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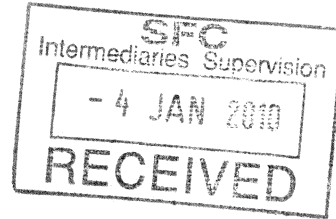
Manulife

Bringing dreams to life

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Hong Kong

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Securities and Futures Commission
8th Floor, Chater House
8 Connaught Road
Central
Hong Kong



Attn.: Consultation on proposals to enhance protection for the investing public

Dear Sir,

SFC CONSULTATION PAPER ON PROPOSALS TO ENHANCE PROTECTION FOR THE INVESTING PUBLIC

Thank you for inviting us to comment on the consultation regarding enhancing protection for the investing public.

We fully support the need to protect the investing public and are pleased that the SFC is taking a proactive position on this.

The HKFI is sending a detailed response where all life insurance companies had an opportunity to contribute; therefore, we will focus our response on a few principles and key areas in the consultation.

CONSISTENT ADVICE

While supporting the disclosure principles in the consultation, we feel that the focus is weighted very heavily on disclosure, perhaps to the exclusion of a greater focus on ensuring professional and consistent advice across a range of investment products. Ultimately the customer is strongly influenced by their Adviser whether he/she is a tied-agent, bank seller, broker or independent financial advisor. Given that the bulk of retail consumers do not possess extensive knowledge about investments or investment products, we believe that the best protection for consumers is a strong, professional financial advice industry. We see two key hurdles to this in Hong Kong –

- Firstly, distribution regulation (and self-regulation) is currently divided amongst different regulatory bodies and self-regulatory organizations who take different approaches to licensing and regulation notwithstanding that the underlying investment products being sold are intended to provide similar benefits from a consumer point of view.

- Secondly, in our view, the differences between the bare selling of product on the one hand and provision of objective holistic financial advice on the other and the various levels in between are not yet adequately recognized under the current regulatory regime. Our hope is that as the consultation process continues, these differences could garner greater consideration.

We acknowledge that under the SFO, there is support for the SFC's contention that ILAS products do not fall within the SFC's regulatory purview. However, we would urge that the consultation process be sufficiently broad to include a review of the relevant provisions of the SFO and their interpretation. For reasons set out above, we believe that there is compelling rationale, for the benefit of consumers, that advice on ILAS products should require a Type 4 license.

Similarly with respect to MPF products, whether structured as a unit-trust or APIF, the contributions made by consumers are being invested in underlying funds. Many of these underlying funds if sold outside of the MPF regime would require the seller to have a Type 4 license. Accordingly, consumer protection would seem to mitigate toward a common approach to regulatory oversight for those who advise on investments in such funds, whether they are direct investments (currently requiring a Type 4 license) or are investments directed to these funds by way of an MPF scheme (currently not requiring a Type 4 license). Again, it is our contention that investment advice in relation to MPF products should require a Type 4 license.

Put in context, at Manulife we advocate a needs-based approach to selling and are building a strong financial planning framework, which will have its challenges in the current proposed regulatory framework. We believe that this will be best for our customers and will enhance our ability to provide real value to them. Proper financial planning requires not only recommending the purchase of products (the licensing requirement of which may be more clear), but in most cases also requires periodic rearrangement of existing assets, where in many cases a Type 4 license would be required.

Of course for ILAS products we will support the direction of OCI in broadening the requirements for Paper 5 and will be ensuring that any of our agents who give investment-advice under the revised Paper 5 for ILAS products from the second quarter of 2010 not only have the required license, but fulfill additional training including ongoing enhanced continuous professional development.

SFC APPROVALS

Consistent with previous communications, it is our considered view that the SFC should provide clear requirements for market participants in relation to products and marketing materials rather than requiring that such products and materials be specifically approved. The SFC could then focus its limited resources on holding those in violation of such principles to account, rather than on processing the endless stream of approval applications. In this context, the SFC would certainly maintain the power to force a



market participant to withdraw a product where the product, or the materials developed to market that product, were deemed to be in violation of the principles and to order the participant, *inter alia*, to refund any premium or investment to the customer where appropriate.

It is our considered view that Hong Kong is a sophisticated and mature financial market and that such a change would mirror developments in many of the more advanced jurisdictions in which we operate. The kinds of sanctions referred to above would provide strong incentives to participants to police themselves rather than leaving this burden (and the blame when things go wrong) partly with the SFC.

