange controller (認可控制人) has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

recognized investor compensation company (認可投資者賠償公司) has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571).

3. Restrictions on sale of insurance-linked securities

- (1) A person must not enter into, or offer to enter into, an agreement with another person, or invite or induce, or attempt to invite or induce, another person to enter into an agreement, for that other person to acquire, subscribe for or underwrite insurance-linked securities, or to dispose of insurance-linked securities to that other person, unless—

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- (a) that other person is an eligible ILS investor;
 - (b) that other person is not a person mentioned in subrule (2); and
 - (c) the consideration for which the insurance-linked securities are to be acquired, subscribed for, underwritten, or disposed of under the agreement is not less than US\$250,000 or the equivalent of such amount in other currencies.
- (2) A person referred to in subrule (1)(b) is—
- (a) any collective investment scheme authorized under section 104 of the Securities and Futures Ordinance (Cap. 571), or any person in that person's capacity as an operator in relation to any such authorized collective investment scheme;
 - (b) any registered scheme or its constituent fund as defined by section 2(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485), or any scheme which is an approved pooled investment fund as defined by section 6 of the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A), or any person in that person's capacity as an approved trustee or service provider in relation to any such registered scheme as defined by section 2(1) of that Ordinance; or
 - (c) any scheme which is a registered scheme as defined by section 2(1) of the Occupational Retirement Schemes Ordinance (Cap. 426), or any person in that person's capacity as an administrator as defined by section 2(1) of that Ordinance in relation to any such registered scheme.

- (3) A person who contravenes subrule (1) commits an offence and is liable—
- (a) on summary conviction to a fine at level 6 and, in the case of an individual, also to imprisonment for 6 months; or
 - (b) on conviction on indictment to a fine of \$200,000 and, in the case of an individual, also to imprisonment for 2 years.

- (4) In this rule—

eligible ILS investor (合資格保險相連證券投資者) means—

- (a) any recognized exchange company, recognized clearing house, recognized exchange controller or recognized investor compensation company, or any corporation authorized to provide automated trading services under section 95(2) of the Securities and Futures Ordinance (Cap. 571);
- (b) any licensed corporation or registered institution as defined under the Securities and Futures Ordinance (Cap. 571), or any other corporation carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong;
- (c) any authorized financial institution, or any bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong;
- (d) any insurer authorized under the Ordinance, or any other person carrying on insurance business and regulated under the law of any place outside Hong Kong;

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- (e) any scheme which—
 - (i) is a collective investment scheme that is not the subject of any advertisement, invitation or document that is or contains an invitation to the public to do any act referred to in section 103(1)(b) of the Securities and Futures Ordinance (Cap. 571) and is not authorized, and not required to be authorized, under section 105(1) of that Ordinance; or
 - (ii) is similarly constituted under the law of any place outside Hong Kong and, if it is regulated under the law of such place, is permitted to be operated under the law of such place,
or any person by whom any such scheme is operated;
 - (f) any government (other than a municipal government authority), any institution which performs the functions of a central bank, or any multilateral agency; or
 - (g) any corporation which is—
 - (i) a wholly owned subsidiary of—
 - (A) a licensed corporation or registered institution as defined under the Securities and Futures Ordinance (Cap. 571), or other corporation carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong; or
 - (B) an authorized financial institution, or any bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong;

- (ii) a holding company which holds all the issued share capital of—
 - (A) a licensed corporation or registered institution as defined under the Securities and Futures Ordinance (Cap. 571), or other corporation carrying on the business of the provision of investment services and regulated under the law of any place outside Hong Kong; or
 - (B) an authorized financial institution, or any bank which is not an authorized financial institution but is regulated under the law of any place outside Hong Kong; or
- (iii) any other wholly owned subsidiary of a holding company referred to in subparagraph (ii).

Dr. Moses CHENG Mo-chi
Insurance Authority

18 January 2021

Explanatory Note

These Rules provide for restrictions on sales of insurance-linked securities (*ILS*) including the scope of eligible investors, a minimum investment size and relevant offences against the contravention of sales restrictions under section 129A of the Insurance Ordinance (Cap. 41). The Rules define—

- (a) *eligible ILS investors* to whom ILS may be sold or offered for purchase;
- (b) a minimum investment size for ILS; and
- (c) offences and penalties of contravention.