

# Client's Complaints Procedure Manual

## 1. Introduction

Momentum Securities aims to provide a highly professional service to all our Clients, however, inevitably there will be occasions where Clients need to have complaints resolved, and it's in the interest of all parties involved that this is done promptly, efficiently and in line with current Legislation and Regulations. This document aims to ensure that our Clients' are informed of Momentum Securities' Complaints Procedures and the processes they need to follow in the event that a complaint or a grievance arises between them and with Momentum Securities, and how Momentum Securities would handle these communications. Furthermore the document advises Clients' on how they are able to escalate their complaints in the event that they feel they did not receive a satisfactory response from Momentum Securities.

## 2. Definitions and Abbreviations

**Complainant** - means the Client themselves, or

- a. A Client's lawful successor in title, and/or
- b. A nominated beneficiary of the original Client.

## 3. Complaint 1:

1. In relation to FAIS, is 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; or
  - c. has treated the complainant unfairly.
2. In relation to the JSE rules is a complaint in relation to the provision of regulated services, in which the Client alleges that he has suffered, or is likely to suffer, financial prejudice as a result of the member -
  - a. contravening or failing to comply with any instruction given by the Client, or any
  - b. agreement or mandate entered into with the Client;
  - c. contravening or failing to comply with the rules and the directives;
  - d. acting dishonestly, negligently or recklessly; or treating the Client unreasonably or unfairly.

**FAIS Act** - means the Financial Advisory and Intermediary Services Act No. 37 of 2002.

**Grievance** - means a Client complaint that neither meets the definition of a complaint as defined by the FAIS Act nor the JSE rules.

**Internal complaint resolution system and procedures** - in relation to Momentum Securities and a Client, means the system and procedures established and maintained in accordance with this code for the resolution of complaints by Clients.

**JSE** - refers to the Johannesburg Stock Exchange Limited.

**Ombud** - means the Ombud for Financial Services Providers referred to in Section 20(2) of the Act.<sup>1</sup>

Resolution - in relation to a complaint and Momentum Securities, means the process of resolving a complaint through and in accordance with Momentum Securities Complaint procedure, internal rules applicable to Momentum Securities and in accordance with the provisions of the JSE Rules, the Securities Services Act no.36 of 2004, the Financial Advisory and Intermediary Services Act, 2002 and any other South African law applicable to Momentum Securities.

## 4. Our Commitment

Momentum Securities is committed to the efficient and fair resolution of Client complaints by members of the organisation at all levels, including the Chief Executive Officer and Board of Directors. We acknowledge Clients' rights to complain and for this purpose we actively solicit feedback from our Clients. Momentum Securities is fully committed to:

- Addressing and resolving any complaints received from our Clients in a timely and fair manner and in strict accordance with the provisions of the JSE Rules, the Securities Services Act No 36, 2004, The Financial Advisory and Intermediary Services Act, 2002 and any other South African legislation and regulations applicable to Momentum Securities.
- Applying the basic values of transparency and to ensuring at all times that Clients have full knowledge of the procedures for the resolution of their complaints. This includes the appropriate disclosure to our Clients that Momentum Securities holds the applicable licenses to provide such services and give advice.
- Ensuring adequate resources are available at all times for the time-outs, effective and fair resolution of all complaints received from Clients.
- Maintaining appropriate records of all complaints for a period of at least five years.
- Identifying, investigating and remedying any recurring or systemic problems.

---

<sup>1</sup> As defined in the Financial Advisory and Intermediary Services Act "FAIS" 37 of 2002 and the JSE Rules relatively.

## 5. Complaints Officer

The Complaints officer is an employee nominated by Momentum Securities management in terms of this policy. The complaints officer's duties include:

- Receiving all complaints from Clients
- Capturing the complaint on and maintaining the Complaints Register
- Informing management of the complaint
- Gathering documentation and information for the investigation process
- Keeping records of all communication with the Client during the process as well as between individuals involved in handling the complaint.

## 6. What constitutes a complaint?

A complaint can be defined as 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.

