

## MyAdviser Terms of Business

The terms of business set out below provides the basis on which Michael Kiernan trading as “MyAdviser” (referred to below as MyAdviser) will provide business services to you as a client of MyAdviser. Our most current terms will always be published on our web site at [MyAdviser.ie](http://MyAdviser.ie) and these online terms apply to all existing clients. Should you have any queries we will be happy to deal with them.

1. **AUTHORISATION:** MyAdviser is authorised and regulated by the Central Bank of Ireland as a Financial Broker and a copy of MyAdviser’s statement of authorised status from the Central Bank is attached. MyAdviser is registered as an Insurance Intermediary under the European Communities (Insurance Mediation) Regulations, 2005 and is authorised under section 10 of the Investment Intermediaries Act 1995 (as amended).
2. **COMPLIANCE CODES:** MyAdviser is subject to and must comply with the Central Bank’s Code(s) of Conduct, which offers protection to consumers and these Code(s) can be found on the Central Bank’s website [www.centralbank.ie](http://www.centralbank.ie). These include Consumer Protection Code, Minimum Competency Code and Fitness and Probity Standards. We are authorized to provide advice in relation to listed shares & bonds and collective investments e.g. ETF’s and UCITS, which means that we are subject to MIFID II codes (Markets in Financial Instrument Directive).
3. **CLIENTS CAPITAL SECURITY:** MyAdviser never directly has possession of clients’ capital. Clients will never make a contribution or investment directly to MyAdviser or anyone acting for us. The only exception is where fees are due for services rendered. Clients’ capital is never at risk of MyAdviser stopping trading because we never hold client assets.
4. **SERVICES & FEES:** As a Financial Broker MyAdviser offers clients broad-based financial advice to help them improve their financial health. This includes Wealth Management, Capital Preservation, Risk Management and Asset Preservation. On top of advice services, we also provide solutions and support as outlined below.
  - a. All solutions/policies/accounts are assessed on a fair analysis basis. The alternative is on a limited analysis of the market and MyAdviser has taken a strategic decision not to restrict our clients to anything other than on a fair analysis basis. Where there is any deviation away from this or if MyAdviser feels that a ‘fair’ analysis is not possible or practical then we will inform the client before any transaction is executed.
  - b. We provide advice on pensions and other related retirement plans including Group Pensions, Executive Pensions, PRSA’s, Buy Out Bonds, Pension Transfers and ARF’s. Investment Options, Deposit Accounts and Savings Plans are also covered along with Protecting Income, Covering Inheritance Tax, and Business & Other Protection Plans. We are also authorised to provide advice on ETF’s (Electronically Traded Funds), Shares, Bonds and other investments available on recognised stock exchanges. The

cost for these services is paid for by way of fee or commission as agreed with each client.

- c. **INDEPENDENCE CHANGE:** New Europe wide regulations require firms to only be paid by way of direct client fee (direct debit or cheque) in order to call themselves “independent”. MyAdviser has interpreted the new rules to mean that we can no longer receive our retainer fee by way of portfolio/account/fund deduction or premium based commission and still call ourselves “independent”. The fact that such fees are disclosed initially, are transparently deducted, we are paid the same regardless of what the product or who the provider is, and our market search work is on a fair analysis basis, finding clients the best solutions for their needs, should allow the word independent to be used – but unfortunately that is not the case. On top of this such fees/commission are effectively tax deductible for pensions, but if paid personally by the client they are unlikely to be. In conclusion this means that we will continue to do our work with the client’s needs at the center of any advice or solution, but we cannot call ourselves independent. Historically MyAdviser has only ever provided solutions that have simple initial and ongoing costs and we will continue to disclose all payments to us both initially before any contract or account is set up and where such payments are ongoing. Transparency is key and will remain as such. We take pride in providing a high value service at a reasonable cost and will continue to do so.
  - d. In conjunction with these services MyAdviser offers ongoing management services to help clients deliver their goals. These services can be paid for by way of fee or commission. Ongoing service deliverables and costs are agreed in writing in advance. The standard fee for the MyAdviser management service is 0.5% p.a. of the assets under management. If the fee is to vary from the standard fee this will be confirmed to the client in writing in advance. Fee minimums will apply.
  - e. We facilitate our clients to pay for our services by means of fees. The fees are related to provision of the following services. If there is a fit between the prospective client and MyAdviser then we will detail our fees for their case as part of the initial proposal including details on the initial advice fees, ongoing management fee minimums. Our hourly rate outside of that is €250. Execution and Ongoing Management Fees are agreed depending on each client’s needs and the complexity of their situation including the provision of
    - i. Advice around lifetime financial planning to help clients achieve their goals
    - ii. Market Search, Recommendations & Execution of the best solutions
    - iii. Ongoing Service which can include goal re-assessment, portfolio re-balancing, market updates including legislation changes, ongoing charges and suitability reviews. Should clients need to adjust their portfolios then advisory clients will get a cost benefits analysis on the change so that they are clear about why the change should occur.
5. **COMMISSION ALTERNATIVE & TAX BREAKS:** MyAdviser also offers the option to pay for our services by way of commission. Transparency is a key focus of MyAdviser, so all fees/commission will be made clear to the client in writing prior to any service or purchase, regardless of the type of service/policy/account being considered. This includes Group & Executive Pensions which are not subject to commission disclosure. Commission can be

