



COMPLAINT RESOLUTION POLICY

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1. Purpose

The purpose of this policy is to set out and clarify guidelines for the effective resolution and treatment of customers' complaints.

2. Scope of application

This policy applies to all Shomang Brokers' employees, permanent and contract as well as consultants and independent contractors and shall be applied to all activities and tasks relating to the process for resolution of customers' complaints.

3. Authority

This policy has been developed in alignment with the Financial Advisory and Intermediary Services Act No. 37 of 2002 (FAIS), which requires that every Financial Services Provider (FSP) who is authorised to provide financial advice and/or intermediary services to clients, have the duty to offer clients a formal process to resolve complaints. The complaint resolution process must offer the client the opportunity to lodge a complaint and have the complaint resolved within six (6) weeks. In the event of the complaint not being resolved within six (6) weeks, the client can escalate the complaint to the FAIS Ombud for a final ruling. Such complaint must be lodged within six (6) months after the determination that the complaint could not be resolved by the FSP. The policy has been developed in line with the following:

- a) The Financial Advisory and Intermediary Services Act No. 37 of 2002 (FAIS)
- b) Notice on the General Code of Conduct for authorised financial services providers and representatives as published in Board Notice 80 of 2003; and
- c) FAIS internal dispute resolution policy.

4. Definitions

- 4.1 **Complaint** means a specific complaint relating to a financial service rendered by the FSP or Representative to the complainant in which it is alleged that the FSP or Representative:
- 4.1.1 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
 - 4.1.2 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
 - 4.1.3 Has treated the complainant unfairly
- 4.2 **Internal complaint resolution system and procedures** 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.

- 4.3 **Key Individual** means a person responsible for overseeing and managing the activities related to the rendering of financial services on behalf of the appointed representative.
- 4.4 **Ombud** means the Ombud for Financial Services Providers referred to in section 20(2) of the FAIS Act.
- 4.5 **Representative** means any person, as defined by the Financial Advisory and Intermediary Services Act, who renders a financial service on behalf of a licenced Financial Services Provider by means of an employment contract or mandate.
- 4.6 **Resolution or internal resolution** in relation to a compliant and an FSP, means the process of the resolving of a complaint through and in accordance with the internal compliant resolution system and procedures of the FSP.
- 4.7 **Rules** means the Rules on Proceedings of the Office of the Ombud for Financial Services Providers, as published in the Gazette.

5. Policy

5.1 Our commitment

- 5.1.1 As an authorised FSP in terms of the Financial Advisory and Intermediary Services Act (Act 37 of 2002) we are committed to providing our clients with quality service and undertake to manage the affairs of our clients in such a way that it would not be necessary to have a complaint about our service, integrity, and commitment. However, should it happen that a client does have a complaint, we undertake to:
- 5.1.1.1 Resolve the client's complaints in such a way that is fair to our clients, our FSP and our staff.
- 5.1.1.2 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.
- 5.1.1.3 Ensure easy access to our complaint's resolution process at our offices, or by way of post or email.
- 5.1.1.4 Empower and adequately train the staff in our FSP to deal with complaints, as well as with the escalation of non-routine complaints.
- 5.1.1.5 If necessary, appoint an independent mediator to resolve the complaint to the benefit of both the client and our FSP.
- 5.1.1.6 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.
- 5.1.1.7 Offer appropriate remedy in all cases where a complaint is resolved in favour of a client.

5.1.1.8 Inform clients of their right to refer their complaints to the FAIS Ombud, should a complaint not be resolved to their satisfaction within six (6) weeks from the date on which the complaint is received.

5.1.1.9 Maintain records of all complaints received for a period of five (5) years, which will specify the outcome of all the complaints lodged.

5.1.1.10 Implement the follow-up procedures to:

- a) Implement remedial actions to prevent similar complaints from occurring; and
- b) Improve services and procedures where necessary within the FSP.

