



Client Complaints
Management
Framework
(FSP5503)

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1 Introduction

Consult Complaints framework dealt with in this document relates to the conduct, use of information and financial services (advice and/or intermediary services) rendered by financial advisers linked to Momentum Consult (Pty) Ltd., hereinafter referred to as "Consult", a financial services provider (FSP) licence number 5503.¹

The complaints management process is adapted in terms of legislation governed by the Financial Intermediary and Advisory Services (FAIS) Act 37 of 2002, the Financial Sector Regulation Act, and the Treating Customers Fairly (TCF) framework.

2 Capture and assign

The appointed Complaints Resolution Officer (hereinafter referred to as the "CRO") will receive and investigate all financial services related complaints received from clients, Regulators, external parties and the National Financial Ombudsman (NFO).

To determine whether the complaint falls within the scope of complaints investigated as per this Complaints Management Framework, the following steps will be followed for each complaint:

- Verify the FSP under which licence the advice and/or intermediary services was dispensed,
- Verify whether the matter relates to a TCF outcome-based framework, and
- Verify whether the financial adviser is still in service and authorised on the Consult FSP5503 licence.

3 Record keeping

Any complaint formally acknowledged as a complaint under FSP5503 will be recorded in an accurate, efficient, and secure complaints register. Recording of a complaint will include:

- Date received,
- Person capturing the complaint,
- All relevant details of the complainant and subject matter of the complaint,
- Financial adviser statement in response to the complaint and allegations,
- Record of advice in respect of the product recommended to and concluded for the client/complainant,
- Product policy application(s) and quotation(s),
- Correspondence made with the client in relation to the product,
- All reported complaints will be categorised in accordance with the TCF framework,
- Status of the complaint.

3.1 FAIS Complaints

In the event of a client complaint, the client will be required to complete a formal Consult complaints form, wherein all allegations against the financial adviser are listed, as well as information relating to the product

¹ Refers to TCF Outcome 6.18

and/or policy of the client. In some instances, where the client's allegations are clearly set out in an e-mail/letter, Consult will not request the completion of the complaints form.

In other instances where telephonic complaints are received; such complaints must be reduced to writing and clients will be requested to complete the complaints form.

In the event of a NFO or other Regulator complaint, the complaint will be directed to Consult to further investigate and revert within a prescribed period.

3.2 Complaints relating to Protection of Personal Information Act (POPIA)

In the event of a POPIA complaint, the client will be required to complete a formal Consult complaints form, wherein all allegations are listed and/or information relating to the alleged contravention of POPIA is documented.

In certain instances, where the client's allegations or details of the contravention is clearly set out in an e-mail/letter, Consult will not request the completion of the complaints form. In other instances, where telephonic complaints are received; such complaints must be reduced to writing. The Consult complaint form is available on the Consult website (www.consultm.co.za).

Should any uncertainty arise relating to the complaint or contravention, the Deputy Information Officer (DIO) will contact the client to obtain information to ensure that all aspects of the complaint are recorded and investigated.²

The client's written complaint/Ombudsman/Regulator's request will be logged in the Complaints register where it will be kept for a period of not less than five years³ in an electronic format. The Complaints register content is deemed as privileged information and access thereto is restricted to any 3rd parties.⁴ Should any information relating to a complaint fall within the public domain, access thereto can be requested from the DIO by way of a written submission from 3rd parties.

The DIO will open a client complaint file wherein all documentation relating to the complaint will be filed and kept electronically.

The formal Complaints Management Process can be viewed on the Consult website, advising clients how to lodge a complaint and providing the necessary contact details of the office of the DIO.⁵

4 Acknowledgement of complaints

The CRO, on receipt of a client-, or Regulator complaint relating to POPIA, will acknowledge the complaint in writing to the client within 3 (three) working days.

² Refers to TCF Outcome 6.24 linked to footnote reference 2.