more convenient for the client and in many cases, is more tax efficient as there is no VAT payable and where pension assets are involved our costs can be tax deductible.

6. **ONGOING SERVICE & CLIENT DISCLOSURE RESPONSIBILITY:** MyAdviser will ensure that all instructions from or on behalf of a client are processed properly and promptly to the best of our ability. Where an ongoing management service is in place, we will ensure that it is implemented. It is in the clients' best interests that they review, on a regular basis, the advice/products/accounts which we have arranged for them. If the client is not availing of the management service from MyAdviser they must advise us of any changes in their life and request a review of the relevant service/policy/account so we can ensure that they are provided with up to date advice and solutions best suited to their needs. Failure to contact us in relation to changes in their circumstances or failure to request a review may result in them having insufficient cover and/or inappropriate investments. Hourly fees will apply to any associated work. MyAdviser takes no responsibility for client's actions unless they are working with us on an ongoing basis. Priority is always given to advisory clients with ongoing service in place and we cannot guarantee that adhoc requests by other clients will be dealt with in a timely manner. For all advisory clients, it is essential that they fully disclose all pertinent facts about their situation. MyAdviser takes no responsibility for advice errors due to non-disclosure of material facts.
  
7. **PLATFORMS & ETF'S:** MyAdviser provides an investment service where clients can access Funds, ETF's (Electronically Traded Funds), Shares and Bonds to name a few alternatives. This is provided through traditional life assurance companies and online platforms and there are special terms associated with these investments.
  - a. PLEASE NOTE THAT TRADING IN "ETF'S" AND "SHARES" IS ONLY AVAILABLE THROUGH MYADVISER ON THE STRICT UNDERSTANDING THAT MYADVISER CAN PROVIDE BROAD BASED ADVICE ON THESE ASSETS BUT THE CLIENT IS TAKING 100% OF THE RESPONSIBILITY TO INVEST IN SPECIFIC ETF'S AND SHARES. TO MITIGATE THIS ISSUE FOR ETF'S MYADVISER ONLY ADVISES ON TOP BRAND ETF PROVIDERS LIKE BLACKROCK OR VANGUARD.
  - b. All MyAdviser services (apart from ETF's and Shares) are "advisory" which means that we never implement any Changes/Fund Switches/Trades to a clients portfolio without their emailed or written instruction. In times of urgency (not expected to be often), we will accept a phone instruction, which will be recorded on our system once the client has identified themselves.
  - c. The terms of business for the service provided by the platform (contained in the application pack) may cover our ability to execute trades for clients without their instruction but these MyAdviser Terms over-ride those and any client dispute in this regard will be governed by the MyAdviser Terms in this area – basically we will not do anything without the clients say so.
  
8. **CHARGES & TAX:** All charges relating to the platform (including Execution Only arrangements) and any other provider will be disclosed in advance and it is important to note a few points about these charges.

