

# Complaints Handling Procedure

V1 of 2017

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## 1. Definitions

### “Complaint”

Means a specific complaint relating to a financial service rendered by the Financial Services Provider or Representative to the complainant in which it is alleged that the Financial Services Provider or Representative:

- a) Has contravened or failed to comply with a provision of the FAIS Act and that as a result thereof the complainant has suffered or is likely to suffer financial prejudice or damage; or
- b) Has willfully or negligently rendered a financial service to the complainant which has caused prejudice or damage to the complainant or which is likely to result in such prejudice or damage; or
- c) Has treated the complainant unfairly.

### “Internal complaint resolution system and procedures”

Means the system and procedures established and maintained by the Financial Services Provider in accordance with the General Code of Conduct for the resolution of complaints by clients.

### “Ombudsman”

Means the Ombud for Financial Services Providers referred to in section 20(2) of the FAIS Act.

### “Resolution or Internal Resolution”

In relation to a complaint and a Financial Services Provider, means the process of the resolving of a complaint through and in accordance with the internal complaint resolution system and procedures of the Financial Services Provider.

### “Rules”

Means the Rules on Proceedings of the Office of the Ombud for Financial Services Providers, as published in the Gazette.

## 2. Introduction

All our Financial Service Providers make every effort to put our clients first and get things right the first time, every time; However there may be times when you feel you have not received the level of service you are entitled to.

If this is the case we commit to the following:

- We undertake to inform all our clients of the procedures established for the internal resolution of their complaints, details of which will be given to them in writing;
- We undertake to ensure easy access to our complaints resolution process at our offices, or by way of post, e-mail

- or telephone;
- Acknowledge the complaint or grievance raised, provide the name of the person dealing with it, as well as inform you on when you can expect a response;
- Treat any complaint or grievance seriously;
- Handle all complaints and grievances in such a way that is fair to our clients, our Financial Services Provider and our staff;
- Deal with complaints in a timely and fair manner, with every complaint receiving proper consideration in a process that is managed appropriately and effectively by the responsible staff member;
- Offer an appropriate remedy in all cases where a complaint is resolved in favour of a client;
- Inform clients of their right to refer their complaints to the FAIS Ombud, should a complaint not be resolved to their satisfaction within six weeks from the date on which the complaint is received;
- Maintain records of all complaints received for a period of 5 years, which will specify the outcome of all the complaints lodged;
- Implement follow-up procedures to:
  - ✘ Implement remedial actions to prevent similar complaints from occurring; and
  - ✘ Improve services and procedures where necessary within the Financial Services Provider.

Where you have a complaint, we have provided a Complaints Handling procedure in order to resolve it; in a way that is straightforward and easy to use.

### 3. Procedure to follow:

#### Stage 1

##### **(Making a complaint and/or expressing a grievance)**

When a client wishes to raise a complaint, it is usually best to contact the person they originally dealt with. The client may, however, prefer to contact that person's immediate manager if he/she is in doubt as to whether the complaint can be dealt with effectively by the above-mentioned person. If so, the person he/she has dealt with will tell him/her who to contact, and alternatively our reception can be contacted to give the client this information. The person he/she contacts will be responsible for either resolving the complaint or redirecting it to someone who can assist, without any inconvenience to the client.

#### Stage 2

##### **(If stage 1 is not successful)**

If the client is not happy with the response, he/she must submit their complaint in writing to our Compliance Officer. The reason for placing the complaint in writing is to protect the client and to obtain the exact reasons for the complaint. The contact details are provided overleaf.

##### **(Information required on the written complaint)**

- The clients name and surname;
- Contact details (including postal address, telephone number, fax number and email address if you have these);
- Where applicable, the name of your employer and retirement fund or medical scheme, as well as your membership number;
- Details of the complaint or grievance;

- Copies of any relevant documentation;
- Details of the steps the client has taken to resolve the complaint or grievance; and
- The outcome the client would like to achieve.

### **Stage 3**

#### **(Response Procedure)**

We will confirm that we have received the complaint and provide the client with the contact details of the person responsible for resolving the matter within a reasonable time frame. We will investigate the complaint to ascertain whether the complaint is legitimate and/or can be resolved immediately; If the complaint can be resolved immediately, we will take the necessary action and inform the client accordingly. We will provide you with details of our investigation into the complaint **within 30 days** of receipt. If the complaint cannot be resolved immediately, we will alternatively request supporting documentation (if any) from the client that may be necessary to resolve the matter and indicate the expected date of resolution. If we are unable to resolve the complaint **within 6 weeks** of logging the complaint in the Complaints Register, we will notify the client accordingly and advise the client of his/her right to:

- proceed in terms of Rule 6(a) and 6(b) of the Rules on Proceedings of the Office of the Ombud for Financial Services Providers (see below); or
- Seek legal redress in another forum. If the complaint falls within the scope of the Promotion of Access to Information Act, we will advise you of the correct procedure to follow. The procedure to follow will also be on our website.

