

Complaints Policy

Subordinate regulation 15, Part XI (17) of the Financial Advisory and Intermediary Services Act, 2002

ES BROKERS SFP 13589

is committed to:

Maintaining this manual which outlines the system and procedure for the internal resolution of complaints; and

Ensuring that clients have full knowledge of the procedures for resolution of their complaints; and

Ensuring the existence of easy access to such procedures is open to clients; and

Ensuring a speedy resolution of a complaint by means of the resolution process being effected which is fair

to all clients and the Financial Services Provider and its Employees.

Introduction

The FAIS Act's 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 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 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 Financial Advisory and Intermediary Services Act of 2002 with regard to complaints.

Definitions

Complaint means a specific complaint relating to a financial service rendered by a Financial Services Provider or Representative to the complainant after the 30 September 2004 and in which complaint it is alleged that the Financial Services Provider or Representative –

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

General Obligations

In case of a client complaint **ES BROKERS** must attend to the following;

- *Request that the client who has a complaint against either us or our Representative to lodge such complaint in writing.*
- *Promptly acknowledge receipt of complaints in writing to a client, giving the client the communication particulars of the contact staff to be involved in the resolution procedure.*
- *Handle clients' complaints in a timely and fair manner, with each complaint receiving proper consideration in a process that is managed appropriately and effectively.*

- *Inform the client of the outcome of the enquiry within 4 weeks of receiving the client's complaint.*
- *Advise the client of any further steps, which may be available to the client in terms of the Financial Advisory and Intermediary Services Act, or any other law, where a client's complaint is not resolved to the client's satisfaction. Should the outcome of a complaint not be in the client's favour, full written reasons must be given and the client must be advised that the complaint may be pursued within 6 months with the Ombud for Financial Services Providers, whose name, address and other contact particulars must simultaneously be provided to the client.*
- *In any case where a complaint is resolved in favour of a client, ensure that a full and appropriate level of redress is offered to the client without delay.*
- *Maintain a record of complaints received for a period of 5 years, together with an indication whether or not complaints were resolved.*
- *Ensure that all existing and new clients have full and appropriate knowledge of the procedures for the resolution of their complaints. All existing clients are to be made aware of this internal complaint resolution system and procedure manual.*

Before the Ombud enjoys jurisdiction, an aggrieved client must first resort to the internal complaint resolution system and procedure.

Resolution of Complaints

ES BROKERS must ensure the existence and maintenance of the following:

- *Availability of adequate manpower and other resources;*
- *Adequate training of all relevant staff, including imparting and ensuring full knowledge of the provisions of FAIS, the Rules and the General Code of Conduct with regard to resolution of complaints;*
- *Ensure that responsibilities and mandates are delegated to facilitate complaints resolution of a routine nature;*
- *Ensure that there is provision for the escalation of non-routine serious complaints and the handling thereof by staff with adequate expertise;*
- *Internal follow-up procedures to ensure avoidance of occurrences giving rise to complaints, or to improve services and complaint systems and procedures where necessary.*

Specific Obligations

- (1) Subject to the other provisions of this section, this internal complaint resolution system and procedure for **But always, in any particular case,** including its Representatives, contain arrangements which –
 - (a) must –
 - (i) reduce the details of the internal complaint resolution system and procedure of The FSP, including all subsequent updating or upgrading thereof, to writing;
 - (ii) provide that access to the procedure is at all times available to clients at any relevant office or branch of The FSP, or by electronic medium, and that such availability is appropriately made known to existing clients;
 - (iii) include in the details envisaged in para (i) a reference to the duties of The FSP and the rights of the clients;
 - (iv) include in such detail a clear summary of the provisions of the Act, which will apply whenever the client, after dismissal of a complaint by The FSP, wishes to pursue further proceedings before the Ombud; and
 - (v) include in such detail the name, address and other contact particulars of the Ombud; and
 - (b) must stipulate that complaints must, if possible, be submitted in writing and must contain all relevant information, and that copies of all relevant documentation must be attached thereto;
 - (c) must provide that the receipt of complaints is promptly acknowledged in writing to the client, with communication particulars of contact staff to be involved in the resolution of the complaint, and are properly internally recorded by the relevant staff for purposes of compliance with Sec 18(b) and (d) of FAIS;
 - (d) must make provision that after the receipt and recording of a particular complaint, the complaint will as soon as practically possible be forwarded to the relevant staff appointed to consider its resolution, and that –
 - (i) the complaint receives proper consideration;
 - (ii) appropriate management controls are available to exercise effective control and supervision of the consideration process;
 - (iii) the client is informed of the results of the consideration within 4 weeks of receiving the client's complaint: Provided that if the outcome is not favourable to the client, full written reasons must be furnished to the client within 4 weeks of receiving the complaint, and the client must be advised that the complaint may within 6 months be pursued with the Ombud whose name, address and other contact particulars must simultaneously be provided to the client.

- (2) In any case where a complaint is resolved in favour of a client, The FSP must ensure that a full and appropriate level of redress is offered to the client without any delay.

Verbal complaints

In all instances where there is a verbal complaint from a client the person receiving the call shall:

- *In the first instance transfer the call to a Manager*
- *Should a Manager not be available then take note of the name and contact detail of the complainant. Inform the client that the complaint will be referred to a Manager as soon as the Manager is available. Inform the client of his or her name and contact detail.*
- *When the Manager makes contact with the complainant the Manager must inform the complainant that the complaint must be reduced to writing. Immediately after this contact the Manager must then send either a letter or fax or e-mail to the client confirming the discussion and more specifically that the complaint must be put in writing.*
- *In all instances copies of correspondence and other relevant information must be copied to the Administration Manager without delay.*
- *The Administration Manager must immediately inform the FSP or Representative of the complainant together with the action taken.*

Category of persons qualifying as complainants

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