



SKYCASTLE
International Investments

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STANDARDS, PROCEDURES & BEST PRACTICE PRINCIPLES

2020.02 COMPLAINTS MANAGEMENT (v.2)

1 COMPLIANCE RISK AREA

Complaints Management

2 REGULATORY FRAMEWORK

- Board Notice 80 of 2003 – General Code of Conduct for Authorised Financial Services Providers and Representatives;
- Financial Advisory and Intermediary Services Act 37 of 2002;
- Financial Sector Regulation Act 9 of 2017.

3 CORRESPONDING DOCUMENT(S)

Complaints Policy;

Complaints Register & Analysis;

Complainant Procedure Communication.

4 RESPONSIBLE PERSON(S)

- All Persons responsible for managing reportable complaints as lodged against the FSP, its Key Individual/s and / or its Representatives.

5 STANDARDS

5.1 GENERAL

- In terms of section 17(1)(a) of the General Code of Conduct for Authorised Financial Services Providers and Representatives (“the General Code of Conduct”), a provider must establish, maintain and operate an adequate and effective complaints management framework to ensure the effective resolution of complaints and the fair treatment of complainants that –
 - Is proportionate to the nature, scale and complexity of the provider’s business and risks;
 - Is appropriate for the business model, policies, services, and clients of the provider;
 - Enables complaints to be considered after taking reasonable steps to gather and investigate all relevant and appropriate information and circumstances, with due regard to the fair treatment of complainants;
 - Does not impose unreasonable barriers to complainants;
 - Must address and provide for, at least, the matters provided for in Part XI of the General Code of Conduct.
- Section 17(1)(b) of the General Code of Conduct requires that a provider must regularly review its complaints management framework and document any changes thereto.
- Section 17(2)(a) of the General Code of Conduct stipulates the requirements which and FSP’s complaints management framework must incorporate which *inter alia* includes the following requirements:
 - Documented procedures for the appropriate management and categorisation of complaints, including expected timeframes and the circumstances under which any of the of the timeframes may be extended;
 - Documented procedures which clearly define the escalation, decision-making, monitoring and oversight and review processes within the complaints management framework;
 - Appropriate complaint record keeping, monitoring and analysis of complaints, and reporting (regular and ad hoc) to executive management, the board of directors and any relevant committee of the board or in the absence of a board the governing body on –

- Identified risks, trends and actions taken in response thereto; and
 - The effectiveness and outcomes of the complaints management framework.
- A process for managing complaints relating to the FSP's Representatives and service suppliers, insofar as such complaints relate to services provided in connection with the FSP's financial services products, financial services or related services.
- Section 17(3)(a) of the General Code of Conduct stipulates that the board of directors or in the absence of a board, the governing body and key individuals of the provider, excluding a representative, will be responsible for effective complaints management and must approve and oversee the effectiveness of the implementation of the provider's complaints management framework.
 - Section 17(4)(a) of the General Code of Conduct stipulates that the FSP must categorise reportable complaints in accordance with certain minimum categories, as well as provide consider additional categories relevant to its chosen business model, financial products, financial services and client base that will support the effectiveness of complaints management framework in managing conduct risks and effecting improved outcomes and processes for its clients.
 - Section 17(5)(a) of the General Code of Conduct stipulates that an FSP must establish and maintain appropriate internal complaint escalation and review processes.
 - Section 17(7)(a) of the General Code of Conduct stipulates that an FSP must ensure accurate, efficient and secure recording of complaints and complaint related information. Furthermore, the FSP must establish and maintain processes for reporting of the aforementioned information to its governing body or executive management.
 - Section 17(8) of the General Code of Conduct stipulates the requirements for transparent, visible and accessible communication with complainants.
 - Section 18(1) of the General Code of Conduct sets out the manner in which the FSP must engage with the relevant Ombud, as well as reporting requirements.

