



MORCSA

Mortgage Origination Regulatory Council of South Africa

CODE OF GOOD PRACTICE

OF

**THE MORTGAGE ORIGINATION REGULATORY COMPANY OF
SOUTH AFRICA NPC**

(A non-profit company with Members)

(“MORCSA”)

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PART 1: PREAMBLE TO THE CODE

INTRODUCTION

Access to mortgage finance plays a pivotal role in the South African residential property market. It is imperative that Consumers are protected and can have confidence in their engagements with Members when accessing Mortgage Origination Services, and similarly Credit Providers can have confidence in their engagements with Members.

PURPOSE OF THE CODE

This Code of Good Practice has accordingly been developed as a statement of principles and practices designed to set a standard of good industry practice and fair dealing by Members with Consumers and Credit Providers to instill public confidence in the operations of Members in providing the Mortgage Origination Services.

FORMAT OF THE CODE

This Code is a guide to good practice and is significantly principles-based. This Code rests on a foundation of ethical aspirations such as integrity and fairness. A list of ethical rules can never be exhaustive, and Members therefore have an obligation to use their ethical discretion when confronted with ethical challenges that the rules may not provide for expressly.

This Code of Good Practice has been approved by the Board of MORCSA and sets out, *inter alia*:

- the code of conduct, including principles relating to treating customers fairly (TCF), that apply to the manner in which Mortgage Origination Services are to be rendered by Members to Consumers;
- minimum standards of professional conduct and good industry practice, which must at all times be read with any conduct standard/s published by the Industry Regulator under the FSR Act or COFI Act when enacted;
- the disciplinary rules and procedures that will apply to Members and Key Individuals in the event of a contravention of the Code of Good Practice; and
- other matters relevant to standards and practices within and monitoring of the Industry.

CONTRAVENTIONS OF THE CODE

If any Member fails to conduct himself, herself or itself in accordance with this Code, Complainants (which may include MORCSA itself) shall be entitled, without prejudice to any other remedies at law, to make complaints to either the relevant Corporate Member and/or to MORCSA who will handle the Complaint in accordance with the Complaints Framework.

The Complainant shall also be entitled to make a Complaint to the relevant Ombud and/or Industry Regulator.

REVIEW OF THE CODE

MORCSA will review changes in the Industry with a view to ensuring the maintenance of good practice standards at all times and the Board, on the recommendation of the Conduct Committee, may amend this Code where there is a need or benefit to Consumers and/or the Industry in doing so.



PART 2: DEFINITIONS

INTERPRETATION

All definitions and interpretations used in the MOI shall have the same meaning in this Code, unless the context indicates otherwise. For the sake of convenience certain of these definitions are repeated hereunder. In this Code, the following words and phrases have the meanings and references set out below:

"Accreditation Rules" means the written rules, approved by the Board, setting out, inter alia, the eligibility criteria to qualify as a Corporate Member, Key Individual or Practitioner Member, the process to apply to become a Member or Key Individual, and the requirements to be met by Members and Key Individuals to remain registered and in good standing

"Applicable Laws" means legislation, regulations, directives and the like which regulate the Industry or may regulate the Industry in future

"Board" means the Board of Directors of MORCSA as constituted from time to time in terms of the MOI

"CEO" means that CEO as appointed by the Board of Directors of MORCSA from time to time in accordance with the MOI

"Code" means this Code of Good Practice as promulgated and, on the recommendation of the Conduct Committee, amended by the Board from time to time

"COFI" means the Conduct of Financial Institutions Bill or once enacted, the Conduct of Financial Institutions Act

"Consumer" means any person or entity to whom a Member renders Mortgage Origination Services

"Corporate Members" means registered members of MORCSA who are registered as Corporate Members in terms of the MOI

"Complainant" means a person who lodges a Complaint with a Member or MORCSA about a Member's conduct in relation to the provision of Mortgage Origination Services by the Member concerned and may include, without limitation, the Board, a Credit Provider, a Consumer, another Member, an Industry Regulator or other Stakeholders in regard to a Member's provision of the Mortgage Origination Services

"Complaint" means a written complaint by a Complainant which sets out sufficient details as to the manner in which a Member has failed, neglected or refused to render Mortgage Origination Services in accordance with Applicable Laws, this Code and/or TCF principles

“Complaints Framework” means the written document, approved by the Board, setting out the Complaints that can be referred for resolution, the procedure to lodge a Complaint, the dispute resolution mechanisms to be employed to resolve Complaints and the constitution of the complaint resolution committee

“Conduct Committee” means the Conduct Committee as constituted in accordance with its Terms of Reference

“CPD” means Continuous Professional Development as defined in any applicable conduct standard issued in accordance with the Applicable Laws, including COFI or this Code

“Credit Provider” means any individual, corporation, bank, financial institution or other entity that lends or provides mortgage secured finance to Consumers and is registered as such in terms of the National Credit Act 34 of 2005, as amended

“Disciplinary Rules” means the Disciplinary Rules as set out in Part 6 Disciplinary Rules hereinbelow

“Fit and Proper Requirements” means the (a) honesty, integrity and good standing requirements; (b) competency requirements; and (c) CPD requirements as set out in any conduct standards promulgated under COFI and/or the Accreditation Rules

“FSCA” means the Financial Sector Conduct Authority

“FSRA” means Financial Sector Regulation Act 9 of 2017, as amended

“Industry” means the mortgage origination industry in the Republic including all relevant Stakeholders involved in the provision of Mortgage Origination Services;

