



SOUTH AFRICAN INSTITUTE OF STOCKBROKERS

DISCIPLINARY PROCESS: LODGING A COMPLAINT

1. Lodging a Complaint

The SAIS recognises that a balance needs to be maintained between the interests of the complainant and the interests of members of the Institute. The complainant is provided with a method of addressing unprofessional conduct on the part of a member. At the same time, the Institute is mindful of the fact that in many instances, membership of a professional body may be an employment requirement and that suspension or termination of membership could negatively impact a member's ability to earn an income.

In order to address this concern as well as ensure that complaints are dealt with as effectively as possible, the Institute subscribes to a formal disciplinary process that is modelled on the procedural requirements set forth in the rules of the High Court of South Africa, with the necessary modification to facilitate the disciplinary process. In order to lodge a complaint, the following steps need to be followed:

1.1 *Determining Jurisdiction*

Stockbrokers and/or Financial Market Professionals are often subject to the Rules and Codes of Conduct of exchanges and/or regulatory and/or controlling bodies, each having concurrent jurisdiction with regards to any professional misconduct. The Institute will, in general, not consider a complaint where the conduct of the member relates to the alleged contravention of any of the Rules and/or Codes of Conduct of an exchange and/or regulatory and/or controlling body.

In such instances, the relevant body carries primary jurisdiction and the complaint is to be lodged and dealt with according to the applicable Rules and Code of Conduct regulating the disciplinary process. The Institute may however take note of the outcome of any disciplinary process and then determine whether any action should be instituted by the SAIS.

1.2 *Determining Membership*

The SAIS must ascertain whether the Stockbroker and/or Financial Market Professional against whom the complaint is to be lodged is in fact a member of the Institute. The Institute will only be able to consider complaints against members who are in good standing or who were in good standing with the Institute at the time of the alleged misconduct.

This can be ascertained by directing a query to the membership department of the Institute. Queries may be directed to membership@sais.co.za. Please note that the membership department will only confirm membership and that no further particulars with regards to a member will be provided.

Complaints that do not reference the member's membership number may be rejected or the consideration thereof delayed.

1.3 *Conduct Attributable to the Member*

Once the Stockbroker and/or Financial Market Professional has been accurately identified as a member of the Institute, it will be considered whether the conduct can in fact be attributed to the member. As an example, the member may be employed by a company with whom the complainant contracted for the provision of professional services. Should a dispute arise between the complainant and the company with regards to the processing of debit orders from the complainant's bank account

and which falls outside the control or influence of the member, then it will be a dispute between the complainant and the company that is not directly attributable to any misconduct by the member. In such an event the Institute will be limited in its ability to act against the member (if at all).

1.4 *Determination of Conduct*

It must be determined whether the conduct of the member is linked to a contravention of any of the provisions of the Code of Conduct and/or Disciplinary Rules and/or Standards of the Institute or not. If not, the Institute will not be able to consider the complaint as it will fall outside the scope of the responsibilities of the parties.

If the conduct of the member is linked to any contravention of the provisions of the Code of Conduct, a formal complaint must be made. Once the formal complaint has been received, the formal disciplinary process will follow.

1.5 *Drafting of the Founding Affidavit Setting Out the Merits of the Complaint*

In order to facilitate dealing with complaints in a structured manner, the Institute's committees rely to a large extent on the format and principles that arise from the civil practice and procedure of the High Courts of South Africa. The Institute requires that all complaints must be made:

- Under oath;
- In writing; and
- In accordance with the guidelines set down by the disciplinary structures of the Institute from time to time.

2. **Formal Requirements for Complaints:**

Please note that complaints that fail to comply with the set criteria will be rejected. The complaint must contain the following and be set out as follows:

2.1 The complaint must be in the form of an affidavit. An affidavit must be signed in front of a Commissioner of Oaths and conclude with a paragraph along the following lines:

"I hereby certify that the deponent states that he/she understands the content of this affidavit, confirms the content as true and correct and has no objection to taking the oath, the provisions as set out in Government Notice Number R1648 of August 1977, as amended, have been complied with."

2.2 The content of the affidavit should be divided into paragraphs (including sub-paragraphs) which shall be consecutively numbered and shall, as nearly as possible, each contain a distinct allegation. Sufficient particularity should be provided to enable the opposite party to reply thereto.

2.3 Where reference is made to external documents, copies of the documents should as far as possible be attached to the affidavit and consecutively identified e.g. Annexure "A", Annexure "B", etc. It must be kept in mind that there may be a request to produce the original documents for inspection at a later date.

2.4 Should a document to which reference is made, be voluminous, the affidavit should indicate the specific areas which are reference or reproduced in relevant annexures.

2.5 Once the affidavit and its annexures are complete, all pages must be numbered (Bates numbering). This will assist in working with the document and to monitor that essential pages are not inadvertently lost or misfiled during the process.

2.6 Sufficient contact particulars must be provided to enable the SAIS to correspond with the complainant. At minimum, a cellular number and e-mail address are required. The preferred method of communication is by way of e-mail.

3. Submission of the Complaint

The following documents are to be submitted to the Institute:

- The [Referral of Complaint](#)
- The [Undertaking by Complainant](#)
- The duly deposed to affidavit setting out the merits of the complaint.

The complaint must be submitted to the Institute in a non-editable format, via email to: membership@sais.co.za.