

Notice No : **MAS 120**
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DISCLOSURE AND ADVISORY PROCESS REQUIREMENTS FOR ACCIDENT AND HEALTH INSURANCE PRODUCTS

Introduction

1. This Notice is issued pursuant to sections 35P, 35TA and 64(2) of the Insurance Act (Cap. 142) [“the Act”] and comprises both mandatory requirements and best practice standards on the disclosure of information and provision of advice to insureds for accident and health policies and life policies that provide accident and health benefits.

2. This Notice applies to —

- (a) any direct insurer registered under the Act;
- (b) any licensed financial adviser or exempt financial adviser which provides any financial advisory service in respect of life policies;
- (c) any representative of a licensed financial adviser or an exempt financial adviser who provides any financial advisory service in respect of life policies;
- (d) any direct insurance broker or exempt direct insurance broker;
- (e) any person acting for a direct insurance broker or an exempt direct insurance broker;
- (f) any insurance agent operating under written agreement pursuant to section 35M; or
- (g) any insurance agent who is not required to comply with section 35M

when he or it provides advice or arranges contracts of insurance or both, in respect of accident and health policies and life policies that provides accident and health benefits but does not apply where—

- (i) such policies are in respect of reinsurance of liabilities under insurance policies; and
- (ii) such policies provide that the accident and health benefits are paid out only if the insured becomes totally and permanently disabled, as defined under that policy.

3. This Notice sets out the following in two parts:

- (a) Part I — Mandatory Requirements
 - (i) Division 1: Disclosure requirements for accident and health policies;
 - (ii) Division 2: Disclosure requirements for life policies that contain accident and health benefits;
 - (iii) Division 3: Additional disclosure requirements for direct insurers;
 - (iv) Division 4: Requirements on provision of advice relating to accident and health policies;
 - (v) Division 5: Requirements on provision of advice relating to life policies that contain accident and health benefits;
 - (vi) Division 6: Offences relating to this Part;
- (b) Part II — Non-mandatory Best Practice Standards on Information Disclosure and Provision of Advice.

4. This Notice shall come into effect on 1 April 2004.

Definition

5. For the purpose of this Notice—

“accident and health insurance intermediary (hereinafter referred to as A&H insurance intermediary)” means—

- (a) a direct insurer;
- (b) a licensed financial adviser;
- (c) an exempt financial adviser;
- (d) a direct insurance broker; or
- (e) an exempt direct insurance broker,

who provides advice on or arranges contracts of insurance or both, in respect of accident and health policies and life policies that provides accident and health benefits as an insurance intermediary;

“accident and health insurance representative (hereinafter referred to as A&H insurance representative)” means a person who is—

- (a) employed by or who acts as an insurance agent for, a direct insurer;

(b) employed by or who acts for, a direct insurance broker or an exempt direct insurance broker; or

(c) employed by or who acts as a representative of, a licensed financial adviser or exempt financial adviser,

and provides advice on or arranges contracts of insurance or both, in respect of accident and health policies and life policies that provides accident and health benefits as an insurance intermediary, but does not include a person who is an A&H insurance intermediary;

“Central Provident Fund Board” means the Central Provident Fund Board constituted under section 3 of the Central Provident Fund Act (Cap.36);

“ElderShield policy” means a policy under the ElderShield Scheme established and maintained by the Ministry of Health for the purposes of allowing a person to purchase a policy which pays an insured person a fixed sum of monthly benefits if, at any time during the period the person is insured under the policy, he becomes incapable of independently performing activities of daily living by reason of severe disability, from an insurer approved by the Ministry of Health;

“exempt direct insurance broker” means a person exempt from registering as a direct insurance broker under section 35ZN(1)(a) to (ea) of the Act who has notified the Authority, in such manner as may be prescribed under section 64(1), of his commencement of insurance broking business;

“health policy” means an accident and health policy that is not a personal accident policy;

“insured” includes an intending insured;

“personal accident policy” means an accident and health policy where accident and health benefits are paid out only—

(a) in the event of an injury to, or disability of, the insured as a result of accident;

(b) on the death by accident of the insured; or

(c) on the occurrence of a combination of (a) and (b);

“representative” has the same meaning as set out in section 2 of the Financial Advisers Act (Cap 110) [“the FA Act”];

“switching” includes terminating a policy and replacing it with another policy, and “switch” shall be construed accordingly.

