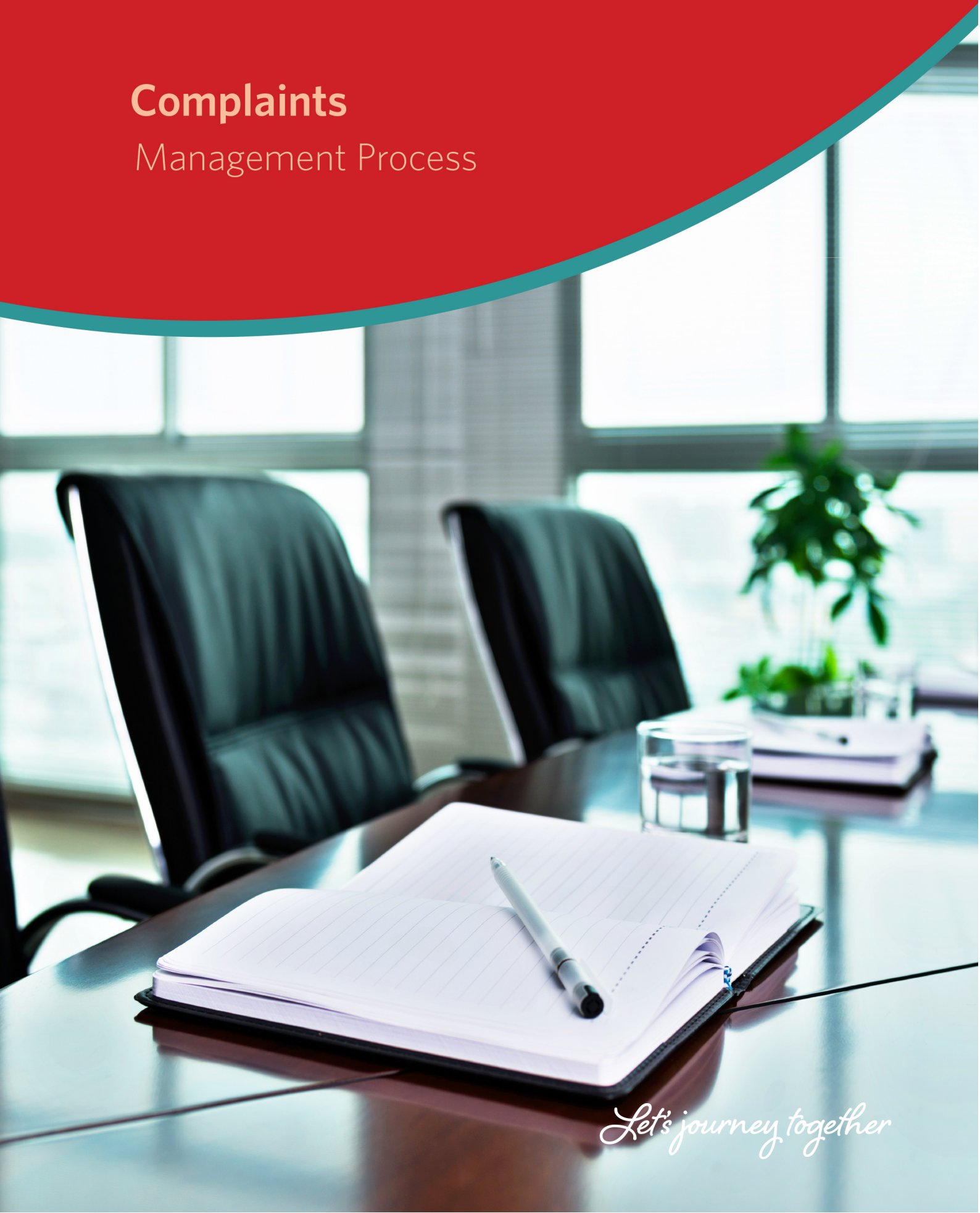


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by momentum

Complaints

Management Process



Let's journey together

COMPLAINTS MANAGEMENT PROCESS

Momentum Consult (Pty) Ltd (FSP 5503)