5.2 Definition of a complaint

5.2.1 Complaint means a specific complaint relating to a financial service rendered to the client on or after the 30th of September 2004, being the commencement of FAIS, alleging that the FSP:

- a) Contravened or failed to comply with a provision of FAIS and that, as a result, the client has suffered or is likely to suffer financial prejudice or damage;
- b) Wilfully or negligently rendered a financial service to the client which has caused prejudice or damage to the client or which is likely to result in such prejudice or damage; or
- c) Treated the client unfairly.

5.2.2 The complaint must not be about the investment performance of the product unless the financial performance was guaranteed or the financial performance was so deficient that it creates the presumption that there has been misrepresentation, negligence or mal- administration.

5.3 Conditions that constitute a complaint

For a complaint to be valid, the following conditions are to be met:

5.3.1 Where appropriate, a complainant refers to the client, and includes the complainant's lawful successor in title or the nominated beneficiary of the financial product which is the subject of the relevant complaint.

5.3.2 The act or omission complained of must have been done on or after 30 September 2004.

- 5.3.3 The complaint must be received by the Ombud within three (3) years of the act or omission that resulted in the complaint – if the complainant was not aware of the act or omission, the three (3) years starts running from the date on which the complainant became aware, or from the date on which the reasonable person in his circumstances would have become aware, whichever date is the earliest.
- 5.3.4 If the complainant already instituted action in a court of law relating to the matter forming the subject of the complaint submitted to the Ombud, the Ombud will not consider the complaint.
- 5.3.5 The FSP must have been given the opportunity to resolve the complaint first. Only if the FSP failed to resolve the complaint to the satisfaction of the complainant within six (6) weeks of receipt, may the complainant take the matter to the Ombud.
- 5.3.6 The complainant has six (6) months after he/she received a final response from the person complained against, to go to the Ombud.
- 5.3.7 Complaints must be in writing and must be accompanied by relevant supporting documentation (where necessary).
- 5.3.8 The Ombud may refuse to consider a complaint if he/she believes that the complaint should be dealt with in court.

5.4 The complaints procedure

To ensure prompt and appropriate response to complaints, the following procedure should be always followed by all relevant staff:

5.4.1 Logging a complaint

- 5.4.1.1 All complaints should be made in writing. If a complaint is not in writing, the client should be asked to lodge the complaint in writing.
- 5.4.1.2 The complaint should include all relevant information such as date of the incident, description of the complaint and supporting documentation pertaining to the complaint should be submitted to serve as evidence (where deemed necessary).
- 5.4.1.3 The full details of the complaint should be recorded in the Complaints Resolution Register that will assist in tracking progress in resolving the complaint.

5.4.2 Acknowledging receipt of a complaint

- 5.4.2.1 The Managing Director should be promptly notified about the complaint received. The Managing Director will within five (5) working days acknowledge receipt of the

complaint in writing to the client and provide the client with the name(s) and contact details of the staff member nominated to assist with the resolution of the complaint.

5.4.3 Assessing the complaint

5.4.3.1 The responsible staff member will conduct a preliminary assessment to determine whether the complaint is legitimate and/or can be resolved immediately i.e., within seven (7) working days from receipt of the complaint.

5.4.3.2 In instances where the complaint can be immediately resolved, the necessary action will be taken, and the client informed accordingly on the resolution of the complaint.

5.4.3.3 If the complaint cannot be resolved immediately, supporting documentation (if any) that may be necessary to resolve the matter will be requested from the client.

5.4.3.4 Attempts will be made to resolve the complaints within six (6) weeks for all complaints that cannot be resolved within seven (7) working days. The expected date of resolution will be provided to the client.

5.4.4 Escalation of the complaint

If the responsible person is unable to resolve the complaint within six (6) weeks of logging the complaint, the client will be accordingly notified and advised on his/her rights 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 or seek legal redress in another forum.

5.4.5 Client notification of the resolution

5.4.5.1 Upon resolution of the complaint, the client should be advised in writing about the outcome of the resolution as soon as reasonably possible.

