



Date : 15 November 2017

Effective Date: 28 September 2017

Subject : Complaints Handling Procedure Guidelines of the Ombudsman of Financial Services

Statutory Reference: Section 33 (1)(b) read in tandem with section 74(3) of the Financial Services Regulatory Authority Act no.2/2010.

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SCOPE: Central Securities Depositories, Collective Investment Schemes, Credit Bureaus, Dealers, Fund Administrators, Dealer Representatives, Insurance Agents, Insurance Brokers, Insurers, Investment Advisers, Pawn Brokers, Investment Advisor Representatives, Collective Investment Scheme Managers, Medical Aid Schemes, Medical Aid Scheme Providers, Nominees, SACCOs, Retirement Funds, Retirement Fund Trustees, Securities Exchanges, Provident Funds, Money Lenders, Credit Providers, Lotteries, and any other Non-Bank Financial Services Provider as specified in all non-bank financial services laws as amended from time to time and every consumer of products and services offered by the abovementioned financial services providers.

The Financial Services Regulatory Authority presents the Complaints Handling Procedure Guidelines of the Office of the Ombudsman of Financial Services (the Ombudsman) which have been developed to give guidance on the process and procedure for resolving disputes involving authorised financial services providers. The Guidelines are also intended to assist in understanding the Ombudsman’s mandate and to provide further detail on how the Ombudsman will resolve complaints in an objective, accountable and transparent manner.

These Guidelines set out who is eligible to lodge a complaint, the types of complaints that the Ombudsman can consider, how the Ombudsman resolves complaints, the types of remedies that the Ombudsman can provide and other related matters. These Guidelines are binding upon all authorised financial services providers.

A handwritten signature in black ink, appearing to read "Sandile Dlamini", is written over a light grey background.

SANDILE DLAMINI

CHIEF EXECUTIVE OFFICER



OMBUDSMAN

OF FINANCIAL SERVICES

Umlamuli wetindzaba tetimali

COMPLAINTS HANDLING PROCEDURE GUIDELINES

(Under Section 33 (1)(b) read in tandem with section 74 (3) of the Financial Services Regulatory Authority Act no.2/10)

Date of Commencement: 28 September 2017

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SHORT TITLE AND COMMENCEMENT

1. These Guidelines may be cited as the Complaint Handling Guidelines of the Ombudsman of Financial Services made under the provisions of Section 74 (3) of the Financial Services Regulatory Authority Act, 2010 and as amended from time to time and shall come into force on such date as the Minister may, by Notice published in the Gazette determine.

OBJECT OF THE GUIDELINES

2. To provide guidance on resolving complaints relating to disputes involving financial services providers as defined in Rule 3(4) hereof.

INTERPRETATION

3.
 - (1) A word or expression defined in the Financial Services Regulatory Authority Act, 2010 bears the same meaning in these Guidelines as in the Act.
 - (2) For purposes of these Guidelines, unless the context otherwise requires:
 - (a) the singular number shall include the plural, and vice versa;
 - (b) the masculine gender shall include the feminine and neuter genders, the feminine gender shall include the masculine and neuter genders, the neuter gender shall include the masculine and feminine genders; and
 - (c) the words include and including, and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words without limitation.
 - (3) Words and expressions used and not defined in these regulations but defined in the Financial Services Laws (the Laws) in the First Schedule to the Act or in the guidelines or regulations made under the Laws shall have the meanings respectively assigned to them in the Laws or in the guidelines or regulations made under the Laws.
 - (4) In these Guidelines, unless the context otherwise requires –
 - “A SACCO” has the same meaning ascribed to it in the Act;
 - “Act” shall mean the Financial Services Regulatory Authority Act, 2010;
 - “Adjudicator” shall mean the Insurance and Retirement Funds Adjudicator as contemplated in Part VII of the Retirement Funds Act 2005 and Part XVI of the Insurance Act 2005.
 - “Authorised financial services provider” means a financial services provider licensed to provide financial services in terms of the Act, or a financial services law as defined in the Act;
 - “Authority” means the Financial Services Regulatory Authority established under section 3 of the Act;
 - “Board” means the Board of Directors of the Authority established under section 7 of the Act;

