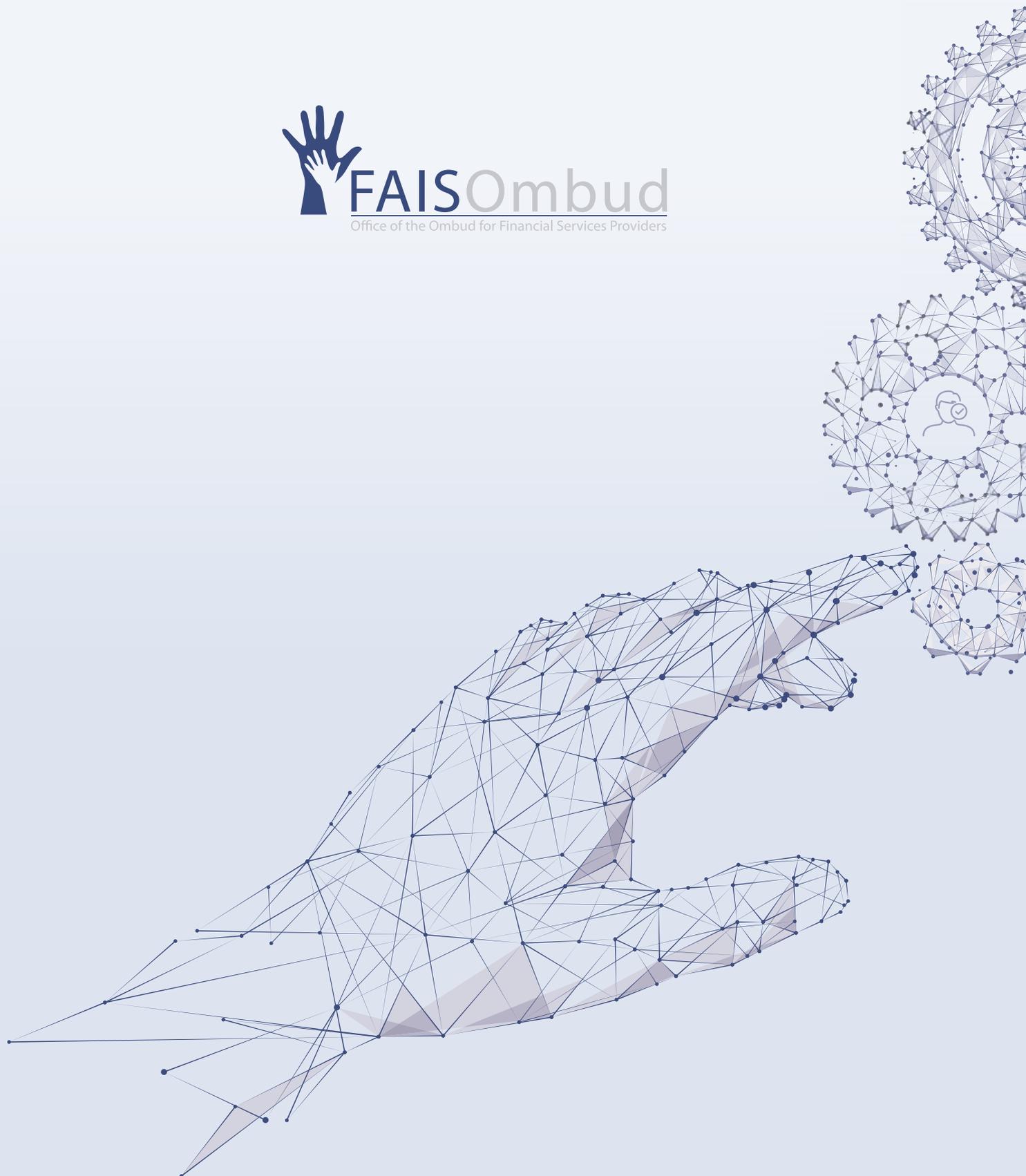




ANNUAL REPORT
2020/21

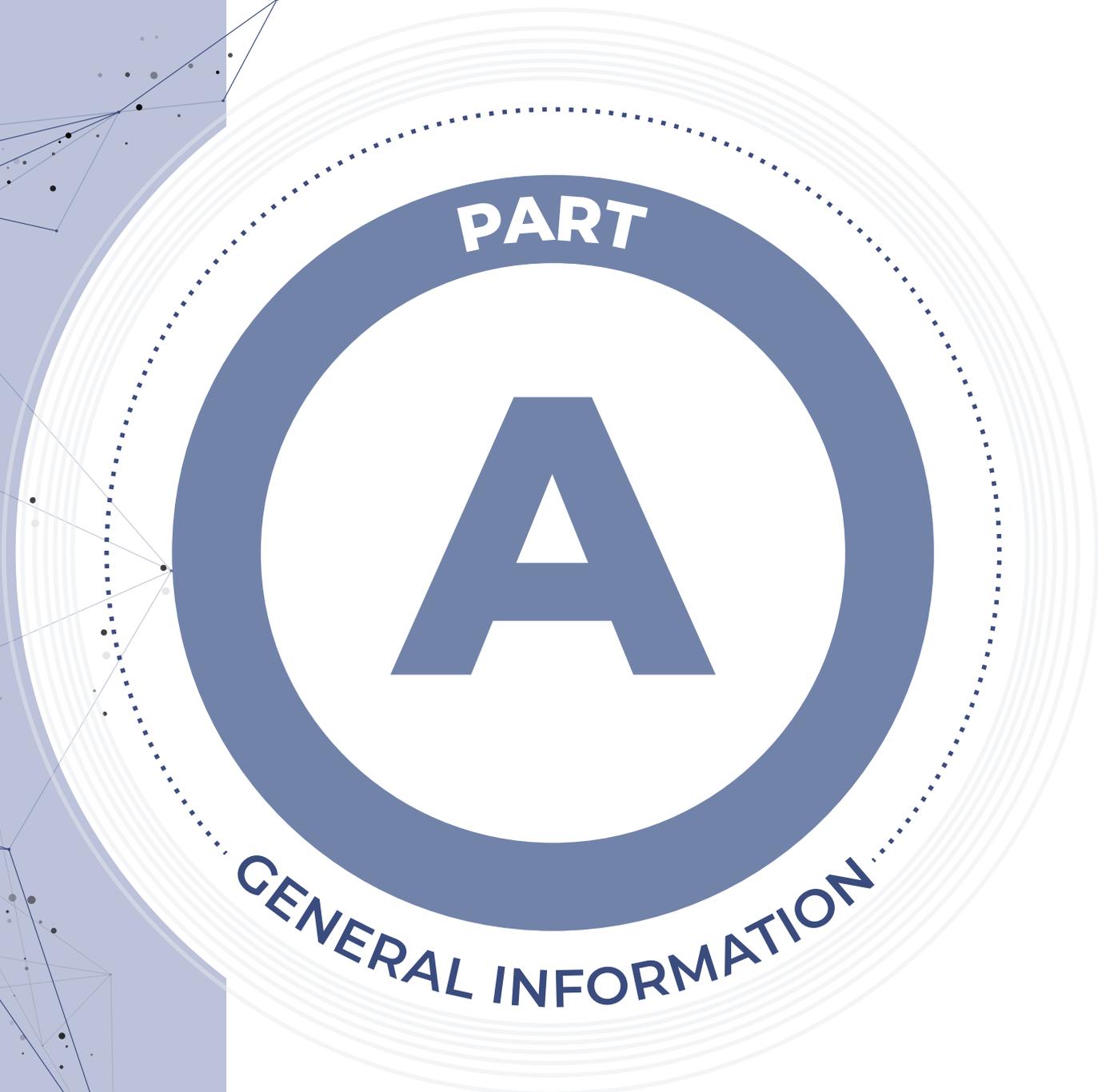


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PART

A

GENERAL INFORMATION

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PART A: GENERAL INFORMATION

Public Entity's General Information

FAIS Ombud

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0048

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Website: www.faisombud.co.za
External Auditors: Auditor-General South Africa
Banker: Standard Bank

LIST OF ABBREVIATIONS

| | |
|----------------|--|
| PFMA | Public Finance Management Act |
| GRAP | Generally Recognised Accounting Practice |
| SA GAAP | South African Statements of Generally Accepted Accounting Practice |
| IAS | International Accounting Standards |
| TR | Treasury Regulations |
| AGSA | Auditor General South Africa |
| ASB | Accounting Standards Board |
| FSCA | Financial Sector Conduct Authority |

FOREWORD BY THE MINISTER OF FINANCE: THE OFFICE OF THE OMBUD FOR FINANCIAL SERVICES PROVIDERS



Mr Enoch Godongwana
Minister of Finance

As with many countries the world over, South Africa is living through and dealing with the devastation caused by the Covid-19 pandemic. There has been an immeasurable loss of life and the South African government, driven by the need to protect the lives of its citizens and flatten the curve of Covid-19 spreading, implemented a lockdown in March 2020 which served as non-pharmaceutical intervention. The economic effects emanating from the pandemic have been so severe that in order for the response to the pandemic to be effective, efforts from the government needed to be supported by the business sector. One of the sectors that are particularly pivotal if South Africans to stem the tide of the fallout from the Covid-19 pandemic is the financial services industry.

