

Complaints handling and resolution procedure



Overview of the purpose of the FAIS Act

Protection of consumers

The FAIS Act, which came into effect on 1 October 2004, protects consumers by regulating the financial advice and intermediary services provided by financial services providers (FSPs) and its representatives, ensuring that consumers are adequately informed about the products they purchase and the product suppliers, in order for them to make informed decisions.

Regulation of advice-giving activities

The FAIS Act requires a Financial Services Provider, e.g., Private Capital Consult (PCC) or an independent broker, and its representatives (for PCC, this will be certain internal staff) to be equipped with the necessary skills, qualifications and experience ("fit and proper requirements") to provide a financial service suited to the client's needs. The key individuals of the Financial Services Provider have to comply with similar fit and proper requirements in order for the Financial Services Provider to obtain its FAIS license and to oversee the advisory and other financial activities of the Financial Services Provider and its representatives.

Transparency

In terms of the FAIS Act, the Financial Services Provider or its representatives must:

- Disclose to the client that it is a licensed Financial Services Provider, or is authorised by the Financial Services Provider, in the case of a representative, to provide such service;
- Provide all the necessary information regarding the product and the supplier;
- Concisely convey the legal and contractual status of the provider to make it clear to the client which entity accepts the responsibility for the actions of the provider or the representative;
- Provide details of remuneration and commission;
- Confirm all verbal advice provided in writing, within 30 days of having provided such service.

Consumer platform for complaints

The FAIS Act also provides consumers with a platform to address their complaints in a fair and procedural manner.

In terms of the FAIS Act, a complaint means: A specific complaint relating to a financial service rendered by a financial services provider or representative to the complainant and in which complaint it is alleged that the provider or representative:

- ✗ has contravened or failed to comply with a provision of this Act and that as a result thereof the complainant has suffered or is likely to suffer financial prejudice or damage;
- ✗ has willfully or negligently rendered a financial service to the complainant, which has caused prejudice or damage to the complainant or which is likely to result in such prejudice or damage; or
- ✗ has treated the complainant unfairly.

What is a "FAIS" complaint?

A complaint will qualify as a FAIS complaint if an FSP, one of the representatives, key individuals or administration supporting staff has failed to comply with a provision of the FAIS Act and as a result the complainant has suffered, or is likely to suffer, financial loss.

Some guidelines and examples:

Where an FSP, one of the representatives, key Individuals or administration supporting staff:

"... has contravened or failed to comply with a provision of this Act and that as a result thereof the complainant has suffered or is likely to suffer financial prejudice or damage;"

- If there are allegations that no quote or no disclosures were shown when investing in the financial product;
- Complaints about not knowing the structure of the product before investing;
- Complaints about not having received proper information and therefore not knowing the features of the product;

- Allegations of mis-selling:
 - No record of advice shown to the client;
 - No risk analysis was done before the product was sold;
 - Negligence or delay on PCC's part in respect of the investment or switch which led to financial loss;
- Complaint about not being advised of the effect that a particular change would have on the investment;
- Complaint that the financial adviser is no longer employed by PCC and the client does not know who to deal with;
- Complaint that confidential information regarding a client was disclosed to a third party without the client's consent;
- The client alleging that they signed or were asked to sign a blank document.

"... has willfully or negligently rendered a financial service to the complainant which has caused prejudice or damage to the complainant or which is likely to result in such prejudice or damage;"

- Complaint that the incorrect product was sold to the client;
- Complaint that a product was sold without the client's knowledge;
- Complaint that PCC acted without the client's knowledge/consent e.g.
 - Cancelled a financial product;
 - Effected change in respect of the financial product which caused prejudice to the client or;
 - Effected change contrary to client's instructions.
- Complaint that PCC cannot accurately account for funds invested by the client;
- Complaint that PCC took money from a client but did not ensure timeous investment;
- PCC having system problems and as a result the client is prejudiced;
- PCC not acting timeously on the reasonable instruction of the client, as a result of which the client was prejudiced.

"... has treated the complainant unfairly;"

- Complaints that the client has been pushed from pillar to post without resolution;
- Complaints about rude behaviour;
- Complaints that a previous complaint was not handled fairly and objectively;
- Complaints that different staff provided different information when contacted about the same issue;
- Complaints that the provider promised to do one thing and then did another.