- i. It is only since 3<sup>rd</sup> January 2018 that Insurance company funds have had to disclose the “Ongoing Charges” (OC’s) or their funds. The funds Supplementary Information Document (SID) covers this cost. Traditionally they used “Annual Management Charges” (AMC’s) as a measure of the fund management cost. The AMC can be found on some fund fact sheets.
- ii. Platform Funds from for example Conexim & Davy Select, including ETF’s and UCITS use Ongoing Charge (OC) and the funds KIID document covers these charges. They do not use AMC’s.
- iii. For each advisory client we will provide OC costs (a very close approximation is provided as each fund can change their disclosed costs at any time and not inform us) so that direct fair comparisons can be made between providers. MyAdviser will not be using AMC’s going forward for such comparisons as they do not include as many of the charges and are therefore a weak substitute for the OC.
- iv. Platform allocation (the percentage of the clients money that is invested from day one) starts at 100% and after our low 1% initial charge leaves all clients with 99%. Traditional Providers have allocation rates that can be higher but it is important to allow for the lower annual cost on the Platform. It is simply the case that the total cost needs to be looked at. MyAdviser will be able to provide you with a specific personalised overall cost comparison for your situation. In most instances MyAdviser looks to use the lowest running cost solutions as they tend to be more transparent. If a client is offered above 100% allocation, then they need to realise they will be paying for it in a higher OC’s (Ongoing Charges).
- v. Trading charges to buy and sell ETF’s, Shares and Bonds are disclosed on the platform charge sheet. Typically they amount to 0.25% of the traded value.
- vi. Tax is an important issue when it comes to investing. Your return after tax is what matters and deferring tax payments can be of benefit. In some cases, investments pay dividends annually. Where this happens, the client will need to include those dividends in their income for their annual tax return. To facilitate this an annual tax pack will be supplied to the client upon request. The advantage of such investments is that any capital gains are charged at the CGT rate (currently 33%). Also, there is no requirement to pay the CGT until a disposal, therefore the funds can grow, and the CGT is deferred. The overall result for a high rate taxpayer is (other than where there is a high dividend and no growth) they pay less tax than the alternative system of Exit Tax. Where Exit Tax is applied (usually Funds) all growth is taxed at 41% and every 8 years all tax must be paid. MyAdviser will cover these issues and others relating to tax in the advisory work. **Clients may need to engage tax consultants. In such cases, we may recommend a tax provider, but it is the clients’ responsibility to select who they use, and their tax affairs are always 100% their responsibility. We are not a substitute for a qualified Tax Advisor.**

9. **SOLUTION TERMS & FUTURE OPTIONS:** Prior to arranging a service/product/account, MyAdviser will provide information covering the terms and conditions in writing, including the main features and restrictions of the service/product/account to assist the clients

understanding. All providers that we use are approved to offer services in Europe. We will always be looking out for new solutions and strategies which add value to our clients. For this reason, the platform and provider choices will probably change over time.

10. **SOLUTION PROVIDER & COUNTERPARTY RISK:** In most transactions in financial services there is an issue called counterparty risk. What this means is that although a client effects a policy or account with one provider there could be a sub-contractor or counterparty (e.g. a fund manager) behind that provider. That counterparty is the one who holds your capital. If something happens to them then capital could be at risk and the original provider probably won't cover the counterparty's default. A lot of the time clients are unaware of such risks, but the 2008 credit crisis highlighted that both companies and even sovereign states (including Ireland at the time) could risk default and put capital at risk. To minimise the chances of counterparty risk MyAdviser only uses large financially secure providers. There are no guarantees that defaults will not occur but no provider that we deal with failed in the 2008 crisis. MyAdviser makes no warranty or guarantee concerning the original provider or counterparties. For execution only, arrangements the client is fully responsible for any solutions that is executed for them and its suitability.
  
11. **DURISDICTION & DISTANCE MARKETING DIRECTIVE:** All MyAdviser services will be governed by and construed in accordance with the laws of Ireland and the courts of Ireland shall have exclusive jurisdiction to resolve any disputes about the service. This includes the use of the Financial Services Ombudsman's Office (see below). The English language will be used for interpreting any service/policy/account that is put in place and for all communication about the service or policy or account. European Communities (Distance Marketing of Consumer Financial Services) Regulations 2004 require specific information to be provided where there is no face to face contact with the client. If there is no face to face, contact between the client and MyAdviser then Policy/Account Terms and Conditions will be furnished to ensure we cover this directive.
  
12. **DATA PROTECTION:** All information we gather about clients is kept strictly between MyAdviser and the client. MyAdviser complies with the Data Protection Acts 1988 and 2003, and now the GDPR 2018 EU Legislation.
  - a. A new European Union-wide framework known as the General Data Protection Regulation (GDPR) came into force across the EU on 25 May 2018. The GDPR and the law enforcement Directive provide for significant reforms to current data protection rules.
  
  - b. Best practice dictates that you understand why we collect data from customers and how we use it. It also requires us to be clear with you how we share that data and our processes in managing and retaining the data on our systems. We will always comply with Irish and European data protection legislation and you can see how we do this by reading our full Privacy Notice on our web (<http://www.myadviser.ie> – under the "More..." tab at the top of every page. If you want to customise how we communicate with you then please complete the simple online form on our site. This is needed if you tick the box on the cover page of these terms.