Complaints that meet either the JSE Rules or the FAIS Act definition must be recorded under this policy, and may include, but are not limited to, the following:

- a. Where the complainant has suffered financial loss as a result of a failure on the part of Momentum Securities in the provision of a product and/or service pursuant to the Client's instruction or mandate.
- b. Failure to provide the Client with the appropriate advice or information.
- c. Failure to meet customer protection standards or codes of conduct that Momentum Securities is required to adhere to including those of the JSE.
- d. Any advisement from a Client, either verbally, in writing or in electronic format (either in a specific letter of complaint or within more general correspondence) where the Client expresses dissatisfaction with the service or lack of service rendered by Momentum Securities and as a result of such, they claim or potentially claim a monetary loss and seek remedy for such.

## 7. Complaints that are regulated by FAIS

A complaint will qualify as a FAIS complaint if Momentum Securities, one of its 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 examples and guidelines where a FAIS complaint may arise:

1. If a discretionary Client
  - a. believes that they received an inadequate disclosure on the products offered in terms of fees or
  - b. believes that the needs analysis performed before the product was sold, or the product suggested do not fit their requirements
2. Negligence or delay on the part of Momentum Securities or affecting a change request which led to financial loss
3. A complaint that a staff member is not a representative of Momentum Securities and yet is still providing advice on FAIS related products to Clients.
4. A complaint that Momentum Securities released confidential information about the Client to a third party without the Client's consent or being compelled to do so by law.
5. A complaint that a product was added without the Client's knowledge or an incorrect product was sold to the Client.
6. A complaint that Momentum Securities took money from the Client but did not ensure time-outs investment.

The FAIS Act requires Momentum Securities to be equipped with the necessary skills, qualifications and experience to provide a financial service suited to the Client's needs. The key individuals of Momentum Securities have to comply with similar requirements in order for Momentum Securities to obtain its FAIS licenses and to oversee the advisory and other financial activities.

## 8. Complaints Handling Procedures

The formal complaints process is initiated by the receipt of a written complaint from the Client. Once the complaint has been received by an Momentum Securities staff member it must be dealt with in terms of Momentum Securities complaints procedure. All written complaints submitted by Clients must contain all relevant information as well as copies of all relevant documents in the Client's possession.

### 8.1 Receipt of Client complaint

Where a Client has a complaint, this should be communicated to Momentum Securities using the following means:

- i. Fax: Attn: The Complaints Department on (011) 550 6295
- ii. Email: [complaints@momentum.co.za](mailto:complaints@momentum.co.za)
- iii. Telephone: (011) 550 6292

Where a verbal complaint is received, the Client should be contacted. The Momentum Securities member contacting the Client should identify themselves to the Client, advising that they are the Complaints Officer at Momentum Securities. They will then need to:

- i. Obtain the details of the Client's complaint, in an objective manner. Furthermore the Complaints Officer needs to note what the complainant wants.
- ii. Empathise with the complainant in a courteous manner.

- iii. Explain the courses of action available.
- iv. Will not attempt to lay blame or be defensive.
- v. Will attempt to resolve the complaint if possible or commit to doing something immediately, irrespective of who will ultimately handle the complaint.
- vi. Ensure that the complainant is informed on how the complaint will be processed and confirm that the complaint is receiving attention, without creating false expectations.
- vii. Check whether the Client is satisfied with the proposed action and, if not, advise alternative courses of action.

Then the Complaints Officer must summarise the complaint in writing and forward the summary to the Client to sign as verification of the complaint being accurately recorded.

## 8.2 Acknowledgement of Receipt

- a. On receipt of a complaint from a Client, the complaint if not directly received by a member of the Complaints Team should be advised to the complaints team within twenty-four hours of receipt.
- b. On receipt the Complaints Officer will capture the complaint information in the Complaints Register.
- c. The complaint should then be assessed to determine if it is a valid complaint.
  - i. If the complaint is viewed as a valid complaint, an acknowledgement should be issued to the complainant within 3 working days advising the Client that an investigation is underway.
  - ii. If it is decided that the complaint is not a valid complaint but a grievance, written communication should be issued to the Complainant within 5 working days.

## 8.3 Handling an invalid claim

In the event the Complaints Officer handling the complaint has resolved that the complaint is viewed as invalid for the purposes of this policy document, then the respective complaints officer will note the complaint as a grievance. The grievance still needs to be investigated, adequately reviewed and treated fairly. The resolution needs to be provided to the complainant within five working days from receipt of the grievance, but the grievance does not need to be recorded in the Complaints Register. Where applicable the remedy and any recommendations must be implemented to avoid any further grievances of that nature.