Amongst other things, the financial services industry is charged with the responsibility to deal fairly with its clients in respect of the services and products provided to them. One of the more immediate steps taken to achieve this is the inclusion of screening, testing and treatment of Covid-19 as a prescribed minimum benefit. Through this inclusion, medical scheme beneficiaries get continuous healthcare even if the benefits that the beneficiary is entitled to run out during the year and all beneficiaries who need healthcare- related to Covid-19 will receive it, regardless of the cover option they belong to on their medical aid scheme. Insurance products, such as business continuity, funeral, life and retrenchment cover, have also provided relief to consumers by allowing consumers to transfer of the risk of suffering a loss, in the event that an incident they are insured for happens, to an insurer. The value of these products must however be considered against their responsiveness. How responsive the products have been to the needs

expressed by consumers of financial services during this time has highlighted the importance of a financial services industry that is envisaged in the Financial Sector Regulation Act (FSR Act) and the Financial Advisory and Intermediary Services Act (FAIS Act). This is a financial services industry that has integrity, works in the interests of financial customers and supports balanced and sustainable economic growth in South Africa. Where the preemptive provisions of specific financial sector laws such as the FSR Act and the FAIS Act have failed to ensure the protection and fair treatment of consumers, through the prescriptive duties imposed on providers of financial services, the Office of the FAIS Ombud, along with other industry Ombud schemes, has played a crucial role in adjudication any complaints from consumers that flow from the treatment.

The FAIS Ombud Office’s goal to improve efforts to raise awareness on its existence and the service it provides had gained some valuable ground during the 2019/2020 financial year but the efforts were unfortunately upset by the limitation of face-to-face interactions and large gatherings, all of which have proven a necessary feature in consumer awareness campaigns.

However, even with these challenges, the FAIS Ombud Office was able to resolve 80% of the complaints it received during the year under review even though it received more complaints during the year than it has since the 2016/2017 financial year. Its statistics reveal that no less than 90% of the customers it served were satisfied with the service provided to them. These achievements are particularly commendable given the strain of working under the conditions imposed by Covid-19 and from an office that also had members of staff who either contracted Covid-19 or lost family members to the virus and yet continued to show a commitment to serve as best they can. For that, we commend the FAIS Ombud Office and its dedicated staff, including the current Ombud who though serving in an acting capacity has not ceased to give herself tirelessly to the work of the office. The achievements of the FAIS Ombud Office show that it remains steadfast in asserting itself as a leading, world-class alternative dispute resolution forum that serves in accordance with the foundational principles of the public service and key objectives that are captured in the National Development Plan.

Mr Enoch Godongwana
Minister of Finance

COMMISSIONER'S REPORT



Mr Unathi Kamlana
Commissioner of the FSCA

The presentation of the 2020/2021 Annual Report for the Office of the FAIS Ombud is tabled in the context of the economic turbulence brought about by the coronavirus pandemic. The Office has continued with its work aimed at ensuring an effective complaints resolution mechanism for financial customers. This is an incredibly important element to deliver enhanced consumer protection in the financial sector and is the subject of ongoing, multi-pronged market conduct reforms informed by the Conduct of Financial Institutions Bill and proposals contained in the World Bank diagnostic review, commissioned by the FSCA together with National Treasury on the South African Financial Ombud System. It is expected that these reforms will ultimately result in the realisation of the policy objectives contained in the National Treasury: 2017 Policy Paper, A Known and Trusted Ombud System for All.

Governance

In keeping with the principle of rotation in governance, the Director-General appointed additional members to serve in the statutory governance committees of the FSCA in terms of section 68(1)(a) and (b) of the FSR Act. This has been welcomed as the committees need to be reinforced given their additional responsibilities in exercising oversight functions over the statutory Ombud Offices in addition to the FSCA. In the FAIS Ombud environment, support from the Committees has been particularly helpful in the area of resourcing the Office to enable the execution of its statutory mandate. The Committees are appreciated for all their constructive support, and their interventions help to steer the institutions effectively and in accordance with the applicable legal prescripts.