- c. We process your data as it is necessary for the performance of our business and to provide clients valuable services they need. To provide you with relevant information, respond to your enquiries and requests for products and/or services, we usually request that you provide us with information about yourself and your circumstances. Our Privacy Notice will inform you of the information we gather and how it is used. We take this privileged position very seriously and have always acted in our client's best interest.
  - d. Only where it is necessary to complete the clients purchase or effectively service their plan do we disclose information to the financial institution. We also use your data to assess our client mix and, in some cases, use it to target marketing and financial information to clients. Client data will not be provided to any other third party for any other purpose unless we get the clients express permission. A Clients data will be stored securely on our computer system for a minimum of 6 years after they cease to be a client. This includes all documents, correspondence, emails, application forms, copy policy/account documents, and any other information that the client provides us during the execution of our services. Under the Criminal Justice (Money Laundering and Terrorist Financing) Acts 2010 and 2013, MyAdviser may require clients to provide 'Evidence of Identity' and 'Proof of Address' and other supporting documentation. These documents will be stored digitally on our system along with the client's other documents and correspondence. If a client ever needs a copy of the data, we hold on them they can contact us in writing
13. **DATA SECURITY:** MyAdviser takes no responsibility for any lost information which was sent to or from MyAdviser via email, text message or any other form and will not be held responsible for such losses or the impact of such losses. While every reasonable effort is made to protect client's confidentiality it is impossible to guarantee that our data storage, email or text information will not be hacked into or misdirected. We secure clients personal data from loss or theft by using firewalls, off-site storage and security software protecting against viruses & other malicious programs including Microsoft Cloud storage. That said, no system is ever fully secure, and we do not guarantee our clients data security.
14. **POSTAL OPTION & DATA STORAGE:** Practically speaking it is unlikely that such events will happen but if a client is concerned about data security, they should request that all written communication be posted. When this occurs MyAdviser will correspond in the same manor. In such instances MyAdviser will charge for additional costs associated with such postage and handling. MyAdviser does not store documentation in paper form and it may be the case that our client files are stored on Microsoft secure servers in Europe and the US but not limited to these jurisdictions. Third parties store client data on their systems to execute their account and this data may be on servers in Europe and US but not limited to these jurisdictions.
15. **DIRECT MARKETING:** MyAdviser will contact the client from time to time (usually by email) to provide them with information about our services. This will only be related to MyAdviser and can include policy/account updates & changes, budget updates, some investment comment and special offers including advice, pension, investment, protection and savings solutions. To a limited extent, we will use client data to help ensure that only appropriate



information is presented to them. If a client does not wish to receive such information please tick the box in the Terms of Business Cover Letter, which was with these terms.

16. **FACE TO FACE MEETINGS:** No personal visits will be made without the clients express and informed consent. MyAdviser's business model results in most cases where we never meet our clients face to face. Because of this we may implement extra layers of client identification to ensure that we comply with Money Laundering Directives. To improve our service level to advisory clients we are streamlining when face to face meetings are held. As far as possible face to face appointments are only available during the first two weeks after the calendar quarter end. We charge extra for face to face meetings and outside of these periods there are additional charges for such appointments and clients should contact us for more information. In the 21 years that MyAdviser has been in business there has never been a issue that could not be dealt with over the phone and email, that said there could be an exception and we are always open to delivering the service the client needs. We are also mindfull about keeping costs low and we believe this approach will strike the right balance.
17. **THIRD-PARTY SOFTWARE:** During our work with clients we use several third-party software solutions. This facilitates superior analysis and execution for our clients. We endeavor to use industry leading technology, but it is not possible to guarantee that this technology will not result in errors from time to time. We have no evidence that any such errors have occurred in any client work but MyAdviser takes no responsibility for such errors as they are outside of our control. Some of these software solutions store client data and we also cannot take responsibility for any losses or errors due to that storage. To date we are not aware of any data breaches.
18. **ADVICE & QUERIES ALWAYS IN WRITING:** A key advantage of dealing with MyAdviser is that all our advice is in writing. Relative to other financial advisory firms we have very few face to face meetings and therefore there is a detailed record of what has been agreed and why. Where any benefit, cost structure or service delivery has been verbally communicated to you then that will be backed up in writing. If for whatever reason this does not happen or you have any questions, then please contact MyAdviser. In all queries or disputes we will rely on the accounts written record and phone recordings.
19. **CONFLICTS OF INTEREST:** MyAdviser's policy is to avoid any conflict of interest when providing business services to its clients. However, should an unavoidable conflict arise we will advise the client of this in writing before proceeding to provide any business service. If the client has not been advised on any such conflict, they are entitled to assume that none arises. If one does arise, we will review it annually with the client.
20. **INVESTOR COMPENSATION SCHEME:** MyAdviser is a member of the Investor Compensation Scheme, which provides certain remedies to eligible clients in the event of default. The main details of the operation and conditions of the scheme are attached.
21. **PAYMENT DISPUTES & DEFAULTS:** MyAdviser will if necessary, exercise its legal rights to receive any payments due to it from clients for business services provided by MyAdviser.

