



Compli-Serve  
SA (Pty) Ltd

**FAIS  
COMPLAINTS  
Compli-Serve SA  
Guidance Document**

## **1. Introduction**

The Financial Advisory & Intermediary Services Act 2002 deals with complaints in some length. Specifically section 27(1) Receipt of Complaints, prescription, jurisdiction and investigation

All licensed financial service providers FSP's will be required to have systems in place for the purpose of timeous and efficient resolution of complaints within the specified timeframes.

## **2. Definition of a Complaint**

Complaint means a specific complaint relating to a financial service rendered to the client on or after the date of commencement of FAIS, alleging that the FSP:

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**Contravened or failed to comply with a provision of FAIS and that, as a result, the client has suffered financial prejudice or damage.**

### **Complaints that:**

- **The required disclosures were not made;**
- **The product structure was not explained;**
- **The policy documents were not received;**
- **Client did not know the features of the product;**
- **Mis-selling took place such as -**
  - **No record of advice;**
  - **Incorrect product given the client's need;**
  - **No risk analysis done;**
- **Negligence/delay in issuing the policy or affecting policy changes led to financial loss;**

- **Client was not advised re the effect of a particular change on a policy;**
- **The financial adviser resigned and the client does not know who to deal with;**
- **Confidential information was disclosed without the client's consent;**
- **The client signed or was asked to sign blank documents.**

**Willfully 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**

**Complaints that:**

- **The incorrect product was sold to the client;**
- **A product was sold without the client's knowledge;**
- **The FSP acted without the client's knowledge/consent (cancelled/changed a policy or policy details);**
- **FSP cannot accurately account for funds invested by the client;**
- **FSP took money from a client but did not ensure timeous investment;**
- **FSP has/had system problems and as a result the client is prejudiced;**
- **FSP not acting timeously on the reasonable instruction of the client – resulting in client suffering prejudice.**

**Treated the client unfairly.**

**Complaint that:**

- **Client not being service properly (sent from person to person without resolution of problem);**
- **Client was treated rudely;**
- **Previous complaint was not handled fairly and objectively;**
- **Different staff provided different information about the same issue;**
- **Promises were not kept or contradicted;**

To qualify as a FAIS complaint, the answer to one of the following questions must be "YES":

- Has the FSP contravened or failed to comply with any provision of the FAIS Act and has the complainant suffered -or is he likely to suffer financial prejudice/damage?
- Has the FSP 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?
- Has the FSP treated the complainant unfairly?

### **3. Complaints procedure**

We deal with complaints as follows:

- 3.1. Log the date and contents of the complaint in the Complaints Register.
- 3.2. If a complaint is not in writing, ask the client to lodge the complaint in writing.
- 3.3. Acknowledge receipt of the complaint in writing within 5 days of receipt, and give the client the name(s) and contact details of the staff responsible for the resolution of the complaint.
- 3.4. Investigate the complaint to ascertain whether the complaint can be resolved immediately.
- 3.5. If the complaint can be resolved immediately, take the necessary action and advise the client accordingly.

- 3.6. If the complaint cannot be resolved immediately, send the client a written summary of the steps to be taken to resolve the matter and the expected date of resolution.
- 3.7. If unable to resolve the complaint within 3 weeks of logging the complaint with the Complaints Register, notify the client by means of a written acknowledgement. This will outline the current status of the complaint and the expected date of final resolution.
- 3.8. If unable to resolve the complaint within a further 3 weeks of the written acknowledgement (6 weeks since complaint logged), notify the client giving full written reasons as to why the outcome was not favorable, and advise the client of their right to seek legal redress by referring the complaint to the Office of the Ombudsman.
- 3.9. Notify the complainant that he/she has 6 months of receipt of such notification to refer the matter to the Financial Ombud. The Ombud's name, address and other contact details must be provided.
- 3.10. Update the register with all developments/activities.

#### **4. Complaints process flow**

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##### **CLIENT LODGES COMPLAINT**

**IF COMPLAINT IS NOT IN WRITING, ASK FOR A WRITTEN COMPLAINT.**

**COMPLAINT RECEIVED; VALIDATED, LOGGED (AS NEW COMPLAINT ON COMPLAINTS REGISTER.**

**ACKNOWLEDGE RECEIPT OF COMPLAINT IN WRITING WITHIN 5 DAYS.**

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**COMPLAINT ASSIGNED AND INVESTIGATED.**

**RESOLVE THE COMPLAINT IMMEDIATELY OR TAKE THE NECESSARY ACTION AND ADVISE THE CLIENT OF STEPS TAKEN AND EXPECTED DATE OF RESOLUTION.**

**UPDATE THE COMPLAINTS REGISTER WITH ALL DEVELOPMENTS/ACTIVITIES.**

**INFORM CLIENT IN WRITING OF THE RESOLUTION OF THE COMPLAINT AND THE OUTCOME.**

**NOTIFY THE CLIENT IF COMPLAINT IS NOT RESOLVED WITHIN 3 WKS – ADVISE ON STATUS OF THE COMPLAINT.**

**NOTIFY THE CLIENT OF THE FINAL OUTCOME. THIS MUST BE NO LONGER THAN 6 WKS FROM DATE OF LOGGING COMPLAINT. ADVISE CLIENT OF OTHER OPTIONS.**

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## **5. Complaints Register.**

The register should contain the following fields:

**Received:** This field will reflect the date on which the letter was received. The receipt period starts its calculations here.

**Date Captured:** The date of the day on which the complaint is captured.

**Received From:** The name and designation of the person that submitted the complaint must be entered here. It may be a client or a client's representative.

**Complaint Reference Number:** This field contains the clients' reference number linked to an internal system

**Client Surname and Initials:** Enter the surname of the client making the complaint.

**Complaint Description/Type:** Short summary of the complaint

**Captured by:** The name of the person who captured the complaint.

**Responsible person internally:** Who will deal with the complaint and ensure that it is resolved.

**Activity Update:** Log all developments and movements.

**Outcome of Complaint:** Summary of what decisions was taken.

**Date of Final Communication to client:** Date of letter to the client.

**Compliance Officer Final Sign Off** Designated compliance officer to sign off a complaint as finalised

**Learnings:** This is a field where any possible lessons learned from the handling of this complaint can be entered.

## **6. The FAIS Ombudsman**

The FAIS Ombudsman's objective is to consider and dispose of complaints in a procedurally fair, informal, economical and

expeditious manner with reference to what is equitable in all circumstances. He will only proceed to investigate an officially received complaint once he has notified all interested parties of the particulars of the complaint in writing and is satisfied that all parties are provided with the opportunity to submit a response. The contact details of the FAIS Ombudsman are:

FAIS Ombudsman  
Financial Service Board  
PO Box 74571  
Lynnwood Ridge  
0040  
Tel nr: 012 470 9080  
Fax nr: 012 348 3447

## **7. The FSP's contact details**

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<b>Contact person:</b>	<b>MARIUS LE ROUX</b>
<b>E-mail address:</b>	marius@xperthealth.co.za
<b>Telephone nr:</b>	012 - 111 0910
<b>Fax nr:</b>	086-692 7437