“Complainant” means a stakeholder bringing a complaint against an authorised financial services provider; and includes a person who is or stands to be adversely affected by the decision or the administration of an authorised financial services provider;

“Complaint” may be used interchangeably with the word dispute and means a specific grievance relating to authorised financial services and alleging-

- (a) that an authorised financial services provider has failed or is failing to honour its obligations and commitments to the complainant emanating from a financial services agreement;
- (b) that an authorised financial services provider has made a decision outside its powers;
- (c) that the complainant has suffered prejudice as a result of decisions of an authorised financial services provider;
- (d) that the interest of the complainant has or will be prejudiced as a result of the decision of an authorised financial services provider; whether by act or omission;
- (e) that a dispute of fact has arisen between the complainant and an authorised financial services provider; or
- (f) that the complainant has suffered any loss or damage attributable to an authorised financial service provider;

“Court” means the High Court of Swaziland;

“Employee” means any officer in the permanent or contract or temporary employ of the Ombudsman of Financial Services;

“Financial services” means services relating to financial matters rendered to the public by an authorised financial services provider;

“Financial services law” means any of the laws specified in the First Schedule of the Act, or any other law that declares itself to be a financial services law for the purposes of the Act or these Guidelines;

“Financial services provider means –

- (a) any of the persons or institutions specified in the Second Schedule to the Act; or
- (b) any person or institution declared by the Minister by Regulation to be a non-bank financial services provider;

“Financial year” in relation to the Ombudsman means the period commencing on the 1st April and ending 31st March;

“Minister” means the Minister responsible for Finance;

“Office of the Ombudsman” means the office of the Ombudsman of Financial Services;

“Ombudsman” means the officer appointed by the Authority under section 74 (1) of the Act;

“Respondent” means an authorised financial services provider in respect of which a complaint has been lodged by a complainant;

“Stakeholder” means, in relation to a financial services provider:-

- (a) a client, or customer of the financial services provider that uses the products and services of the financial services provider;
- (b) an insurer, a policyholder or beneficiary under a policy;
- (c) a retirement fund, a member or beneficiary of the fund;
- (d) a SACCO, a member; and
- (e) a financial services provider in capital markets or investors or prospective investors.
- (f) a medical aid scheme and medical aid scheme provider as well as any other non-bank financial services provider as may appear in the Second Schedule of the FSRA Act.
- (g) a bank or any other person who provides a product or service within the ambit of the Financial Services Laws as defined in the FSRA Act.

POWERS AND DUTIES OF THE OMBUDSMAN

4. The Ombudsman may:

- (1) in resolving disputes, make use of one or more of the following methods: facilitation, conciliation or mediation;
- (2) with the approval of the Board, hire, purchase or otherwise acquire such property as may be necessary for the performance of his functions and may let, sell or otherwise dispose of property so purchased or acquired;
- (3) in order to perform his functions, enter into any agreement with any persons for the performance of any specific act or function or the rendering of specific services;
- (4) insure the Office of the Ombudsman and any property therein and/or belonging thereto against any loss, risk or liability which it may suffer or incur;
- (5) appoint employees, consultants, other experts, independent contractors and persons to assist in the performance of his functions and to determine their salaries, fees, terms of employment and engagement and to terminate such engagement;

- (6) obtain such professional advice in the performance of his functions as may be required;
- (7) advise on the procedure for making a complaint to the Office of the Ombudsman;
- (8) in the event of his being unable to exercise his duties, such as where a conflict of interest arises, the Ombudsman may recuse himself and the Board shall appoint an independent person as an ad hoc Ombudsman.
- (9) incur expenditure on behalf of the Office of the Ombudsman in accordance with the current financial budget approved by the Board;
- (10) submit a quarterly report to the Board on the activities of the Office of the Ombudsman;
- (11) submit to the Board an annual report within 1 (One) month after the close of each financial year; and
- (12) in general, do anything which is necessary or expedient for the achievement of his object and performance of his functions, including but not limited to the establishment and maintenance of internal systems and procedures.