## 8.4 Handling a valid complaint

In the event the Complaints Officer handling the complaint has resolved that the complaint is viewed as valid for the purposes of this policy document, the Complaint Officer must now:

- a. Give a copy of the complaint to the member(s) of staff concerned, involved or affected by the complaint as soon as reasonably practicable and seek a written response from them.
- b. The complaints officer must send a letter to the Client within 72 hours of receipt of the complaint assuring earliest attention and that an investigation is underway.
- c. Furthermore they should ensure that the Complainant is familiar with Momentum Securities complaints procedure and advise that they are entitled to receive a copy of Momentum Securities complaints handling procedure should they request it or if they are unfamiliar with the process.
- d. The Client must be advised that they have the right to be heard and supply material in support of their complaint, if they desire.

- e. Undertake any investigation of the complaint which is deemed necessary, e.g.:
  - i. discussion with complainant
  - ii. discussion with member of staff concerned
  - iii. examination of relevant documents in possession of the Complainant
- f. Determine what action needs to be taken to put matters right if the complaint is well founded. The Complaints Officer must attempt to provide a full review of all the salient matters relating to the complaint within ten working days. At this point, the Momentum Securities Complaints Board composed of at least two of Momentum Securities' Complaints Officers, one of whom must be an executive director, must meet to discuss the complaint and a remedy agreed to resolve the complaint.

In the event where the complaint cannot be resolved within 15 business days, the Client must be contacted and the delay explained. In any event, the complaint must be resolved within 30 working days from the receipt of the complaint.

- g. Reply to the Complainant detailing the findings of the investigation of the complaint and outlining any necessary action, which is to be taken as a result.
- h. The Client must be informed of the criteria and process, including the avenues for further review, applied by Momentum Securities in dealing with complaints as well as their ability to send the complaint to the JSE or the FAIS ombudsman (refer to the procedures noted in Appendix B and C) for review and arbitration if necessary. The Complaints Officer dealing with the complaint must explain to the complainant, their rights in a patient and courteous manner. For further information on the FAIS ombudsman and
- i. Ensure that any general lessons to be learnt from the complaint are advised to all and if necessary, procedures and manuals are updated.
- j. Lastly, the Complaints Officer when dealing with a complaint must ensure that Momentum Securities is seen to address all aspects of the complaint; follow up where appropriate and; whether it is appropriate to offer remedies to others who may have suffered in the same way as the Complainant but did not make a formal complaint.

## 9. Resolution of Complaints

Momentum Securities internal complaint procedure must result in the most effective and fair resolution of Client complaints, and to ensure best results the following principles need to be implemented and maintained:

- a. Availability of adequate manpower and other resources
- b. Adequate training of all relevant staff and ensuring full knowledge of all the provisions in the various acts applicable to Momentum Securities. For example SSA, FAIS, FICA, NCA etc.
- c. Ensure that responsibilities are delegated to facilitate the resolution of complaints as proposed in this policy
- d. Ensure that the escalation of non-routine serious complaints are handled efficiently by Momentum Securities staff and delegated to the correct responsible members
- e. Resolution of complaints to ensure avoidance of occurrences giving rise to complaints, or to improve services and complaint systems and procedures if/where necessary.

## 9.1 Favourable resolution with material financial effect

In the event that the finding is fully in favour of the complainant or even partially in their favour, and there is a material financial effect,

- i. In excess of R5,000, but less than R30,000 an advisement must be sent to Momentum Securities's executive management advising them of the potential loss;
- ii. In excess of R30,000, but less than R500,000 an advisement must be sent to Momentum Securities's executive management as well as Momentum Securities Audit Committee advising them of the potential loss;
- iii. In excess of R500,000, an advisement must be sent to Momentum Securities executive management; Momentum Securities Audit Committee; Momentum Securities professional indemnifiers as well as the JSE's Surveillance Division depending which is applicable in accordance to the nature of the complaint, advising them of the potential loss.

Prior to any remedies being offered to the Client, the approval of Momentum Securities Managing Director must be obtained.