Hereinafter referred to as

“Consult”

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1 COMPLAINTS PROCESS FAIS OMBUDSMAN & CLIENT COMPLAINTS, (5503)

Complaints dealt with in this process relate to advice rendered by representatives linked to the Consult license.¹ The complaints management process is adapted in terms of legislation governed by the Financial Advisory Intermediary and Services Act 37 of 2002 (FAIS Act) as well as the Treating Customers Fairly (TCF) principles.

The appointed Complaints Resolution Officer (hereinafter referred to as the CRO) will receive clients or FAIS Ombudsman complaints on behalf of the Consult license.² (Where advice was dispensed by a third party not linked to the Consult license, a separate process to the one in this document will be followed in order to provide details of the relevant representative to the complainant.)³

The appointed CRO will be trained on a continuous basis on new legislation affecting intermediary services or advice rendered by representatives or any legislation affecting clients' rights and fair treatment.⁴

1.1 Capture and assign

The CRO will receive a complaint (from either the client, an internal department (Product house or call centre) who received the complaint, or the FAIS Ombudsman).

To ascertain whether the complaint falls within the scope of complaints investigated as per this complaints management process, the following steps are followed with each complaint:

- Verify the FSP
- Verify whether the matter relates to an advice instance or is administrative in nature
- Verify whether the representative is still a representative under the license 5503.

In the event of a client complaint, the client is required to complete a formal Consult complaints form, wherein all allegations against the representative are listed as well as information relating to the product and/or policy of the client. In some instances, where the client's allegations are clearly set out in an e-mail/letter we would not request the completion of the complaints form. In other instances where telephonic complaints are received; such complaints are to be reduced in writing. Should any uncertainty arise relating to the complaint, the CRO will contact the client to obtain information to ensure that all aspects of the complaints are recorded and investigated.⁵

¹ Refers to TCF Outcome 6.18

² Refers to TCF Outcome 4.13

³ Refers to TCF Outcome 4.13

⁴ Refers to TCF Outcome 6.25

⁵ Refers to TCF Outcome 6.24 linked to footnote reference 2.

The client's written complaint/Ombudsman's request must be logged in the complaints register where it will be kept for a period of not less than five years⁶ in electronic form and stored on the License Management system. The complaints register content is deemed as privileged information and access thereto is restricted to any 3rd parties.⁷ Should any information relating to a complaint fall within the public domain, access thereto can be requested from the CRO by way of a written submission by 3rd parties.

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

The formal complaints management process can be viewed on www.momentumconsult.co.za advising clients how to lodge a complaint and the necessary contact details of the office of the CRO.⁸

1.2 Acknowledged

The CRO, on receipt of a client complaint, will acknowledge the complaint in writing to the client within 1 (one) working day. In the acknowledgement the CRO will communicate a due date when a formal response will be provided to the client as well as inform the client that the CRO has 4 (four) weeks to investigate the complaint, alternatively advising of another person or department who will respond to the client, should the matter be escalated.⁹

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 14 (fourteen) days for complaints which was previously sent to Consult by the client and 6 weeks for new complaints sent to the Ombudsman directly.

1.3 Assessment/Investigation

The CRO must send a composite mail containing the complaint and related documents to the related representative and Franchise Development Manager (FDM) and will carbon copy the General Manager (GM) and Compliance Officer.

The allegations contained in the complaint must be investigated and the representative implicated in the complaint, must be afforded the opportunity to respond to these allegations and provide a statement in answer thereto along with all supporting compliance documentation or any other documentation.

