

2023.04 COMPLAINANT PROCEDURE COMMUNICATION (v.3)

- Part XI the General Code of Conduct for Authorised Financial Services Providers and Representatives (“the General Code of Conduct”) stipulates the complaints management requirements which an FSP must comply with.
- In terms of section 17(8)(e) of the General Code of Conduct, a provider must disclose to the client –
 - The type of information required from a complainant;
 - Where, how and to whom a complaint and related information must be submitted;
 - Expected turnaround times in relation to complaints; and
 - Any other relevant responsibilities of a complainant.
- Section 17(8)(f) of the General Code of Conduct stipulates that a provider must within a reasonable time after receipt of a complaint acknowledge receipt thereof and promptly inform a complainant of the process to be followed in handling the complaint, including –
 - Contact details of the person or department that will be handling the complaint;
 - Indicative and, where applicable, prescribed timelines for addressing the complaint;
 - Details of the internal complaints escalation and review process if the complainant is not satisfied with the outcome of the complaint.
 - Details of escalation of complaints to the office of a relevant Ombud and any applicable timeline; and
 - Details of the duties of the provider and rights of the complainant as set out in the rules applicable to the relevant Ombud.
- This document must be provided to a complainant **within 1 (one) working day** as soon as the FSP receives a complaint from same (whether written or not).
- **Disclaimer:** This document is generic in nature and was compiled giving due consideration to pertinent regulatory requirements. This document is provided as a guideline only and any reliance by the user to achieve desired behaviour will be at the user’s own risk. Moonstone Compliance (Pty) Ltd. accepts no liability for any damages suffered or losses incurred arising from the use of this document.
- **Copyright:** The content of this document is the copyright of Moonstone Compliance (Pty) Ltd. All rights reserved. You may not, except with Moonstone’s express written permission, distribute or commercially exploit the contents of this document.

COMPLAINANT PROCEDURE COMMUNICATION

PURPOSE OF THIS DOCUMENT

The organisation is an authorised Financial Services Provider, and as such we have certain specific duties towards you – our valued client. One of these duties is the establishment of a formal complaint management and resolution framework, which will enable you to exercise your rights as provided for in the Financial Advisory and Intermediary Services Act.

The purpose of this document is to inform you of the procedure which will be followed in order to provide a resolution for the complaint which you have submitted.

COMPLAINT MUST BE RELEVANT

In terms of the FAIS Act, a “complaint” means, an expression of dissatisfaction by a person to a provider or, to the knowledge of the provider, to the provider’s service supplier, relating to a financial product or financial service provided or offered by that provider which indicates or alleges, regardless of whether such an expression of dissatisfaction is submitted together with or in relation to a client query, that –

- The provider or its service supplier has contravened or failed to comply with an agreement, a law, a rule, or a code of conduct which is binding on the provider or to which it subscribes;
- The provider or its service supplier’s maladministration or wilful or negligent action or failure to act, has caused the person harm, prejudice, distress or substantial inconvenience; or
- The provider or its service supplier has treated the person unfairly.

The financial services environment is complex. We will endeavour to address all reasonable requests from our clients, but may also refer you to a more appropriate facility. Where the complaint relates to any aspect of our service, or any disclosures that ought to be made by us, we will endeavour to address those complaints in writing, within **7 (seven) working days**.

In instances where the complaint relates to any matter that is not within our control, such as product information or investment performance, we will forward the complaint to the product supplier concerned. Please be advised that we reserve the right to recover costs or damages that we may suffer as a result of clients making frivolous, vexatious or unreasonable claims.

PROCEDURE

Our internal complaints resolution process is intended to provide for the fair and effective resolution of complaints. The time periods set out in this procedure will be adhered to as strictly as possible but may be varied if necessary. The following step by step guideline sets out the procedures we will adopt and demonstrates how a complaint will be dealt with, once received by us:

- Your complaint and all communications in connection with your complaint must be in writing. All verbal communications made in connection with the complaint must be confirmed in writing within **3 (three) days working days** of the communication.
- Please indicate the following information:
 - Your name, surname and contact details;
 - A complete description of your complaint and the date on which the financial service which led to your complaint was rendered;
 - The name of the person who furnished the financial advice or rendered the intermediary service that led to your complaint; and
 - How you would prefer to receive future communications regarding your complaint (i.e. via fax or e-mail).
- The complaint will be entered into our Complaints Register on the same day that it is made and written confirmation of receipt will be forwarded to you. We will keep record of the complaint, and maintain such record for **5 (five) years** as required by legislation. Please take into consideration that the method of communication chosen by you will determine how quickly we will respond to your complaint.
- The complaint will immediately be brought to the attention of the senior manager in charge of the relevant department for allocation to a trained and skilled person who is able to properly respond to your complaint (i.e. the Complaint Dispute Facilitator).

- The complaint will be investigated and we will revert to you with our preliminary findings **within 7 (seven) working days** from the date of receipt of the complaint. In all instances we will advise you of the reasons for our decisions.
- The preliminary findings will be discussed with all internal parties concerned, and a proposed solution will be communicated to you within a **further 7 (seven) working days**. In all instances we will advise you of the reasons for our decisions.
- If you are not satisfied with our solution, you may refer the complaint to the Managing Director of our Business. The Managing Director may amend the solution or confirm it. Please be informed that certain decisions may have to be approved by the management committee of the FSP. In such a case we will communicate that fact to you, as well as the date on which a decision relating to your complaint will be taken.
- If, after having referred the complaint to the Managing Director, you are still not satisfied with the outcome, we will regard the complaint as being unsatisfactorily resolved. In such a case, you may approach the office of the Ombud for Financial Services Providers or take such other steps as may be advised by your legal representatives.
- The Ombud is appointed by the Financial Services Conduct Authority (the “FSCA”) to act as an adjudicator in disputes between clients and financial services providers. The referral to the offices of the Ombud must be done in accordance with the provisions of section 27 of the Financial Advisory and Intermediary Services Act 2002 and the rules promulgated in terms of that section.
- In instances where we have not been able to arrive at a resolution **within 6 (six) weeks** after you have submitted your complaint, you may refer the matter to the Ombud. The Ombud acts independently and objectively and has jurisdiction in respect of complaints relating to advice or intermediary services, which has arisen after 15 November 2002.
- You must, if you wish to refer the matter to the Ombud, do so **within 6 (six) months** from the date of the notice in which we inform you that we are unable to resolve your complaint to your satisfaction. The Ombud will not adjudicate in matters exceeding a value of R800 000.
- The FAIS Ombud – Adv. John Simpson – may be contacted at his offices in Pretoria at the following address:

Physical Address:

125 Dallas Avenue
Menlyn Central
Waterkloof Glen
Pretoria
0010

Telephone: +27 12 762 5000 / +27 12 470 9080

Facsimile: +27 12 470 9097 / +27 12 348 3447

Postal Address: P.O. Box 41, Menlyn Park, 0063

E-mail Address: info@faisombud.co.za

Website: www.faisombud.co.za