## 9.2 Client dissatisfaction relating to a FAIS Act complaint

The FAIS Act provides consumers with a platform to address their complaints in a fair and procedural manner. In the event that a complaint that meets the complaints definition as per the FAIS Act, has not been resolved within 6 weeks or it has been resolved and the Client is dissatisfied, Momentum Securities must provide the Client with an explanation. The Client has a right to direct the complaint to the FAIS Ombud. Momentum Securities is required to provide the Client with the details of the FAIS Ombud.

### 9.2.1 The Role of the FAIS Ombud

FAIS created an Ombud for Financial Services Providers ("FAIS Ombud") to consider and dispose of complaints lodged by Clients against Financial Services Providers in a procedurally fair, informal, economical and expeditious manner with reference to what is equitable in all circumstances. The services of the FAIS Ombud are confined to mediation, conciliation or the determination of complaints.

### 9.2.2 Client Complaint directed to the FAIS Ombud

In the event that a Client is dissatisfied with the resolution of a complaint or the complaint is not resolved within 6 weeks, FAIS prescribes that the Client may then submit their complaint to the FAIS Ombud in writing, with the supporting documentation, within 6 months.

The FAIS Ombud will then notify Momentum Securities of the complaint and request a written response from Momentum Securities. Once the FAIS Ombud has reviewed Momentum Securities response, the Client will have 2 weeks to decide whether to pursue the complaint or not. If the Client decides to pursue the complaint, the FAIS Ombud will endeavor to resolve the matter amicably by mediation and consultation and then present both the Client and Momentum Securities with a recommendation in writing.

If both parties agree to the recommendation, this becomes the final determination and will be communicated to the relevant Clerk of the Court. If both parties agree to the determination, it will be sent to the Registrar, all parties involved and the Clerk of the Court who has jurisdiction. However if the parties do not agree the FAIS Ombud is to be notified in writing to consider the claim and make a determination. If any of the parties disagrees with the final determination of the FAIS Ombud, they may apply for appeal against the determination within 1 month. The Board of Appeal will further handle this matter.

## 9.3 Client dissatisfaction relating to a JSE Rule complaint

In the event that a complaint that meets the definition as per the JSE Rules has been resolved and the Client is dissatisfied, Momentum Securities must provide the Client with an explanation. The Client has a right to direct the complaint in writing to the Director of Surveillance, c/o The JSE Limited.

### 9.3.1 Client Complaint directed to the Director of Surveillance

A Complainant may lodge an unresolved complaint, in writing, with the Director of Surveillance, c/o The JSE Limited. All the particulars pertaining to the complaint must be stipulated. The complaint must be lodged within:

- a. 4 weeks of receipt by the Complainant of Momentum Securities response
- b. 6 months of the conduct by Momentum Securities giving rise to the complaint
- c. A complaint received subsequent to the periods referred to above will be considered, provided that failure to lodge the complaint within the relevant period was through no fault of the Client.

If the JSE Surveillance Department is unable to resolve the complaint within 4 weeks of lodgment, the complaint will then be referred to the JSE Company Secretary to be dealt with in terms of the dispute resolution rules if the Client elects to follow the dispute resolution process.

The dispute resolution rules only apply if:

- d. Where the amount in dispute is in excess of R200
- e. Where the dispute is not the subject of an existing litigation
- f. In the case of a dispute that a Client has with a broker, where the amount in dispute either does not exceed R500 000 or, where the amount in dispute exceeds R500 000, if the consent of both parties to proceed has been obtained,
- g. In the case of a dispute that a broker has with a Client, if the consent of the Client to proceed has been obtained.

## 10. Retention of Records

### 10.1 Complaints Register

Every complaint must be recorded in the Complaints Register. Momentum Securities must maintain adequate records of such complaints for a period of five years from date of receipt of the complaint. These records should contain information relating to:

- The identity of the Complainant;
- The date on which it was received;
- The person to whom the complaint has been addressed to resolve it;
- The date on which it is resolved; and
- The nature of the resolution;
- The substance of the complaint;