“Industry Regulator” means the statutorily authorized regulatory body that regulates the Industry in accordance with Applicable Laws

“Key Individuals” means, in relation to a Corporate Member, the directors, officers, trustees or members of that Corporate Member

“Membership” means membership of MORCSA

“Member” or **“Members”** means any person, person, entity or entities that hold Membership of MORCSA and includes Practitioner Members, Corporate Members and Key Individuals

“MOI” means the Memorandum of Incorporation of MORCSA

“MORCSA” means the Mortgage Origination Regulatory Council of South Africa, registered as the Mortgage Origination Regulatory Company of South Africa NPC (a non-profit company with members) with registration number 2024/090860/08

“Mortgage Origination Services” means the provision by Members to Consumers of financial services relating to the provision of credit (“financial services” and “credit” both as defined in the FSRA) and includes services entailing the submission of an application, on behalf of a Consumer, to one or more Credit Providers for financing to acquire or refinance an immovable property, renovations to an immovable property and/or any products that accede to an immovable property by way of a mortgage bond product offered by those Credit Providers. For the purposes of this Code, Mortgage Origination Services will be deemed to include related pre-qualification services

“Personal Information” shall bear the meaning as set out in POPI

“POPI” means the Protection of Personal Information Act 4 of 2013, as amended

“Process” shall bear the meaning as set out in POPI

“Practitioner Member/s” means any Practitioner Member registered in accordance with the MOI

“Professional Indemnity Insurance” means insurance cover, underwritten by a registered insurer, which is designed to cover the insured person or entity for costs, losses and/or claims relating to the work, services and/or advice rendered/given by that insured person which may cause that insured persons’ customers and/or Consumers to suffer a loss either reputationally or financially

“Stakeholders” means any person, group or organisation who has a vested interest in the provision of Mortgage Origination Services and can affect or be affected by its provision and performance. Stakeholders may include Credit Providers, financial institutions, property practitioners or industry representative bodies

“TCF” means the “treating customers fairly” (TCF) principles that apply to the provision of Mortgage Origination Services by a Member as more fully detailed in Applicable Laws, including COFI and in this Code

“the Republic” means the Republic of South Africa

All references to **“Writing”** in this Code includes Electronic Communications, but in relation to Members only to the extent that the relevant Member has notified MORCSA of its Electronic Address

The headings are for reference purposes only and shall not affect the interpretation of this Code

When any **number of days** is prescribed in this Code, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day.

If any **term is defined** within the context of any particular paragraph in this Code, the term so defined, unless it is clear from the paragraph in question that the term so defined has limited application to the relevant paragraph, shall bear the meaning ascribed to it for all purposes in terms of this Code, notwithstanding that that term has not been defined in this interpretation provision

If **any provision** is included in this Code because it is compulsory to include such provision in terms of Applicable Laws, and the relevant provisions of such Applicable Laws change following the date of adoption of this Code, then such provision of the Code shall be deemed to be amended in the same manner as the changes to the relevant Applicable Laws

PART 3: CODE OF ETHICS

(Principles of Conduct, with guidance notes)

PRINCIPLE 1 - CONSUMER FIRST

Placing the Consumers' interests first is a hallmark of professionalism and is a core value of any profession. It requires Members to act honestly at all times and not place personal interest or advantage, in any form, before their Consumers' interests.

PRINCIPLE 2 – INTEGRITY

Integrity requires adherence to practices of honesty, fairness, consistency and candour in all professional matters. Members are placed in a position of trust by a Consumer and the ultimate source of that trust is the Member's personal integrity. Allowances can be made for legitimate differences of opinion, but integrity cannot co-exist with deceit or subordination of one's principles.

Integrity requires the member to observe both the letter and the spirit of the Principles of Conduct, the Professional Conduct Rules and the Practice Standards.

PRINCIPLE 3 - OBJECTIVITY

Objectivity requires intellectual honesty and impartiality.

Regardless of the services delivered or the capacity in which a MORCSA member functions, objectivity requires members to identify and manage conflicts of interest and exercise sound professional judgment.

PRINCIPLE 4 - FAIRNESS

Fairness requires providing Consumers with what they are due, owed, or could legitimately expect from a professional relationship. Members are fair and consider the needs and expectations of all Stakeholders to their transactions in a balanced and unbiased manner.

Information required by Consumers is provided in an unbiased way and in an easy-to-understand format. Members identify and disclose real and potential material conflicts of interest in a timely manner. Fairness implies treating others in the same manner that you would want to be treated.

PRINCIPLE 5 - COMPETENCE

Competence requires attaining and maintaining an appropriate level of knowledge, skills and abilities in the provision of Mortgage Origination Services.

Competence requires a Member to make a commitment to continued learning and professional development in accordance with that required by MORCSA and/or the Industry Regulator.

PRINCIPLE 6 - CONFIDENTIALITY

Confidentiality requires Consumer information to be protected and maintained in such a manner that allows access only to those who are authorised.

A relationship of trust and confidence with the Consumer can only be built on the understanding that the Consumer's information will not be disclosed inappropriately.

PRINCIPLE 7 - DILIGENCE

Diligence requires fulfilling agreed-upon professional commitments in a timely and thorough manner, and taking due care in planning, supervising and delivering professional services.

PRINCIPLE 8 - PROFESSIONALISM

Professionalism requires behaving with dignity and showing respect and courtesy to Consumers, fellow professionals, Stakeholders and others in business-related activities, and complying with appropriate legislation, regulations, rules and professional requirements.