Audit Report

The FAIS Ombud Office once again achieved a clean audit for the financial year under review. This is appreciated and for that, we commend the FAIS Ombud Office and its dedicated staff, including the current Ombud who, though serving in an acting capacity, has not ceased to give herself tirelessly to the work of the Office.

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Mr Unathi Kamlana
Commissioner of the FSCA

OMBUD'S REPORT



Adv Nonku Tshombe
Acting Ombud

“Committed to Service”

In spite of the disruptions caused by the COVID-19 pandemic, grief from loss of loved ones, vacancies of critical and senior members of staff, virtual working conditions, and all the challenges of the financial year, the staff of the FAIS Ombud Office remain “committed to service” in terms of the Office’s mandate as set out in Section 20(3) of the FAIS Act. In keeping with the national policies discussed in the Minister’s Foreword, the Financial Sector Conduct Authority (‘FSCA’) published its final amendments to the General Code of Conduct for Financial Services Providers (‘the Code of Conduct’) on 26 June, 2020. This is a very important development as it affects the investigation of complaints by the Office. There are some of the amendments that reinforce positions that the Office has always maintained with respect to compliance with the Code of Conduct by financial services providers. These have been discussed further down in the report and as indicated, some of them have a substantial impact in how the office will investigate complaints and the conduct of financial services providers.

In adjudicating complaints, the FAIS Ombud Office is charged with not only doing so fairly but doing so quickly, informally, and economically as prescribed by

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“This the first time ever I needed to make use of the services for the office of the Ombud for Financial Services. I would like to congratulate you on the prompt service and feedback that you have provided me with.....well done and the best for the future.” Complainant 30 March 2021

the FAIS Act. Some of the amendments to The Code of Conduct will assist the processes of the Office due to the clarity they have provided to certain areas that the Office has always had a difference of opinion with financial services providers on. While the FAIS Ombud Office has displayed a commitment to ensuring that complaints are resolved in the manner described above, as evidenced by how the office has in the past met its strategic objectives that relate to the resolution of complaints, the COVID-19 pandemic presented difficult and unforeseen challenges. These challenges resulted in the FAIS Ombud’s inability to maintain its usual performance in the 2020/2021 financial year.

Three of the strategic goals that are tied to the strategic objective of resolving financial disputes quickly could not be met. A surge in the complaints received during the period that the FAIS Ombud Office was closed over the December holiday meant that it could not process all of the complaints it received during this period within four (4) business days of resuming operations after the holiday season. Staff shortages in key technical positions hampered its efforts to ensure that active complaints that are older than nine (9) months do not exceed 17% of the total number of active complaints. The FAIS Ombud Office’s goal to improve its efforts to raise awareness on its existence and the service it provides had gained some valuable ground during the 2019/2020 financial year but the efforts were unfortunately upset by the limitation of face-to-face interactions and large gatherings, all of which have proven a necessary feature in consumer awareness campaigns.

However, even with these challenges, the FAIS Ombud Office was able to resolve 80% of the complaints it received during the year under review, even though it received more complaints during the year than it has since the 2016/2017 financial year. Its statistics reveal that no less than 90% of the customers it served were satisfied

with the service it provided to them. These achievements are particularly commendable given the strain of working under the conditions imposed by COVID-19 and from an office that also had members of staff who either contracted COVID-19 or lost family members to the virus, yet continued to show a commitment to serve as best they can. The achievements of the FAIS Ombud Office show that it remains steadfast in asserting itself as a leading, world-class alternative dispute resolution forum that serves in accordance with the foundational principles of the public service and key objectives that are captured in the National Development Plan.

The importance of the FAIS Ombud Office and the work it does cannot be overemphasised and as the financial services industry continues to play a key role in mitigating the disruptive effects of COVID-19, we believe that the Office of the FAIS Ombud will continue to act as a valued contributor to ensuring that the integrity of the financial services industry is preserved through its work.

As reflected in the NEDLAC Task Team report, low awareness and access remain a problem. The effectiveness of outreach efforts by the FAIS Ombud have always been thwarted by budgetary constraints and this past financial year, the pandemic added to the challenges. This is expected to become even worse with the negative economic effects arising from the COVID-19 pandemic. The industry that pays levies, which support the operations of the Office, is bound to have shrunk markedly as a result of COVID-19. The negative effects of the above will not only be financial but will also shrink the service provider stakeholder component and reverse any actual or expected gains with respect to financial inclusion.