5.2 DEFINITION OF COMPLAINT

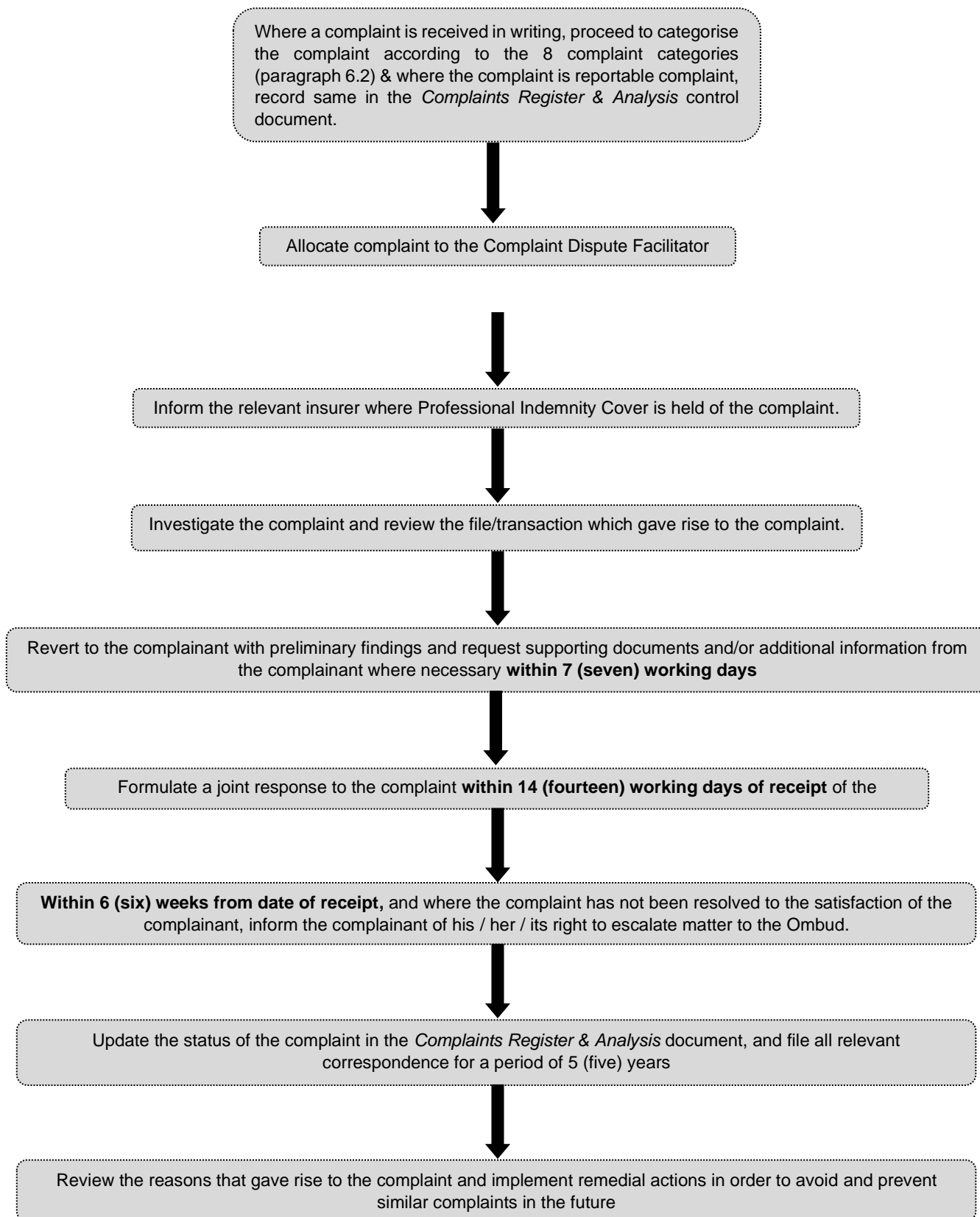
- The procedures and standards as referred to herein, are only applicable to complaints that fall within the definition of "Complaint", as defined by the General Code of Conduct.
- "Complaint" means –
 - An expression of dissatisfaction by a person to a provider or, to the knowledge of the provider, to the provider's service supplier, relating to a financial product or financial service provided or offered by that provider which indicates or alleges, regardless of whether such an expression of dissatisfaction is submitted together with or in relation to a client query, that –
 - The provider or its service supplier has contravened or failed to comply with an agreement, a law, a rule, or a code of conduct which is binding on the provider or to which it subscribes;
 - The provider or its service supplier's maladministration or wilful or negligent action or failure to act, has caused the person harm, prejudice, distress or substantial inconvenience; or
 - The provider or its service supplier has treated the person unfairly.

6 PROCEDURES

6.1 OVERVIEW

Once a complaint has been received by the FSP, provide the complainant with a copy of the *Complainant Procedure Communication* document, which serves as written acknowledgement of receipt of the complaint.





6.2 CATEGORISATION OF COMPLAINTS

- When a reportable complaint is received, the Responsible Person must first categorise the complaint according to one (or more) of the following categories:

1	Complaints relating to the design of a financial product, financial service or related service, including the fees, premiums or other charges related to that financial product or financial service.
2	Complaints relating to information provided to clients.