Professionalism requires the Member, individually and in co-operation with peers, to enhance and maintain the profession's reputation and public image and its ability to serve the public interest.

PART 4 : PRACTICE STANDARDS

(Including Rules of Conduct)

Practice Standards are established guidelines that define the expected level of professionalism, ethical behavior, and technical competence within the mortgage origination industry. They are designed to ensure consistency, accountability, and quality in service delivery, fostering trust among Consumers, Stakeholders, and the general public.

1 PRACTICE STANDARD 1 - PROFESSIONAL COMPETENCE

EDUCATIONAL STANDARDS

- 1.1 All Members must hold appropriate qualifications that are relevant, adequate, appropriate and beneficial to such Member in the context of the provision of Mortgage Origination Services or such qualifications and/or experienced which may be determined by MORCSA and/or the Industry Regulator from time to time.
- 1.2 Members will complete training and an assessment pertaining to the regulatory environment applicable to the provision of Mortgage Origination Services, if and when applicable.
- 1.3 Practitioners must maintain a valid Membership with MORCSA and be in good standing.

SKILLS DEVELOPMENT

- 1.4 Practitioners are expected to demonstrate proficiency in advising Consumers in respect of Mortgage Origination Services.
- 1.5 CPD points, once introduced, should be accrued through participation in workshops, seminars, or online training programs approved by MORCSA.

2 PRACTICE STANDARD 2 - CONSUMER ENGAGEMENT

- 2.1 Members must use plain language to ensure Consumers fully understand their obligations and options in respect of the Mortgage Origination Services.
- 2.2 Keep Consumers informed about the status of their applications, timelines, and potential delays.



- 2.3 Members must ensure that Consumers are provided with clear information and kept appropriately informed during the provision of the Mortgage Origination Services and are made aware of the Member's Membership with MORCSA.
- 2.4 Service rendered must be of an Industry acceptable standard and such additional standard as the Consumer may have been led to expect by the Member.
- 2.5 In addition, a Member shall not:
 - 2.5.1 discriminate unfairly against a Consumer on the grounds that the Consumer will not, or is unlikely to, make use of mortgage finance facilities made available to the Consumer by a Credit Provider through the Member's efforts; or
 - 2.5.2 discriminate unfairly against any person on any of the grounds listed in section 9(3) of the Constitution of the Republic of South Africa, Act 108 of 1996.
- 2.6 A Member must deal correctly and efficiently with any questions that a Consumer may have pertaining to interest rate structures and mortgage finance products offered from time to time by Credit Providers, and any other matter that may be of relevance to the Consumer.
- 2.7 Offer equal access to Mortgage Origination Services regardless of race, gender, religion, or socio-economic background.

3 PRACTICE STANDARD 3 – EXECUTION OF MANDATE

- 3.1 A Member must submit, if mandated by a Consumer, a loan application to a Credit Provider or Credit Providers, whenever possible, within an appropriate time period as the circumstances require.
- 3.2 A Member must not suggest or recommend to a Consumer any arrangement(s) for finance that the Member does not reasonably believe is appropriate.
- 3.3 Practitioners must avoid misleading or deceptive practices, including the misrepresentation of interest rates, loan terms, or conditions.
- 3.4 A Member must not claim or hold himself, herself or itself out to be an expert or to have specialised knowledge in respect of any Mortgage Origination Service if, in fact, the Member is not such an expert or does not have such specialist knowledge.

4 PRACTICE STANDARD 4 – CONSUMER FEEDBACK

- 4.1 A Member must always keep a Consumer informed of all relevant information known to the Member relating to a loan, prior to registration of the related mortgage bond, to the extent that that information applies to that Consumer.
 - 4.2 Where a Credit Provider requires or requests further information from a Member in relation to any loan application, such requirement or request must be communicated to the Consumer by the Member within an appropriate time period as the circumstances require from receipt of such notification from the Credit Provider.
 - 4.3 A Member must advise a Consumer of the outcome of the loan application, within a reasonable period of time of the loan decision being notified in writing by the relevant Credit Provider to the Member.
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PART 5 : GENERAL PROFESSIONAL CONDUCT RULES

(Professional Conduct and Professional Judgement)

1 FIT AND PROPER REQUIREMENTS

All Members must meet such Fit and Proper Requirements as are applicable from time to time.

2 QUALIFICATIONS AND EXPERIENCE OF MEMBERS

2.1 Corporate Members must ensure that at all times, having regard to any promulgated conduct standards:-

2.1.1 they employ or contract only with Members for the provision of Mortgage Origination Services;

2.1.2 when appointing Practitioner Members or Key Individuals, those Practitioner Members or Key Individuals are eligible to be Practitioner Members or Key Individuals and are not suspended or otherwise subject to disciplinary proceedings in accordance with the Disciplinary Rules that could result in termination of Membership.

2.2 Corporate Members shall ensure that MORCSA are notified about the appointment of and/or termination of any Practitioner Members or any related Key Individuals within 10 (ten) days of such an appointment or termination.

3 PROFESSIONAL INDEMNITY INSURANCE

3.1 All Corporate Members must at all times maintain such Professional Indemnity Insurance as is reasonably prescribed by the Board from time to time from an insurer that is approved by the Board (which approval shall not be unreasonably withheld or delayed).

3.2 The terms and conditions of any Professional Indemnity Insurance must at all times meet other minimum standards as may be reasonably set by the Board from time to time.

4 INFORMATION AND CONFIDENTIALITY

A Member must at all times respect and maintain the highest levels of confidentiality in respect of personal information of Consumers and use all reasonable endeavours and training to comply with the requirements of POPI and any other relevant legislation in that regard.