6. The expressions used in this Notice shall, except where expressly defined in this Notice or where the context otherwise requires, have the same respective meanings as in the Act.

Sections 35P and 35TA

7. For the purposes of section 35P(1)(d) and (2)(e) of the Act, an A&H intermediary shall also disclose the material information set out in paragraphs 12 to 18, 20 to 22, and 27(a) to (d).

8. For the purposes of section 35TA of the Act, the standards to be maintained by an insurance intermediary in the conduct of business relating to disclosure and advisory process include those set out in paragraphs 19, 23 to 25, 27(e), 30, 34 to 46, and 48.

Representative of A&H Insurance Intermediary

9. Unless otherwise specified, an A&H insurance intermediary shall ensure that all its A&H insurance representatives comply with any mandatory requirement imposed on an A&H insurance intermediary in this Notice when the A&H insurance representatives are acting on behalf of the A&H insurance intermediary.

Application to Direct Insurers

10. Unless otherwise specified, this Notice applies to a direct insurer, when it provides advice or arranges contracts of insurance in respect of accident and health policies underwritten by it, as if it were an A&H intermediary.

Part I – Mandatory Requirements

Division 1: Disclosure Requirements for Accident and Health Policies

11. This Division sets out the minimum standard on disclosure to insureds by A&H insurance intermediaries in relation to accident and health policies that are mandatory.

General information about the A&H insurance intermediary and status of an A&H insurance representative

12. An A&H insurance intermediary shall disclose to the insured in writing its business name under which it conducts its insurance business, its business address and its telephone number.

13. An A&H insurance representative shall disclose the following to the insured in writing:

- (a) its name;
- (b) the A&H insurance intermediary (or intermediaries) for which it acts.

14. Where there is a change to such information mentioned in paragraphs 12 and 13, an A&H insurance intermediary or an A&H insurance representative shall inform an insured, in writing, of any such change in any subsequent dealings with the insured.

Remuneration of the A&H insurance intermediary

15. An A&H insurance intermediary shall, upon request of the insured, disclose in writing to the insured all remuneration, including any commission, fee and other benefit, that it has received or will be receiving for providing advice on, or arranging insurance contracts or both, in respect of any accident and health policy.

Conflict of Interest

16. An A&H insurance intermediary shall disclose, in writing, to its insureds any actual or potential conflict of interest arising from any connection to or association with any insurer, including any material information or facts that may compromise its objectivity in advice provided by the A&H insurance intermediary.

Disclosure when Providing Advice

17. When dealing with an insured who is an individual in respect of any accident and health insurance policy, an A&H insurance intermediary shall disclose the following information to the insured:

(a) Nature and objective of the policy

The A&H insurance intermediary shall disclose and explain to the insured the nature and objective of the policy, including:

- (i) whether the policy is a health policy or a personal accident policy; and
- (ii) whether the policy seeks to reimburse health services costs incurred by the insured, provide continuous income during disability or sickness, provide lump sum benefits on the occurrence of specified events, or a combination of these.

(b) Details of the insurer

In addition to disclosing to the insured the insurer underwriting the policy and its relationship with that insurer required under section 35P(1)(a) and (b) of the Act, an A&H insurance intermediary shall disclose to the insured the business address of the insurer.

(c) Contractual rights and obligations

The A&H insurance intermediary shall disclose and explain to the insured—

- (i) the party against which the insured may take action to enforce his rights with respect to the policy he has purchased;
- (ii) that he is responsible for the accuracy and completeness of the information given to the insurer when applying for the policy and when making a claim under the policy;
- (iii) that any mis-statement or non-disclosure of material facts may affect the validity of the policy; and
- (iv) the amount of, frequency with which, and period over which, payment is to be made in respect of the policy, including whether the premium rate is guaranteed or non-guaranteed.

(d) Benefits of the policy

The A&H insurance intermediary shall disclose and explain to the insured the benefits of the policy, including—

- (i) the conditions under which payment of policy moneys to the insured is made;
- (ii) the conditions under which payment of policy moneys to the insured will not be made;
- (iii) the amount and timing of the payment of policy moneys;
- (iv) whether the payment of policy moneys are guaranteed or non-guaranteed; and
- (v) any lien on the policy.

