



BENGUELA GLOBAL
FUND MANAGERS

Complaints Resolution Policy and Procedure

Date of review: July 2023

PURPOSE OF THIS DOCUMENT

Benguela Global Fund Managers (Pty) Ltd (hereinafter referred to as “Benguela”), is a licensed Financial Services Provider with the authority to render advisory and intermediary financial services to clients in terms of the Financial Advisory and Intermediary Services Act (the Act).

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

The Act protects consumers by regulating financial advice and intermediary services provided by financial services providers (“FSP’s”), ensuring that consumers are adequately informed about the products they purchase and the product suppliers in order for them to make informed decisions.

In addition to the Act, the Treating Customers Fairly (TCF) guidelines set out desired outcomes relating to complaints handling (specifically TCF Outcome #6).

This Complaints Resolution Policy and Procedure has been formulated in terms of Part XI of the General Code of Conduct for Authorised Financial Services Providers and Representatives as published in Board Notice 80 of 2003 and published in the Government Gazette dated 8 August 2003.

The object of this policy is to ensure that complaints are handled in a timely and fair manner and those complaints are investigated and responded to promptly.

SCOPE

This policy applies to Benguela Global Fund Managers (Pty) Ltd, an authorized financial services provider (FSP), with FSP No 45122.

WHAT CONSTITUTES A COMPLAINT?

The FAIS Act provides consumers with a platform to address their complaints in a fair and procedurally correct manner.

In terms of the FAIS Act, a complaint must relate to a financial service rendered by an FSP or its Representative/Key Individual to the complainant, and in which complaint it is alleged that the FSP or Representative/Key Individual:

- i. has contravened or failed to comply with any 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

- ii. 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
- iii. has treated the complainant unfairly.

A complaint means a complaint relating to a financial service rendered by the businesses or any of its Representatives/Key Individuals on or after the commencement of the FAIS Act, being 1 October 2004.

It occurs where a 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
 - Where a client is unhappy with any aspect of service that Benguela provides. This could include, for example, Benguela not following client instructions correctly or timeously, doing something administrative incorrectly, or not following up on a request.
- Communication failure
 - Where a client complains that they have not been kept up to date with respect to their portfolio. This could include, for example, the client alleging that they have not received their daily, monthly or quarterly reports and/or data, or have not had any report back meetings.
- Advice-related queries

A complaint must not relate to the investment performance of a financial product, unless such performance was guaranteed expressly or implicitly, or such performance appears to be deficient as to raise a prima facie presumption of misrepresentation, negligence or mal-administration on the part of Benguela or its Representatives/Key Individuals.

CATEGORISATION OF COMPLAINTS

Complaints are to be assigned to one or more of the following categories:

A. GENERAL CATEGORIES

- i. **Communication Complaints:** occurs when clients complain that they have not been kept up-to-date with respect to their portfolio. This could also include clients alleging that they have not received their monthly or quarterly reports, daily data or had no report back meetings, etc
- ii. **Operational Process Complaints:** this describes a client's unhappiness with any aspect of Benguela's service. This would include not following a client instruction

properly or timeously, doing something incorrectly, not following up on a request, etc

- iii. **Performance Complaints:** This may arise from a fund's performance vs its targets, or failure of Benguela to adhere to mandated restrictions, etc. Note that where errors are discovered internally, these are not considered to be complaints. However, if a complaint arises as a result of an internal discovery, it should be incorporated in the Complaints Procedure. 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.

B. TCF RELATED CATEGORIES

- i. **Complaints relating to the design of a product or service:** This includes complaints indicating that specific features of the product or service are unfair, inadequate, confusing and overly complex, or unsuitable.
- ii. **Complaints relating to information provided:** This includes complaints that communications or documentation provided to clients (including marketing material) is inaccurate, unsuitable, misleading, incomplete, confusing, unclear, etc
- iii. **Complaints relating to advice:** This includes complaints that advice provided was inadequate, factually incorrect or misleading.
- iv. **Complaints relating to product performance:** These are complaints regarding perceived poor investment returns
- v. **Complaints relating to Customer Service:** These complaints relate to dissatisfaction with the firm's administration of requests and transactions
- vi. **Complaints relating to product accessibility, changes or switches:** This relates to complaint in respect of barriers or limitations on access to funds or the ability to transfer products or services to another provider, or the ability to make changes.
- vii. **Complaints relating to complaints handling:** This relates to the administration of the complaints process.
- viii. **Other complaints:** A catch-all category for any complaints not falling within the above categories.