5 FEES AND COMMISSIONS DISCLOSURE

A Member must disclose to the Consumer that it will receive a fee or commission from the Credit Provider as required pursuant to section 163(3) of the National Credit Act.

6 RAISING FEES

A Member may not charge a raising fee or other amount to a Consumer for the provision of the Mortgage Origination Services in securing a home loan, save in the event that the Member will not be paid a commission directly or indirectly by a Credit Provider against the granting or registration of the home loan concerned.

7 HONEST AND HONOURABLE DEALINGS

7.1 A Member must not engage in any acts or omissions of a misleading, dishonest, deceptive or fraudulent nature, without limiting the generality of the foregoing the Member must ensure that the application(s) submitted to Credit Providers do not contain any information that the Member knows to be fraudulent, misleading, dishonest, or deceptive.

7.2 A Member's advertising must not be misleading, dishonest or deceptive.

8 COMPLAINTS HANDLING

8.1 Corporate Members must use their best endeavours to resolve any Complaint made either directly to it or referred to it by MORCSA via its own internal complaints resolution process.

8.2. During or after the lodgement of a Complaint, the Complainant may not be prejudiced by the actions of any Member, such as through the levying of any charges or the withdrawal of any applications for mortgage finance.

8.3 A Member must always respond in writing to MORCSA within the period laid down in the Disciplinary Rules after receipt of a written Complaint against that Member referred by MORCSA to that Member for response. Should no time period be stipulated, the Member must respond within no more than 10 (ten) days.

8.4 A Corporate Member must maintain a record of written Complaints made against that Member and its staff in the form and manner stipulated by the Board or the Industry Regulator from time to time.

9 CONFLICT OF INTEREST

9.1 A Member must fully disclose to a Consumer any actual or potential conflict of interest of which a Member is aware to the extent that such a conflict of interest may affect a Consumer's decision in respect of its mortgage finance application.

- 9.2 A Practitioner Member may not provide Mortgage Origination Services in respect of a transaction in which the Practitioner Member (or any member of their immediate family) is a party (whether as seller or buyer) or otherwise directly interested.

10 MEMBER DEALINGS WITH MORCSA AND OTHER MEMBERS

- 10.1 A Practitioner Member who receives an application for mortgage finance in the course of his or her employment with a Corporate Member may only submit such application through such Corporate Member.
- 10.2 Should an origination contract of a Corporate Member be terminated by another Corporate Member or should a Key Individual or Practitioner Member's employment or service be terminated, in circumstances involving fraud or other dishonest conduct, then such Corporate Member will be obliged to notify MORCSA thereof within 5 (five) days.
- 10.3 Any Credit Provider or Stakeholders shall be entitled to notify MORCSA of any concern, irregularity or potential breach of the Code for review, investigation or intervention.

For the avoidance of doubt, any such notification shall be deemed to have been consented to by the Member so terminated by reason of their Membership to MORCSA.

11 MEMBERSHIP TO OTHER INDUSTRY ORGANISATIONS

Members who are also members, affiliates or associates of another organisation, institute, regulatory or controlling body, association, or the like, ensure adherence to such entities' rules, regulations and codes of conduct, and are obliged to inform MORCSA, at the earliest possible time, of any administrative, punitive or disciplinary action taken against them by such an entity.

12. UNAUTHORISED ACCESS

A Member may not enter into any arrangement to provide Mortgage Origination Services or allow access to any person to enable such person to provide Mortgage Origination Services to a Consumer if such person's Membership has been terminated or not renewed by MORCSA.

PART 6: DISCIPLINARY RULES

(including Disciplinary Processes)

1 GENERAL PROVISIONS

The following Rules and processes will be applicable to any disciplinary action instituted against any Member(s) of MORCSA. Words which are not otherwise defined in these rules bear the same meaning as in the Memorandum of Incorporation (“MOI”), the Code of Good Practice (“the Code”) or these Disciplinary Rules (“the Rules”) unless the context otherwise requires.

1.1 PURPOSE

To establish a fair, transparent, and consistent process for disciplining Members in relation to breaches of MORCSA’s Code of Good Practice and regulatory standards by Members, ensuring accountability and upholding professional ethics within the Industry.

1.2 SCOPE

This procedure applies to all Members, including Practitioner Members, Corporate Members and Key Individuals.

1.3 PRINCIPLES OF DISCIPLINARY ACTION

Disciplinary actions are governed by the following principles:

1.3.1 Fairness and Impartiality:

All matters will be handled objectively and without bias.

1.3.2 Due Process:

Members will be given an opportunity to respond to allegations.

1.3.3 Confidentiality:

Proceedings will be conducted with strict confidentiality.

1.3.4 Proportionality:

Sanctions will be commensurate with the severity of the breach or non-compliance.

1.4 SERVICE OF DOCUMENTS, NOTIFICATIONS AND DECISIONS:

The service of all documents, notifications and decisions to any Member in any proceedings in terms hereof shall be by electronic mail to the Member or Corporate Member's usual or last-known email address as advised to MORCSA. If sent during business hours, it will be presumed to have been received the same day. Communications sent after business hours, or on a day which is not a business day, will be deemed to have been received on the first business day following transmission.

1.5 CONFIDENTIALITY AND PRIVILEGE

A Complaint and any evidence lodged with the Conduct Committee, any response thereto in terms of these Rules submitted by the Respondent, as well as a transcription of a hearing or investigation conducted in terms of these Rules, are privileged.