TYPES OF COMPLAINTS

5. The types of Complaints that can be lodged at the Office of the Ombudsman include, but are not limited to:-

- (1) A Retirement Fund Complaint must relate to the administration of a fund; the investment of fund assets; or application of fund rules or the payment of benefits. Additionally, the complainant must allege one or more of the following:-

- (a) that the fund has made a decision outside its powers; or
- (b) that the complainant has been prejudiced as a result of maladministration by the fund.

Maladministration includes, but is not limited to, the following instances:

that the fund –

- (i) took too long to perform an action, without good reason;
- (ii) did not take an action that it should have;
- (iii) did not follow its own rules or the law;
- (iv) broke its promises;
- (v) gave wrong or misleading information;
- (vi) did not make a decision in the correct way; or
- (vii) did not disclose information that it ought to have disclosed to the complainant.

- (c) that a dispute of fact or law has arisen in relation to a fund between the fund and any person or the fund and the complainant; or
 - (d) that an employer who participates in the fund has not fulfilled its duties in terms of the rules of the fund or the law.
- (2) An Insurance Complaint must relate to the conduct of any person in relation to insurance business and/or the application and interpretation of the terms and conditions of a policy. The person complaining must allege one or more of the following:
- (a) that a dispute of fact or law pertaining to insurance business has arisen between an insurer or an insurance intermediary and the complainant;
 - (b) that a decision of an insurer, insurance broker, other insurance agent or any person purportedly taken in terms of the policy terms and conditions was in excess of his/its powers, resulting in improper exercise of powers;
 - (c) that the interest of the complainant has or will be prejudiced as a result of the decision, whether by act or omission, of an insurer or an insurance intermediary; or
 - (d) that the person against whom the complaint is made has not fulfilled their duties in terms of the policy terms and conditions.
- (3) A Savings and/or Credit Complaint must relate to instances where a financial services provider:
- (a) breached any applicable laws, regulations, by-laws or duties imposed therein;
 - (b) failed to give effect to a right provided to the consumer by laws, regulations, by-laws in respect to the subject matter of the complaint;
 - (c) failed to adhere to any applicable code of practice or code of conduct provided for by financial services laws and other legislation applicable in industry;
 - (d) failed to meet the standards of good practice required by financial services laws and instruments thereof; or
 - (e) treated the complainant unfairly or acted in an unconscionable manner towards the complainant.
- (4) A Securities Complaint must relate to a complaint against a listed public company, public company which intends to get its securities listed in a licensed securities exchange, collective investment scheme and the intermediaries or licensed person within the securities market relating to redressal of grievances of investors in securities, claims of any money in respect of issue or dealing in securities, deficiency in services, and include, but is not limited to a complaint based on one or more of the following grounds:
- (a) non-receipt of refund orders, allotment letters in respect of a public issue of securities of companies or units of mutual funds or collective investments schemes;
 - (b) non-receipt of share certificates, unit certificates, debenture certificates, bonus shares;
 - (c) non-receipt of dividend by shareholders or unit-holders;