³ As governed by the Financial Intelligence Centre Act 38 of 2001

⁴ As per promulgated Protection of Personal Information Act (POPI)

⁵ Refers to TCF Outcome 6.19

4.1 FAIS Complaints

In the acknowledgement of receipt of the complaint, the CRO will communicate with the client and inform the client of the time frame allowed in terms of the FAIS Act or NFO scheme South Africa (“NFO”) rules, to investigate the complaint, or advise the client of another person or department who will respond to the client, should the matter be escalated.⁶

In case of client complaint, the FAIS Act allows 6 (six) weeks for complaints to be investigated and finalised.

In the case of an Ombudsman complaint, the Ombudsman will provide a date when the matter should be finalised and responded to. The Ombudsman allows 2 (two) weeks for complaints which was previously sent to Consult by the client and 6 (six) weeks for new complaints sent directly to the Ombudsman.

In the case of a complaint received from the Financial Sector Conduct Authority (FSCA), the FSCA will provide a date when the matter should be finalised and responded to. The FSCA normally only allows for 7 (seven) days before a response is required.

4.2 POPIA Complaints

In the acknowledgement of receipt of the complaint, the CRO will communicate a due date (within a reasonable period) when a formal response will be provided to the client as well as inform the client that if they are not satisfied with the outcome, they may contact the Information Regulator. In some cases, Consult may request the client to complete the prescribed form(s) and additional information to investigate and resolve the matter.

Alternatively, Consult may inform the client that the complaint does not fall within Consult and this Framework’s area of responsibility and advise the client that the complaint will be escalated to another relevant area or department and provide them with that area or department’s contact details.

In the case of an Information Regulatory complaint, the Regulator will provide a date by when the matter should be finalised and responded to.

5 Assessment/Investigation

The CRO will send a composite email containing the complaint and related documents to the relevant financial adviser, Franchise Development Manager (“FDM”) and will also include the General Manager (“GM”) and Compliance Officer in the email. In instances where the complaint is of a very serious nature, the Chief Executive Officer (“CEO”) will also be included.

The allegations contained in the complaint will be investigated and the financial adviser implicated in the complaint, will be afforded the opportunity to respond to these allegations and provide a comprehensive statement in response thereto, along with all supporting compliance documentation (as well as any other relevant supporting documentation and file notes) signed by the client pertaining to the relevant policy/investment, to form part of the statement to the CRO.

The FDM must ensure that the financial adviser responds to the CRO with the required information and documentation as set out above, within 7 working days, and assist the financial adviser with formulating the

⁶ Refers to TCF Outcome 6.21

statement, should the need arise. Should the financial adviser not respond within 7 working days, the CRO will escalate the matter to the relevant GM to assist.

No late submission of documentation and information will be accepted after the prescribed 7 working days, due to the fact that complaints are based on timeframes governed by the FAIS Act and other applicable regulations or rules, or timeframes determined by the Information Regulator.

NOTE: As per the FAIS Ombud, any statement from a financial adviser relating to advice complaints, detailing interaction with the client, should speak directly to the compliance documentation. If a statement details a conversation with the client and provides advice that is not consistent with the compliance documentation—specifically, the Record of Advice (or the notes section on any platform provided by the insurer)—such information will be regarded as post facto (after the fact) and will not be considered.

For POPIA-related complaints, Consult will require a statement from the relevant party, along with any supporting materials, to assist in the investigation and evaluation of the complaint and/or potential contravention.

In addition, all regulatory bodies permit the recording of client conversations as part of the documentation and information to be submitted and considered during the investigation.

The CRO, after reviewing the adviser's statement, may ask additional questions if necessary to aid in the formal investigation and to ensure that all aspects of the complaint and client interaction are fully understood. This will enable a comprehensive presentation of the matter at the Complaints Resolution Panel (CRP) meeting, whether in person or electronically via round robin.

