Annex 1

Details of the Enhanced Measures and Clarifications

Additional disclosure for annuity insurance products

1. As far as the fact sheet required in the Annex to the 2018 Annuity Circular is concerned, in addition to the four broad items set out in paragraph 1 thereof, if the proposed policy has non-guaranteed annuity payments[1], AIs should work with the insurer to add in the fact sheet the following information regarding the annuity payments of the proposed policy as a separate broad item that the customer should sign against (i.e. five broad items in total to be signed against by the customer to confirm that he/she has read and understood such information).

   (i) A table illustrating the amounts of annuity payments[1] based on the BI (i.e. "Annuity Payment Table") to draw the customer's attention to the fluctuation of annuity payments under different scenarios/bases. Requirements on the Annuity Payment Table are set out in **Annex 2**.

   As an alternative to adding the Annuity Payment Table in the fact sheet, AIs may choose to arrange the Annuity Payment Table to be included in the BI. In such a case, AIs should include in the fact sheet a statement which refers the customer to the BI for the Annuity Payment Table under this same broad item.

   (ii) The actual non-guaranteed benefits (including but not limited to non-guaranteed annuity payments) and actual non-guaranteed rate of return of the policy depend on various factors such as the performance of the insurer's investment, the insurer's experiences in payment of claims, expenses and policy lapse and surrender, and the insurer's

[1] For the sake of clarity, for the purposes of such requirements, annuity payments are assumed to be cashed out, i.e. on a non-accumulated basis. Interests generated from accumulation of guaranteed or non-guaranteed annuity payments or other guaranteed or non-guaranteed benefits under the policy are not considered as annuity payments. The Annuity Payment Table should be based on non-accumulated annuity payments. Meanwhile, the "substance over form" principle should be adopted for compliance with such requirements. For example, benefits that annuitise the cash value of the policy should be covered regardless of whether they are named as "annuity payment".

long-term expected performance of its investment and the above-said experiences.

(iii) The illustrated amounts of annuity payments under different scenarios/bases on the benefit illustration, including the *[Pessimistic/ Conservative/ Pessimistic and Conservative]*[2] scenario(s)/basis(es), may not be achieved because non-guaranteed annuity payments may be zero.

(Note: Item (iii) is not applicable if the proposed annuity insurance policy is a universal life policy of which the BI only illustrates Guaranteed Basis and Current Assumed Basis but not Conservative Basis, Pessimistic Scenario or Optimistic Scenario.)

2. AIs should put in place proper procedures and controls to ensure that the information on the fact sheet including without limitation the amounts of annuity payments (if the Annuity Payment Table is included therein) is correct.

3. AIs should disclose and explain the above information to all customers of annuity insurance products with non-guaranteed annuity payments (i.e. including VCs, non-VCs who opt out of the audio-recording arrangement, and non-VCs who do not opt out of the audio-recording arrangement). Such disclosure should be audio-recorded unless the audio-recording arrangement is opted out of by a non-VC subject to the HKMA's requirements for the opt-out arrangement as set out in the 2018 Annuity Circular.

[2] "Pessimistic and Conservative" should be used for universal life policies with both "Conservative Basis" and "Pessimistic Scenario" provided in the BI.

Additional protection to VCs

4. In addition to audio-recording the selling process, AIs should provide and explain to VCs the fact sheet for annuity insurance products. The requirement of signing by the customer on the fact sheet against each of the broad items should also be applied to VCs.

5. AIs should arrange vetting by another staff of the audio-records of the transactions conducted with VCs as soon as practicable and in any case no later than the expiry of the cooling-off period of the policy. The vetting should cover whether the sale process was duly audio-recorded as well as whether the sale process was properly conducted. In this connection, AIs should adopt a risk-based approach in the sampling, and the sample size should be appropriate. Any irregularities identified in the vetting should be followed up promptly with necessary remedial actions to address any prejudiced interests of the customers.

Clarifications

6. Along the requirements stipulated in the 2018 Annuity Circular, the selling process to be audio-recorded should cover: (i) suitability assessment; (ii) disclosure of product nature, features (including but not limited to benefits) and risks[3]; and (iii) arrangements regarding policy replacement (e.g. questions and answers for identifying policy replacement and potential policy replacement, assessment and advice given, and explanation of and declarations in the Important Facts Statement – Policy Replacement).

7. On product disclosure, accordingly, among other things, AIs should audio-record the disclosure and explanation of the BI, including but not limited to the policy benefits which are material to a customer's decision having regard to his/her objectives, needs and other circumstances (e.g.

[3] Codes, guidelines, circulars, etc. issued by the IA and the HKMA set out requirements on disclosure of product nature, features (including but not limited to benefits) and risks during the selling process of annuity insurance products, e.g. the IA's codes of conduct for licensed insurance agents and brokers, GL16 and GL19, and the HKMA's circulars on selling of non-investment-linked long term insurance products issued on 8 December 2014 and 4 August 2015 and circular "Guideline issued by the Insurance Authority on Qualifying Deferred Annuity Policy" of 2 April 2019.

when the income period will start, amounts of guaranteed annuity payments and non-guaranteed annuity payments, amounts of guaranteed benefits and non-guaranteed benefits if annuity payments are not taken out but are accumulated in the policy, death benefits) as illustrated under all scenarios/bases provided in the BI.

8. AIs may choose whether to audio-record the disclosure and explanation of: (i) (for customers who do not intend to choose accumulation option) the amounts of guaranteed benefits and non-guaranteed benefits if annuity payments are not taken out but are accumulated in the policy, provided that the disclosure that the accumulation option has been explained is audio-recorded; and (ii) the investment strategy of the underlying investment; and the insurer's philosophy in deciding dividends/bonuses[4].

9. For the avoidance of doubt, regardless of whether the fact sheet for the annuity insurance product needs to be provided to a customer, the product disclosure and the relevant audio-recording should also cover, among other things, the information stipulated in the fact sheet for the annuity insurance product and reminder to the customer of his/her cooling-off rights (i.e. paragraphs 1 and 3 of the Annex to the 2018 Annuity Circular and the additional information as required in paragraph 1 above, to the extent applicable). For customers to whom the fact sheet should be provided (i.e. non-VCs who opt out of the audio-recording arrangement and all VCs), AIs are required to provide a copy of the fact sheet signed by the customer for his/her record.

Qualifying Deferred Annuity Policy ("QDAP")

10. AIs are reminded that they should disclose and explain to customers during the selling process of a QDAP that the IA's certification is not a recommendation or endorsement of the QDAP, nor does it guarantee the commercial merits of the policy or its performance. AIs may choose whether to audio-record this disclosure.

[4] Paragraphs 4.1(a)(iii) and (iv) of Appendix 1 to IA's GL16.