Unauthorised access or distribution thereof to any party other than the Complainant, Respondent and the Conduct Committee for the purpose of these Rules may render a person liable to disciplinary action under these Rules. Permission to obtain access to information obtained under this Rule may only be given by the Conduct Committee on application.

1.6 REPRESENTATION

Participation of any legal practitioner on behalf of the Complainant or the Respondent is restricted to assisting in the preparation and drafting of documents, explanations, affidavits, heads of argument and statements that are to be presented by such party, as well as for the provision of legal advice and guidance.

1.7 EVIDENCE

For the purpose of the evaluation of evidence, sworn evidence or affidavits carry more weight than unsworn evidence or statements. A solemn affirmation in front of a Commissioner of Oaths carries the same weight as an affidavit.

1.8 TIME PERIODS

The Conduct Committee may extend any period determined in these Rules for doing any act. All day calculations contained in these Rules are working days and exclude Saturdays, Sundays and public holidays.

1.9 STANDARD OF PROOF

A Disciplinary Hearing conducted by the Disciplinary Panel shall be considered a hearing by peers and does not seek to emulate legal proceedings, but must be conducted in accordance with the provisions contained in [Rule 10](#). Similarly, an Appeals Hearing by the Appeals Panel, must be conducted in accordance with the provisions of [Rule 12](#). The standard of proof required by the Disciplinary Panel when determining whether a Respondent or Appellant is guilty of any misconduct arising out of a Complaint lodged in terms of these Rules, is one of a balance of probabilities, as determined by the members thereof, having fully acquainted themselves with the facts and circumstances germane to the Complaint or subsequent appeal.

1.10 COMPOSITION OF PANELS

The Disciplinary Panel and Appeals Panel referred to in these Rules shall have all the powers referred to herein. The Disciplinary Panel must, at all times consist of at least two (2) persons serving on the Conduct Committee, together with the Chairperson and the Appeals Panel must, at all times consist of at least three (3) persons serving on the Conduct Committee, excluding the Chairperson.

2 SUBJECT OF A COMPLAINT

Unless the context indicates otherwise, a Complaint may be lodged against:

- 2.1 any Practitioner Member(s);
- 2.2 any Corporate Member(s);
- 2.3 any Key Individuals;

jointly or severally, as the case may be. Any Complaint lodged against a Member who does not hold a valid or current Membership at the time of the lodging of a Complaint, may be recorded in the Members' Register against the profile of such Member for future reference or consideration by the Nominations Committee.

3 WHO MAY LODGE A COMPLAINT

A Complaint in terms of these Rules may be lodged by:-

- 3.1 a Consumer; or
- 3.2 another MORCSA Member; or
- 3.3 a Credit Provider;
- 3.4 the CEO on behalf of the Board and/or the Conduct Committee; or
- 3.5 the Industry Regulator or any other relevant Stakeholders

4 FOUNDATION FOR A COMPLAINT

A Complaint may be made in respect of:

- 4.1 any conduct which is alleged to be in contravention of any provision or rule contained in:
 - 4.1.1 the MOI; and/or
 - 4.1.2 the Code; and/or
 - 4.1.3 any conduct standards promulgated by the Industry Regulator.
- 4.2 the failure to comply with the provisions or obligations imposed upon any Member in terms of any framework, limited but not restricted to the “Complaints Framework”.

5 PROCEDURE FOR BRINGING A COMPLAINT

- 5.1 A Complaint made under [Rule 4](#) or any other applicable Rule, shall:
 - 5.1.1 be reduced to writing and must set forth the material facts on which the Complaint relies, including full particulars of the act, conduct, default or omission alleged against a Member;
 - 5.1.2 contain the time, place and circumstances the act or conduct complained of occurred, the prejudice suffered or how the interests of the Industry is or has been affected thereby, including all aggravating and mitigating factors that should be considered;
 - 5.1.3 be supported by the appropriate affidavits and supporting documents, identifying the names, addresses and contact telephone numbers of supporting witnesses and include the affidavits of other persons whose evidence the Complainant relies upon in support of the Complaint.
- 5.2 If the issues raised by a Complainant are the subject of a pending criminal case or civil action, the Conduct Committee may, but shall not be obliged to, stay the Complaint until such time as the action or case is resolved or determined by a final court judgement or as otherwise may be determined by the Conduct Committee.

6 ADMINISTRATIVE EVALUATION OF THE COMPLAINT AND COLLATION OF EVIDENCE

- 6.1 Following receipt of a Complaint, the Chairperson of the Conduct Committee must establish whether the Complaint complies with the requirements of [Rule 2](#), [Rule 3](#), [Rule 4](#) and [Rule 5](#) and must inform the Complainant in writing of any omissions or deficiencies pertaining to the Complaint.

- 6.2 Despite these Rules, the Chairperson of the Conduct Committee may call for and obtain additional evidence from any person who may have information relevant to the Complaint, and include it as part of the Complaint, before notifying the Respondent in terms of [Rule 7](#) or may excuse any partial non-compliance.
- 6.3 Multiple complaints may be aggregated for the purpose of establishing and formulating individual charges by the Chairperson.

