

Statutory Document No. XX/20XX

*Insurance Act 2008*

INSURANCE (ADVISER CHARGING) REGULATIONS 2012

Laid before Tynwald: [date]
Coming into Operation: 31 December 2012

The Insurance and Pensions Authority, having consulted the Treasury and such other organisations and persons as appear to it to be likely to be affected, makes the following Regulations under section 50 of the Insurance Act 2008¹.

1 Title

These Regulations are the Insurance (Adviser Charging) Regulations 2012.

2 Commencement

These Regulations come into operation on 31 December 2012.

3 Interpretation

In these Regulations —

“**the Act**” means the Insurance Act 2008;

“**adviser charge**” means any form of charge payable by or on behalf of an applicant to an introducer in relation to the provision of a personal recommendation by the introducer in respect of a retail investment product (or any related service provided by the introducer) which:

- a) is agreed between that introducer and the applicant in accordance with the FSA rules on adviser charging and remuneration (COBS 6.1A); and
- b) is not a consultancy charge;

“**applicant**” means a person within the United Kingdom, seeking to effect a contract of insurance with an insurer;

“**consultancy charge**” means any charge payable by or on behalf of an employee to an introducer or other intermediary (whether or not that

¹ 2008 c.16

intermediary is an employee benefit consultant) in respect of advice given, or services provided, by the introducer or intermediary to the employer or employee in connection with a group personal pension scheme or group stakeholder pension scheme, within the meaning of the FSA Handbook where those charges have been agreed between the introducer or intermediary and the employer in accordance with the rules on consultancy charging and remuneration (COBS 6.1C);

“**FSA**” means the Financial Services Authority in the United Kingdom;

“**insurer**” means a person authorised to conduct long term insurance business under section 8 of the Insurance Act 2008;

“**introducer**” means a regulated person within the meaning of the Financial Services and Markets Act 2000, and Act of Parliament in the United Kingdom;

“**personal recommendation**” means a recommendation that is advice on investments within the meaning of the Financial Services Act 2008 and is presented as suitable for the person to whom it is made, or is based on a consideration of the circumstances of that person. A recommendation is not a personal recommendation if it is issued exclusively through distribution channels or to the public.

“**retail investment product**” has the same meaning as with the FSA Handbook

4 Facilitation of adviser and consultancy charges

Where an insurer facilitates the payment to an introducer of an adviser charge or a consultancy charge, the insurer shall be exempt from the provision of section 16 of the Act in respect of that payment provided that —

- (a) the personal recommendation results in an application for business by the applicant to the insurer; and
- (b) the insurer reasonably expects the application for business to conclude resulting in the effecting of a contract of insurance by the insurer in respect of the applicant.

MADE [date]

P. F. PELL-HILEY
Chairman, Insurance and Pensions Authority

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

These regulations provide that where an insurer facilitates the payment to an introducer regulated by the FSA of an adviser charge for the provision of a personal recommendation to a retail client within the United Kingdom, the provision of the payment shall be deemed to be business carried on in connection with or for the purposes of the insurer's insurance business, provided that the personal recommendation results in an application for business by the retail client to the insurer and that the insurer reasonably expects the application for business to conclude resulting in the effecting of a contract of insurance by the insurer in respect of the retail client.