⁶ As governed by the Financial Intelligence Centre Act 38 of 2001

⁷ As per promulgated Protection of Personal Information Act (POPI)

⁸ Refers to TCF Outcome 6.19

⁹ Refers to TCF Outcome 6.21

The FDM must ensure that the representative responds to the CRO with the required information and documentation as set out above within 2 days and assist the representative should the need arise with the formulation of the statement. Should the representative not respond within 48 hours, the CRO must escalate this matter to the relevant GM.

1.4 Determination

The complaints resolution panel (hereinafter referred to as the CRP) must meet, as and when complaints arise or are received, at which meeting (Complaints panel meeting) the CRO will present the complaints and investigation findings to the panel members whereby the panel members are encouraged to debate and discuss the matter and propose resolutions for each complaint.¹⁰

The CRP will follow the formal complaints process to ensure that decisions are objective, consistent and fair for similar complaints and to ensure that a CRP member does not have a conflict of interest when a finding is made or voted on.¹¹ Should a representative request to be present during the presentation of the complaint where he/she is involved in, the opportunity will be granted to such a representative to present his case.

A meeting pack for each complaint containing all information will be circulated on the shared folder at least 48 hours prior to the meeting.

The complaints panel consists of the following members:

GM Representatives:	Oswald Kuyler, MC Theart, or Keith Naidoo, (depending on region);
Compliance Officer:	Jackie Drotsky;
Complaints Resolution Officer:	Kimishka Mathadeen and Ryno de Kock;
Consult Head of Operations:	Riaan Verbeek; and
Franchise Development Manager:	Ryan Arntzen, Janine Targett, Michael Vorster, or Estelle Jurgens (depending on region)

To determine a sufficient quorum for findings made by the CRP, 50% of the members inclusive of either the Chairperson or Co-chairperson and one General Manger should be present.

¹⁰ Refers to TCF Outcome 6.17

¹¹ Refers to TCF Outcome 6.26

Should the complaints resolution panel require an independent compliance/advice opinion the CRO will liaise with the relevant forum to obtain such opinion and revert to the CRP to make an informed decision.

1.5 Finding

With reference to the different findings mentioned above for determination made by the CRP on each complaint, a formal response will be sent to the client directly or Ombud case manager providing clear reasons for our finding (including where the response is favourable to the customer), with supporting documentation where relevant¹².

The representative will be informed by the CRO of the finding made by the CRP on the complaint.

The CRP will make a finding on each matter based on the information presented and decide to:

1.5.1 **Repudiate:** Advice client and Ombud in formal response with supporting documentation. In the case of a client complaint, where such complaint is not resolved to the client's satisfaction, such client must be given the Ombudsman's details.¹³

1.5.2 **Hold representative accountable for client loss:**

Depending on the nature and severity of the actions or inaction by the financial adviser:

- The representative will receive a formal written warning from the relevant GM, formal steps to rectify should be taken.
- The relevant matter will be referred to the compliance officer to assist with remedial action such as retraining.

Active representative: CRO will inform the relevant Product House to reverse commission after a finding is made against the representative by the CRP members to rectify any damage or loss incurred by the client as a result of an action or inaction by the representative. Such commission reversal will be signed off by the CRO and relevant GM.

The CRO will also inform the Head of Debit Management of the findings made against the representative and that commission has been reversed to the representative's commission account where after the Head of Debit Management has to have the representative sign a Debit Loan to recover the debt.

Depending on the amount reversed, the representative may lodge a claim and make use of his/her PI cover to recover the amount. Should the representative decide to lodge such a claim, a written warning will be given to the representative by the relevant GM as required by the Professional Indemnity insurer.

¹² Refers to TCF Outcome 6.22

¹³ Refers to TCF Outcome 6.23

The PI cover claim will be lodged on behalf of the representative with the insurer by the Finance Department; the GM will also be involved in the process.

Out-of-service representative: The CRO will relay the finding of the panel to the Head of Debit Management as soon as confirmation is received that commission is reversed against the representative's code, where after Head of Debit Management proceeds legally and issue summons. The basis of summons is to be established by the Head of Debit Management based on the information and recommendation from the CRP, e.g. if a representative is found guilty of misrepresentation, negligence, or fraud by the CRP.