RULES FOR HANDLING A COMPLAINT

Benguela must:

- i. Request that any client who has a complaint against Benguela lodge such a complaint in writing;
- ii. Maintain a record of such a complaints for a period of five years;
- iii. Handle complaints from clients in a timely and fair manner;
- iv. Take steps to investigate and respond promptly to such complaints; and
- v. Where such a complaint is not resolved to the clients satisfaction, advise the client of any further steps which may be available to the client in terms of the Act or any other law.

CLIENT'S PROCEDURE FOR LODGING A COMPLAINT TO BENGUELA

To lodge a complaint the client must send their complaint in writing to Benguela (preferably addressed to the Chief Operations Officer), with the following information:

- i. Client name, surname and contact details;
- ii. A complete description of the complaint;
- iii. The name of the key individual and/or representative that provided the client with the financial services;
- iv. The date on which the matter occurred;
- v. All the supporting documentation relating to the client's complaint;
- vi. Preferred method of communication i.e. email or post.

Benguela's physical address is 3rd Floor, Rivonia Village, Cnr Rivonia Boulevard and Mutual Road, Rivonia.

Benguela's postal address is PO Box 1035, Rivonia, 2128.

General Benguela email address: info@benguela.co.za

If the complaint is made via telephone, the employee must request the complainant to lodge the complaint in writing (at least on an e-mail). Investigation of the complaint will only begin once the complaint has been received in writing by the business. The complainant must be advised of this by the relevant employee.

CLIENT'S PROCEDURE FOR LODGING A DATA-PRIVACY-RELATED COMPLAINT TO BENGUELA

Should a Data Subject wish to request access to and/or correct their Personal Information and or object to the processing of personal information in terms of the Protection of Personal Information Act, 2013, this objection must be submitted in writing to Benguela (preferably addressed to the Information Officer), with the following information:

- i. Data Subject name, surname and contact details;
- ii. A complete description of the complaint or information request;
- iii. The name of the key individual and/or representative that provided the client with the financial services;
- iv. The date on which the matter occurred;
- v. All the supporting documentation relating to the client's complaint;
- vi. Preferred method of communication i.e. email or post.

Benguela's physical address is 3rd Floor, Rivonia Village, Cnr Rivonia Boulevard and Mutual Road, Rivonia.

Benguela's postal address is PO Box 1035, Rivonia, 2128.

General Benguela email address: info@benguelaglobal.com

BENGUELA PROCEDURE FOR RECEIVING A COMPLAINT

In terms of the provisions of the Act, the Codes to the Act and the Rules of the Ombudsman for Financial Services Providers, Benguela must:

- i. Maintain records of complaints for a period of 5 years
- ii. Handle complaints from clients in a timely and fair manner; and
- iii. Take steps to investigate and respond promptly to such complaints.

All employees of Benguela must be aware of the Complaints Resolution Policy and Procedure. Responsibility is placed on all line managers to ensure that their employees are fully aware of and understand this policy.

As soon as Benguela receives the complaint the recipient needs to log the date and contents of the complaint in the complaints register, we will acknowledge receipt thereof in writing within 5 working days. We will investigate the complaint and do our best to ensure that it is resolved within 30 working days from receipt.

Employees must immediately report all complaints received in writing to the Chief Operations Officer. Annexure "A" hereto must be used to report all complaints. The Chief Operations Officer will inform the Compliance Officer, relevant managers and/or employees of the complaint, and will request additional information relating to the matter, as required, to ensure that:

- i. The complaint receives proper consideration
- ii. Appropriate management controls are available to exercise effective control and supervision of the consideration process; and
- iii. The Complainant is informed of the results of the consideration.

Where a complaint is resolved in favour of the complainant, Benguela will ensure that a full and appropriate level of redress/compensation is offered to the complainant without delay.

