



CORPORATE COUNSELLOR

Regulation of unit-linked life insurance in Thailand

Published: 2/09/2016 at 04:00 AM

Newspaper section: [Business](#)

Many people are approached by "investment consultants" selling various investment products and/or life insurance. One of the products they commonly offer is life insurance that is written to pay a benefit based on the performance of particular investments. They may refer to this as an "insurance wrapper", or explain that the investments (stocks, bonds, mutual funds, etc) are held "inside" the insurance. Whatever the informal description, it is important to understand that activities involving these types of products are subject to strict regulation under Thai law.

Though multiple Thai government bodies may have regulations relevant to these products, the two main regulators are the Office of the Insurance Commission (OIC) and the Securities and Exchange Commission (SEC). Under the Life Insurance Act 1992, as amended, OIC regulations define unit-linked life insurance as a policy that a life insurance company issues to an insured party, for life insurance and investment services, whereby the insured will pay the premium for both the life insurance and investment portions of the policy.

To offer unit-linked life insurance, an insurer must be licensed by both the OIC and the SEC. Moreover, as with other life insurance policies, a unit-linked policy may only be offered if it is approved by the OIC.

Life insurance brokers and agents are also subject to regulation under the Life Insurance Act, and they must have licences to lawfully engage in such activity. As a general matter, to qualify for licensing, insurance agents and brokers must meet various qualifications set out in regulations. Among these are academic and experience requirements, as well as educational and testing requirements. Even greater requirements apply to offer unit-linked life insurance.

In particular, a life insurance company must, among other things, ensure that those it appoints as agents or brokers complete additional training specific to unit-linked life insurance according to the OIC curriculum, and complete the OIC registration process specific to unit-linked life insurance.

In addition, such persons must be licensed as investment analysts or investment consultants under the Securities and Exchange Act 1992, as amended, which brings its own academic/experience requirements and educational/testing requirements.

Similar to the foregoing, where a life insurance broker is a juristic person, such as a limited company, that juristic person must hold a life insurance brokerage licence under the Life Insurance Act, as well as a securities licence under the Securities and Exchange Act.

Beyond licensing, the offering of unit-linked life insurance is subject to a range of other requirements. Both the OIC and SEC regulatory regimes set out obligations and licence conditions intended to protect insurers and investors. The specifics of the requirements differ among insurers, brokers or agents who are natural persons, and brokers that are juristic persons. Examples include capital requirements, personal requirements, advertising restrictions, documentation requirements, requirements in relation to the handling of funds from investors and/or insured parties, and dispute settlement.

Regulations also exist to address management and operational systems and policies, conflicts of interest, disclosure, fairness, honesty, privacy for investors and insured, and so on. Importantly, brokers/agents selling unit-linked life insurance must not receive fees or commissions from the insured, other than those specified in the policy wording or the invitation letter.

Where a licensee breaches its obligations, serious penalties can result. Both the OIC and the SEC provide mechanisms to make complaints about licensed companies and personnel.

In brief, to comply with Thai law, unit-linked life insurance must be issued by an insurer licensed by the OIC and the SEC, the policy must have been approved by the OIC, and the broker or agent must be duly licensed by the OIC and the SEC. In addition, the offer and sale of unit-linked life insurance, including relevant sales documents (invitation letter, etc), must conform to OIC and SEC regulations.

It is illegal to act as an insurance broker or insurance agent in respect of unit-linked life insurance without the necessary licences.

Similarly, it is an offence to induce, advise or act in any manner to cause any person to enter into a unit-linked life insurance contract with a life insurer abroad, or with any person except one licensed by the OIC under the Life Insurance Act, except in relation to certain narrowly defined reinsurance arrangements. Such offences are punishable by fines and/or imprisonment.

SEC and OIC regulations are intended to protect investors and insured parties. Dealing with unlicensed operators presents risks. When one is approached by someone offering to sell unit-linked life insurance, it is advisable to check whether that person is duly licensed by the OIC and the SEC.

It is also advisable to check on whether the insurer is duly licensed, and whether the policy being offered has been approved. Both the OIC and the SEC allow people to do this on their websites. In addition, they both have systems for receiving complaints about unlicensed operators.

This article was prepared by Kitti Thaisomboon, an attorney-at-law in the Corporate and Commercial Department at Tilleke & Gibbins. Please send comments to Andrew Stoutley at andrew.s@tilleke.com

About the author

Writer: Tilleke & Gibbins