

# Guidance Note: Complaints

**References**                      Chapters 4 & 5, SIM VSE Business Rules  
    Chapter 7, Corporations Act

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## Introduction

This guidance note has been issued to assist Exchange brokers comply with their obligations in relation to complaints under the SIM VSE Business Rules.

## Regulatory Objectives

The way in which Exchange brokers deal with complaints by their clients can have an important impact on the overall operations of the market. The Exchange therefore has an interest in how Exchange brokers deal with client complaints.

The SIM VSE Business Rules include a number of requirements that supplement the requirements of the Australian Securities and Investments Commission (ASIC) and the Corporations Act in relation to the handling of complaints.

This guidance note describes the Exchange's expectations of Exchange brokers and the role played by the Exchange in relation to complaints.

## Corporations Act and ASIC Requirements of SIM VSE Brokers

Exchange brokers who provide investment advisory services to retail investors are required to have certain complaints handling procedures in place.

In particular, they are required to have internal complaints handling procedures that comply with the Australian Standard on Complaints Handling (AS 4269-1995). They are also required to be a member of an ASIC approved external complaints resolution scheme.

## Australian Standard on Complaints Handling

The objectives of the Australian Standard on Complaints Handling are to:

- increase the level of client satisfaction with the delivery of services and enhance the client/broker relationship;
- recognise, promote and protect the clients' rights, including the right to comment and complain;
- provide an efficient, fair and accessible mechanism for resolving client complaints;
- provide information to clients on the complaints handling process; and
- monitor complaints in an endeavour to improve the quality of services.

Exchange brokers should try to implement their internal complaints handling procedures in such a way that they can achieve these objectives.

Exchange brokers can obtain a copy of the Australian Standard on Guidelines for Complaints Handling in Organisations [AS ISO 10002-2006] from SAI Global Limited by going to [infostore.saiglobal.com/store](http://infostore.saiglobal.com/store) or calling 131 242.

## **External Complaints Resolution Scheme**

The only external complaints resolution scheme approved by ASIC is the Financial Industry Complaints Service (FICS).

Therefore, Exchange brokers who provide investment advisory services to retail investors are required to be a member of FICS. Further information can be obtained about FICS on 1800 335 405.

## **Role of the Exchange in Complaints Handling**

The Exchange is required under s792A of the Corporations Act to have adequate arrangements in place for monitoring the conduct of participants on or in relation to the market. This includes investigating complaints by investors.

SIM VSE Business Rule 4.17 provides that:

The Exchange will consider any complaint against an Exchange broker submitted to it in writing by a person who is not an Exchange broker.

SIM VSE Business Rule 4.18 provides that the Exchange will assess and if thought fit investigate a dispute between a Exchange broker and a non Exchange broker unless it considers that:

- a the issue in dispute is such that it does not warrant an investigation by the Exchange; or
- b it would be more appropriate for the dispute to be investigated and heard by a court or other body with jurisdiction to make a decision in respect of the dispute.

The Exchange's general approach in this area is to play an initial role in attempting to resolve complaints between Exchange brokers and their clients quickly and effectively. If early resolution of a complaint is not possible and the parties appear unable to resolve the complaint themselves the Exchange will encourage the parties to refer the complaint to FICS or another appropriate forum for resolution.

The Exchange has established a close working relationship with FICS. This ensures FICS obtains the benefit of the Exchange's experience in relation to the market to help it develop the most effective procedures for resolving complaints by clients against Exchange brokers. The Exchange also has an interest in complaints against SIM VSE brokers as at times they will also raise issues that may result in the Exchange taking disciplinary action against an Exchange broker.

## **Scope of Guidance Note**

This guidance note is intended to assist Exchange brokers to comply with their obligations under the SIM VSE Business Rules. It is not exhaustive, does not in any way act as a substitute for any SIM VSE Business Rules and is not binding on the Exchange in its application of the Rules in any particular case.

This guidance note does not constitute legal advice by Exchange. Where appropriate, Exchange brokers should obtain their own professional advice about compliance with their obligations under the SIM VSE Business Rules.

## **Queries**

If you have queries about this guidance note please contact the SIM VSE Broker Office on:

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