The above notwithstanding, the Ombud Office remains committed to service concerning its mandate in order to contribute towards a financial services industry envisaged and supported by the policy papers and pieces of legislation that have been referred to the Minister's Foreword.

For all this, a sincere word of thanks goes to the staff of the Ombud Office, the Commissioners that have served, both the acting and substantive appointments as well as the Governance Committees for their on-going guidance and support.

Outreach Efforts, Creation of Awareness, and Accessibility of the Office

During the 2019/2020 financial year, the FAIS Ombud made bold plans to improve its efforts to increase awareness about the existence of the Office and other aspects concerning the Office, in order to facilitate the submission and disposal of complaints during the 2020/2021 financial year. At the time, like the rest of the world, the Office could not have foreseen the devastation that would overshadow the year under review and how deeply the plans would be frustrated by an ongoing pandemic that has wreaked havoc in the country and the whole world. The first national lockdown commenced just five days before the start of the 2020/2021 financial year. Although the Office could not anticipate the extent to which the pandemic would frustrate its plans to improve consumer awareness, this became clear during the second quarter of the 2020/2021 financial year when the best response to the pandemic was still ordinary citizens making a concerted effort to slow down the rate at which the COVID-19 virus spreading. Even so, the Office remained committed to its consumer awareness efforts but had to accept that the ambitions it had before the financial year begun would have to be revised. The

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“ Your services deserve to have a slot on national radio/TV to assist our nation with this marvelous work that you doing. Keep up your wonderful work, our nation needs you.”

Complainant 24 March 2021

.....

Office also braced itself for the very real possibility that it may not meet its goals in respect of its consumer awareness objectives.

One of the greatest concerns of the Office was and still is the fact that the data collected by the Office regarding where the complainants who lodged complaints with the Office are resident, shows that the least number of complaints were received from the Northern Cape, Limpopo, Mpumalanga, North-West, and the Eastern Cape. The data also shows that even historically, the least number of complaints have been received from these provinces. Most areas in these provinces are rural or peri-urban and, therefore, have underdeveloped telecommunication infrastructures and limited access to the internet. Recent studies on internet access in South Africa reveal that available means to access the internet are highest in Gauteng and the Western Cape; that the Western Cape and Gauteng also have the highest number

of people who have access to the internet at home. As at 2019, 74,6% and 72,4% of households in Gauteng and the Western Cape respectfully had access to the internet either from home, work, a place of study, or internet cafes. Incidentally, Gauteng and the Western Cape are two of the three provinces from which the Office receives the most complaints. Even then, only 25,8% and 16,7% of households had access to the internet from home in the Western Cape and Gauteng respectively. In comparison to the average of 17,3% of households that had access to the internet from home in metropolitan areas, in general, only 1,7% of households in rural areas and less than 1% in the North-West and Limpopo had access to the internet. The North-West and Limpopo provinces are amongst the five (5) provinces that the office receives the least number of complaints from year-on-year.

The data on the number of households likely to have access to the internet in the areas where the awareness campaigns would be primarily targeted showed that adapting the consumer awareness campaigns to digital platforms would do little to assist the Office to fulfil the plans it had set before the start of the financial year. This, however, did not deter the Office from relying on the use of digital media but revealed to the Office the importance of using relevant channels to raise consumer awareness. Not only did the Office host the launch of its Annual Report in-person by inviting a very limited number of stakeholders to attend the launch but it also

“ Your services deserve to have a slot on national radio/TV to assist our nation with this marvelous work that you doing. Keep up your wonderful work, our nation needs you.” Complainant 24 March 2021

hosted the launch online on various social media pages, including Facebook, which has the greatest number of active users across the social media platforms and is valuable because it is popular even to users in rural and peri-urban areas. The Office also appeared on a number of radio interviews to speak about the services rendered to the public.

In addition to the radio interviews, the Office participated extensively in the planning and execution of Money Smart Week South Africa (MSWSA). MSWSA is a financial literacy campaign aimed at motivating and empowering South Africans to become more educated about their finances and is hosted by the National Consumer Financial Education Committee (the NCFEC). The objective of the

NCFEC is to foster co-ordination and consistency across various consumer financial education initiatives with other stakeholders. The Office served on the MSWSA Marketing and Publicity Committee, participated in two panel discussions that were aired during MSWSA, and developed and contributed to articles in the newsletter developed under the MSWSA brand. The Office also participated in a webinar hosted by the Government Communication and Information System (GCIS) on non-life insurance and the insurance claims process and was a contributor to an article published in Vuk’uzenzele, a government newspaper that focuses on information and news about government’s programmes.

