



Guidance Note: Treatment of Insurance Companies under the Financial Services (Jersey) Law 1998 in respect of Investment Business

13 September 2010

The Financial Services (Jersey) Law 1998 relates to the long term business of insurers in that it regulates the effecting of such long term insurance contracts as dealing in the rights in the contract. It also regulates the provision of advice to investors about particular rights in long term contracts.

Accordingly, as it stands, insurance companies would need to be registered persons under the Financial Services (Jersey) Law 1998 to effect contracts even where they are currently permit holders under the Insurance Business (Jersey) Law 1996. This would have the effect of requiring the insurance companies to satisfy the JFSC that they are fit and proper to carry out the self-same activity that they carry out under their current permits, to pay fees under the Financial Services (Jersey) Law 1998 and to be subject to the Codes of Practice in the conduct of business and prudentially, as well as to be subject to provisions relating to the approval of principal persons under the Law.

The JFSC is of the view that insurance companies with permits under the Insurance Business (Jersey) Law 1996 should not need also to be subject to duplicate regulatory regimes in respect of the activity of effecting long term insurance contracts. It is important to stress that it is in this activity alone that any exemption or prescription would apply. If and to the extent the insurance company provides investment advice, as defined in the Financial Services (Jersey) Law 1998, then the insurance company will need to be a registered person under that Law.

Those insurance companies who are merely product providers in the Island could, therefore, be and remain regulated or supervised solely under the Insurance Business (Jersey) Law 1996.

It is intended that a Control of Advertising Order is also made under the Financial Services (Jersey) Law 1998 to govern the form of advertisements that independent advisers can issue in relation to long term insurance products.

The JFSC is, however, minded to take this opportunity to bring in a similar or identical Control of Advertising Order under Article 35 of the Insurance Business (Jersey) Law 1996 to control the form and content of insurance advertisements. The Orders may both need to give significant recognition to the UK's regulations in this area given the general source of such products as provided in the Island. This ought to minimise the requirement to have any brochures which are specific to Jersey prepared by advisers.

Where an insurance company is to be registered under the Financial Services (Jersey) Law 1998 so as to be able to give advice, then it will remain the case that it will have to satisfy the JFSC that it is fit and proper to be registered in that capacity. It will be expected to pay fees in the same way as any other investment adviser.

However, the treatment of insurance companies as advisers under the Financial Services (Jersey) Law 1998 would differ in some respects from the treatment of other advisers under the Law. This is because of the policy to ensure that they are not regulated twice in the same activity whilst ensuring that the two regulatory regimes are coherent and complementary. Certain provisions of the Financial Services (Jersey) Law 1998 would not apply to insurance companies that are advisers. These relate to

principal persons and shares (Articles 13 - 16), Articles relating to accounts and audit (Articles 17 - 18) and any Orders made under those powers. Furthermore, aspects of the Codes of Practice which do not relate to the provision of advice are disapplied and the proposed Client Assets Order might also not apply to insurance companies.