

## **AFENA CAPITAL (PTY) LTD**

### **INTERNAL COMPLAINTS RESOLUTION PROCESS**

#### **Introduction**

The Financial Advisory and Intermediary Services Act (FAIS) has specific provisions in respect of the process of handling client complaints. FAIS requires that each FSP must have a documented and properly maintained internal complaints resolution system and procedure.

#### **Definition of Complaint**

A complaint is defined in the Act as:

*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-*

- (a) 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;*
- (b) 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;*
- (c) has treated the complainant unfairly.*

Where the client makes a statement of dissatisfaction, in the form of an accusation, an allegation or a grievance about a specific process / procedure / advice-related event, wherein he/she feels they have been treated unfairly and/or unprofessionally treated.

The dissatisfaction can be caused by alleged:

- Administrative failure
- Communication failure
- Advice-related queries

**Communication complaints** – occur when the clients complain that they have not been kept up to date with respect to their portfolio. This could include clients alleging that they have not received their monthly or quarterly reports, or daily data, or had no report back meetings etc.

**Operational Process Complaints** – describe a client's unhappiness with any aspect of service that AFENA provides. This would include AFENA not following a client instruction properly or timeously, doing something incorrectly, not following up on a request etc.

**Performance complaints** – may arise from a fund's performance vs it's targets, or failure of AFENA to adhere to mandated restrictions, etc.

Note that where errors are discovered internally, these are not considered to be complaints for FAIS purposes. However, if a complaint arises as a result of an internal discovery, it should be incorporated in the complaints procedure.

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#### **Afena Capital Proprietary Limited**

Directors: GL Cloete, MUW Mafanya, Z Parker, SA Vayej

Address: 5th Floor, MontClare Place, Cnr Campground & Main Roads, Claremont, Cape Town, South Africa, 7708 • P O Box 23883, Claremont, 7735

Switchboard: +27 21 657 6240 Fax: +27 21 671 4658 • Web: [www.afenacapital.com](http://www.afenacapital.com) • Email: [info@afenacapital.com](mailto:info@afenacapital.com)

Registration No: 2005/017613/07 • Afena Capital Proprietary Limited is an Authorised Financial Services Provider • FSP Licence No: 25033

### **Submitting complaints to AFENA**

The complaint must be submitted in writing and should include all relevant information, and all related documentation.

Complaints should be addressed to the Compliance Officer at:

Postal Address: AFENA CAPITAL (Pty) Ltd  
P O Box 23883  
Claremont  
7735

or faxed or e-mailed to:

Fax: 021 671 4658  
e-mail: thowse@afenacapital.com  
Telephone number: 021 657 6240

### **Internal Complaint Resolution Procedure**

1. If a verbal client complaint is received, the staff member receiving the complaint must inform the client of the procedure for lodging a complaint, i.e. that it has to be submitted in writing, as per the above.
2. If any staff member receives a complaint about another staff member, that staff member must inform the client of the procedure for lodging a complaint, i.e. that it has to be submitted in writing as per the above. A director must immediately be notified.
3. Once the complaint is received by the Compliance Officer, he must provide the client with a written and dated acknowledgement of receipt within 24 hours of receiving the complaint, advising the client that the matter is receiving attention, and to provide the client with the details of the staff member allocated to deal with the complaint. The staff member has to investigate and resolve the complaint within a period of 5 working days of receiving the complaint from the client.
4. The Compliance Officer must copy the above complaint acknowledgement to the Head of Operations (Michael Dabrowski), who will log the complaint in the Complaints Register. The register is to be sent back to the compliance officer who must monitor progress with resolution of the complaint. The Compliance Officer is to table the Complaints Register at each Risk & Compliance meeting for discussion.
5. Once the investigation is complete and course of remedial action decided, the Head of Operations is to:
  - inform the client by telephone and in writing of the proposed action to be taken and reasons for the outcome,
  - if any payment is recommended, forward a copy of the signed off Complaints Register to the AFENA finance department for processing,

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- forward a copy of the signed off Complaints Register to the relevant director and Compliance Officer for tabling at the AFENA Risk & Compliance meetings,
  - monitor payment to the client to ensure that it is made within a reasonable time, and
  - attach a copy of the letter in response to the client to the original signed off Complaints Register and retain it in the client's file for not less than **5 years** from the date of resolution of the complaint.
6. Should the complaint **not** be resolved to the satisfaction of the complainant by the allocated staff member within 5 working days, the complaint is to be escalated to a director for resolution.
7. Should the complaint still not be resolved within 3 weeks of lodging the client is to be notified immediately in writing about the delay.

**Procedure for complaints to the Ombud for Financial Services Providers**

8. If for whatever reason, AFENA is still unable to resolve the complaint to the satisfaction of the complainant, within **6 weeks** of receipt of the complaint, then the Head of Operations must:
- 8.1 refer the client to the **Office of the Ombud for Financial Service Providers**, whose contact details are:
- P.O. Box 74571, Lynwood Ridge, 0040  
Telephone no: 0860324766 or +27 12 470 9080  
Fax no: +27 12 348 3447  
Website: [www.faisombud.co.za](http://www.faisombud.co.za)
- 8.2 inform the client that if he/she wishes to take his/her complaint to the Ombudsman, it:
- must be submitted in writing,
  - must contain all relevant information and copies of relevant documents must be attached to it,
  - may be faxed, posted or sent via the internet and,
  - must be submitted within **6 months** of the date of notification by AFENA that it was unable to resolve the complaint, failing which, it will fall outside the Ombudsman's jurisdiction.
9. The Compliance Officer must liaise with the office of the Ombudsman, according to the procedural rules of that office, in order to facilitate the Ombudsman's investigation and to monitor and record the outcome. Any recommendation or ruling made by the Ombudsman must be communicated to the relevant director and be tabled at the AFENA Risk & Compliance meetings by the Compliance Officer.
10. **AFENA general policy is not to pay any claim related to a client complaint except in exceptional circumstances which may be determined only at the discretion of a director.** If such exceptional circumstances are determined and a payment is recommended, then authorisation for payment of that amount must be given in writing on the complaint form by an authorised signatory:
11. After resolution of the complaint, the Compliance Officer and Head of Operations must determine whether the complaint arose from a breach of any AFENA policy, procedure or business practice.

**Afena Capital Proprietary Limited**

If this is so, the policy, procedure or business practice must be amended or suitable controls should be implemented to ensure non-recurrence of the breach and if necessary, the amended policy or procedure escalated to the relevant committee for ratification.

**Maintenance of Records**

12. All records relating to the complaint are to be kept for a period of 5 years, together with an indication of whether the complaint was resolved.

**Completion of a Complaint**

13. A complaint will be deemed to be completed when:
  - 13.1. when the client has received full written reasons why his complaint was not upheld and is referred to the FAIS Ombud, or
  - 13.2. when the complaint is resolved in favour of the client, and AFENA has provided full and appropriate redress to the client.
14. To ensure visibility of the complaints process, AFENA has included reference to the complaints resolution process in the Standard Disclosure Letter to clients.

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