

# **Complaints Policy Manual**



**ESSENTIAL MEDICAL (PTY) LTD**

**FSP42980**

## 1. Introduction

Generally, the Financial Advisory and Intermediary Services Act's (FAIS Act) complaint resolution mechanisms aim at providing speedy and cost-effective measures to save clients having to follow the costly and time consuming route via the courts. This does however not preclude clients from exercising their ultimate rights to seek redress through the courts, as clearly stated in Section 40 of the FAIS Act. Obviously, in complicated cases involving large amounts of damages, the latter route will always be preferable.

In terms of Part XI of the General Code of Conduct, Financial Services Providers (FSP's) are obliged to maintain an internal complaint resolution system and procedure. Notwithstanding that the current wording of Part XI means that the establishment of an internal complaint resolution system corresponding to that prescribed is not obligatory for a Representative, it is a specific requirement for all employees, including Representative's, of **the FSP** that they adhere to the requirements of this Manual as well as all the provisions of the FAIS Act with regard to complaints.

## 2. Definitions

'Compliant' means a complaint as defined in section 1(1) of the FAIS Act (excluding reference to section 26(1)(a)(iii) therein), submitted by a client to an FSP for purposes of resolution by the FSP.

A complaint means a specific complaint relating to a financial service rendered by an FSP or Representative of an FSP to the complainant after 30 September 2004 and in which complaint it is alleged that the FSP or Representative of the FSP:

- Has contravened or failed to comply with the provision of the FAIS Act and that as a result thereof the complainant has suffered or is likely to suffer financial prejudice or damage;
- Has wilfully 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
- Has treated the client unfairly

'Internal complaint resolution system and procedures' in relation to an FSP and a client, means the system and procedures established and maintained by the FSP in accordance with the General Code of Conduct for the resolution of complaints by clients.

'Ombud' means the Ombud for Financial Services Providers, commonly referred to as the FAIS Ombud, referred to in section 20(2) of the FAIS Act.

'Resolution' or 'Internal resolution' in relation to a complaint and an FSP means the process of resolving of a complaint through and in accordance with the internal complaint resolution system and procedures of the provider.

'Rules" means the Rules on Proceedings of the Office of the Ombud for Financial Services Providers, 2002.

### 3. Process to Submit a Complaint

We, **the FSP**, have the following processes in place when attending to a complaint:

- Request that the client submit such complaint, against us or one or more of our Representatives, in writing to our offices. We also request that the client submit any supporting documentation with the written complaint.
- All complaints will be entered into our formal Complaints Register.
- Non-routine serious complaints will be handled by senior staff with adequate expertise, training and experience to resolve the matter as soon as possible.
- We will promptly acknowledge, in writing, to the client receipt of such complaint and furnish the client with details of the contact person at our organisation who will be involved with the investigation and resolution of the complaint.
- All complaints received from clients will be handled in a timely and fair manner, with each complaint receiving proper consideration in a process that is managed appropriately and effectively.
- We undertake to inform the client of the outcome of the investigation relating to the complaint within six (6) weeks of receipt of the initial written complaint.
- In a case where the complaint is resolved in favour of and to the satisfaction of the client, we ensure that a full and appropriate level of redress is offered to the client without any further delays.
- In a case where the complaint is not resolved to the client's satisfaction, we will ensure that the client is made aware of their rights in terms of the FAIS Act, or any other law. This includes giving the client a full written report regarding the investigation of the complaint and the findings thereof, as well as contact details (physical and postal address, contact numbers, fax numbers and e-mail addresses) for the Ombud for Financial Services Providers (FAIS Ombud); where the client will have six (6) months, from date of notification from us regarding the resolution/dismissal of the complaint, within which to pursue further action at the Ombud's office.
- We undertake to maintain a record of complaints received for a period of five (5) years, together with an indication of whether or not such complaints were resolved.
- We further undertake to ensure that all new and existing clients are made aware of our Complaints Policy Manual and the procedures to follow should they wish to submit a complaint against us or one or more of our Representatives.

**In any particular case, before the FAIS Ombud enjoys jurisdiction, an aggrieved client must first resort to an internal complaint resolution system and procedure, such as the one we have outlined above.**

## 4. Basic Principles of our Internal Complaints Resolution System

Our internal complaints resolution system is based on the following basic principles:

- The maintenance of a Complaints Policy Manual which outlines our commitment to, and the systems and procedures we employ for the internal resolution of any complaint submitted by a client against us or one or more of our Representatives.
- Our procedures for the resolution of any complaint are transparent and visible to all clients ensuring that the client has full knowledge thereof.
- Clients are easily able to access such procedure through any of our offices or branches which are open to clients or through the postal system, fax, telephone and/or electronic means.
- Ensure that the resolution of the complaint is done so in a fair manner giving equal opportunities to all parties to make their submissions regarding the complaint.
- Ensure adequate training of all relevant staff on the procedure to follow when a complaint has been submitted by a client, including full knowledge of the FAIS Act and subordinate legislation.
- All complaints will be followed-up at an operational level to ensure avoidance of similar occurrences that might give rise to complaints and to improve services, systems and procedures where necessary.
- Complaints records will be maintained for a minimum period of 5 years together with an indication of whether or not such complaint was resolved and all cases of non-compliance with the legislation and the reasons for such non-compliance.

## 5. Referral to Ombud for Financial Services Providers (FAIS Ombud)

- If a complaint has not been resolved within 6 weeks or where the complaint has been dismissed or where the client is not satisfied with the results of the investigation into the complaint; the client may, within 6 months of such feedback from the FSP refer the complaint to the Ombud for Financial Services Providers (FAIS Ombud).
- The details for the FAIS Ombud are as follows:
  - Physical address: Kasteel Park Office Park, Orange Building, 2nd Floor,  
Cnr of Nossob and Jochemus Street, Erasmuskloof, Pretoria
  - Postal address: PO Box 74571, Lynwood Ridge, 0040
  - Contact number: 012 470 9080 / 012 762 5000
  - Fax no: 012 348 3447 / 086 764 1422
  - E-mail: info@faisombud.co.za
- The FAIS Ombud will generally decline to investigate a complaint if a period of more than 3 years has expired since the act or omission which resulted in the complaint.
- The FAIS Ombud will generally decline to investigate a complaint, if proceedings have been instituted by the complainant in any court relating to the complaint
- Should the complainant not lodge the complaint with the FAIS Ombud, the complainant may pursue any other avenue of law which is available to it.

- The FAIS Ombud will generally only investigate a complaint where the financial loss suffered by the complainant is equal to or less than R800 000-00.
- The FAIS Ombud may decline to investigate a complaint if there is reasonable grounds to believe that a more appropriate dispute resolution process is available or in cases where it will be more appropriate to deal with the complaint in Court.
- The FAIS Ombud will only proceed to investigate a complaint if it has informed every other interested party of the receipt of such complaint, has provided particulars of such complaint to those parties and has provided those parties with the opportunity to respond.
- The FAIS Ombud may follow and implement any procedure which it deems fit and may allow any party the right of legal representation.
- The FAIS Ombud may make recommendations to the parties and if accepted by the parties, such recommendation will have the effect of a final determination.
- The FAIS Ombud will in any case, where a matter has not been settled or a recommendation has not been accepted by the parties, make a final determination which may include dismissal of the complaint or upholding of the complaint. If a complaint is upheld:
  - The complainant may be awarded compensation; or
  - The FSP may be ordered to take certain steps; or
  - The FAIS Ombud may make any other order which a Court may make.