5.4.5.2 In the event that the outcome is favourable to the client, appropriate redress, as determined by the responsible person, must be instituted without delay.

5.4.5.3 If the outcome is not favourable to the client, full reasons for the outcome must be furnished to the client and the client must be advised/reminded of his/her rights to address the complaint to the FAIS Ombud within six (6) months.

5.4.6 Finalisation of complaint resolution

5.4.6.1 Once an acceptable resolution has been agreed on and actioned with the client, the complaints resolution register will be updated with the outcome of the complaint.

5.4.6.2 The Managing Director will review the complaint outcome and once agreed with the responsible staff member, the complaint file will be signed off and closed.

5.5 The Financial Services Provider's rights and duties

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

5.5.1 Where a complaint cannot be addressed within six (6) weeks by the FSP, the FSP must as soon as reasonably possible after receipt of the complaint send to the complainant a written acknowledgment of the complaint with contact references of the respondent.

5.5.2 If within six (6) weeks of receipt of a complaint the FSP has been unable to resolve the complaint to the satisfaction of the complainant, the FSP must inform the complainant that:

5.5.2.1 The complaint may be referred to the Office of the Ombud if the complainant wishes to pursue the matter further; and

5.5.2.2 The complainant should do so within six (6) months of receipt of such notification.

5.5.3 The FSP must be informed of the complaint submitted to the Office of the Ombud to the extent necessary to respond thereto fully.

5.5.4 The FSP is entitled to submit any fact, information, or documentation in relation to the complaint and must disclose relevant information or documentation to the Ombud.

5.5.5 If deemed necessary by the Ombud, the FSP must discuss the complaint with the Ombud and furnish such further relevant information as the Ombud may require.

5.5.6 The FSP is required to act professionally and reasonably and to cooperate with a view to ensuring the efficient resolution of the complaint.

5.6 Determination by the Ombud and its legal status

5.6.1 The Ombud may, when accepting a complaint in terms of section 27(5) of the Act, require the FSP to pay a case fee to the Office not exceeding R1000.00.

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- 5.6.2 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.
- 5.6.3 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.
- 5.6.4 An award of costs may be made against the person complained against.
- 5.6.5 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.

5.7 Appeals to the Board of Appeal

- 5.7.1 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.
- 5.7.2 Application for leave to appeal must be made to the Ombud within one (1) month of the Ombud's determination.
- 5.7.3 If the Ombud refuses leave to appeal, application for leave to appeal may be made to the Chairperson of the Board of Appeal, within one (1) month of the Ombud's refusal – the applicant must inform the Ombud of his/her application.
- 5.7.4 A determination by the Board of Appeal has the same status as a judgement of a civil court.

6. Responsibility for implementation

The Managing Director is the key individual accountable for the ultimate enforcement of this policy. However, the Operations Manager has the functional responsibility for implementation of the policy.

7. Communication and training

The Managing Director and the Operations Manager have full mandate to educate and orientate all personnel regarding the policy and their role in fulfilling its objectives. Each employee is required to read the elements of this policy and confirm their reading of the policy by signature.

8. Non-compliance with the policy

Non-compliance with the policy will be dealt with in line with the Shomang grievance and disciplinary procedures.

9. Effective date

This policy is effective from date of signing by the Managing Director.

10. Policy amendments

This policy will be amended in line with the Shomang Brokers' policy processes on the date stipulated under policy review of this document and/or in the following instances:

- a) changes in business requirements,
- b) changes in legislation and standards that may have material impact on the contents of this policy.

Annexure A: FAIS Ombud contact details

Physical address

Eastwood Office Park
Baobab House
Ground Floor
Cnr Lynnwood Road and Jacobson Drive
Lynnwood Ridge
0081

Postal address

P O Box 74571
Lynnwood Ridge
0040

Contact details

Telephone: +27 12 470 9080
Facsimile: +27 12 348 3447
Email address: info@faisombud.co.za
Website: www.faisombud.co.za

Approximate GPS coordinates

25° 46' 2" S, 28° 17' 58" E.