3	Complaints relating to advice .
4	Complaints relating to financial product or financial service performance .
5	Complaints relating to service to clients, including complaints relating to premium or investment contribution collection or lapsing of a financial product.
6	Complaints relating to financial product accessibility , changes or switches, including complaints relating to redemptions of investments.
7	Complaints relating to complaints handling .
8	Other complaints.

- The Responsible Person must categorise, record and report on reportable complaints by identifying the category, as set out in the table above, to which the complaint most closely relates, and group accordingly.
- The FSP may consider additional categories, but only if these additional categories support the effectiveness of the FSP's complaints management framework and improves the outcomes and processes for clients.

6.3 COMPLAINTS REFERRAL

- Where a Representative receives a complaint which refers to an incident which has not occurred on the premises of that specific Representative, but rather relates to another Representative of the FSP, the first mentioned Representative must ensure that the complaint is referred to head office for the orderly resolution thereof.
- The referral of the complaint must occur within **1 (one) business day** of receipt of the complaint, to ensure that the complainant receives feedback regarding the receipt of his / her complaint without delay.
- It is preferable that such a complaint must be referred to head office for the prompt resolution thereof, rather than forwarding same to another Representative.

6.4 INTERNAL COMPLAINTS ESCALATION & REVIEW PROCESS

6.4.1 Internal Complaints Resolution Process

Where a complaint has been received or where a complainant has indicated his / her / its intention to submit a formal complaint with the FSP, the following procedure must be followed:

- Furnish the complainant with a copy of the complaints management procedure.
- Where the complainant has previously communicated the grievance verbally, instruct the complainant to resubmit the complaint in writing.
- As soon as the complaint is received by the senior Responsible Person in writing, proceed to categorise the complaint according to the categories as listed in paragraph 6.2 of this document.
- After categorisation of the complaint, proceed to record the complaint in the *Complaints Register & Analysis* control document within **1 (one) working day**.
- Inform the senior manager in charge of the relevant department for allocation to a trained and skilled person who is able to respond to the Complaint (i.e. the Complaint Dispute Facilitator).
- Review the FSP's Professional Indemnity Cover policy wording, and inform the relevant insurers of the complaint of the complaint and potential claim.
- The Complaint Dispute Facilitator will investigate the complaint and review the file / transaction which gave rise to the complaint.
- The Complaint Dispute Facilitator will discuss his / her preliminary findings with all internal parties concerned.

- Revert to the complainant with preliminary findings and request supporting documents and / or additional information from the complainant where necessary within **7 (seven) working days**. **In all instances provide reasons for any decisions taken** and communicate any anticipated deviation from the timelines.
- Where necessary the matter will be referred to the relevant product supplier for a response and the complainant will be duly informed of this development.
- The Complaints Dispute Facilitator will, in consultation with the management committee and Compliance Officer formulate a joint response to the complaint. Where deemed necessary, an independent mediator will be appointed.
- Revert to the complainant with a proposed solution with the option of escalating the matter to the Managing Director of the business **within 14 (fourteen) working days of receipt of the complaint**. In all instances provide reasons for any decisions taken and communicate any anticipated deviation from the specified timelines.
- The FSP's response may comprise the following:
 - Any proposed settlement deemed appropriate;
 - Suggested remedy for the complaint;
 - Rejection of the complaint and reasons why;
 - Apology (if applicable) and any disciplinary action that has been taken against the staff members involved;
 - Identified problems within the FSP and how they will be resolved.
- Update the status of the *Complaints Register & Analysis* control document and file all relevant correspondence for a period of **5 (five) years**.
- Review the reasons that gave rise to the complaint and implement remedial actions in order to avoid and prevent similar complaints in the future.

6.4.2 Escalation & Review Process

- Where the FSP has communicated to the complainant a solution with the reference to the complaint and the complainant is not satisfied with the content thereof, the complainant may refer the complaint to the Managing Director of the FSP. The Managing Director may amend the solution or confirm it.
- Where certain decisions must first be approved by the management committee of the FSP, the aforementioned must be communicated to the complainant along with confirmation of the date on which the decision relating to the complaint will be taken.
- **Within 6 (six) weeks from date of receipt** of the complaint, and where the complaint has not been resolved to the satisfaction of the complainant, inform the complainant of his / her right to escalate the matter to the Ombud.
- If, during the course of the enquiry, the Complaint Dispute Facilitator becomes aware that the complaint is of a non-routine, complex, unusual or serious nature, the following steps must be followed:
 - The Supervisor will refer the matter to the FSP's Compliance Officer.
 - The Compliance Officer will make a recommendation on how to proceed with the complaint. The Compliance Officer's response may suggest that the matter be referred to the Ombud for adjudication or that the matter be referred for an opinion from an attorney and if so, the attorney's opinion must be sought.
- Review the reasons that gave rise to the complaint and implement remedial actions in order to avoid and prevent similar complaints in future.