- (d) non-receipt of interest on debentures, redemption amount of debentures or interest on delayed payment of interest on debentures ;
 - (e) non-receipt of interest on delayed refund of application monies;
 - (f) non-receipt of annual reports or statements pertaining to the portfolios;
 - (g) non-receipt of redemption amount from a mutual fund or returns from a collective investment scheme;
 - (h) non-transfer of securities by an issuer company, mutual fund, Collective Investment Management Company or depository within the stipulated time;
 - (i) non-receipt of letter of offer or consideration in takeover or buy-back offer or delisting;
 - (j) non-receipt of statement of holding corporate benefits or any grievances in respect of corporate benefits, etc.;
 - (k) any grievance in respect of public, rights or bonus issue of a listed company;
 - (l) any grievance in respect of issue or dealing in securities against an intermediary or a listed company.
- (5) A Medical Aid Scheme complaint means a complainant relating to the administration of a medical scheme, the investment of its funds or the interpretation and application of its rules, and alleging—
- (a) that a decision of the medical scheme or any person purportedly taken in terms of the rules was in excess of the powers of that medical scheme or person, or an improper exercise of its powers;
 - (b) that the complainant has sustained or may sustain prejudice in consequence of the maladministration of the medical scheme by the medical scheme or any person, whether by act or omission;
 - (c) that a dispute of fact or law has arisen in relation to the medical scheme between the medical scheme or any person and the complainant; or
 - (d) that an employer who participates in the medical scheme has not fulfilled its duties in terms of the rules of the medical scheme, but shall not include a complaint which does not relate to a specific complainant.

JURISDICTION OF THE OMBUDSMAN

6. (1) The Ombudsman shall, subject to Section 75 of the Act, investigate and determine complaints against authorised financial services providers.

(2) The Ombudsman shall not investigate or determine a complaint if:

- (a) prior to the lodging of a complaint, legal proceedings have been instituted in a court or other dispute resolution body established by law, with respect to the same subject matter of the complaint, except where the legal proceedings have been withdrawn/retracted and the respondent notified of such withdrawal;
- (b) the complaint relates to the same events or facts brought by the same Complainant against the same Respondent and is a complaint previously dealt with and concluded by the Insurance and Retirement Funds Adjudicator, the Ombudsman, a court or dispute resolution body established by law and there is insufficient material events and facts raised in the new complaint to warrant consideration of the new complaint by the Office of the Ombudsman;
- (c) the loss or damage arising from the delict exceeds E500,000.00 (Five Hundred Thousand Emalangi) over and above the claimed contractual amount. This E500,000.00 (Five Hundred Thousand Emalangi) limit shall be subject to review;
- (d) the investigation of the complaint shall interrupt an on-going complaints handling process with respect to the same subject matter of the complaint within an authorised financial services provider;
- (e) the Ombudsman determines that it is more appropriate that the complaint be dealt with by a court of law or through any other dispute resolution process;
- (f) the complaint relates to the investment performance of a financial product which is the subject of the complaint, unless such performance was guaranteed expressly or implicitly by the financial services provider or such performance appears to the Ombudsman 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;
- (g) the complaint is about whether a financial services provider has met confidentiality or privacy obligations unless the complaint about confidentiality or privacy:
 - i. is part of a broader complaint between the financial services provider and the Complainant; or
 - ii. relates to or arises out of the provision of credit, the collection of a debt, credit reporting and/or the service provider-customer relationship;
- (h) the complaint relates to the level of a fee, premium, charge or interest rate – unless:
 - i. the complaint concerns non-disclosure, misrepresentation or incorrect application of the fee, premium, charge or interest rate by the financial services provider having regard to any scale prescribed by a Financial Services Law or practices generally applied by that financial services provider or agreed with that Complainant;

- ii. the complaint concerns a breach of any legal obligation or duty on the part of the financial services provider; or
- (i) the complaint is about the financial services provider's assessment of the credit risk posed by a borrower or the security to be required for a loan – but this does not prevent the Office of the Ombudsman from considering a complaint:
 - i. claiming maladministration in lending, loan management or security matters; or
 - ii. about the variation of a credit contract as a result of the Complainant being in financial hardship;
- (j) the complaint is about underwriting or actuarial factors leading to an offer of an insurance policy on non-standard terms;
- (k) in the case of a complaint about an insurance policy – the complaint is about rating factors and weightings the insurer applies to determine the insured's or proposed insured's base premium which is commercially sensitive information;
- (l) the complaint is about a decision to refuse to provide insurance cover except where:
 - i. the complaint is that the decision was made indiscriminately, maliciously or on the basis of incorrect information; or
 - ii. the complaint pertains to medical indemnity insurance cover;
- (m) the complaint is about the professional accountancy, valuation or actuarial services provided, unless they are provided in connection with one of the following:
 - i. a financial service/financial services within the meaning of section 2 of the Act;
 - ii. credit activity within the meaning of an applicable Consumer Credit Law.
- (n) the complaint relates to issues relating to payment and apportionment of retirement fund surplus.

