



**COMPLAINTS RESOLUTION PROCESS  
FOR CLIENTS OF  
CONSILIUM CAPITAL SA (PTY) LTD**  
An authorised Financial Services Provider (“the FSP)

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This policy is owned by Consilium Capital SA (Pty) Ltd, a duly authorised Financial Services Provider (hereunder referred to as the “Consilium” or “FSP”).

#### **A. PURPOSE OF THIS DOCUMENT**

Consilium (“Consilium” or “FSP”) 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 to make use of our complaints resolution system. This document can be found on our website at [www.consiliumcapital.com](http://www.consiliumcapital.com), at our office (1st floor,10 Melrose Boulevard, Melrose Arch, Johannesburg), or emailed to you on request when you phone Consilium on 010-001-5203.

#### **B. OUR COMPLAINTS RESOLUTION PROCEDURE**

##### PROCEDURE WHEN SUBMITTING A COMPLAINT TO US

If Consilium 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; or
- treated you unfairly; then

you must please either write us a letter (PO Box 2110, Saxonworld, 2132) or send us an e-mail ([info@consiliumsa.co.za](mailto:info@consiliumsa.co.za)) with the following information:

1. Your name, surname and contact details;
2. A complete description of your complaint;
3. The name of the person who provided you with financial advice or an intermediary service;
4. The date on which the matter complained about happened;
5. All documentation relating to your complaint;
6. How you would prefer to receive communication from us regarding your complaint (i.e., by e-mail or post - please provide us with the e-mail address or address where you would prefer to receive such communication).

##### OUR PROCEDURE WHEN RECEIVING YOUR COMPLAINT

The following procedure will be applied:

1. As soon as your complaint is received, 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.



2. We will investigate and attempt to resolve your complaint to your satisfaction **within 6 weeks of receipt of your complaint.**
3. 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 are as follows:

The FAIS Ombud  
PO Box 74571  
Lynwood Ridge  
0040  
Telephone no: 0860 324 766

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.

### **C. 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:
  - that the financial services provider contravened the Financial Advisory and Intermediary Services Act which resulted/ may result in the complainant suffering financial damage;
  - that the financial services provider negligently, or intentionally provided advice or an intermediary service that caused/ may cause prejudice or damage to the complainant;
  - the complainant was treated unfairly.
- 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;
  - 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-
  - He has informed all interested parties of the complaint, and of all particulars necessary to enable them to respond to the complaint;
  - 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.