(e) Risks of the policy

The A&H insurance intermediary shall disclose and explain to the insured the risks to be borne by the insured in the purchase of the policy, including:

- (i) whether the insurer may alter the terms of contract, and if so, what are the terms that may be altered and under what conditions would alterations be allowed; and
- (ii) whether the insurer may decline to renew the policy or unilaterally terminate the policy.

18. Where a benefit illustration or a product summary in respect of the accident and health policy prepared by the insurer or the A&H insurance intermediary is available, the

A&H insurance intermediary shall furnish the insured with, and explain to the insured the content of any such benefit illustration or product summary.

19. Where the A&H insurance intermediary prepares a benefit illustration or a product summary for an insured, it shall be prepared according to industry standards, if any, set for insurers.

20. In the case of a personal accident policy, the A&H insurance intermediary shall ensure that the insured is aware that policy moneys shall be paid as a result of accident only.

21. When dealing with a person who is, or would be the policy owner of a group policy, in respect of any accident and health policy, an A&H insurance intermediary shall disclose the following information to the insured:

- (a) information described in paragraph 17;
- (b) duration of coverage; and
- (c) whether premium paid under the policy qualifies for any special tax treatment, and if so, the nature of such incentive.

22. For a group policy, where any person insured under the policy is liable to pay any premium (whether in monetary form or otherwise), the A&H insurance intermediary shall disclose to every person in the group information as if it is dealing with them individually.

Marketing Material

23. An A&H insurance representative shall only use marketing materials approved by the A&H insurance intermediary for which he acts.

Telemarketing and Direct Marketing

24. Where an A&H insurance intermediary carries on the business of arranging contracts in relation to accident and health policies over the telephone (commonly known as telemarketing) in a manner that is designed to solicit and close a sale, it shall—

- (a) where no advice is provided, communicate to the insured a warning that—
 - (i) the insured may wish to seek advice from an A&H insurance intermediary before making a commitment to purchase the policy; and
 - (ii) in the event that the insured chooses not to seek advice from an A&H insurance intermediary, he should consider whether the policy in question is suitable for him; and

- (b) maintain a record of all conversations made over the phone sufficient for the purpose of conducting audit checks where necessary.

25. Where an A&H insurance intermediary engages in the marketing of accident and health policies using direct response advertising communications through any medium, including mail, print, TV, radio and electronic media, that is designed to solicit and close a sale, it shall include, in all its marketing materials, a prominent warning that—

- (a) the insured may wish to seek advice from an A&H insurance intermediary before making a commitment to purchase the policy; and
- (b) in the event that the insured chooses not to seek advice from an A&H insurance intermediary, he should consider whether the type of policy in question is suitable for him.

Division 2: Disclosure Requirements for Life Policies that Contain Accident and Health Benefits

26. Any A&H insurance intermediary who is a licensed financial adviser or an exempt financial adviser and any A&H insurance representative who is a representative, providing any financial advisory service in respect of life policies is to comply with the disclosure requirements set out in the FA Act.

27. In addition to those requirements, an A&H insurance intermediaries or an A&H insurance representative shall comply with the following paragraphs of this Notice (with the necessary modifications) when it provides advice to or arrange contracts of insurance or both, in respect of life policies that contain accident and health benefits:

- (a) paragraph 17(a), (c)(iv), (d)(i), (d)(ii), and (e);
- (b) paragraph 20;
- (c) paragraph 21(b) and (c);
- (d) paragraph 22; and
- (e) paragraph 24.

Division 3: Additional Disclosure Requirements for Direct Insurers

28. When a direct insurer prepares a benefit illustration or a product summary for policies it underwrites, it shall be prepared according to industry standards, if any. This shall not apply to policies underwritten by insurers other than a registered insurer.

29. Where the accident and health policy for an insured who is an individual provides that the insurer may vary, amend, or add to the terms of the contract of insurance in the duration of the contract, the direct insurer shall:

- (a) disclose the existing terms of the contract;
- (b) disclose and explain the new terms of the contract;
- (c) disclose and explain the manner in which the insured may accept the new terms or the circumstances under which the insured will be deemed to have accepted the new terms; and
- (d) furnish the information under (a), (b), and (c) to the insured in writing at least 30 days before the variation, amendment or addition takes effect.