As part of the formal complaint investigation process, the CRO may seek input from a key individual (KI) to assess the advice provided, incorporating their feedback for discussion at the CRP meeting.

6 Determination by the Complaints Resolution Panel

The responsibility of the CRP is to ensure that the FSP licence is protected by acting in the best interest of the FSP and its clients, thereby ensuring that any reputational- and regulatory risk is minimized and to ensure procedural fairness to all parties involved.

Complaints received and investigated by the CRO will be submitted to the CRP members with a summary of the complaint and relevant compliance documentation. Submission of a complaint/s to the CRP will either be in the form of face-to-face meetings, via online meetings or electronically via round robin, depending on availability of the CRP members and urgency of the complaint / response. The panel members are encouraged to debate and discuss each matter and propose resolutions for each respective complaint.⁷

In resolving the complaint, the CRP will consider:

1. The allegations made by the complainant;
2. The information and evidence available;

⁷ Refers to TCF Outcome 6.17

3. The outcomes as stated in the section 2 of the FAIS Act General Code of Conduct for FSPs and representatives (GCOC);
4. The TCF principles;
5. The outcomes of the POPIA Act, specifically:
 - 5.1 Rights of the data subject;
 - 5.2 The eight (8) conditions for lawful processing; and
6. Relevant Momentum policies and procedures.

The CRP will follow the formal Complaints Management Process to ensure that decisions are objective, consistent and fair for comparable complaints and to ensure that a CRP member does not have a conflict of interest when a finding is made or voted on.⁸ A majority of the CRP members are required to reach a quorum for decision making on a matter, one of which must be the CRO.

The CRP members can be viewed in Annexure A.

Should it be deemed necessary, the CRO will invite Momentum Group Forensic Services, or any party deemed necessary (inclusive of responsible KI's) to the CRP meeting to ensure objectivity on matters to make an informed decision.

7 Findings

With reference to the different findings indicated below for determination made by the CRP on each complaint, a formal response will be sent directly to a client, the FAIS Ombud case manager, the FSCA and/or the Information Regulator, providing clear reasons for the finding (including instances where the response is favourable to the client) along with supporting documentation⁹.

To ensure consistency in complaints handling and settlement payments to clients, Consult has a policy for fair compensation of clients who have been financially prejudiced due to incorrect and/or negligent advice and/or actions or inactions on the part of advisers, which is not limited only to client complaints, but also to a trend of misconduct/negative behaviour by the financial adviser relating to various clients.¹⁰

The CRP will make a finding on each matter on the basis described above, which may result in a decision to:

7.1 Repudiate

The CRO will formally communicate to the client, complainant and/or relevant regulatory body with supporting documentation. In the case of a client complaint, where the complaint is not resolved to the client's satisfaction, the client will be provided with the relevant Regulator's details.¹¹

⁸ Refers to TCF Outcome 6.26

⁹ Refers to TCF Outcome 6.22

¹⁰ Refers to TCF Outcome 6.28

¹¹ Refers to TCF Outcome 6.23

7.2 FAIS Analysis

The CRO will analyse complaints received, based on the allegations against and/or misconduct of the adviser, and categorise¹² the complaints according to the following complaint categories:

7.2.1 **Misrepresentation is constituted by advisers misrepresenting any information or required disclosures to the client and includes the following:**

- **Fraudulent activity by the adviser** relates to advisers who committed fraud to benefit themselves, negatively affecting the client financially.
- **Non-disclosure by the clients** relates to matters where the clients did not disclose pre-existing medical conditions of either Health or Life policies.
- **Negligence by the adviser** relates to an adviser mistakenly cancelling a client's policy or neglecting to inform the relevant product house of any instruction for changes requested by the client based on advice rendered by the adviser.
- **Lack of knowledge by the adviser** relates to where the adviser misrepresented a product, product term and/or benefits to the client.
- **Lack of knowledge by client** relates to clients not understanding the products chosen by them or by the adviser on their behalf as best suited. Clients with endowments who query the endowment term, clients in preservation funds who requested more than one withdrawal, clients with RA's requesting withdrawals.

