

# Bay Wealth Management

CERTIFIED FINANCIAL PLANNER® PRACTITIONERS

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## COMPLAINTS POLICY

### **BAY WEALTH MANAGEMENT (Pty) Ltd** **FSP 14451**

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#### **Bay Wealth Management (Pty) Ltd**

Reg No: 2009/004616/07

4 Newington Road | Richmond Hill | Port Elizabeth | 6001

PO Box 27383 | Greenacres | 6057

Tel: +27 (0) 41 374 0026 | Fax: +27 (0) 41 374 0051

E-mail: [info@baywealth.co.za](mailto:info@baywealth.co.za)

Directors: A. Meistre (Managing); T. Meistre

Bay Wealth Management (Pty) Ltd is an authorised FSP in terms of the FAIS Act, 2002 (14451)



[www.baywealth.co.za](http://www.baywealth.co.za)

## 1. Purpose of this document

BAY WEALTH MANAGEMENT - FSP 14451 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 Bay Wealth Management has certain specific duties to the clients. One of these duties is to offer the client a formal complaints resolution system, which will enable them to exercise their rights as provided for in the Financial Advisory and Intermediary Services Act. The purpose of this document is to inform the client of how they can make use of Bay Wealth Managements complaints resolution system, to their advantage.

In terms of the General Code of Conduct, a Financial Services Provider must maintain an internal complaints resolution procedure in the event that a client complains about a financial service rendered by the FSP or a Representative of the FSP.

The complaints procedure must be based on the following outcomes:

- **Transparency and Visibility:**

Ensuring that complainants have full knowledge of the procedures that will be followed when submitting a complaint

- **Accessibility of Facilities:**

Ensuring that clients are provided with an easily accessible facility in order to submit a complaint at any office or branch of the FSP

- **Fairness:**

Ensuring that the complaint resolution process is fair to both a complainant and the FSP

In order to achieve these outcomes the FSP has adopted a complaints policy outlining our commitment towards the fair resolution of complaints.

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## 2. Definitions

**Complaint** means a specific complaint relating to a financial service rendered by the FSP or Representative to the complainant on or after the date of commencement of the FAIS Act, and in which complaint it is alleged that the FSP or Representative:

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

**Complainant** means a specific client who submits a complaint to the FSP for purposes of resolution by the FSP

**Client** means a specific person or group of persons, excluding the general public, who is or may become the subject to whom a financial service is rendered intentionally, or is the successor in title of such person or the beneficiary of such service

**Ombud** means the Ombud for Financial Services Providers

**Internal Complaint Resolution System** means the system and procedures established and maintained by the FSP in accordance with the General Code of Conduct for the resolution of complaints by clients

**Resolution** or **Internal Resolution** in relation to a complaint and a FSP, means the process of resolving a complaint through and in accordance with the internal complaint resolution system and procedures of the FSP

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**Rules** mean the Rules on Proceedings of the Officer of the Ombud for Financial Sector Conduct Authority, as published in Board Notice 81 of 2003.

## 3. Bay Wealth Management's complaints resolution procedure

### 3.1. Procedure when submitting a complaint to Bay Wealth Management

If BAY WEALTH MANAGEMENT - FSP 14451 or any of its representatives provided the client with financial advice or any other intermediary service, and the client feels that Bay Wealth Management or their representative-

- did not comply with the Financial Advisory and Intermediary Services Act and that the client suffered financial prejudice as a result;
- intentionally or negligently gave financial advice or rendered an intermediary service to the client which caused prejudice or damage or is likely to cause damage;
- treated the client unfairly,

The client must please write a letter to Bay Wealth Management at P.O. BOX 27383, GREENACRES, PORT ELIZABETH, 6057 or send an e-mail to [adrianm@baywealth.co.za](mailto:adrianm@baywealth.co.za) or call us at 041-374 0026 with the following information:

1. Clients name, surname and contact details;
2. A complete description of the clients complaint;
3. The name of the person at Bay Wealth Management who provided the client with financial advice or an intermediary service;
4. The date on which the matter complained about happened;
5. All documentation relating to the clients complaint;
6. How would the client prefer to receive communication from Bay Wealth Management regarding the complaint i.e. e-mail, fax, post and please provide an e-mail address, fax number or address where the client would prefer to receive such communication.