(3) Notwithstanding the provisions of sub-Rule 2(c), the Ombudsman may investigate and determine a complaint where the complainant and respondent have voluntarily submitted to the jurisdiction of the Office of the Ombudsman.

(4) Notwithstanding the provisions of sub-Rule 2(d), the Ombudsman may investigate a complaint if good cause is shown that:

- (a) the complaints handling process within the authorised financial services provider has been unreasonably long; or
- (b) the authorised financial services provider is not committed to the resolution of the complaint.

- (5) Should a complaint not fall within the jurisdiction of the Ombudsman, a written assessment with reasons for such exclusion shall, within 14 (Fourteen) days from receipt of complaint, be furnished to the complainant and all other parties to the dispute.

PERSONS OR CLASSES OF PERSONS ELIGIBLE TO BRING COMPLAINTS BEFORE THE OMBUDSMAN

7. The Office of the Ombudsman must only consider a complaint if the complaint is between an authorised financial services provider and:
- (1) an individual or individuals (including all those acting as a lawful representative);
 - (2) any business (whether a sole trader or constituted as a company, partnership or trust);
 - (3) the corporate trustee of a self-managed retirement or pension fund or a family trust;
 - (4) a club or incorporated association;
 - (5) the policyholder of a group life or group general insurance policy.

NATURE OF COMPLAINTS THAT MAY BE BROUGHT BEFORE THE OMBUDSMAN

8. The Office of the Ombudsman must only consider a complaint between an authorised financial services provider and a Complainant:
- (1) that arises from a contract or obligation arising under the financial services laws of Swaziland;
 - (2) where the offer to invest was received in Swaziland by the Complainant in relation to a recognised foreign financial services provider;
 - (3) that arises from or relates to the provision of a financial service by the financial services provider to the Complainant;
 - (4) that arises from or relates to the provision by the Complainant of a guarantee or security for, or repayment of, financial accommodation provided by the financial services provider to a person or entity of the kind listed in Rule 7 above;
 - (5) that arises from or relates to an entitlement or benefit under an insurance policy by a person who is specified or referred to in the insurance policy, whether by name or otherwise, as a person to whom the insurance cover extends or to whom money becomes payable under the insurance policy;
 - (6) that arises from or relates to a legal or beneficial interest arising out of a financial investment (such as life insurance, a security or an interest in a managed investment scheme or a retirement/pension fund);
 - (7) that arises from or relates to a legal or beneficial interest arising out of a facility under which a person seeks to manage financial risk or to avoid or limit the financial consequences of fluctuations in, or in the value of, an asset, receipts or costs (such as a derivatives contract);
 - (8) that arises from or relates to an investment offered by a financial services provider under a foreign recognition scheme to foreign resident investors unless expressly excluded from access to the Office of the Ombudsman by the investment offer document; or

- (9) if the complaint/dispute is otherwise within the jurisdiction of the Office of the Ombudsman under these Guidelines and all other requirements of these Guidelines are met.

SUBMISSION AND CONSIDERATION OF COMPLAINTS

9. (1) A complainant shall first lodge a written complaint with the authorised financial services provider.

(2) If a complainant is not satisfied with the response to the complaint lodged with the authorised financial services provider or if no response is received by the complainant within 30 days, the complainant may lodge a complaint with the Office of the Ombudsman.