Payments to clients: Fraud and loss from the relevant GM will be used to cover amount payable to the client. The Head of Debit Management will be advised accordingly and will proceed legally to recover money paid to the client from the representative. Any amount recovered from the representative will be allocated back to GM's fraud and loss account.

1.5.3 Product house accountability:

The CRO will liaise with the Product House complaints officer to convey findings made by the CRP for the product house to further investigate. The product house complaints officer should escalate statistics of findings as well as monitoring of trends on product complaints to the CRO which will form part of the monthly/quarterly complaints report.¹⁴

The relevant investigating body should inform the Head of product house and follow up on payment to client from the Product House.

Should customers, staff or any other person provide feedback or make suggestions arising from complaints that identify the need for improvement in product information, the CRO will liaise with the Product House to inform the need of such requirement.¹⁵

Should a complaint fall outside the CRO scope of investigation as it relates more to product performance, the Product House should investigate the complaint and also put processes in place to mitigate risk where it becomes apparent that products are not performing or are likely to perform as they have been led to expect.¹⁶

¹⁴ Refers to TCF Outcome 2.14

¹⁵ Refers to TCF Outcome 3.8

¹⁶ Refers to TCF Outcome 5.8

1.5.4 Settlement with client and recovery (Fraud and Loss process):

In the event of a settlement to a client directly or through the FAIS Ombud, same will only be executed in instances that give rise to a financial loss. No payment made to a client will absolve a representative from unethical behaviour.

Prior to settlement it first needs to be established whether the description of the client's loss falls within the Personal Indemnity (PI cover) claims structure for possible payment to the client and/or recovery for loss paid to a client from a fraud and loss account.

The Fraud and Loss claim form must be completed by the CRO with all particulars of the client and settlement amount and signed by the relevant GM.

The CRO will thereafter forward the form to the Finance Department along with a synopsis of the complaint attached to process payment to the client.

To ensure consistency in complaints handling and payment to clients we have a policy for fair compensation to clients who have been financially prejudiced due to advice and or actions of financial advisers, which is not limited only to clients who complain but also due to a trend of misconduct by the representative on various clients.¹⁷

With reference to the different findings mentioned above for determination made by the CRP on each complaint, a formal response will be sent to the client directly or Ombud case manager providing clear reasons for our findings (including where the response is favourable to the customer), with supporting documentation were relevant¹⁸.

1.5.5 Appeal process

Should the client/representative not be satisfied with the outcome of the decision by either the Ombud or CRP, the client/representative has the option to appeal the process.

In the event of a representative appealing against the CRP finding, the appeal process will include non-panel member parties such as Hannes van der Berg (CEO: Consult) as well as the MMI Head of Compliance to review the matter and provide the client/representative the opportunity to either sit in or provide a statement forming the basis of his appeal.¹⁹

In the event of a client appealing against the CRP finding, the FAIS Ombudsman details will be provided to the client for further recourse as in point 1.5.1 *supra*.

¹⁷ Refers to TCF Outcome 6.28

¹⁸ Refers to TCF Outcome 6.22

¹⁹ Refers to TCF Outcome 6.23

1.5.6 Debarment

If a finding apart from the action or in action of the representative is made by the CRP to further recommend possible debarment, such recommendation will be decided on by the tribunal members, separate from this complaints process. The FDM, GMs and CRO will be notified of such recommendation to assist the tribunal with the debarment process.

1.6 Analysis

The CRO will analyse complaints received, based on the misconduct of the representative and categorise²⁰ the complaints according to the following complaint categories:

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

- **Fraudulent activity by the representative** relates to representatives 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 representative** relates to a representative 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 representative** relates to where the representative 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 representative 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.