7 INITIAL NOTIFICATION PROCEDURE

- 7.1 If the Chairperson of the Conduct Committee considers the Complaint to comply with these Rules, he/she must, within 10 (ten) days of receipt of the Complaint:
- 7.1.1 serve, in accordance with the provisions of [Rule 1.4](#), on the Member against which or against whom the Complaint has been made (“the Respondent”), copies of the Complaint, all the evidence, affidavits, supporting documents and information pertaining to the Complaint, as well as copies of these Rules; and
 - 7.1.2 request the Respondent within 10 (ten) days of receipt thereof, and if he, she or it so wishes, to deny the Complaint and submit an affidavit and affidavits of other persons whose evidence the Respondent relies upon in support of his, her or its defence or explanation, including all supporting documentation and other evidence.
- 7.2 Should the Respondent admit to the Complaint, he, she or it may do so in writing to the Chairperson of the Conduct Committee setting out the circumstances, including any extenuating circumstances and such other supporting documents as may be relied upon and the Chairperson shall be entitled to consider the Complaint without referring the Complaint to a Disciplinary Panel and to make the appropriate finding and order on such terms as a Disciplinary Panel would be entitled.
- 7.3 Should the Respondent fail to respond to the Chairperson of the Conduct Committee on the Complaint within the prescribed period, it will be accepted that the Respondent does not wish to respond to it and the Complaint may be considered and decided by the Chairperson on the basis of the Complaint documentation submitted by the Complainant.
- 7.4 Any evidence provided by the Complainant, may be used in evidence against the Respondent at any disciplinary hearing, inquiry or process.

8 EVALUATION OF THE COMPLAINT

- 8.1 The Chairperson of the Conduct Committee must, within 10 (ten) days of receipt, or non-receipt, of the Respondent's response to the Complaint, evaluate and consider the Complaint together with the Respondent's response and decide whether:
- 8.1.1 the Complaint meets the requirements contemplated in these Rules; and
 - 8.1.2 sufficient evidence exists that discloses a breach of a provision of [Rule 4](#); and
 - 8.1.3 the Respondent has an acceptable defence to, or satisfactory explanation for, the Complaint.
- 8.2 The Chairperson of the Conduct Committee may conduct such further investigation into the matter as he/she deems necessary and may obtain the further evidence, affidavits or documents that he/she may require in order to consider and evaluate the Complaint and reach a decision in terms of [Rule 8.1](#).
- 8.3 After evaluation of the Complaint in terms of [Rule 8.1](#) and [Rule 8.2](#), the Chairperson of the Conduct Committee must decide whether to:
- 8.3.1 impose any Penalties as provided for herein if the Complaint is regulated by Clause 7.2 or 7.3 hereinabove; or
 - 8.3.2 dismiss the Complaint if the Respondent has presented an obviously acceptable explanation for, or defence to, the Complaint; or
 - 8.3.3 dismiss the Complaint if, based on the affidavits, documents and evidence before him/her, disciplinary proceedings should not continue for some good reason other than that referred to in [Rule 8.3.1](#); or
 - 8.3.4 proceed with a disciplinary hearing if sufficient grounds and evidence exist to warrant a hearing, and to list the Complaint for hearing by a Disciplinary Panel of the Conduct Committee within 20 (twenty) days of his/her decision.
- 8.4 In the event of the Chairperson of the Conduct Committee having dismissed the Complaint in terms of [Rule 8.3.1](#) or [Rule 8.3.2](#), he/she must within 10 (ten) days of the decision inform both the Complainant and Respondent thereof as provided in [Rule 1.4](#).

9 NOTIFICATION OF THE DISCIPLINARY HEARING

- 9.1 If the Complaint is scheduled for hearing before the Disciplinary Panel of the Conduct Committee as contemplated in [Rule 8.3.3](#), the Chairperson must, within 10 (ten) days of the decision notify both the Complainant and the Respondent, by way of email transmission as provided for in [Rule 1.4](#), of the date of the hearing.

- 9.2 The hearing may be conducted either by physical meeting of the members of the Disciplinary Panel at the appointed venue of the hearing or by way of a pre-arranged video conference.
- 9.3 The Chairperson must, together with the notification for hearing of the matter, provide both the Complainant and the Respondent with all the sworn statements, documents, written explanations and additional evidence in his/her possession relevant to the Complaint and which has not already been served on them.
- 9.4 The Chairperson must request the Respondent to submit a written response within 10 (ten) days of receipt thereof, in the form of a supplementary affidavit or supporting affidavit in rebuttal to any additional statements, affidavits, documents or evidence collated by the Chairperson in terms of [Rule 6](#).
- 9.5 If the Respondent does not respond in writing to the Chairperson in terms of [Rule 9.4](#), the Chairperson may deduce that the Respondent admits the additional evidence and must proceed with presenting the matter for hearing to the Disciplinary Panel.

10 HEARING OF THE COMPLAINT

- 10.1 The Disciplinary Panel must consider any Complaint laid before it on the papers and written submissions, and no oral evidence (save in exceptional circumstances) of any nature is permitted during the hearing, but the Respondent and Complainant may, on application to the Disciplinary Panel, be allowed to appear in person to address the members thereof.
- 10.2 The Chairperson of the Conduct Committee shall be the appointed Chairperson of the Disciplinary Panel, or in his or her absence; he or she must appoint another person serving on the Conduct Committee to act as Chairperson of the Disciplinary Panel, provided that the Disciplinary Panel shall consist of no less than 3 (three) persons.
- 10.3 No member of a Disciplinary Panel may have a direct personal interest in the outcome of the hearing, nor there be a reasonable suspicion that a member has such an interest.
- 10.4 All members of the Disciplinary Panel must before the onset of the hearing declare their personal interests to the Chairperson, and if a member is found to have a conflict of interests with the matter to be heard, the Chairperson must replace such a member.