PRODUCT SUITABILITY

In order to be of value, it is our view that suitability checks should be completed at the portfolio level rather than focusing on each individual transaction. For example, it would be quite appropriate for a balanced investor to have a small part of their monies in a volatile fund if the bulk of their assets are in more conservative assets.

USE OF INTERNET

The Internet is increasingly becoming a portal for customer service and it is becoming more common for handling financial transactions on-line; particularly as the more computer-savvy generation matures and becomes active consumers of financial products. The SFC paper focuses strongly on face-to-face sales, and we recommend that consideration be given to ensuring that customers undertaking transactions on-line are also aware of the inherent risks in their buying decisions.

ILAS CODE (QUESTION 16)

Clause 7.3 of the ILAS Code states that an Authorized Insurer should inform scheme participants as soon as reasonably practicable of any material adverse change in the financial condition or business of the key counterparties. This requires more definition as it has the potential to create confusion for a customer if it is required for events that have no real impact on the security of the policy. An example of this would be when Manulife remits dividends back to our parent. Our solvency ratios will be reduced, but the Board take this seriously and would only authorize this when we have adequate capital to withstand a significant market adjustment. We would like confirmation that these types of events would not trigger a requirement to notify policyholders.

WITH-PROFIT POLICIES (QUESTIONS 16)

We found this section difficult to understand as “with-profits” policies are generally Class A policies outside the scope of the SFC. Only where there is a specific market-value adjustment (not the regular investment smoothing mechanism inherent to these products) should the SFC have a role. Further we believe that these products are clear and subject to good governance.



In this regard we note generally our concern that there remains a determination to use product-specific regulation. Accordingly, we would urge a more generic regulation for all products with market-value adjustment features. In our view, this would have the benefit of being more likely to address product types not yet available. Under the proposal, our concern is that new regulations would be required regularly when providers wish to issue new products. In the worst case, certain providers might seek to launch unregulated products by taking advantage of gaps in the legislation if it becomes too narrowly defined to existing product types.

COMMISSION DISCLOSURE (QUESTIONS 22 & 23)

While as a general rule, we favour providing customers with more information rather than less, we continually focus on providing information to customers that is likely to be helpful in their decision-making.

Accordingly, we have some concerns with commission disclosure. First, we are concerned that it will not help the customer as commissions can vary on products that have the same end-value to the customer. It is much more important in our view that the customer understands the benefits and fees as these do impact the value to the customer.

Second, we are concerned that such disclosure may create situations where companies are encouraged to pay their distributors salaries instead of commissions/bonuses and effectively circumvent the requirements. They would disclose minimal (if any) commission for a policy that is otherwise identical to the product of a competitor where full commission is disclosed. It is unclear how this would assist the consumer and could well, in our view, create confusion and tilt the playing field in favour of participants who use salaried employees over those who use commissioned based employees in their sales practices. Where a single market participant uses more than one distribution channels, the disclosure received by a customer in this respect could also differ for the same product from different channels in the same company. Accordingly, if monetary amounts are disclosed then distribution costs rather than commissions should be used.

We would prefer to see greater transparency and clarity about the role and scope of the intermediary so the consumer can assess properly whether any conflicts of interest may be of concern.

If some commission disclosure is decided on, we would strongly recommend the generic version to avoid customer confusion.

USE OF GIFTS (QUESTION 26)

We support the elimination of gifts not directly related to the product being sold or other financial products the distributor or manufacturer provides or advises on.



Manulife recommends that SFC accepts for example, bonus units or additional shares as permitted gifts as some products do not have initial fees and charges. These incentives still meet the principle of enhancing customer value for the product. Similarly, a bundled price for combined financial product purchases or discounted price for multiple purchases, etc should be allowed.

AUDIO-TAPING (QUESTION 28)

We fully support the HKFI position that audio taping is not practical for a mobile sales force. Furthermore, in a holistic financial advice process, the purchase of product is only the final implementation stage of a lengthy, complex, interactive process, more than likely over a number of separate meetings between the adviser and the consumer. After the sale we would need to find a way to retrieve a number of audio tapes from the adviser, collate them and find a way to link them to the policyholder record. We see no way to do this effectively. There is also the additional factor that all audio taping facilities have limited capacity, even a laptop, and the tape may end part way through a sale. We do not believe that restricting customers to always visit a adviser's office where taping may be possible, is a sensible alternative.

We hope you find our comments useful. Do not hesitate to contact me if you require clarification or additional comments.

Yours sincerely,

Michael Huddart
Executive Vice President &
Chief Executive Officer