²⁰ Also includes the categorization of complaints in terms of TCF Outcome 6

- 1.6.2 **Syndication** relates to Sharemax, Realcor, Pickvest and Blue Steel Property Investments or similar companies.
- 1.6.3 **Advice dispensed under other FSP** relates to complaints where the representative is a broker under a different FSP than that of the Consult license.
- 1.6.4 **Non-advice related complaints** are constituted by complaints relating to administrative queries including wrongful premium deductions, alterations, claim rejections by Product House related queries/complaints.
- 1.6.5 **Appropriateness of advice** relates to matters where the relevance of the policy for the client is questioned.
- 1.6.6 **Process breakdowns** (includes re-inter mediation process) relates to matters where clients were either not notified of being re-inter mediated or requested change of an intermediary.
- 1.6.7 **Unprofessional behaviour** from a representative relates to a matter where a representative acted unprofessional in the sense of being rude to the client and her circumstances.
- 1.6.8 **Acting outside ambit** relates to representative requesting payment from clients for presentation of products not being taken up by the client.
- 1.6.9 **Performance** relates to client complaints where clients question the growth on their investments, e.g.:
- Bermuda policies (Wealth Product) are investments where pay out to the client was questioned in terms of the exchange rate.
 - Replacement relates to policies where a replacement of a client's previous policy was effected and didn't "perform" as well as the replaced product.
- 1.6.10 **Replacement** relates to policies replaced from and to other Product Providers for example: PPS, Old Mutual, Liberty, Sanlam, Discovery etc.
- 1.6.11 **Leads Acquisition** relates to cold calling complaints originating from Franchise house call centres obtaining client information through reputable sources not originating from within Consult to offer possible advise on products through their financial advisers
- 1.6.12 **Intermediary service** relates to complaints where a representative did not act on instruction from the client or submitted necessary documentation to the relevant product house to effect such a change to the client's policy.
- 1.6.13 **Non- FAIS product** relates to complaints where advice or intermediary service was rendered on non-financial products such as Multiply and Wills.

The CRO will prepare a trend analysis²¹ report based on the complaint categories and representatives involved to identify risk areas as well as the level of quality of advice provided by the representatives under the Consult license.²²

1.7 FAIS Ombud

The CRO will on a quarterly basis inform and update the CRP of all new published FAIS Ombud decisions and relevant information in relation to advice practices to ensure that our 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.²³

Should the FAIS Ombud provide any workshops, same will be attended by the CRO and two members of the CRP to ensure up to date training in terms of the FAIS Act.

2 POPI COMPLAINTS RESOLUTION PROCEDURE

2.1 Introduction

The POPI Act deals with complaints in some length under chapter 10 of the Protection of Personal Information Act 4 of 2013 (Enforcement). In terms of section 74, any person may submit a complaint to the Regulator in the prescribed manner and form alleging interference with the protection of the personal information of a data. A complaint to the Regulator must be made in writing.

If an Information Supplier, Responsible Party or Data Subject feels that Consult has acted outside of the requirements of POPI or in terms of the conditions by which Consult had processed a Data Subjects' Personal Information, we would like to invite such a person to address their complaint to us in writing at the details below.

2.2 To determine if it is a POPI complaint

If an Information Supplier, Responsible Party or Data Subject alleges that Consult or its representatives:

²¹ Refers to TCF Outcome 6.29

²² Refers to TCF Outcome 4.6

²³ Refers to TCF Outcome 6.20

- 2.2.1 Were not authorised to process an individual's personal information;
- 2.2.2 Have processed, shared, or otherwise dealt with personal information outside of terms agreed with that party; or
- 2.2.3 Have otherwise contravened or failed to comply with any provision of the POPI Act It should be treated as a POPI Compliant. The person or institution lodging the complaint is hereinafter referred to as "the complainant".