Even though the Office was unable to fulfil the plans it had set before the financial year began, its voluntary and extensive participation in programmes aimed at addressing issues regarding consumer education at a national level particularly enabled it to foster relationships with stakeholders whose consumer awareness objectives are aligned to those of the Office. These collaborative relationships will greatly enhance the Office’s ability to make new strides in raising awareness about the Office and in other aspects concerning the Office in order to facilitate the submission and disposal of complaints, since collaboration can assist collaborators to resolve complex issues they may have been unable to tackle working alone.

Resolution of Complaints

When the Office of the FAIS Ombud reports on complaints received and complaints resolved during a specific financial year, it firstly reports on the resolution of those complaints received within the period, in this case 1 April, 2020, to 31 March, 2021, and then it looks at the overall number of complaints resolved, which includes complaints carried over from previous financial years. This is done to ensure a more holistic view of how successful this Office has been in executing upon its mandate.

During the 2020/2021 financial year, the Office of the FAIS Ombud received 10 552 new complaints. This is not only higher than the 8 835 complaints received for the corresponding period during the 2019/2020 financial year but the first time that this Office has received in excess of 10 000 complaints since the 2016/2017 financial year. This represents a 19,43% increase in the number of complaints received over the preceding financial year. In addition, a significant 66% of all complaints received fell within the mandate of this Office. This resulted in 6 975 complaints referred to the Case Management

Department for investigation, the most ever since the inception of this Office and a significant increase over the 5 750 complaints received during the 2019/2020 financial year, which fell within the Office's mandate. Therefore, the Office of the FAIS Ombud not only received more complaints overall but more of those complaints represented matters that actually fell within its mandate. This was seen as a positive development, testifying to the efforts to expand the awareness and understanding of the existence as well as the services provided by the FAIS Ombud Office. However, it also placed a strain on existing resources during a period of upheaval and uncertainty brought about by developments to address the global pandemic.

Of the 10 552 complaints received for the 2020/2021 financial year, a total of 4 245 complaints were dismissed. A total of 2 877 complaints were referred to alternative fora and 1 389 complaints were settled in favour of the complainant. The number of complaints settled, 1 389, was an increase over the 1 290 complaints settled during the 2019/2020 financial year. This was achieved despite the disruptive circumstances that affected this Office and FSPs alike, which is a testament to the efforts made and commitment to the conciliatory resolution of complaints by this Office and FSPs alike to ensure that during these trying times, complainants continue to be treated fairly. The number of complaints received during the 2020/2021 period that were carried over was 2 041, meaning that a total of 8 851 complaints were resolved within the financial year, which represented 80,66% of all complaints received. This meant that the Office of the FAIS Ombud achieved its strategic outcome to resolve a minimum of 80% of all complaints received within a specific financial year, and confirms how efficient this Office was in executing upon its mandate despite the challenges encountered in the face of the pandemic and subsequent lockdown.

Further evidence of this is the fact that on average, 84,43% of all complaints received by the Office were resolved within three (3) months, 91,12% within six (6) months, and 94,49% within nine (9) months. Overall, the total number of complaints resolved during the 2020/2021 financial year was 9 755.

Despite the increase in the number of complaints received by the Office, the number of complaints settled during 2020/2021 of 1 729 (inclusive of determinations) was a decrease on the 1 850 positively resolved in favour

of the complainant. The Office of the FAIS Ombud thus attained a settlement ratio of 27,59%, lower than the 29,97% achieved during the 2019/2020 financial year, a discrepancy that can be attributed to the increased number of complaints that this Office dismissed after initial investigations conducted, which revealed no basis or merit in respect of the complaint; an indication of the economic impact of the response to COVID-19 and the subsequent desperate situation faced by many complainants whose complaints revealed that there was more of a change in circumstances as opposed to the inappropriateness of the advice provided at inception. The overall settlement value for the 2020/2021 financial year was R49 773 803 compared to the R57 263 775 that was provided to consumers during the 2019/2020 financial year. The reduction in the settlement value can be attributed to the reasons provided above as well as the low number of determinations issued, as only 11 determinations were issued during the 2020/2021 financial year. Once again, the positive aspect is that the majority of the settlement value attained was from informal settlements achieved via conciliation processes between FSPs and consumers.