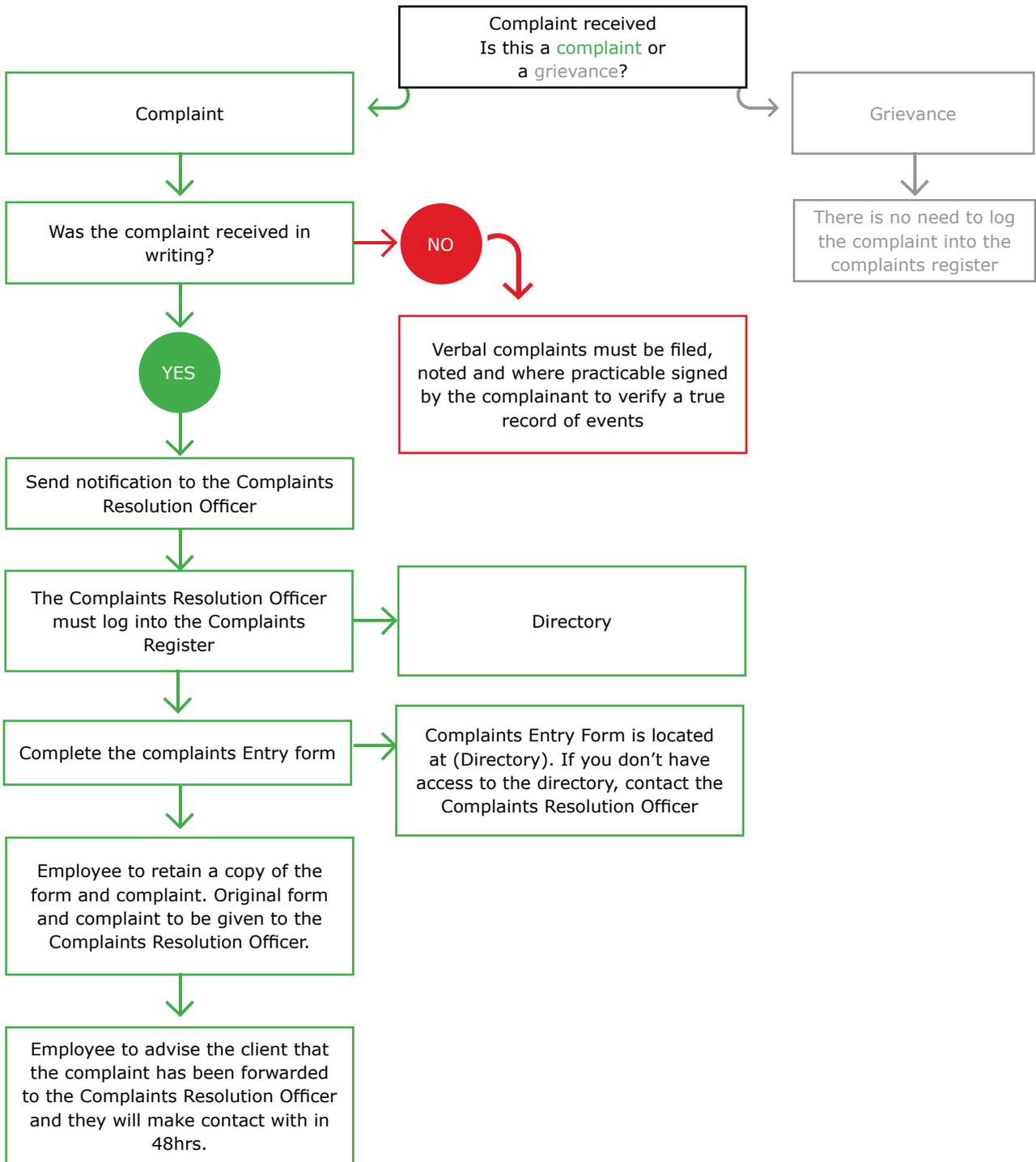
- Any correspondence between Momentum Securities and the Complainant; and
- Details of any redress offered by Momentum Securities which may include as follows:
  - i. The apology
  - ii. Financial Assistance
  - iii. Provision of Free services
  - iv. Compensation
  - v. Disciplinary action against staff member;
  - vi. Mediation
  - vii. Refund
  - viii. Other Assistance
  - ix. Goodwill gift or token

## 10.2 Complaints Files

The Complaints Officer must open a complaints file for each complaint received which must contain at least the following information:

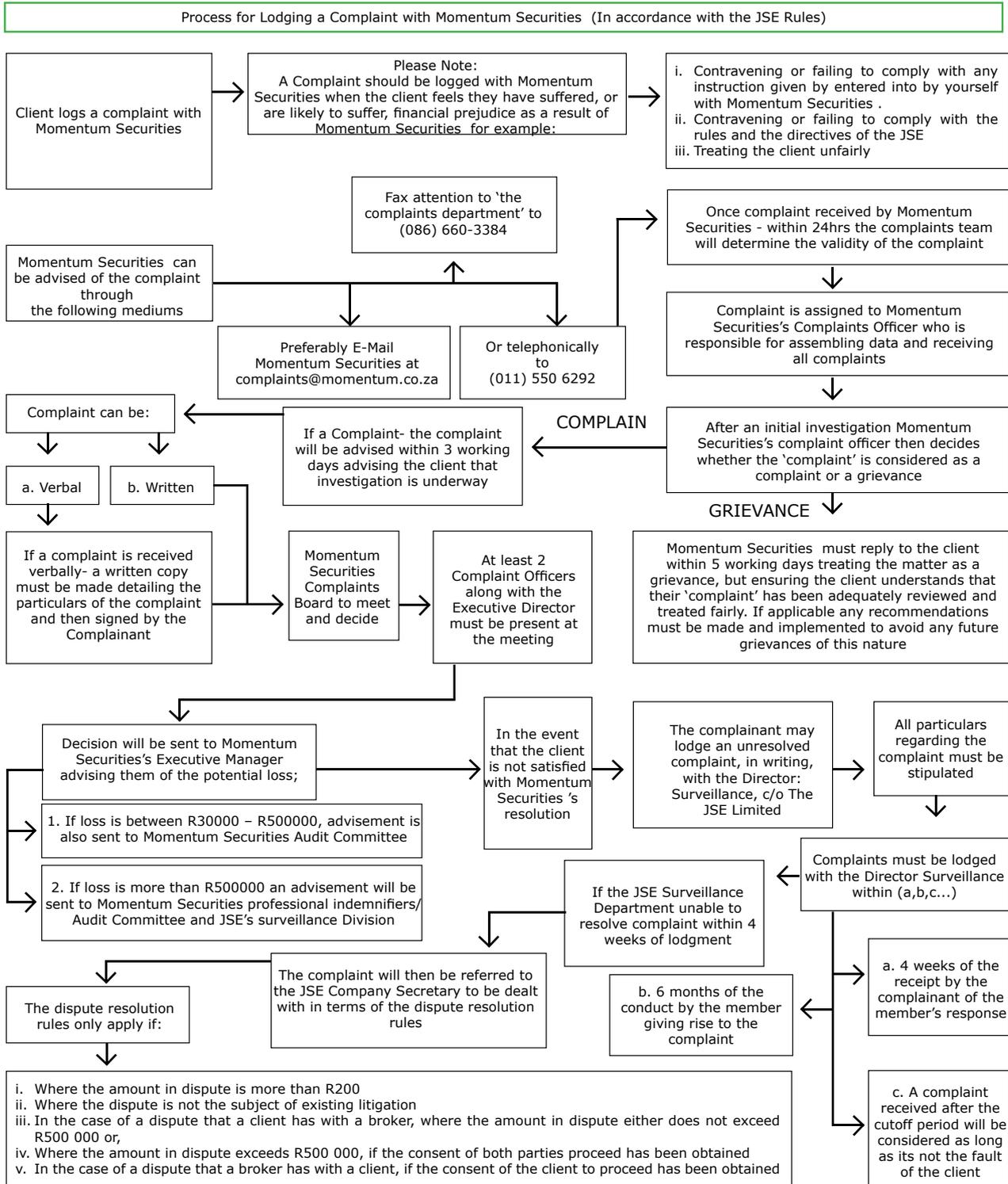
- The complaints entry form
- Copies of background data e.g. account opening forms (including FICA documentation), all correspondence and transaction listings, contract notes and statements, and voice recordings;
- File notes of interviews with relevant staff;
- Copies of all correspondence sent to the Client in relation to the complaint;
- File notes of all telephone conversations with the Client and Momentum Securities; and
- Action plan to resolve the complaint;