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## 3.2. Bay Wealth Management's procedure when receiving a complaint

1. As soon as Bay Wealth Management receives the client's complaint, they will send the client an acknowledgement of receipt. Please take into consideration that the method of communication chosen by the client will determine how quickly Bay Wealth Management will receive and respond to the clients complaint.
2. Bay Wealth Management will investigate and attempt to resolve the client's complaint to their satisfaction within 6 weeks of receipt of the complaint.
3. If Bay Wealth Management is unable to resolve the client's complaint within 6 weeks, or is unable to resolve the complaint to the client's satisfaction, the client has the right to refer the complaint to the Ombud appointed specifically for this purpose. The contact details of the Ombud is as follows:

Ombud for Financial Services

PO Box 74571

Lynnwood Ridge

0040

Telephone number (012) 470 9080 / 99

Fax number (012) 348 3447

E-mail [info@faisombud.co.za](mailto:info@faisombud.co.za)

Please remember however that the client must refer the complaint to the Ombud **within 6 months** from the date of the notice in which Bay Wealth Management informed the client that they cannot resolve the complaint to the client's satisfaction.

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## 4. The rules that the client must keep in mind when approaching 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.

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- 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.

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- 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.

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## 5. Fair Resolution of Complaints

The FSP is committed towards rendering financial services with proper due skill and diligence and in the best interests of clients and the integrity of the financial services industry.

Despite our high service standards there may be instances where a client nevertheless prefers to submit a formal complaint against the FSP. In such instances the FSP will follow the complaints procedure as outlined below.

The FSP is committed towards a transparent and accessible complaints resolution process that is fair to all parties involved. In order to achieve these outcomes the FSP undertakes as follows:

- The appropriate procedures in order to submit a complaint will be openly disclosed and made readily available to clients in writing.
- We will resolve client complaints by means of a practical resolution process that is managed effectively.
- We will train all relevant staff members to facilitate and resolve complaints.
- We will deal with complaints in a timely and fair manner, with each complainant receiving proper due consideration.
- We will take the necessary steps to investigate and respond promptly to a complainant.
- Where deemed necessary, we will appoint an independent mediator in order to resolve the complaint.
- Where the complaint is resolved in favour of the complainant, we will offer the appropriate level of redress to the complainant without delay.
- Where the complaint is not resolved in favour of the complainant, we will provide written reasons for our decision and inform the complainant of the rights afforded to the complainant to take the matter further.
- We will maintain a record of all complaints for a period of 5 years together with an indication of whether or not the complaint has been resolved.

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- We will investigate, and where necessary, take appropriate action in order to avoid and prevent similar circumstances that gave rise to the complaint.

## 6. Internal Complaints Resolution Procedure

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

1. Review the FSP's Complaints Procedure as provided for in Annexure A and furnish the complainant with a copy of the Client Complaint Procedure in Annexure C.
2. Where the complainant has previously communicated the grievance verbally, instruct the complainant to resubmit the complaint in writing.
3. As soon as the complaint is received in writing, proceed to record the complaint in the FSP's Complaints Register (Annexure E) **within 1 working day**.
4. Provide the complainant with written acknowledgement of receipt (Annexure D) of the complaint **within 1 working day**.
5. Inform the Key Individual/Complaint Dispute Facilitator (Annexure B) who is responsible to respond to the complaint in the following steps:
  - 5.1. Review the FSP's Professional Indemnity Cover policy wording and inform, in writing, the relevant insurers of the complaint and potential claim.
  - 5.2. Investigate the complaint and review the file/transaction which gave rise to the complaint
  - 5.3. Discuss preliminary findings with all internal parties concerned.
  - 5.4. Where necessary, revert to the complainant with preliminary findings and request supporting documents and/or additional information from the complainant **within seven working days**. In all instances communicate any anticipated deviation from the specified timelines.
  - 5.5. Where necessary the matter will be referred to the relevant product supplier for a response and the complainant will be informed of this development

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- 5.6. Formulate a joint (other management, representatives and compliance officer, if necessary and applicable) response to the complaint. Where deemed necessary an independent mediator will be appointed.
- 5.7. Revert to the complainant with a proposed solution or outcome **within fourteen working days of receipt** of the complaint (Annexure F). In all instances provide reasons for any decisions taken.
6. If during the course of the enquiry, the Complaint Dispute Facilitator becomes aware that the complaint is of a non-routine or serious nature, the following steps will apply:
  - 6.1. Refer the matter to the FSP's Compliance Officer
  - 6.2. 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.
7. The FSP's response (as noted in 5.7) may comprise the following:
  - 7.1. Any proposed settlement deemed appropriate
  - 7.2. Suggested remedy for the complaint
  - 7.3. Dismissal of the complaint and reasons why
  - 7.4. Apology (if applicable) and any disciplinary action that has been take against the staff members involved
  - 7.5. Identified problems within the FSP and how they will be resolved
8. Where the complaint has not been resolved **within 6 weeks from date of receipt**, the complainant can then automatically escalate matter to the Ombud **within 6 weeks from date of acknowledgement of receipt**. This will be included in Annexure D.
9. Update the status of the complaint in the FSP's Complaints Register and file all relevant correspondence for a period of 5 years after termination of the client/FSP relationship, which may or may not end as a result of the complaint.
10. Review the reasons, which gave rise to the complaint and implement remedial actions in order to avoid and prevent similar complaints in the future. This must be documented on the Complaints Register (Annexure E).