(3) Notwithstanding the provisions of sub-Rule (1), a complainant may, on the basis of the urgency of a complaint lodge a complaint in the first instance with the Office of the Ombudsman.

(4) The Ombudsman shall in his discretion determine whether or not good cause has been shown to warrant a complaint being considered as a matter of urgency in terms of sub-Rule (3).

TIME LIMITS AND PRESCRIPTION OF COMPLAINTS

10. (1) The Office of the Ombudsman will not consider a complaint unless the complaint is lodged with the Ombudsman within 2 (Two) years of the act or omission or the date when the Complainant first became aware or should reasonably have become aware of the loss or grievance. Prescription of a Complaint shall, however, not run against a minor; any person detained as a patient in terms of any mental health legislation; or a person under curatorship.

(2) Notwithstanding the provisions of sub-Rule (1), the Ombudsman may on good cause shown condone non-compliance with the time limit prescribed in these guidelines and investigate a complaint.

(3) Time limits set by the Ombudsman should be honoured by both parties in connection with a complaint. Extension of time limits imposed by the Act or these guidelines or fixed by the Ombudsman may in the discretion of the Ombudsman be granted on good cause shown and both parties notified.

(4) Receipt of a complaint by the Office of the Ombudsman shall interrupt any running of prescription in terms of any Act or the rules of the financial services provider in question.

(5) (a) When a particular number of days is prescribed for the doing of an act, the number of days shall be calculated by excluding the first day and including the last day.

(b) When the time for doing an act expires on a public holiday, a Saturday or Sunday, the act may be done on the next day immediately following the one that is a public holiday, a Saturday, or a Sunday.

(c) When a particular number of business days is prescribed for doing an act, the provisions of sub-Rule (5) (a) shall apply, but public holidays, Saturdays and Sundays shall not be included in the calculation of the time limit.

- (d) On good cause shown, the Office of the Ombudsman may condone the late performance of an act in respect of which these Guidelines prescribe a time limit.
- (e) In a situation not covered or provided for by these Guidelines relating to the computation of time or the doing of an act, the provisions of the Interpretation Act, 1970, shall apply.

PROCEDURE FOR CONDUCTING INVESTIGATIONS

- 11. (1) The Ombudsman may follow the procedure which he may consider appropriate and expedient in conducting an investigation, including the conducting of an inquisitorial hearing.
- (2) When the Ombudsman intends to conduct an investigation into a complaint, he shall afford the respondent the opportunity to respond to the allegations within a stipulated time period.
- (3) The Ombudsman may in his investigations obtain copies of any documents or correspondence in the custody of the Authority.
- (4) The Ombudsman is not bound by the rules of evidence, but must comply with the principles of natural justice and is not bound to hold a hearing for the investigation.

DETERMINATION OF COMPLAINTS

- 12. (1) The Ombudsman shall determine complaints in accordance with Section 75 of the Act and these Guidelines.
- (2) When the Ombudsman has investigated and determined a complaint, he shall issue a written statement of the determination to the respondent and the complainant within a reasonable period from the date of lodgement of the complaint.

AWARD OF COSTS

- 13. (1) The Ombudsman may make an award for costs against a respondent or complainant where:
 - (a) the respondent was uncooperative during the investigation by the Ombudsman; or
 - (b) the complainant had lodged a fraudulent, vexatious and/or frivolous complaint.

INTEREST ON AWARDS

- 14. Where a determination by the Ombudsman consists of an obligation to pay an amount of money:
 - (1) The award may provide an amount payable to bear interest from:
 - (a) the date of the cause of action or matter giving rise to the complaint, or

(b) a date specified in the award;

(2) In deciding an award of interest; the Ombudsman may:

(a) Calculate interest in accordance with the financial services laws applicable to the cause of action; and/or

(b) Calculate interest at a fixed rate prescribed by the High Court; and/or

(c) have regard to any factors he/she considers relevant including the applicable contract in dispute and the extent to which either party's conduct contributed to delay in the resolution of the matter.