# Appendix A: Procedure for Complaints and Grievances

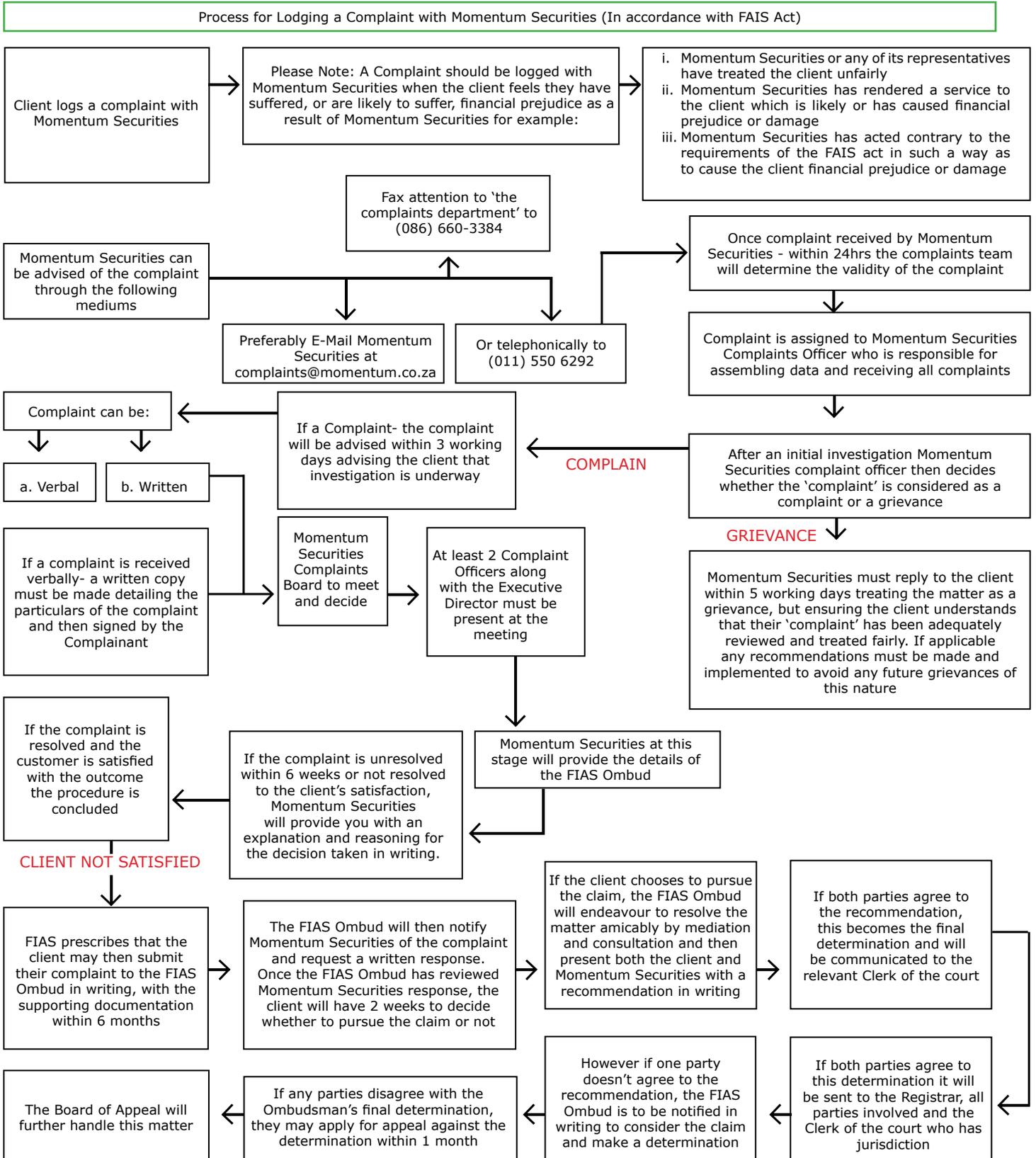




# Appendix B: How complaints are handled in accordance with the JSE rules



# Appendix C: How complaints are handled in accordance with FAIS



## Appendix D: The FAIS Ombud's Details

P.O Box Address: FAIS Ombud  
PO Box 74571  
Lynwood Ridge  
0040

Physical Address: Celtis House, Eastwood Office Park  
Lynwood Road  
Pretoria

Contact Numbers: Tel: (012) 470 - 9080 / 0860 324 766  
Fax: (012) 348 - 3447  
E-Mail: [info@faisombud.co.za](mailto:info@faisombud.co.za)  
Website: [www.faisombud.co.za](http://www.faisombud.co.za)