6.5 DECISIONS RELATING TO COMPLAINTS

- Where a complaint is **upheld** –
 - Any commitment by the FSP to make compensation payment, goodwill payment; or
 - to take any other action;

- must be carried out without undue delay and within the agreed timeframes.
- Refer to the *Complaints Policy* for the complete definition of “*Upheld*”.
- Where a complaint is **rejected** –
 - The complainant will be provided with clear and adequate reasons for the decisions; and
 - Will be informed of the FSP’s escalation & review process, including how to use these processes and any relevant time limits.
 - Refer to the *Complaints Policy* for the complete definition of “*Rejected*”.

6.6 COMPLAINTS REGISTER AND ANALYSIS

- In order to ensure that the FSP accurately, efficiently and securely records complaints and complaints related information, the FSP must record information relating to its complaints management framework in the *Complaints Register & Analysis* (“the Complaints Register”) control document.
- It is important to note that the completion of the Complaints Register **only relates to reportable complaints** which is defined as follows:

Reportable Complaint means any complaint other than a complaint that has been -

- (a) upheld immediately by the person who initially received the complaint;
 - (b) upheld within the provider’s ordinary processes for handling client queries in relation to the type of financial product or financial service complained about, provided that such process does not take more than **5 (five)** business days from the date the complaint is received; or
 - (c) submitted to or brought to the attention of the provider in such a manner that the provider does not have a reasonable opportunity to record such details of the complaint as may be prescribed in relation to reportable complaints.
- The following *specific* data must be recorded in “Sheet 1” of the Complaints Register, within **1 (one) working day of receipt** of the reportable complaint:
 - All relevant details of the complainant and the subject matter of the complaint;
 - Confirmation that copies of all relevant evidence, correspondence and decisions have been obtained;
 - The complaint categorisation as stipulated in paragraph 6.2 above;
 - Progress and status of the complaint, including whether such progress is within or outside any timelines.
 - On “Sheet 2” of the Complaints Register, the FSP must record and maintain the following *general* data **on an ongoing basis** in relation to reportable complaints as categorised in accordance with paragraph 6.2 of this SPB:
 - Number of complaints received;
 - Number of complaints upheld;
 - Number of rejected complaints and reasons for the rejection;
 - Number of complaints escalated by complainants to the internal complaints escalation process;
 - Number of complaints referred to an Ombud and their outcome;
 - Number and amounts of compensation payments made;
 - Number and amounts of goodwill payments made; and
 - Total number of complaints outstanding.

- The information as recorded in the Complaints Register will be analysed and scrutinised by the FSP on an ongoing basis, and will be utilised to manage conduct risks and effect improved outcomes and processes for its clients, and to prevent

recurrences of poor outcomes and errors. The aforementioned analysed information in the Compliance Register must be reported to the Board of Directors on a bi-annual basis.

6.7 COMMUNICATION WITH COMPLAINANTS

- As stipulated in the internal complaints resolution process above, as soon as the FSP receives a complaint or an indication of a possible complaint, the FSP must provide the Complainant with written acknowledgement of receipt of the complaint within **1 (one) business day**.
- The FSP must also provide the complainant with a copy of the complaints management procedure, in order to inform the complainant of his / her rights and further channels which the complainant can pursue if he / she wishes to do so.
- The FSP must therefore provide the complainant, **within 1 (one) working day**, with the *Complainant Procedure Communication* document, which addresses the complainant directly on behalf of the FSP, and sets out the complaints management procedure in plain and understandable language.

6.8 ENGAGEMENT WITH THE OMBUD & REPORTING

- Where a complaint has been received by the FSP, the FSP will clearly and transparently communicate the availability and contact details of the relevant Ombud services to the complainant, which is to be done in the Complainant Procedure Communication document which is to be provided to the complainant as soon as he / she lodges a complaint with the FSP, as well as in relevant periodic communications.
- The contact details and / or availability of the Ombud must be displayed and / or made available at the premises of the FSP, as well as on the website of the FSP.

7 BEST PRACTICE PRINCIPLES

- None