The dismissal of complaints is only considered after significant due diligence has been undertaken during the investigation, and the Ombud Office is required by law to provide detailed reasons for any decision made inclusive of complaints dismissed. Any party that feels aggrieved by decisions taken by this Office can approach the Financial Services Tribunal for the matter to be reconsidered. During the 2020/2021 financial year, a total of 147 applications for reconsideration were made to the Financial Services Tribunal and, of the 124 matters decided upon as at 31 March, 2021, 117 of those applications were dismissed with only four (4) referred back to this Office for further investigation. This reflects a favourable rate of agreement (96,75%) with the Tribunal. Therefore, whilst the number of complaints dismissed during the 2020/2021 financial year (i.e., 4 245) has increased from the 3 745 dismissed during the 2019/2020 financial year, the positive affirmation of this Office's decisions by the Tribunal confirms this Office's commitment to the diligent investigation of complaints in accordance with its mandate to provide independent and impartial rulings.

In respect of complaints referred to other fora, a total of 2 877 complaints were referred to other ombud schemes,

which was higher than the 2 467 referred during the 2019/2020 financial year. This is in accordance with the commitment of the Office of the FAIS Ombud, which is to ensure that even where it is unable to be of assistance, the complaint of any person submitted to this Office will be carefully considered and that where possible, the complainant shall be referred to the correct forum to receive the assistance required. All this is part of our continued commitment to service and to enhancing access to justice for all South Africans.

It is important to note that the figures detailed above do not include complaints that this Office still deals with in respect of investments made into property syndications schemes. These complaints, which do not relate to complaints received and/or resolved during the 2020/2021 financial year, are maintained separately. During the 2019/2020 financial year, the office of the FAIS Ombud made a commitment to reduce the original number of 1 300 active property syndication complaints by a minimum of 20% annually. As at 31 March, 2021, it was able to reduce this number to 1 036, a reduction of 20,31%.

Determinations

MSJP Bosman v La Machri Financial Services CC and Hermina Christina Langdon

The complainant wanted to make an investment in order to generate a monthly income and the respondent, in his capacity as the complainant’s financial advisor, advised him to invest in two Sharemax property syndication schemes. Acting on the advice from the respondent and with the respondent’s assistance, the complainant made two investments into the two Sharemax property syndication schemes. The first investment was for an amount of R120 000, which the complainant made into Sharemax Zambezi Retail Park Holdings Ltd (Zambezi) on 14 February, 2008. A year later, on 17 February, 2009, the complainant invested R200 000 into The Villa Retail Park Holdings Ltd (The Villa). According to the complainant, when he made the investment, the respondent determined that his risk profile was ‘moderate’ and that his financial situation was ‘good’. The complainant states that moneys he invested in both syndications represented all he had.

After he made the investments, the interest payments promised to the complainant decreased until approximately July 2010, which is when the payments abruptly ended. The complainant alleged in his complaint

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*“The Ombuds family are the best, they really know how to solve our problems when we don’t know where else to go.” Complainant
 22 March 2021*

to this Office that he tried to contact the respondent but that he did not receive a response. The complainant claimed that he learnt about the problems at Sharemax from the media, the internet, and from calling Sharemax’s head office. Given that he was unable to resolve the matter with the respondent, the complainant lodged a complaint with this Office.

On receiving the complaint, this Office forwarded it to the respondent in accordance with its Rules on Proceedings, and the respondent was given an opportunity to either resolve the matter with the complainant or to respond thereto. The respondent did not resolve the matter with the complainant; instead, the respondent elected to respond to the complainant’s submissions.

In the response, the respondent did not dispute assisting the complainant to make both investments. The respondent did, however, deny liability for the loss suffered by the complainant and alleged that the complainant had previously invested in another property syndication scheme, that the complainant had been assisted by another advisor when making the first investment, and that the complainant was referred to her by a consultant from Sharemax.

According to the respondent, the initial investment that the complainant had made in a property syndication scheme was successfully paid out and the complainant received R137 000 from the investment. The respondent claimed that the investments in Zambezi and The Villa were made after the complainant indicated that she wanted to reinvest the funds received from the earlier investment. The respondent also alleged that the complainant already knew about the Zambezi property syndication scheme and that it was he who requested to make an investment in the syndication. According to the respondent, the complainant elected to invest R120 000 from the proceeds he received from the first syndication scheme and indicated that he wanted to retain R17 000 as liquid funds. The complainant posted the completed forms back to the respondent and deposited R120 000 into the trust account of the attorneys designated to receive the funds. The first investment was made on 14 February, 2008.

