Internal complaint resolution system and procedures

– Reflect Asset Management (Pty) Ltd FSP 44478

Context

The Financial Advisory and Intermediary Services Act (“FAIS”) requires all FSP’s to establish a formal internal complaint resolution system and procedures (“complaints procedure”). This document is a recordal of the abovementioned FSP’s complaints procedure.

What qualifies as a “complaint”?

FAIS defines a “complaint” as:

A specific complaint relating to a financial service rendered by a financial services provider or representative to the complainant on or after the date of commencement of this Act, 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 wilfully 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.

Complaints Procedure

Reflect Asset Management (Pty) Ltd has adopted the following Complaints Procedure and all complaints will be dealt with in terms of this procedure:

- A client who has a complaint relating to the financial services provided by the FSP or any of its representatives to him/her must submit such complaint to the Key Individual (KI) of the FSP in writing either or via email to info@Reflectassetmanagement.co.za.
- Any representative or employee of the FSP who receives any communication from a client relating to a complaint with regards to the financial services provided by the FSP or any of its representatives must forward such communication to the Key Individual (KI) of the FSP on receipt thereof.
- The KI (in consultation with the FSP’s Compliance Officer where necessary) must determine whether or not the communication is a complaint as defined by FAIS act.

- If the communication is not a complaint as defined, the KI will inform the complainant in writing and advise on any possible further recourse.

If the communication is a complaint as defined, the KI must:

- In respect of a verbal communication, request the complainant to forward their complaint in writing to the FSP, together with all relevant documentation.
- On receipt of a written complaint, the KI must add the complaint to the FSP's Complaint Register and confirm receipt of the complaint to the client in writing;
- A Copy of the Complaint Report must be forwarded to the CO.
- The KI in consultation with the CO will Investigate the factual circumstances surrounding the complaint and, where necessary, record the outcome of the investigation in a Complaint Report, the Complaint Report must include the Compliance Officer's (CO's) recommendation of how the complaint should be dealt with by the FSP;
- Once a decision has been taken, the KI must inform the client in writing with confirmation of the FSP's response to the complaint.
- The KI may discuss the FSP's response with the client, provided that a notation of any such discussion is made and provided to the CO, who will add the notation to the complainant's file. All notation of any material conversation must be forwarded to the complainant as well.
- All further communications received from the complainant must be forwarded to the CO for consideration.
- The Complaint Report must be updated by the KI and forwarded to the CO for determination.
- This process must be followed until the matter is resolved or until the CO is of the opinion that the parties will not be able to reach an agreeable resolution. If the CO is of the opinion that the parties will be unable to reach a resolution, the CO must advise the complainant in writing of that fact and of any further steps which may be available to the complainant in terms of FAIS or any other law.

If, within six weeks of receipt of a complaint, the FSP has been unable to resolve the complaint to the satisfaction of the complainant, the FSP must inform the complainant that:

- The complaint may be referred to the Office of the Ombud if the complainant wishes to pursue the matter; and
- the complainant should do so within six months of receipt of such notification.

Principles that apply to the Complaints Procedure

- The FSP must maintain a record of any complaint for a period of five years.
- All complaints must be dealt with as a matter of urgency and responses must be forwarded to complainants within 5 working days of receipt of any written complaint by the FSP (except in instances where the requisite investigation can only be conducted effectively over a longer period of time, in which event the FSP must respond to the complainant within a reasonable period of time).

- A FSP's website must contain reference to the fact that the FSP can be contacted for a copy of the FSP's Complaints Procedure Policy.
- The FSP must ensure that all complaints are treated fairly and in good faith.
- All employees of the FSP must receive training regarding the FSP's Complaints Procedure and the requirements of FAIS in this regard.
- The Complaints Register must be updated on a quarterly basis by the KI and the updated register must be attached to the CO's quarterly compliance monitoring program.
- The KI is responsible for ensuring that unresolved complaints are followed up on routinely in order to avoid unnecessary delays.
- If the complaint is resolved in favour of the complainant, the FSP must ensure that a full and appropriate level of redress in offered to the complainant without delay.

Summary of the powers and procedures relating to the Office of the Ombud

- The FAIS Ombud operates as an informal dispute resolution mechanism for complaints submitted by clients with regards to advice and intermediary services rendered by a FSP or their representative.
- In disposing of a complaint the Ombud acts independently and objectively and does not take any instruction from any parties regarding the exercise of authority.

Jurisdiction of the Ombud

- The complaint must have arisen following the implementation of FAIS, therefore, the Ombud's authority is not retrospective.
- Where the complainant has a monetary claim there must have been financial prejudice to the complainant.
- A monetary claim cannot exceed R800 000, unless the claimant abandons the balance of the claim or the respondent has agreed to the limitation being exceeded.
- The complaint cannot relate to investment performance of the financial product unless performance was guaranteed or appears to be so deficient so as to raise a prima facie presumption of misrepresentation, negligence or maladministration.

Rights of the Complainant

- Before approaching the Ombud, the complainant must attempt to resolve the complaint with the respondent.
- The complainant has 6 months to submit the complaint to the Ombud following receipt of a final response from the respondent.
- The complaint must be submitted in writing and be accompanied by any relevant documentation in the complainant's possession.
- The complainant will be advised of the response of the respondent and advise the Ombud whether the complaint should be proceeded with.

Rights and duties of the Respondent

- The respondent must send the complainant written acknowledgement of the complaint with contact details of the respondent
- If the respondent cannot resolve the complaints to the satisfaction of the complainant within 6 weeks the respondent must notify the complainant that the matter may be referred to the Ombud and that it should be referred within 6 months following notification.
- The respondent may submit information, documentation relating to the complaint to the Ombud.
- The Ombud may require the respondent to discuss the complaint with the Ombud.
- The respondent is required to act professionally and to co-operate with the Ombud.

In disposing of the complaint the Ombud may grant costs in favour of the complainant or the respondent or even in favour of the office of the Ombud.

Note: a party against whom the Ombud has made a determination may apply to the Ombud for leave to appeal.

Contact details of the FSP and Key Individual

Key Individual: Ettienne le Roux
Email: info@Reflectassetmanagement.co.za
Tel: **O:** +27 21 001 4223; **C:** +27 83 790 5905
Address:74 Joubert, Windsor Estate, Cape Town, 7570, South Africa

Contant details of Compliance Officer:

Company: Moonstone Compliance
Compliance Officer: ANZEL JEWASKIEWIT
E-mail: anzel@moonstonecompliance.co.za
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Contact particulars of the FAIS Ombud

Physical Address:
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