Division 4: Requirements on Provision of Advice Relating to Accident and Health Policies

30. No A&H insurance intermediary shall provide any advice with respect to any health insurance policy to a person who may reasonably be expected to rely on the advice if the A&H insurance intermediary does not have a reasonable basis for providing the advice to the person.

31. For the purposes of paragraph 30, an A&H insurance intermediary does not have a reasonable basis for providing an advice to a person unless —

- (a) he has, for the purposes of ascertaining that the advice is appropriate, having regard to the information possessed by him concerning the objectives, financial situation and particular needs of the person, given such consideration to, and conducted such investigation of, the subject-matter of the advice as is reasonable in all the circumstances; and
- (b) the advice is based on the consideration and investigation referred to in sub-paragraph (a).

32. In this Division, a reference to the provision of advice is a reference to the provision of advice either expressly or by implication and the expression “providing advice” shall be construed accordingly.

33. This Division shall not apply—

- (a) in circumstances where no recommendation is made or where only factual information is provided with respect to any health policy; or
- (b) to any advice provided in respect of any ElderShield policy.

34. An A&H insurance intermediary that is involved in providing advice on health policies to insureds shall comply with the requirements set out in this Division in relation to the following aspects:

- (a) “Know-Your-Client”;

- (b) needs analysis; and
- (c) documentation and record keeping.

“Know-Your-Client”

35. In order for an A&H insurance intermediary to provide an advice to an individual that takes into account an insured’s investment objectives, financial situation and particular needs, the A&H insurance intermediary shall collect and document the following information from the insured:

- (a) the objectives of the insured, including—
 - (i) the event, or events, which financial impact the insured is seeking protection from; and
 - (ii) the nature of benefits payment that the insured is seeking, whether it is a lump sum payment or in periodical payments, and whether it relates to cost actually incurred by the insured;
- (b) the employment status of the insured;
- (c) the income of the insured;
- (d) any existing health policy of the insured, including any policy moneys arising from any insurance scheme established and maintained by the Central Provident Fund Board;
- (e) any medical conditions that the insured may have; and
- (f) for any recommendation made in respect of a health policy that intends to include the insured’s dependants as the insureds, the information listed in (a) to (e) for such dependants.

36. In order for an A&H insurance intermediary to provide advice in relation to a group insurance policy that takes into account an insured’s investment objectives, financial situation and particular needs, the A&H insurance intermediary shall collect and document the following information from the insured:

- (a) the objectives of the insured, including—
 - (i) the event, or events, which financial impact the insured is seeking protection for the members of the group; and
 - (ii) the mode of policy moneys payment that the insured is seeking, whether it is a lump sum payment or in periodical payments, and whether it relates to cost actually incurred by the insured;

- (b) the size and composition of the group, including a breakdown by gender, age, income, occupation;
- (c) the claims history of the group; and
- (d) any medical conditions that members of the group may have.

37. An A&H insurance intermediary shall highlight the following in writing to its insured:

- (a) the information provided by the insured will be the basis on which the advice will be made; and
- (b) any inaccurate or incomplete information provided by the insured may affect the suitability of the advice.

Needs Analysis

38. An A&H insurance intermediary shall analyse the information provided by the insured and identify the type of policy that is suitable for the insured based on the information obtained from the insured.

39. Where the A&H insurance intermediary is unable to identify a suitable policy, it shall inform the insured accordingly.

40. An A&H insurance intermediary shall explain to its insured the basis for its advice. The basis on which the A&H insurance intermediary is providing the advice to the insured shall be documented.

41. Where an insured does not want to:

- (a) provide any information requested by the A&H insurance intermediary in accordance with paragraph 35 or 36; or
- (b) accept the advice of the A&H insurance intermediary and chooses to purchase another health policy which is not advised by the A&H insurance intermediary,

the A&H insurance intermediary may proceed with the insured's request, but it shall document the decision of the insured and inform the insured that it is the insured's responsibility to ensure the suitability of the type of policy selected.

42. Where an insured chooses not to receive any advice from an A&H insurance intermediary, the A&H insurance intermediary shall properly document the insured's decision.

