

Press Release: 28 June 2023

FAIS Ombud stresses the importance of placing consumers in a position to make an informed financial decision

The mandate of the Office of the FAIS Ombud is to investigate and resolve complaints in a procedurally fair, informal, economical, and expeditious manner, with reference to what is equitable in all circumstances. This is achieved by engaging all concerned to help both consumers and financial services providers understand their respective rights and responsibilities, as our aim is to reduce the level of complaints and improve confidence in the financial services industry.

In discharging this mandate, the Office of the FAIS Ombud is guided by the provisions of the General Code of Conduct for Authorised Financial Services Providers and Representatives ('the Code'). One of the overarching requirements placed on Financial Services Providers by the Code is to place the prospective client in a position to make an informed decision. This means that merely selling a financial product to the client without an adequate explanation as to why the product is appropriate to the client's needs or circumstances is not in compliance with the Code. Neither is blindly providing a prospective client with a specific product, just because that is what the client had requested. More is expected from an individual who is seen as a professional in the financial planning space, and someone who receives an advisory fee in respect of the financial service provided.

The duty placed on a Financial Services Provider, therefore, goes further than merely facilitating the transaction that results in the inception of a policy or investment. Section 8 of the Code provides that the Financial Services Provider must obtain from the client such information

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regarding the client's needs and objectives, financial situation, risk profile as well as financial knowledge and experience that is necessary to provide the client with appropriate advice. This is so that an analysis can be done to enable the Financial Services Provider to recommend a product that is appropriate.

It is this recommendation that is critical to the process, and which separates the provision of financial services in terms of the Code from merely selling, to the provision of advice. This is where many Financial Services Providers fall short in not making a recommendation, as that is how one ensures that a client is placed in a position to make an informed decision, as a recommendation will also include all material disclosures related to the recommended product and why that product was seen to have been more appropriate than other products in the marketplace.

It must also be appreciated that it is not envisioned that a Financial Services Provider discloses each term and condition related to a specific financial product, just those that are material to the specific client for which the financial service is being rendered. A Financial Services Provider will however not be able to determine what is material in respect of a specific client unless the Financial Services Provider has complied with Section 8 of the Code and has conducted a financial needs analysis and analysed the information to produce an appropriate recommendation.

Placing a client in a position to make an informed decision empowers the client to become more invested in the financial planning process and makes the client and Financial Services Provider partners in the process of ensuring that the product implemented is appropriate. This is vital in reducing complaints, as clients will not be surprised by unexpected terms and conditions that may arise during the submission of a possible future claim, or will be in a better position to deal

with market fluctuations and the impact of those fluctuations on the value of a portfolio, as they will have been invested in the implementation of the product and understand the reasons why the product was incepted, and appreciate the bigger picture as it were.

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