- 10.5 The Chairperson, after consultation with the members of the Disciplinary Panel, may co-opt any person to assist the Disciplinary Panel on any matter on which such a person may have specialised knowledge. Such a co-opted person is not regarded as a member of the Disciplinary Panel and is neither permitted to partake in any decision of the Disciplinary Panel on issues of fact, nor to advise on the substantive outcome of the hearing.
- 10.6 The Disciplinary Panel must seek to avoid formality in its proceedings and is not bound by any rule of law relating to the admissibility of evidence in proceedings before a court of law. It must conduct the hearing in such a manner as is appropriate for the clarification of issues before it and in order to reach a decision.
- 10.7 The Disciplinary Panel may conduct such additional enquiries and obtain such additional statements, affidavits, documents or evidence as may be appropriate, but with due regard to the Rules of Natural Justice. It must provide the affected party time to respond to such evidence within a reasonable time.
- 10.8 The Disciplinary Panel may adjourn the hearing to a later date in order to give effect to [Rule 10.7](#) or for any other purpose.
- 10.8 The Disciplinary Panel must determine the Complaint before it on the basis of a balance of probabilities and, at the conclusion of the hearing, must decide whether the Complaint is substantiated or not.
- 10.10 In the event of the Disciplinary Panel deciding that the Complaint is substantiated, the Disciplinary Panel may impose any one or more of the applicable penalties listed in [Rule 11](#).
- 10.11 A decision or finding by the Disciplinary Panel must be determined by the vote of a majority of its members, all of whom must vote with no abstention allowed.
- 10.12 At the conclusion of the hearing, the Disciplinary Panel must record its decision and findings in writing, and if it is found that the Complaint brought under [Rule 4](#) is substantiated, it must decide and record in writing what penalty, order or condition is imposed on the Respondent.
- 10.13 Where the Disciplinary Panel has decided that the Complaint is not substantiated, it must record its finding, which is final, and the matter must be dismissed.
- 10.14 The Chairperson must, within 10 (ten) days of the conclusion of the hearing, inform both the Complainant and Respondent as provided in [Rule 1.4](#).
- 10.15 The formal notification referred to in [Rule 10.14](#) must also include the content and effect of the penalties imposed on the Respondent.

- 10.16 The Chairperson may correct any patent error in the penalty, order or condition as recorded by the Disciplinary Panel on condition that the consequence may not be less favourable to the Respondent.
- 10.17 It shall fall within the remit of the Disciplinary Panel to bring concerns expressed by the Member/s in the course of the hearing to the attention of the Board, with a view to prompting intervention, whether regulatory or educational, to prevent a recurrence of events or circumstances which have led to the hearing over which it had presided.

11 PENALTIES

- 11.1 If the Respondent is a Member at the time of imposition of the penalty, order or condition, one or more of the following penalties (in addition to an order in respect of liability for the costs of the disciplinary process), may be imposed by the Disciplinary Panel:
- 11.1.1 termination of Membership; or
 - 11.1.2 suspension of Membership; or
 - 11.1.3 imposition of a fine; or
 - 11.1.4 a reprimand and/or warning; or
 - 11.1.5 order corrective action, limited but not restricted to the completion of suggested or prescribed training or submitting to a performance improvement plan
- 11.2 If the Respondent is not a Member at the time of imposition of the penalty, order or condition, the Disciplinary Panel may order that its findings be recorded in the Members' Register for reference and consideration in any future applications for or renewal of Membership by the Nominations Committee.
- 11.3 Any termination or suspension imposed under this Rule may be for life, or any shorter period as the Disciplinary Panel may order.
- 11.4 If any one or more of the penalties set out in this Rule are imposed by the Disciplinary Panel, it may wholly or partially suspend the penalty on such conditions as are appropriate in the circumstances of the case.
- 11.5 Apart from imposing any penalty in terms of these Rules, the Disciplinary Panel may also, after proper investigation into the matter and if it is satisfied that a condition of a suspended penalty imposed on a Respondent by a previous decision of a Disciplinary Panel in terms of [Rule 11.3](#) has not been complied with under circumstances in which it could reasonably have been complied with, order that the suspended penalty be put into operation.

- 11.6 If a Respondent fails to pay a fine imposed in terms of these Rules, his or her or its Membership must be regarded as suspended for so long as the default continues.
- 11.7 If imposed, a fine is payable within 10 (ten) days after the Respondent has been notified of the decision of the Disciplinary Panel in terms of [Rule 1.4](#).
- 11.8 After receipt by the Chairperson of an allegation that a Member whose penalty has been suspended in terms of [Rule 11.4](#), has not complied with a condition of the suspension, the Conduct Committee may:-
 - 11.8.1 with due regard to the Rules of Natural Justice and during the period of a suspension, cause an investigation to be made into the allegation;
 - 11.8.2 if it is satisfied that a condition of the suspension has not been complied with under circumstances in which it could reasonably have been complied with, order that the suspended penalty be put into operation; and
 - 11.8.3 instruct the Chairperson to notify the Respondent accordingly, which notification must include the content and effect of the order and must be made as provided in [Rule 1.4](#).