Documentation and Record Keeping

43. An A&H insurance intermediary shall furnish to its insured a document containing the following when providing an advice in respect of a health policy to the insured—

- (a) a summary of the information gathered by the A&H insurance intermediary pursuant to paragraph 35 or 36; and
- (b) any advice provided to the insured by the A&H insurance intermediary and the basis for the advice,

and, where applicable, a statement that the insured does not want to—

- (i) provide any information requested by the A&H insurance intermediary in accordance with paragraph 35 or 36;
- (ii) accept the advice of the A&H insurance intermediary and has chosen to purchase another health policy which is not that advised by the A&H insurance intermediary ; or
- (iii) receive any advice from the A&H insurance intermediary,

before the insured signs on the application form for the purchase of a health policy or gives his consent for the withdrawal or surrender of a health policy.

Switching of Accident and Health Insurance Policies

44. An A&H insurance intermediary shall not provide advice to an insured who is an individual to switch from one accident and health policy (referred to as “original policy”) to another accident and health policy (referred to as “replacement policy”) in a manner that would be detrimental to the insured. In considering whether a switch is detrimental, the Authority shall have regard to a number of factors, including—

- (a) whether the insured suffers any penalty for terminating the original policy;
- (b) whether the insured will incur any transaction cost without gaining any real benefit from such a switch;
- (c) whether the replacement policy confers a lower level of benefit at a higher cost or same cost to the insured, or the same level of benefit at a higher cost; and
- (d) whether the replacement policy is less suitable for the insured.

45. An A&H insurance intermediary that provides an advice to an insured to switch from one accident and health policy to another shall comply with the requirements in relation to provision of advice set out in this Division.

46. An A&H insurance intermediary shall disclose to an insured any fee or charge the insured would have to bear if he were to switch from one accident and health policy to another, in order to ensure that the insured is able to make an informed decision on whether to switch.

Division 5: Requirements on Provision of Advice Relating to Life Policies that Contain Accident and Health Benefits

47. Any A&H insurance intermediary who is a licensed financial adviser or an exempt financial adviser and any A&H insurance representative who is a representative, providing any financial advisory service in respect of life policies is to comply with requirements relating to recommendations and provision of advice set out in the FA Act and Notices issued thereunder.

48. In addition to these requirements, an A&H insurance intermediaries or A&H insurance representative shall comply (with necessary modifications) with paragraphs 35(a), (d), (e), (f), 36 and 43 of this Notice when it provides advice in respect of life policies that contain accident and health benefits.

Division 6: Offences relating to this Part

49. Any A&H intermediary who fails to comply with any requirement in paragraphs 12 to 18, 20 to 22, and 27(a) to (d) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or both.

50. Any A&H intermediary who fails to comply with any requirement in paragraphs 19, 23 to 25, 27(e), 30, 34 to 46, and 48 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$12,500.

51. Any person who fails to comply with any requirement under any paragraph of this Notice (other than those set out in paragraphs 49 and 50) shall be guilty of an offence punishable under section 55(2) of the Act.

Part II – Non-mandatory Best Practice Standards on Information Disclosure and Provision of Advice

52. The best practice standards which an A&H insurance intermediary is expected to meet in all product information disclosures and information (including marketing materials) given to insureds are as follows:

- (a) Information disclosed to insureds in any advertisement or publicity material in any media should be presented in plain language, and in a manner that is easy for the insured to understand.
- (b) Jargon or technical terms used should be clearly explained to insureds.

- (c) Information disclosed to insureds should not be limited to seeking compliance with requirements the Act and this Notice, but should accord with industry best practices. In addition, the information provided should be sufficient to help insureds make an informed decision.
- (d) Warning and important information such as the nature and objective of the product, risks of the product, fees and charges, and contractual rights and obligations of insureds and the insurer, should be prominently presented and clearly explained.
- (e) Information disclosed to insureds should not be ambiguous in language or presentation.
- (f) Information relating to accident and health insurance products should be disclosed in an objective and unbiased manner.
- (g) Where an opinion is expressed, there should be a reasonable basis for expressing the opinion and it should be unambiguously stated that it is a statement of opinion.
- (h) Documents to be given to insureds should be kept up-to-date.

53. Where an A&H insurance intermediary provides an advice on or arranges contracts of insurance in respect of accident and health policy, it is expected to comply with any industry standard and/or guideline on needs-based sales process.