¹² Also includes the categorization of complaints in terms of TCF Outcome 6

- 7.2.2 Syndication** relates to Sharemax, Realcor, Pickvest and Blue Steel Property Investments or similar companies.
- 7.2.3 Advice dispensed under other FSP** relates to complaints where the adviser is/was a representative under a different FSP at the time of rendering the relevant financial service.
- 7.2.4 Non - advice related complaints** are constituted by complaints relating to administrative queries, including wrongful premium deductions, alterations, claim rejections by Product Houses and related queries/complaints.
- 7.2.5 Appropriateness of advice** relates to matters where the appropriateness and suitability of the advice rendered in relation to a policy or contract for the client is questioned.
- 7.2.6 Process breakdowns (includes re-intermediation process)** relate to matters where clients were either not notified of being re-intermediated or requested change of an intermediary which were not actioned.
- 7.2.7 Unprofessional behaviour of an adviser** refers to instances where the adviser acts in a manner that is disrespectful or discourteous toward the client and their circumstances.
- 7.2.8 Acting outside ambit** refers to situations where the adviser requests payment from clients for presenting various products offered by Consult, even if the client does not proceed with purchasing any of those products..
- 7.2.9 Performance relates to client complaints where clients question the growth on their investments, e.g.:** Investments where a pay out to the client was questioned in terms of the exchange rate
- 7.2.10 Replacement** refers to policies where a client's previous policy was replaced with one from another product provider (e.g., PPS, Old Mutual, Liberty, Sanlam, Discovery, etc.) but did not perform as well as the original product.
- 7.2.11 Leads Acquisition** relates to cold calling complaints originating from Franchise Houses obtaining client information through reputable sources not originating from within Consult to offer possible advice on products through their advisers.
- 7.2.12 Intermediary service** relates to complaints where the adviser did not act on instruction from the client or submitted necessary documentation to the relevant product house to effect the intermediary service on behalf of the client or relating to the client's policy.
- 7.2.13 Non-FAIS product** relates to complaints where advice or intermediary service was rendered on non-financial products such as rewards programs and Wills.

7.3 POPIA Analysis

The DIO will analyse complaints received in respect of POPIA or from the Information Regulator and categorise¹³ the complaints according to the following complaint categories

- ASTUTE complaints

¹³ Also includes the categorization of complaints in terms of TCF Outcome 6

- Data breaches
- Unsolicited marketing
- Unauthorised access to personal information

The DIO will prepare a trend analysis¹⁴ report based on the complaint categories and advisers involved to identify risk areas.¹⁵

7.4 FAIS Ombud and/or FSCA and/or POPIA / Information Regulator

The CRO will on a quarterly basis inform and update the CRP and all relevant Stakeholders of all new published decisions and relevant information in relation to the above Regulators in respect of advice practices to ensure that Consult's controls and practices in relation to TCF guidelines are maintained.

The CRO will also benchmark the complaints received and investigated against determinations made against competitors.¹⁶

Should the FAIS Ombud provide any workshops, it will be attended by the CRO and where possible, two members of the CRP to ensure up to date knowledge and training in terms of the FAIS Act as it relates to complaints.

¹⁴ Refers to TCF Outcome 6.29

¹⁵ Refers to TCF Outcome 4.6

¹⁶ Refers to TCF Outcome 6.20

ANNEXURE A

Complaints resolution panel members depending on specific adviser and channel:

Chief Executive Officer: Hannes van Den Berg

Head of Compliance: Jackie Drotsky

Head of Financial Planning and Advice: Sonja Steyn

FDMs and General Managers:

Dotty Govender, MC Theart, Keith Naidoo, Estelle Jurgens, Charlene Forte, Michelle Abubaker

Complaints Resolution Officer Kimishka Mathadeen