### **Stage 4**

#### **(If the Complaint is resolved in the clients favour)**

If the complaint is resolved in the clients favour we will ensure that a full and appropriate level of redress is offered without delay.

### **Stage 5**

#### **(If the Complaint is not resolved in the clients favour)**

If the complaint is not resolved in the clients favour we will advise the client in writing of the reasons. We will be prepared to consider any new information or argument provided thereafter.

If the complaint is in terms of the Financial Advisory and Intermediary Services Act, 2002 (FAIS) you may submit the complaint to the Ombudsman, but this must be **within six months** of receiving our response. A FAIS complaint is a specific complaint relating to a financial service provided or its representatives. The complaint must relate to:

- Any financial prejudice or damage due to contravention or failure to comply with the provisions of the Act; or
- Any prejudice or damage caused by the wilful or negligent rendering of a financial service; or
- Unfair treatment.

The client will need to provide the Ombudsman with proof that he/she tried to resolve the complaint with us. This can be done by providing a copy of our final response, together with the client's reasons for disagreeing with the response. The complaint must be submitted in writing together with any supporting documentation and the client will need to quote the FSP number .

If the clients complaint relates to the administration of a pension fund, the investment of its assets or the application of its rules he/she may lodge a complaint with the Pension Funds Adjudicator. To lodge a complaint with the Pensions Funds Adjudicator the client must be a member or former member of a fund, a beneficiary or former beneficiary of a

fund, an employer who participates in a fund or a member of the board of management of a fund.

If the complaint deals with the services provided by our health care consultants the complaint may be lodged with the Council for Medical Schemes.

If the complaint is with regards to marketing, entering into any long-term insurance contracts or their administration, the client may contact the Ombudsman for Long-term Insurance.

In terms of the Rules on Proceedings of the Office of the Ombud for Financial Services Providers, 2002, the Financial Services Provider has the following rights and duties:

- The Financial Services Provider must be informed of the complaint submitted to the Office of the Ombud to the extent necessary to respond thereto fully.
- The Financial Services Provider is entitled to submit any fact, information or documentation in relation to the complaint and must disclose relevant information or documentation to the Ombud.
- If deemed necessary by the Ombud, the Financial Services Provider must discuss the complaint with the Ombud and furnish such further relevant information as the Ombud may require.
- The Financial Services Provider is required to act professionally and reasonably and to cooperate with a view to ensuring the efficient resolution of the complaint.

#### **(Determinations by the Ombud and its legal status)**

- The Ombud may, when accepting a complaint in terms of section 27(5) of the Act, require the Financial Services Provider to pay a case fee to the Office not exceeding R1 000.00;
- If the complaint was not resolved through conciliated settlement, the Ombud will make a determination which has the legal status of a civil judgement of court;
- The determination can be a monetary award (not exceeding R800 000, unless the person complained against agrees to it), or any other order that can be made by a court;
- An award of costs may be made against the person complained against;
- An award of costs may be made against a complainant if the conduct of the complainant was improper or unreasonable, or if the complainant caused an unreasonable delay in the finalisation of the investigation.

#### **(Appeals to Board of Appeal)**

- It is possible to appeal to the Board of Appeal, provided the Ombud grants leave to appeal. If the Ombud refuses, the chairperson of the Board of Appeal can be requested for permission to appeal.
- Application for leave to appeal must be made to the Ombud **within 1 month** of the Ombud's determination.
- If the Ombud refuses leave to appeal, application for leave to appeal may be made to the Chairperson of the Board of Appeal, **within 1 month** of the Ombud's refusal – the applicant must inform the Ombud of his application.
- A determination by the Board of Appeal has the same status as a judgement of a civil court.

## **4. Comments and Suggestions**

We always welcome comments and suggestions on how to improve our services. If we are not performing up to our clients expectations in facilitating the resolution of an issue he/she has raised, he/she is most welcome to inform us.

## 5.Contact Details:

Name:	Amanda Turi	Noluntu Bam	Dr Humphrey Zokufa	Ms.Muvhango Antoinette Lukhaimane	Judge Ron McLaren
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<b>Website:</b>	<a href="http://www.gencapital.co.za">www.gencapital.co.za</a>	<a href="http://www.faisombud.co.za">www.faisombud.co.za</a>	<a href="http://www.medicalschemes.com">www.medicalschemes.com</a>	<a href="http://www.pfa.org.za">www.pfa.org.za</a>	<a href="http://www.ombud.co.za">www.ombud.co.za</a>