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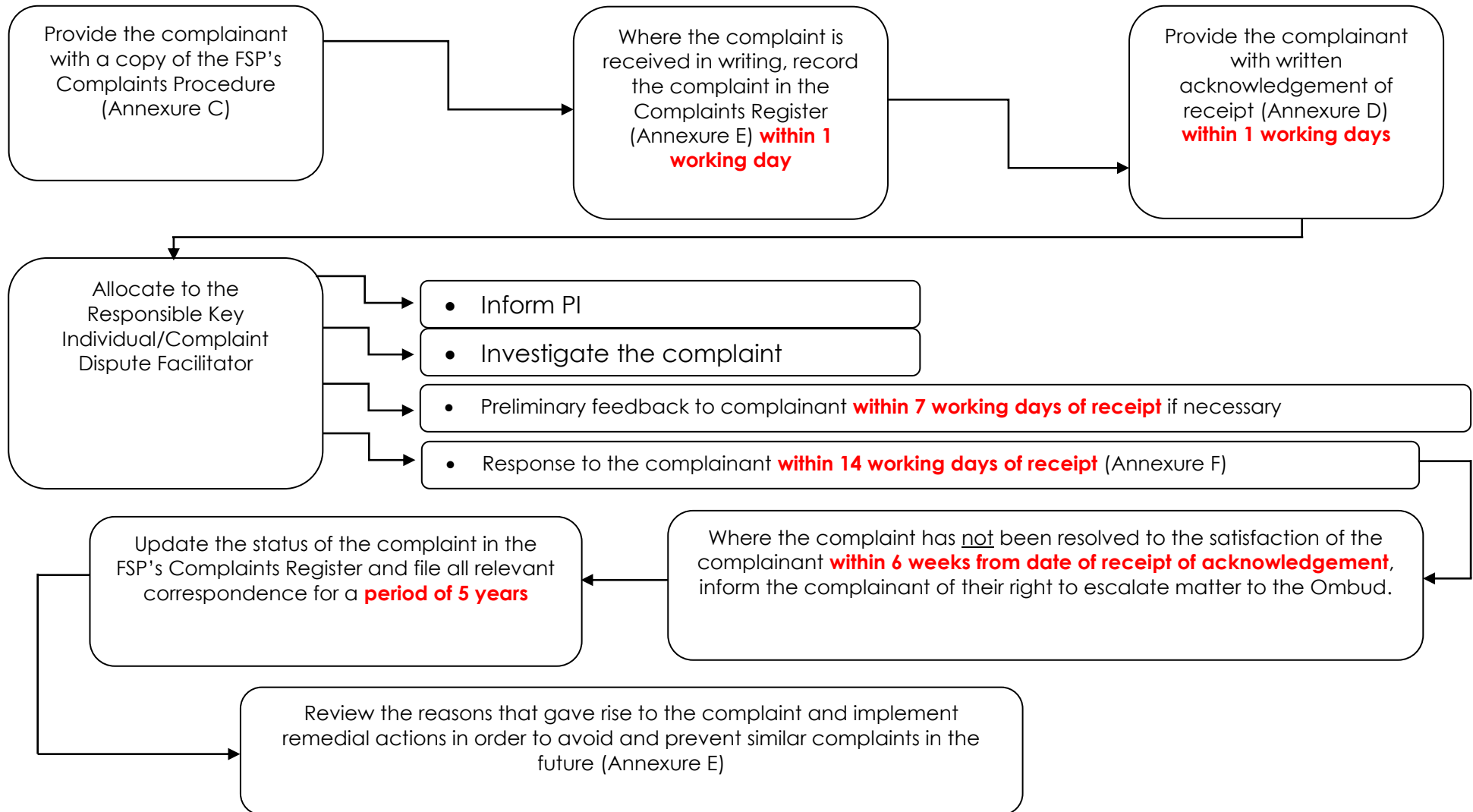
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# ANNEXURE A

## COMPLAINTS FLOWCHART



## **ANNEXURE B**

The details of the Responsible Key Individual/Complaint Dispute Facilitator responsible for complaints handling are as follows:

### **KEY INDIVIDUAL DETAILS**

NAME:	Adrian-John Meistre
TELEPHONE NUMBER:	041 – 374 0026
FAX NUMBER:	041 – 374 0051
POSTAL ADDRESS:	PO Box 27383 Greenacres Port Elizabeth 6057
PHYSICAL ADDRESS:	4 Newington Road Richmond Hill Port Elizabeth 6001
E-MAIL ADDRESS:	adrianm@baywealth.co.za

## **ANNEXURE C**

### **CLIENT'S COMPLAINTS PROCEDURE**

The organisation is an authorised Financial Services Provider and as such we have certain specific duties to you, our client. One of these duties is the establishment of a formal complaints resolution procedure, 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 the procedure that must be followed in order to submit a formal complaint with us. Please be advised that our internal complaints resolution procedure may be amended by us at any time.

#### **1. COMPLAINT HAS TO BE RELEVANT**

In terms of the FAIS Act, a “complaint” means a specific complaint relating to a financial service rendered by the FSP or a representative of the FSP, to the complainant on or after the date of commencement of the FAIS Act, and in which complaint it is alleged that the FSP or representative:

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

The financial services environment is complex. We will endeavour to address all reasonable requests from our clients, but may also refer you to a more appropriate facility. Where the complaint relates to any aspect of our service, or any disclosures that ought to be made by us, we will endeavour to address those complaints in writing, within **fourteen days**.

In instances where the complaint relates to any matter that is not within our control, such as product information or investment performance, we will forward the complaint to the product supplier concerned. Please be advised that we reserve the right to recover costs or damages that we suffer as a result of clients making frivolous, vexatious or unreasonable claims.

## **2. COMPLAINT HAS TO BE IN WRITING**

In order for a complaint to receive the attention that it deserves, we request that your complaint be submitted to us in writing. Please ensure that where the complaint is delivered by hand or by any other means, you obtain and keep proof of delivery.

## **3. PROCEDURE**

Our internal complaints resolution process is intended to provide fair and effective resolution of complaints. The time periods set-out in this procedure will be adhered to as strictly as possible but may be varied if necessary. The following step-by-step guideline sets out the procedures we will adopt and shows how a complaint will be dealt with, once received by us:

- 3.1. Your complaint and all communications in connection with your complaint must be in writing. All verbal communications made in connection with the complaint must be confirmed in writing within **three days** of the communication.
- 3.2. Please indicate the following information:
  - 3.2.1. Your name, surname and contact details
  - 3.2.2. A complete description of your complaint and the date on which the financial service that led to your complaint was rendered
  - 3.2.3. The name of the person who furnished the financial advice or rendered the intermediary service that led to your complaint
  - 3.2.4. How you would prefer to receive future communications regarding your complaint i.e. by e-mail, fax or post
- 3.3. The complaint will be entered into our Complaints Register on the **same day** that it is made and written confirmation of receipt will be forwarded to you within **1 working day**.
- 3.4. The complaint will immediately be drawn to the attention of the key individual/Complaints Dispute Facilitator who is skilled and able to properly respond to your complaint.
- 3.5. The complaint will be investigated with all internal parties concerned, and a solution/response will be communicated to you within **fourteen working days** from receipt of complaint. Should there be any deviations from this timeline, we will notify you accordingly. In all instances we will advise you of the reasons for our decisions.

- 3.6. Where your complaint has not been resolved **within 6 weeks from date of receipt of acknowledgement**, the complaint can then be automatically escalated by you to the FAIS Ombud.
- 3.7. If you are not satisfied with our response you may approach the office of the Ombud for Financial Services Providers or take such other steps as may be advised by your legal representatives.
- 3.8. The Ombud is appointed by the Financial Sector Conduct Authority to act as an adjudicator in disputes between clients and financial services providers.
- 3.8.1. Referral to the Ombud **must be done within 6 months of receipt of our response** to you. Should you not submit your complaint to the Ombud within 6 months, you will no longer have the right to have your complaint heard.
- 3.8.2. The Ombud will not adjudicate in matters exceeding a value of R800 000.
- 3.8.3. The Ombud may be contacted at their offices in Pretoria at the following address:

**Physical Address:**  
Sussex Office Park  
Ground Floor, Block B  
473 Lynnwood Road  
Lynnwood  
0081

**Telephone:** 012 762 5000 / 012 470 9080  
**Facsimile:** 086 764 1422 / 012 348 3447  
**E-mail Address:** info@faisombud.co.za  
**Website:** www.faisombud.co.za