If we are unable to resolve the client's complaint within 30 working days, or unable to resolve the complaint to client's satisfaction, the Chief Operations Officer will send a letter to the complainant that addresses all the issues and which sets out the reasons for the decision and which states that:

- i. client has the right to refer the complaint to the office of the Ombud for Financial Services Providers (also called the "**FAIS Ombud**") appointed specifically for this purpose.
- ii. The referral of the complaint to the FAIS Ombud must:
 - a. Be submitted in writing
 - b. Contain all relevant information and copies of all relevant documents must be attached to it
 - c. Be posted or sent via internet or email

The contact details of the FAIS Ombud are as follows:

PO Box 41
Menlyn Park
0063
Telephone: +086 066 3274 or +27 12 762 5000

Email: info@faisombud.co.za
Website: www.faisombud.co.za

The complainant should do so within 6 months of the date of notification by Benguela that it was unable to resolve the complaint, failing which, it will fall outside the Ombudsman's jurisdiction.

TYPE OF COMPLAINTS JUSTICIABLE BY OMBUD

- A. For a client complaint to be submitted to the Office of the Ombud for Financial Services Providers ("the Office")—
 - i. the complaint must fall within the ambit of the Act and the rules of the Ombud as listed hereunder;
 - ii. the person against whom the complaint is made must be subject to the provisions of the Act (hereafter referred to as "the respondent");
 - iii. the act or omission complained of must have occurred at a time when these rules were in force; and
 - iv. the respondent must have failed to address the complaint satisfactorily within six weeks of its receipt.

- B. A client may seek any relief relating to the subject matter of the complaint, but a complaint constituting a claim for a monetary award, must relate to the redress of financial prejudice or damage suffered or likely to be suffered by the client.

- C. The complaint must not constitute a monetary claim in excess of R800 000 for a particular kind of financial prejudice or damage, unless the respondent has agreed in writing to this limitation being exceeded, or the client has abandoned the amount in excess of R800 000.
- D. The Ombud may also entertain a complaint relating to a financial service rendered by a person not authorised as a financial services provider or by a person acting on behalf of such person.
- E. When the Ombud receives a referral from the registrar, the Ombud must in writing notify the client concerned thereof and require the client to inform the Ombud whether the client wishes to pursue the complaint in accordance with the provisions of Part I of Chapter VI of the Act.
- F. The complaint must not relate to the investment performance of a financial product which is the subject of the complaint, unless such performance was guaranteed expressly or implicitly or such performance appears to the Ombud to be so deficient as to raise a *prima facie* presumption of misrepresentation, negligence or maladministration on the part of the person against whom the complaint is brought, or that person's representative.

RIGHTS OF CLIENT IN CONNECTION WITH COMPLAINTS

- A. The client must qualify as such in terms of the Act and these Rules.
- B. Before submitting a complaint to the Office, the client must endeavour to resolve the complaint with the respondent.
- C. The client has six months after receipt of the final response of the respondent, or after such response was due, to submit a complaint to the Office.
- D. On submitting a complaint to the Office, the client must satisfy the Ombud of having endeavoured to resolve the complaint with the respondent, and must produce the final response (if any) of the respondent as well as the client's reasons for disagreeing with the final response.
- E. A complaint must be submitted to the Office in writing or, in circumstances deemed appropriate, the Ombud may receive a complaint in any other manner which conveys the complaint in comprehensible form.
- F. A complaint must, where necessary, be accompanied by available documentation in the client's possession.
- G. The client must be advised by the Ombud of the response of the respondent to the extent necessary to react to such response and to decide whether the complaint should be proceeded with, and must thereafter within two weeks advise the Ombud of such reaction and decision.

- H. Subsequent to lodging a complaint with the Ombud, the client is entitled to submit further facts, information or documentation in connection with the complaint and must do so, to the extent possible, if requested by the Ombud.

ADMINISTRATIVE AND PROCEDURAL MATTERS

- A. The Ombud may decline to investigate a complaint, or may suspend the investigation, when to the knowledge of the Ombud the client intends proceeding to or has already embarked on litigation.
- B. Information provided to the Ombud is confidential and may only be disclosed by the Ombud to the registrar or to another party to the complaint to the extent necessary to resolve the complaint, or where required under the Act or any other law.
- C. The Ombud is not liable to be subpoenaed to give evidence on the subject of a complaint in any proceedings;
- D. The Ombud may take such steps as deemed expedient to advise the public on the existence of the Office, the procedure for submitting a complaint to the Office, or on any other aspect concerning the Office in order to facilitate the submission or disposal of complaints.

