

# Client Complaints Resolution Policy

## Ensimini Financial Services (Pty) Ltd

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### 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.

### Definition of 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 we:

Contravened or failed to comply with a provision of FAIS and that, as a result,

The client has suffered financial prejudice or damage.

Willfully or negligently rendered a financial service to the client which was caused prejudice or damage to the client or which is likely to result in such prejudice or damage; or

Treated the client unfairly.

### Purpose of this Document

Ensimini Financial Services (Pty) Ltd (Ensimini Financial Services) is a licensed Financial Services Provider with the authority to provide financial advice and intermediary services in terms of the Financial Advisory and Intermediary Services Act. As such we have certain specific duties to you, our clients. One of these duties is to offer you a formal complaints resolution system, which will enable you to exercise your rights as provided for in the Financial Advisory and Intermediary Services Act. The purpose of this document is to inform you of how you can make use of our complaints resolution system, to your advantage. This document can be found on our website at [www.ensimini.com](http://www.ensimini.com), at our office at Empire

Park, Block C, 55 Empire Road, Parktown, 2193, or faxed to you on request when you phone Natalie Barker at 011 381 7960.

## **Our Complaints Resolution Procedure**

### **Procedure when submitting a complaint to us**

If Ensimini Financial Services or any of its representatives provided you with financial advice or any other intermediary service, and you feel that we or our representative:

did not comply with the Financial Advisory and Intermediary Services Act and that you suffered financial prejudice as a result;

intentionally or negligently gave financial advice or rendered an intermediary service to you which caused prejudice or damage or is likely to cause damage;

treated you unfairly,

you must please write us a letter to Empire Park, Block C, 55 Empire Road, Parktown, 2193, send us an e-mail to [info@ensimini.com](mailto:info@ensimini.com), or send us a fax to +27 86 644 1975, with the following information:

Your name, surname and contact details;

A complete description of your complaint;

The name of the person who provided you with financial advice or an intermediary service;

The date on which the matter complained about happened;

All documentation relating to your complaint;

How you would prefer to receive communication from us regarding your complaint i.e. by e-mail, fax, post and please provide us with the e-mail address, fax number or address where you would prefer to receive such communication.

### **Our procedure when receiving your complaint**

As soon as we receive your complaint, we will send you an acknowledgement of receipt. Please take into consideration that the method of communication chosen by you will determine how quickly we will receive and respond to your complaint.

We will investigate and attempt to resolve your complaint to your satisfaction within 6 weeks of receipt of your complaint.

If we are unable to resolve your complaint within 6 weeks, or are unable to resolve the complaint to your satisfaction, you have the right to refer your complaint to the Ombud appointed specifically for this purpose. The contact details of the Ombud is as follows:

Telephone: +27 12 470 9080

Facsimile: +27 12 348 3447

E-mail Address: [info@faisombud.co.za](mailto:info@faisombud.co.za)

Website: [www.faisombud.co.za](http://www.faisombud.co.za)

Eastwood Office Park

Baobab House, Ground Floor

Cnr Lynnwood Road & Jacobson Drive

Lynnwood Ridge, 0081

Please remember however that you must refer the complaint to the Ombud within 6 months from the date of the notice in which we inform you that we cannot resolve the complaint to your satisfaction.

## The Rules That You Must Keep in Mind When You Approach the Ombud

### What kind of complaints is considered by the Ombud?

The complaint must relate to financial advice or intermediary service rendered and must have the following content:

- o that the financial services provider contravened the Financial Advisory and Intermediary Services Act which resulted/ may result in the complainant suffering financial damage;
- o that the financial services provider negligently, or intentionally provided advice or an intermediary service that caused/ may cause prejudice or damage to the complainant;
- o the complainant was treated unfairly.
- o The complaint must not be about the investment performance of the financial product, unless-
  - 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 on the part of the person complained against.

### Conditions applicable to complaints

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

The complaint must be received by the Ombud within 3 years of the act or omission that resulted in the complaint – if the complainant was not aware of the act or omission, the 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.

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.

The financial services provider must have been given the opportunity to resolve the complaint first. Only if he or she failed to resolve the complaint to the satisfaction of the complainant within 6 weeks of receipt, may the complainant take the matter to the Ombud.

The complainant has 6 months after he received a final response from the person complained against, to go to the Ombud.

Complaints must be in writing and must be accompanied by relevant documentation.

The Ombud may refuse to consider a complaint if he believes that the complaint should be dealt with in court.

### What must the person complained against, do?

Acknowledge receipt of complaint;

If unable to resolve the complaint to the satisfaction of the complainant within 6 weeks, inform the complainant of his right to refer the complaint to the Ombud, and to do this within 6 months of receipt of the notice.

### Procedure followed by Ombud

The Ombud officially receives the complaint.

The running of prescription (under the Prescription Act) is suspended from the date on which the official receipt of complaint is received by the complainant until-

the complaint is withdrawn;

- o a determination is made by the Ombud or by the Board of Appeal.

The person complained against may have to pay up to R1000 when the Ombud officially receives a complaint.

The Ombud does not start the investigation of the complaint before-

- o He has informed all interested parties of the complaint, and of all particulars necessary to enable them to respond to the complaint;
- o Gave all parties opportunity to respond.

The Ombud will discontinue an investigation of a complaint in respect of which the complainant instituted action in court while the Ombud was investigating the complaint.

The Ombud will first attempt to resolve the complaint through conciliated settlement acceptable to all parties.

The Ombud may make a recommendation to the parties to resolve the complaint.

### Determinations by Ombud and its legal status

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.

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.

An award of costs may be made against the person complained against.

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.

### Appeals to Board of Appeal

It is possible to appeal to the Board of Appeal, only if the Ombud gives leave to appeal. If the Ombud refuses, the chairperson of the Board of Appeal can be requested for permission to appeal. Application for leave to appeal must be made to the Ombud within 1 month of the Ombud's determination.

**If the Ombud refuses leave to appeal, application for leave to appeal may be made to the Chairperson of the Board of Appeal, within 1 month of the Ombud’s refusal – the applicant must inform the Ombud of his application.**

**A determination by the Board of Appeal has the same status as a judgement of a civil court.**

