

MICROFINANCE SOUTH AFRICA

Code of Good Practice

As a vehicle to achieving part of its stated mission, the MFSA has established a Code of Conduct and a Code of Good Practice as a voluntary standard to which its members have agreed to adhere. The principles are as follows:

- 1. Conduct:** Each member shall conduct him/herself and his/her business in a way that will avoid doubt being cast upon his/her professional integrity. A member shall ensure that he/she provides a financial service that is both proper and efficient and in the interest of good business practices.
- 2. Rules for Practice:** A member shall display on his/her business letterhead that he/she is a member of the MFSA and that the business is a registered member under the auspices of the Regulatory Body. When a member practices at more than one (1) branch, the full address of the head office shall be displayed on every business letterhead.

A member shall not refuse to consider a loan application on the grounds of race, gender, colour, ethnic origin or religion.

- 3. Ethical practice:** Members shall at all times act honestly, ethically and fairly in their dealings with members of the public. They will refrain from activities that can bring the Association or the microfinance industry into disrepute.
- 4. Regulatory Compliance:** All MFSA members will abide by the laws and regulations under *inter alia* the jurisdiction of the Department of Trade and Industry. Any MFSA member issued with *bona fide* membership of the Regulatory Body for Microfinance shall provide evidence of that membership and will be presumed to be operating under the authority and within the scope of that Regulatory Body. MFSA members shall use best efforts to obtain any binding legislative or judicial determinations which prohibit or limit operation in the various provincial jurisdictions and shall abide by those limitations.
- 5. Accountability:** To enhance consumer confidence in microfinance, MFSA members offering their services in a jurisdiction, agree to make their systems, practices and records available for inspection and review by any industry-related legitimate authority appointed by the Regulatory Body or commission appointed by the South African Reserve Bank ("SARB") or their appointee, in accordance with generally accepted methods for protecting proprietary information.

6. **Granting and Refusal of Services:** A member shall disclose his fees before concluding an agreement with a consumer, including:
 - the way in which the fees and/or interest is calculated;
 - cancellation or default charges;
 - adverse information that has been obtained about the consumer.

7. **Consumer Privacy and Data Protection:** MFSA members shall design and operate their services to afford consumers privacy and confidentiality. Each MFSA member shall institute controls to detect and eliminate fraud and to protect data and the internal collection system from internal and external breaches. A member shall treat all facts and information obtained about a client as confidential and shall not make any unauthorized use of such facts or information.

8. **Truth in Advertising:** MFSA members shall be truthful in all promotions and publish only accurate information about their operations. Interest rates, regulatory rules, registration confirmation and complaint procedures will be made available to the public.

9. **Dispute Resolution and Audit Trails:** In order to provide prompt and efficient dispute resolution, each MFSA member will retain detailed transaction records which will be archived and accessible to any relevant legitimate government authority.

10. **Controlling Compulsive Borrowing:** MFSA members shall implement adequate procedures to facilitate consumer education. The procedures instituted shall include lending and repayment records, and provision to assist with the counseling of borrowers.

11. **Reckless Lending:** MFSA members shall endeavor to avoid reckless lending practices and implement their services in order that they preserve and protect the credit records of consumers. MFSA members shall endeavor to support consumer credit policies. A member shall not in any way take unfair advantage of any apparent disability or lack of knowledge, education, financial or business circumstances of the consumer.

12. **Banking and Transaction Processing:** MFSA members shall conduct their payment and collection practices in accordance with generally accepted standards of SARB and recognized banking supervision principles.

13. **Complaint Procedure:** This is a procedure for handling complaints in the event that one of the MFSA's members has broken the code of good practice.

- It is essential that the consumer first approach the member. Members should endeavour to ensure that complaints are handled speedily, equitably and sympathetically.
- If the problem is not satisfactorily resolved by the member, the consumer may seek assistance from the MFSA or the Regulating Authority.

All complaints must be submitted in writing.

- The complaint must contain the following information:
 1. The name and legal status of the microfinancing member against whom the complaint is directed;
 2. The full names, address and contact details of the complainant;
 3. Identification of the part of the Code of Good Practice which has allegedly been breached;
 4. A detailed description of the actions (or inactions) which resulted in the alleged breach.

An acknowledgement of receipt of the complaint is sent to the complainant.

A few basic sanity checks are done, to ensure that the complaint is valid:

- Is the service provider a member of the MFSA?
- Has the MFSA or the authorities already dealt with an earlier complaint on the same issue with the same member?

If either or any of these sanity checks fail, a letter is sent to the complainant explaining the reason why the complaint cannot be addressed, or noting that it has already been dealt with.

Copies of the complaint are forwarded to the member.

The member against whom the complaint has been initiated, is given ten working days to reply to the complaint. If, after ten working days, the complaint has not been replied to or resolved to the satisfaction of both parties, the complaint is forwarded to the Disciplinary Committee for an investigation.

The MFSA will consider the merits of the complaint, taking into account:

- The complaint;
- Any response received from the member to the complaint;
- The Code of Conduct;
- The associated practical recommendations;
- Any previous complaints made by the complainant;
- Any previous complaints made against the member.

After considering the merits of the complaint, the Disciplinary Committee can make any of the following resolutions:

- The complaint is not valid;
- The complaint should be referred back to the member with a further opportunity for remedial action;
- The service provider should be issued with a warning;
- The activities of the member should be reported to the Regulatory Body;
- The member's membership of the MFSA should be revoked.

Copies of the disciplinary resolutions and the reasons for those resolutions are forwarded to the member, the complainant and the MFSA's Executive Committee (Exco).

If either the complainant or the member believes that the Disciplinary Committee Complaints Panel has made an incorrect decision, an appeal can be lodged timeously with the MFSA's Exco.

The MFSA's Executive Committee can either reject the appeal, or refer the case back to the Disciplinary Committee Complaints Panel. Copies of the Exco's decision and the reasons for the decision are sent to both the member and the complainant.

If the Exco rejects an appeal, it is the end of this procedure.

- 14. Consumer Interest:** The interests of the consumer are always foremost for MFSA members. Such conduct is to assure sustainable development of the microfinance sector and to procure desirable and acceptable business practices.
- 15. Professionalism:** Members commit themselves to the goal of continuously improving themselves, their business and their employees in their chosen profession.