12 APPEALS PROCEDURE

- 12.1 Any decision and finding of the Disciplinary Panel (including any decision and finding by the Chairperson as per Clause 7.2 or 7.3), where it has upheld a Complaint and imposed a penalty and/or made a decision in terms of [Rule 11](#) is subject to a right of appeal by that Respondent to the Appeals Panel under the circumstances and after following the procedures set out in this Rule, the Respondent thereafter is known as the “Appellant” and the Complainant as the “Respondent”.
- 12.2 The Appellant must specify in full in the Notice of Appeal all the grounds of appeal which are relied upon and must state clearly all the material allegations and contentions which are relied upon and must include copies of all documentation which the Appellant contends to be relevant to the appeal.
- 12.3 A Notice of Appeal must be forwarded to the Chairperson of the Conduct Committee within 10 (ten) days of the notification to the Respondent in terms of [Rule 1.4](#) for the Chairperson to decide whether such Notice of Appeal has been properly compiled and contains the following:-
 - 12.3.1 the name and address of the Appellant;
 - 12.3.2 the decision and/or imposed penalty which is disputed, and must specify whether the appeal is in respect of the whole or in respect of any specified part of the decision and/or imposed penalty of the Disciplinary Panel;

- 12.3.3 the heads of argument that clearly set out the grounds for the appeal and all contentions which are relied upon and may include any additional evidence, which must be accompanied by all the relevant affidavits and documents in support thereof;
 - 12.3.4 the full reasons for having omitted such additional evidence in the previous presentation to the Disciplinary Panel;
 - 12.3.5 if applicable, contain an indication by the Appellant to appear in person before the Appeals Panel in terms of the provisions of [Rule 12.8](#).
- 12.4 Should the Chairperson find that the Notice of Appeal does not comply with the provisions of Rule 12.3.1 to 12.3.5, it must inform the Appellant in writing of any omissions or deficiencies pertaining thereto. The Appellant may, within 10 (ten) days after notification by the Chairperson, re-submit such a Notice of Appeal with the required rectifications.
- 12.5 The Chairperson may serve on the Respondent a copy of the Appellant's Notice of Appeal and any additional evidence submitted by the Appellant, to which the Respondent may respond if he or she so wishes, within 10 (ten) days of such a notification.
- 12.6 Should the Chairperson be satisfied with the Notice of Appeal it shall, after receipt of any response from the Respondent (if requested) forward all the documents to the Conduct Committee who shall appoint an Appeals Panel to consider the appeal.
- 12.7 Whenever an Appeals Panel is appointed to act in terms of this Rule, no person who was a member of the Disciplinary Panel that had initially heard or considered the matter or the Notice of Appeal may not be appointed to the Appeals Panel.
- 12.8 An Appeals Panel may meet anywhere within the jurisdiction of MORCSA as may be determined by the Chairperson in liaison with the other members of the Committee and, where applicable, with the Appellant, and the consideration of the appeal may either take place by physical appearance of the Appellant, at an appointed time and venue, before the members of the Appeals Panel or by way of a pre-arranged video conference or as otherwise determined by the Chairperson.
- 12.9 For the avoidance of doubt, should a Notice of Appeal not be accompanied by a request for the matter to be heard in person by the Appellant, the Appeals Panel shall continue with the consideration of the appeal in the absence of the Appellant in a manner determined by the Chairperson.
- 12.10 A duly appointed Appeals Panel must consider the appeal together with all the documents and evidence presented to the Disciplinary Panel, including the written record of the Disciplinary Panel's decisions, findings, penalties, orders and

conditions imposed on the Appellant and, if applicable, allow the Appellant to appear in person and present argument on the issues in the appeal.

- 12.11 An appeal shall operate as a stay of any penalty, order or condition imposed by the Disciplinary Panel, unless the finding of the Disciplinary Panel specifically records otherwise.
- 12.12 After due consideration of the appeal, an Appeals Panel may:
 - 12.12.1 confirm, revoke or vary any finding, penalty, condition, order and/or determination imposed or made by the Disciplinary Panel;
 - 12.12.2 remove, increase or modify any termination or suspension or period of suspension, imposed on an Appellant by the Disciplinary Panel;
 - 12.12.3 increase any penalty, condition, period, determination and/or order imposed by the Disciplinary Panel.
- 12.13 The Appeals Panel must order the refund of any fine paid or the retraction of implementation of any such other penalty, determination, order, period or condition that may be considered necessary, if such penalties or determination, order, period and/or conditions are set aside on appeal.
- 12.14 The Appeals Panel's decision on the finding, penalties, determinations, orders period and/or conditions imposed by the Disciplinary Panel is final.
- 12.15 A decision or finding by the Appeals Panel must be determined by the vote of a majority of its members, all of whom must vote with no abstentions allowed.
- 12.16 The Chairperson must formally communicate the decision and finding to the Appellant and the Respondent.
- 12.17 The communication procedure set out in [Rule 1.4](#) with the necessary changes is applicable to notification of the decision and finding of the Appeals Panel.
- 12.18 If an Appellant remains in default in the payment of a fine or order imposed in terms of these Rules, his or her Membership must be regarded as suspended for as long as the default persists.
- 12.19 It shall fall within the remit of the Appeals Panel to bring concerns expressed by the Member/s in the course of the hearing to the attention of the Board, with a view to prompting intervention, whether regulatory or educational, to prevent a recurrence of events or circumstances which have led to the hearing over which it had presided.

13 PUBLICATION

- 13.1 In consequence of any Complaint made under these Rules, the Conduct Committee may publish relevant details regarding any matter heard by a Disciplinary Panel or concluded pursuant to the procedure set out in [Rule 7](#) or any appeal heard by an Appeals Panel, in order to inform Members, the Industry Regulator, Credit Providers, Stakeholders or persons associated with any of these. Such publication may be made on the official MORCSA website or in any other publication or communication that is appropriate.
- 13.2 The Conduct Committee are empowered to publish separate lists of persons suspended or whose Membership has been terminated.
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