Procedure

All complaints must be in writing to:

Louisa Ruwiel
 Compliance Officer
 21 Nederburgh Street
 Welgemoed
 7530
 E-mail: lruwiel@blcs.co.za.

Please include as much detail as possible and copies of documentation, where available. We have included a "complaints form" which you may complete to ensure that we have sufficient information pertaining to the complaint.

Important Note

Please note that complaints resulting from advice provided by an independent broker or another financial services provider must not be referred to PCC, as this responsibility would fall on the broker or financial services provider concerned. The only time this rule will differ is where a PCC representative provided advice in conjunction with the independent broker.

- The Compliance Officer will respond to you in writing, acknowledging receipt of the complaint within 3 working days of receipt of the claim.

- This communication will detail how the complaint is being addressed and the procedure that will be followed. The name and contact details of the person appointed to consider the complaint and the resolution thereof will be included in this communication.

- We will keep you informed as to our progress on a regular basis.

- All complaints and related correspondence will be stored in an electronic storage medium for a period of 5 years, as required by the FAIS Act.

- We will advise you of the results of the consideration in writing, within 30 days of receipt of the complaint.

- If the complaint is resolved in your favour, we will ensure that a full and appropriate redress is offered to you without any delay.

- If the outcome is not in your favour we will provide you with full written reasons within the 30 days referred to above, or

- If, after 6 weeks has passed, the complaint is still not resolved, you have 6 months within which to refer the complaint to the FAIS Ombud.

The FAIS Ombudsman

The FAIS Ombud's objective is to consider and dispose of complaints in a procedurally fair, informal, economical and expeditious manner with reference to what is equitable in all circumstances.

He will only proceed to investigate an officially received complaint once he has notified all interested parties of the particulars of the complaint in writing, and is satisfied that all parties are provided with the opportunity to submit a response.

The contact details of the FAIS Ombudsman are:

FAIS Ombudsman
P.O. Box 74571
Lynnwood Ridge 0040

Tel: 012 762 5000 / 012 470 9080
Fax: 012 348 3447 / 012 470 9097
E-mail: info@faisombud.co.za
Website: www.faisombud.co.za

If you have any further queries regarding the procedure to be followed in the event of a referral, kindly refer to the FAIS Ombudsman's website at www.faisombud.co.za.

FAIS complaint flow chart

To qualify as a FAIS complaint, the answer to one of the following questions must be "yes":

- Has PCC or its representative (excluding independent brokers) contravened or failed to comply with any provision of the FAIS Act, 2002, and that as a result thereof, the complainant has suffered or is likely to suffer financial prejudice or damage?
- Has PCC or its representative willfully or negligently rendered a financial service to the complainant, which has caused prejudice or damage to the complainant or which is likely to result in such prejudice or damage?
- Has PCC or its representative treated the complainant unfairly?

If the answer to any of the above questions is "yes", please proceed as per the following procedure:

1. Please complete the complaint notification form (copy enclosed) providing as much information as possible and attach copies of any relevant documentation. This must then be faxed to the Compliance Officer on e-mail lruwiel@blcs.co.za
2. You will receive an acknowledgement within 3 working days of the written complaint, providing you with details of the person who will be considering your complaint and how your complaint will be handled.
3. You will receive regular updates as to the progress being made. Results of the complaint must be communicated within 30 days and if resolved in your favour, an appropriate redress will be offered to you.
4. If the outcome is not in your favour we will supply you with full written reasons.
5. If 6 weeks have passed and the complaint is still not resolved, you have 6 months within which to refer the complaint to the FAIS Ombud.

Complaint Notification Form

For attention:
Louisa Ruwiel
Compliance Officer
Private Capital Consult (Pty) Limited

Tel: (021) 913 1375
E-mail: lruwiel@blcs.co.za

Date	
Complainant's name and surname	
ID number	
Contact telephone/cell number(s)	
Fax number	
E-mail address	
Postal address	
Name of your financial adviser	
Product	
Investor number	
Summary of complaint:	

Please attach any supporting documentation relevant to the complaint.