Details of the effect of any default on payments due under any products arranged on the client's behalf will be included in the product producers' relevant policy/account terms and conditions.

22. **ONGOING SERVICE CANCELLATION:** MyAdviser's ongoing service is an annual commitment and is agreed with clients during the advisory process. Our business is based on mutual understanding and we only want clients who can see the benefits in a long term financial advisory service. That said, circumstances change, and it may occur that the client needs to cancel the service. If a client needs to cancel the ongoing service, then this can be done at any stage in writing. Although unlikely, MyAdviser can also stop providing a client with the service and we reserve the right to do so at our own discretion. We offer and expect at least two months' service cancellation notice. This is to facilitate smooth transition. While assets remain under MyAdviser's agency or account the ongoing management charge applied to the assets will continue. Once a cancellation has been implemented it is the client's responsibility to find a new adviser or new service. MyAdviser takes no responsibility for any portfolio or advisory issues once the service has been officially cancelled. While the notice period is being run out and the assets are still under our agency or account, we will provide our normal services. In all cases, annual agreed MyAdviser fee minimums will be applied. Please ask any questions you want about what MyAdviser is offering you – it is essential for a positive experience that mutual understanding exists. Our approach is not for everyone so if you feel that this annual commitment is not for you then it is best that you seek alternative advisory firms.
23. **COMPLAINTS & FINANCIAL SERVICES OMBUDSMAN:** If a client has any complaint in relation to the business services provided by MyAdviser they should outline the nature of their complaint to us in writing. The complaint will be acknowledged in writing within 5 business days of the complaint being received. The complaint will be fully investigated by MyAdviser and a full response will be provided to the client. While our investigation of any complaint is ongoing, we will provide the client with regular written updates. If the client is dissatisfied with the outcome of a complaint or if their complaint is not resolved within forty business days, they are entitled to refer their complaint to the [Financial Services Ombudsman](#). Web Site: <https://www.fspo.ie> , Postal Address: FSPO, Lincoln House, Lincoln Place, Dublin 2, D02 VH29; Phone: 01 567 7000. Email: [info@fspo.ie](mailto:info@fspo.ie)

**These Terms of Business apply until further notice.**



## *Details of the Investor Compensation Scheme:*

1. The Investor Compensation Act 1998 provides for the establishment of a compensation scheme and the payment, in certain circumstances, of compensation to certain clients (known as eligible investors) of authorised investment firms, as defined in that Act
2. That the firm is a member of that compensation scheme.
3. That compensation may be payable where money or investment instruments owed or belonging to clients and held, or in the case of investment instruments, administered or managed by the firm, cannot be returned to those clients for the time being and there is no reasonably foreseeable opportunity of the firm being to do so
4. That a right to compensation will arise only:
  - a) If the client is an eligible investor as defined in the Act
  - b) If it transpires that the firm is not able to return client money or investment instruments owed or belonging to clients of the firm and:
  - c) to the extent that the client's loss is recognised for the purposes of the Act
5. That where an entitlement to compensation is established, the compensation payable will be the lesser of:
  - a) 90 per cent of the amount of the client's loss is recognised for the purposes of the Investor Compensation Act, 1998, or
  - b) Compensation up to €20,000



## **Statement of Authorised Status**

**Michael Kiernan t/a MyAdviser (Ref. No. C11223)** is authorised as an investment business firm under Section 10 of the Investment Intermediaries Act, 1995 (as amended), to provide the services of an investment intermediary.

Michael Kiernan t/a MyAdviser is authorised to receive and transmit orders to product producers from whom a written letter of appointment is held, in relation to:

1. Shares in a company or bonds that are listed on a stock exchange, prize bonds
2. Relevant collective investment scheme instruments
3. Tracker bonds
4. Insurance policies
5. Personal Retirement Savings Accounts (within the meaning of the Pensions Act, 1990) ('PRSAs')

Michael Kiernan t/a MyAdviser is also authorised to act as a deposit broker and to give advice in relation to deposits.

When receiving and transmitting orders in relation to insurance policies and/or PRSAs, Michael Kiernan t/a MyAdviser may only accept cash or cheques/bank drafts from clients payable to himself where:

- (i) an insurance undertaking has invited renewal of a policy of insurance, or
- (ii) a proposal for insurance and/or PRSAs has been accepted by an insurance undertaking.

In all other circumstances, cheques/bank drafts or other payment instruments must be made payable to the product producer.

**For and on behalf of the Central Bank of Ireland:**

Signed: 

Signed: 

