

## Complaints Resolution Process for clients of Zest Life Investments (Pty) Ltd

### A: OWNERSHIP

This policy is owned by ZestLife Investments Pty Ltd a duly authorised Financial Services Provider (hereunder referred to as the FSP).

### B: POLICY ADOPTION

As Key Individuals of the FSP confirm the adoption of this policy on 21 February 2019.

### C: PURPOSE OF THIS DOCUMENT

Zest Life 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 you can make use of our complaints resolution system, to your advantage. This document can be found:

- on our website at <https://www.zestlife.co.za/about-us/legal-accounting/>
- at our office at Sunclare Building 21 Dreyer Street Claremont
- faxed or emailed to you on request when you phone Chris McCallum on 021 180 4203 or Noleen Bell on 021 180 4204.

The Financial Services Conduct Authority (FSCA) regards complaints as a very important source of management information that would reveal where customers are experiencing poor customer outcomes. The fair treatment of customers and how to achieve them have now been embedded in the current regulatory framework through amendments to the Policyholder Protection Rules (PPR's), Rule 18 of the Long Term and Short Term PPR's specifically. These rules will eventually form part of the Conduct of Financial Institutions Act (COFI), which will repeal the Long Term and Short Term Insurance Act respectively as well as the FAIS Act.

### D: DEFINITIONS AND TERMINOLOGY

**Definition of a complainant:** Complainant – is a person/ someone acting on their behalf, who has a direct interest in the agreement, policy or service, and includes a –

- policyholder or their successor in title;
- beneficiary or their successor in title;
- person whose life is insured under a policy;
- person that pays a premium;
- member of a group scheme or; and
- potential policyholder or potential member of a group scheme - whose dissatisfaction relates to the relevant application, approach, solicitation, advertising or marketing material.

**Complaint:** an expression of dissatisfaction to an insurer / their service provider (to the knowledge of the insurer) relating to a policy or service which indicates / alleges, that:

- The insurer or their service provider failed to comply with an agreement, a law, a rule, or a code of conduct;
- The insurer or their service provider's maladministration or willful / negligent action or omission, caused the person harm, prejudice, distress or substantial inconvenience;
- the insurer or its service provider has treated the person unfairly;
- regardless whether submitted together with or in relation to a policyholder query.

**Rejected:** means that a complaint was not upheld – Insurer regards the complaint as finalised after advising the complainant that it does not intend to take any further action to resolve the complaint – Incl. complaints regarded as unjustified or invalid / where the complainant does not accept or respond to proposals to resolve the complaint.

**Compensation payment:** to compensate a complainant for a proven or estimated financial loss incurred as a result of the insurer's wrongdoing - insurer accepts liability for having caused the loss concerned – excluding :

- goodwill payment;
- payment contractually due in terms of a policy; or
- refund of an amount which was not contractually due.

**Goodwill payment:** a payment (monetary or in the form of a benefit or service as an expression of goodwill aimed at resolving a complaint, where the insurer does not accept liability for any financial loss to the complainant.

**Reportable complaint:** any complaint (as per the definition above) unless–

- upheld immediately by the person who initially received the complaint;
- upheld within the insurer's ordinary processes for handling policyholder queries, provided that such process does not take more than five business days from the date the complaint is received; or
- submitted to or brought to the attention of the insurer in such a manner that the insurer does not have a reasonable opportunity to record such details of the complaint.

**Upheld:** that a complaint has been finalised wholly or partially in favour of the complainant and –

- the complainant has explicitly accepted that the matter is fully resolved; or
- it is reasonable for the insurer to assume that the complainant has so accepted; and
- all undertakings made by the insurer to resolve the complaint have been met or the complainant has explicitly indicated its satisfaction with any arrangements.

## **E: OUR COMPLAINTS RESOLUTION PROCEDURE**

### **You may want to lodge a complaint if**

- If any of our representatives 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,
- If your claim is not successful, or if you do not agree with the value of your claim and you have additional evidence that you think we have not considered,
- If you are not satisfied with the service provided by us (including processing new business, premium collection, handling of a complaint etc)/

## Procedure when submitting a complaint to us

If you want to report a complaint then you must please write us a letter to Private Bag x1005 Claremont or send us an e-mail to [chrism@zestlife.co.za](mailto:chrism@zestlife.co.za) or send us a fax to 021 001 0248 or contact us on 021 180 4220, with the following information:

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

## Our procedure when receiving your complaint

- When we receive your complaint, we will send you an acknowledgement of receipt within 3 working days.
- We will investigate your complaint and provide you with feedback within 5 working days of receipt of your complaint.
- If we are unable to resolve your complaint within 15 working days, or are unable to resolve the complaint to your satisfaction, you have the right to refer your complaint to Guardrisk the Insurer. The contact details of Guardrisk Complaints Department is as follows:

Telephone:

0860 333 361

Email:

[complaints@guardrisk.co.za](mailto:complaints@guardrisk.co.za)

- If we are unable to resolve your complaint within 15 working days, 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 is as follows:

### Life Insurance Ombudsman

Private Bag X45

Claremont, 7735

Tel: 021 657 5000

Fax: 021 674 0951

Email: [info@ombud.co.za](mailto:info@ombud.co.za)

### Short Term Insurance Ombudsman

PO Box 32334

Braamfontein 2017

Tel: 011 726 8900

Fax: 011 726 5501

Email: [info@faisombud.co.za](mailto:info@faisombud.co.za)

Please note 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.

## **F: 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; or
  - 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 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, and
- 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.
- Train staff dealing with complaints to ensure that they handle complaints appropriately.

## **G: 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; or
  - a determination is made by the Ombud or by the Board of Appeal.
- The person complained against may have to pay an administration fee to the Ombud 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; and
  - 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.