APPEAL

- A. A party against whom the Ombud has made a determination may apply to the Ombud for leave to appeal against the determination.
- B. Such application must be in writing, must be submitted to the Ombud within one month of the date of the determination, and must set out the grounds on which the application is made.
- C. In weighing the application the Ombud must consider the factors set out in section 28 (5) (b) of the Act, and may request and consider submissions by any other party to the complaint concerning the merits of the application.
- D. If the Ombud refuses leave to appeal, the applicant must be advised in writing and given reasons for such refusal.
- E. The applicant may within one month of such refusal apply to the chairperson of the board of appeal for leave to appeal against the determination, and advise the Ombud in writing accordingly.

- F. The application referred to in paragraph (E) must be submitted to the secretary of the board of appeal and must thereafter be dealt with as directed by the chairperson of that board.
- G. On receipt of the written advice referred to in paragraph (E), the Ombud must transmit to the secretary of the board of appeal all the records concerning the complaint together with a copy of the determination and the Ombud's reasons therefor, and the Ombud's reasons for refusing leave to appeal.
- H. If the Ombud grants leave to appeal, the applicant must be advised accordingly and the provisions of paragraph (G) apply with the necessary amendments, in which case the Ombud must also transmit the reasons for granting leave to appeal (if any).
- I. When granting or refusing leave to appeal, the Ombud must advise the other party to the proceedings of the outcome of the application for leave to appeal.
- J. If the board of appeal becomes seized with the appeal, the appeal must be dealt with in terms of the rules applicable to that board, with the necessary amendments, and, unless requested by the board of appeal, the Ombud shall not take part in the appeal proceedings and the appeal will continue between the parties to the complaint.
- K. On receipt of the final decision of the board of appeal the Ombud must forward the decision to the clerk or registrar of the court as contemplated in section 28 (4) of the Act.

TRAINING

For purposes of effective and fair resolution of complaints all relevant staff have received adequate awareness training, including imparting and ensuring full knowledge of this policy, the provisions of the Act, the Rules on Proceedings of the Office and the FAIS General Code with regard to resolution of complaints.

MONITORING AND REPORTING

The Compliance Officer will ensure that complaints are monitored to ensure that all regulatory deadlines are met. The Compliance Officer must liaise with the office of the Ombudsman for Financial Services Providers, per 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 Chief Executive Officer and the Chief Operating Officer of Benguela and must be tabled at the Risk & Compliance Committee by the Compliance Officer.

After resolution of the complaint, the Compliance Officer and the Chief Operating Officer must determine whether the complaint arose from a breach of any Benguela policy, procedure or business practice. 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

COMPLAINTS PROCESS FLOW

The following is a summary of the complaints handling process flow:

- Client lodges a complaint
- If complaint is not in writing, ask for a written complaint
- Complaint received, validated and logged as a new Complaint on Complaint register
- Acknowledge receipt of complaint in writing within 5 business days
- Complaint assigned & investigated by Benguela
- Resolve the complaint expeditiously or take the necessary action and advise the client of steps taken and expected date of resolution
- Update the complaints register with all developments / outcomes
- Inform client in writing of the resolution of the complaint and the outcome
- Notify the client if complaint is not resolved within 2 weeks –advise on status of the complaint
- Notify the client of final outcome. This must be no later than 30 working days since the complaint was logged/ Advise client of other options.

Annexure A

Reporting of complaint	
Complainant's full name, ID Number and contact details <i>(to be completed by the employee)</i>	
Summary of Complaint:	
<i>(This should be received in writing and should be attached)</i>	
<i>(to be completed by the employee)</i>	
Date Received	
<i>(to be completed by the employee)</i>	
Complaint initially received by	
<i>(to be completed by the employee)</i>	
Date reported to Compliance Officer	
<i>(to be completed by the employee)</i>	
Date of Acknowledgement to Client	
<i>(to be completed by the Compliance Officer)</i>	
Date of final letter to client	
<i>(to be completed by the Compliance Officer)</i>	
Complaint resolved/dismissed or unfounded	
<i>(to be completed by the Compliance Officer)</i>	