LEGAL REPRESENTATION

15. (1) Legal representation is not a prerequisite to lodge and/or make submissions in respect to a complaint at the Office of the Ombudsman.

(2) Notwithstanding sub-Rule (1), the absence of legal representation shall not unreasonably delay the dispute resolution process.

RECORD OF PROCEEDINGS

16. (1) The Ombudsman shall ensure that a permanent record of proceedings and evidence relating to the determination of a complaint is kept, whether by manual or electronic means.

(2) A party to the proceedings may obtain a readable record of proceedings on payment of a fee determined by the Ombudsman.

IMMUNITY FROM LIABILITY

17. The Ombudsman or any of his employees shall not be held liable in respect of anything committed or omitted in good faith in the exercise of powers or the performance of duties conferred or imposed by or under the Act or these Guidelines.

FUNDING ARRANGEMENTS

18. The Office of the Ombudsman shall be funded by-

(a) moneys appropriated by Parliament for the purpose;

(b) the payment to the Ombudsman of fees or other charges, as prescribed under these Guidelines in relation to-

(i) case fees

(ii) any other matter with regard to which provision is made by or under these Guidelines.

(c) grants and donations made to the Office of the Ombudsman; and,

(d) such sums of money or such other assets as may accrue to or vest in the Office of the Ombudsman from time to time, whether in the course of the exercise of its function or otherwise.

ACCOUNTS OF THE OFFICE OF THE OMBUDSMAN OF FINANCIAL SERVICES

19. (1) The Ombudsman shall deposit all funds derived under Rule 18 with a local banking institution registered in terms the Financial Institutions Act 6 of 2005.
- (2) All bank accounts of the Office of the Ombudsman are to be registered and opened in the name of the Office of the Ombudsman.
- (3) The Ombudsman shall be the controlling officer and shall keep financial records and financial statements which must be audited annually by an Auditor admitted to practice in Swaziland.
- (5) The Auditor shall be appointed with the approval of the Board.

CONFIDENTIALITY

20. Information provided to the Office of the Ombudsman is confidential and may only be disclosed by the Ombudsman to another party to the complaint to the extent necessary to resolve the complaint, or where required under the Act or any other law. Provided that the Ombudsman shall have the power to share both public and non-public information with domestic and foreign counterparts and, in particular-
- (a) subject to proper confidentiality safeguards, establish information sharing mechanisms, through memoranda of understanding or otherwise, that set out when and how to share both public and non-public information with domestic and foreign counterparts; and,
 - (b) provide assistance to foreign counterparts who need to make enquiries in the discharge of their functions and exercise of their powers.

CASE FEE

21. (1) Every authorised financial services provider against whom a complaint is lodged and the complaint has been accepted by the Office of the Ombudsman shall pay a compulsory case fee for every complaint where a determination has been made in favour of the Complainant or where fault on the part of the Respondent has been established.
- (2) The case fee in terms of sub-Rule (1) shall be as stated in the Schedule to these Guidelines and may be reviewed by the Board through amendment of the Schedule.

DECISIONS AND REVIEWS

22. Where the Complainant is satisfied with the Ombudsman's decision, same shall be final and binding on the parties. Where the respondent is not satisfied with the decision of the Ombudsman, the respondent may take the matter on review to the High Court.

TRANSITIONAL PROVISIONS

23. These Guidelines shall apply to all complaints lodged and which remain pending before the Adjudicator and those lodged before the Authority in relation to an authorised financial services provider for which the ombudsman has jurisdiction in terms of these Guidelines.

SCHEDULE

**(RULE 21)
CASE FEE**

The Case Fee in terms of sub-Rule 21(2) shall be E500.00 (Five Hundred Emalangi) and shall be applicable to all complaints lodged with the Office of the Ombudsman 30 (thirty days) after the coming into force of these Guidelines.