2.3 Internal complaint resolution procedure

- 2.3.1 If a complaint against Consult is not in writing, Consult must request the complainant to lodge the complaint in writing and to provide the necessary supporting documentation;
- 2.3.2 The Information Officer will receive the written complaint and supporting documentation;
- 2.3.3 The CRO will log the date and contents of the complaint in the Complaints Register. This record must be maintained for a period of five years;
- 2.3.4 The Information Officer will appoint a relevant staff member/s to investigate the complaint;
- 2.3.5 The Information Officer will acknowledge receipt of the complaint in writing within 3 business days of receipt, and give the complainant the name and contact details of the staff member/s responsible for the resolution of the complaint;
- 2.3.6 The relevant internal department or staff member/s and any other resources or manpower, will investigate the complaint to ascertain whether the complaint can be resolved immediately;
- 2.3.7 If the complaint is of a serious nature, the complaint will be handled and investigated by the Information Officer or any other senior staff / executive management;
- 2.3.8 If the complaint can be resolved immediately, the relevant staff member/s will take the necessary action and advise the complainant accordingly;
- 2.3.9 If the complaint cannot be resolved immediately, the CRO will send the complainant a written summary of the steps to be taken to resolve the matter and the expected date of resolution;
- 2.3.10 If unable to resolve the complaint within 3 weeks of logging the complaint in the Complaints Register, the CRO will notify the complainant by means of a written acknowledgement. This must outline the current status of the complaint and the expected date of final resolution;

- 2.3.11 If unable to resolve the complaint within a further 3 weeks of the written acknowledgement (6 weeks since complaint was logged), the CRO will notify the complainant, giving full written reasons as to why the outcome was not favourable, and advise the complainant of their right to seek legal redress by referring the complaint to the Information Regulator;
- 2.3.12 The notification must clearly indicate that the complainant may refer the matter to the Information Regulator. The Information Regulator's address and other contact details must be provided to the complainant;
- 2.3.13 The relevant internal department or staff member/s investigating the complaint must keep the Information Officer and the CRO up to date with the investigation; and
- 2.3.14 As soon as the CRO receives any updates, developments, and activities regarding the complaint, they must update the Complaints Register with all developments and activities.

2.4 Complaints process flow

- 2.4.1 Complainant lodges a complaint with a Consult staff member or financial adviser;
- 2.4.2 If complaint is not in writing, Consult to request that the complaint be in writing and to be submitted along with the necessary supporting documentation to;
- 2.4.3 Complaint received by staff member and handed to Information Officer;
- 2.4.4 Complaint is validated and logged on Complaints Register;
- 2.4.5 Information Officer acknowledge receipt of complaint in writing within 3 business days;
- 2.4.6 Complaint is assigned to a staff member by Information Officer / Compliance and investigated;
- 2.4.7 Resolve the complaint immediately or take the necessary action and advise the complainant of steps taken and expected date of resolution;
- 2.4.8 Compliance updates the Complaints Register with all developments/ activities;
- 2.4.9 Compliance to inform complainant in writing of the resolution of the complaint and the outcome;
- 2.4.10 Information Officer / Compliance to notify the complainant if complaint is not resolved within 3 weeks - advise complainant on status of the complaint;
- 2.4.11 Information Officer / Compliance to notify the complainant of final outcome. This must be within 6 weeks of receiving the complaint; and

2.4.12 Information Officer / Compliance to advise complainant of other options if complaint could not be resolved e.g. Information Regulator.

2.5 Information Officer contact details

Douw Lotter

E-mail: dlotter@mmltd.co.za

Tel: +27 (0)12 673 7569

Fax: +27 (0)12 663 5735

Website: <http://www.momentum.co.za>

Postal address:

PO Box 7400

Centurion

0046

Physical Address:

Momentum Building

268 West Avenue

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0157

2.6 The Information Regulator contact details

SALU Building

316 Thabo Sehume Street

PRETORIA

Tel: +27 (0)12 406 4818

Fax: 086 500 3351

E-mail: inforeg@justice.gov.za