The respondent claimed that the complainant contacted her and asked to make another investment in Sharemax, this time in The Villa. According to the respondent, the complainant knew about the investment and wanted to invest an amount of R200 000. Again, the respondent posted the documents, including the prospectus. The complainant returned the signed documents to the respondent and the investment of R200 000 was made on 17 February, 2009. In essence, the respondent disputes that the investments were made on her recommendation and claims that it was the complainant, on account of the experiences that he had with Sharemax, who expressed an interest in making the investments. In her response, the respondent explained that she was duly licensed to assist the complainant on both occasions because she was USSA representative when she rendered the financial service in respect of the investment in Zambezi and was licensed in her own right in respect of the investment in The Villa.

The respondent averred that an investment in a property syndication scheme is an appropriate investment strategy where a client wants an income plus capital growth. The respondent only responded to some of the queries made by this Office in respect of the complaint. To begin with, while a comprehensive statement was requested from the respondent detailing what was discussed with the complainant regarding the nature of the investment, the respondent did not provide answers to the inherent risks associated with the investment and the reason why the investment was deemed to be appropriate to the needs of the complainant. The respondent was required to produce documentary evidence demonstrating that the full terms and conditions as well as the explanation of the risks in the investment were disclosed to the complainant, so as to place the complainant in a position to make an informed decision. The respondent produced some

.....
"I cannot find the right words to express my gratitude for your assistance in this matter. Thank you for all your patience, kindness, understanding and friendliness. I really appreciate everything that you have done to assist me." Complainant 13
January 2021

documentation but because she was seemingly aware of the fact that the documentation was not as comprehensive

as required, this pointed out that the complainant was already aware of the product and that the investment was made at his request and not recommended by the respondent. None of the documents provided by the respondent showed that the risks in the investment were brought to the complainant's attention.

To the questions of why the investment was recommended to the complainant, bearing in mind the complainant's age, financial circumstances, and tolerance for risk, the respondent again deferred to the allegation that the complainant is the one who chose the financial product and that it was not recommended to him by her. The respondent could provide no evidence that the nature of the investment was disclosed to the complainant and that prior to rendering the advice, the respondent had undertaken any due diligence on the investment. The only response proffered by the respondent to this was that the nature of the investment is disclosed in the prospectus, but the respondent made no mention of whether she had read and understood the prospectus herself. Instead, the respondent alleged that the complainant read and understood the prospectus. Overall, the respondent provided no direct answers to the questions put to her.

In light of the undisputed facts of the complaint, this Office found that that the respondent failed to act honestly, fairly, with due skill, care, diligence, and in the interests of her client, as mandated by the law. The undisputed facts were that the respondent acted as the complainant's FSP in respect of both contracts. The complainant's decision to invest in Sharemax did not relieve the respondent of her duties as a licensed FSP. In addition, the respondent entered into a written agreement with the complainant, in terms of which she agreed to provide financial and intermediary services to the complainant. It was an express term of the agreement entered into between the complainant and the respondent that the respondent will carry out her obligations in a manner consistent with the prevailing legislation. Even though the parties did not meet prior to the conclusion of the transaction due to the distance between them, the respondent confirmed that they were able to communicate effectively via telephone. Lastly, there was no record that the respondent informed the complainant that the investment was 'high risk' and that he could lose his capital, particularly because the buildings in which the complainant thought he was investing were yet to be built.

This Office also found that the respondent compromised the integrity of the financial services industry because she failed to make a full and frank disclosure of all the material information about the Sharemax product, to provide appropriate advice, and to enable the complainant to make an informed decision. Accordingly, the Office found that although there had been an investigation by the South African Reserve Bank, on the conclusion of which the property syndication was found to have contravened the Banks Act and was ordered to stop carrying on the business of a bank when it was not licensed to do so, that the respondent was the legal cause of the complainant’s loss. The respondent was thus ordered to repay the complainant the moneys invested in both syndications and to pay interest on that amount at a rate of 7% per annum from a date 14 days from service of this order to date of payment.

Linda-Marié Mienie NO v Jan Labuschagne Makelaars CC and Jan Harm Labuschagne

On 16 April, 2010, Mrs Terblanche (the investor) invested R700 000 in a property syndication scheme, known as Realcor Cape. At the time, the investor was 80 years old, and she was living in a retirement village with her second husband. At the time of making the investment, Mrs Terblanche was already in an advanced state of Alzheimer’s Dementia, and this office received two medical reports to confirm her condition. She was examined by her family doctor on 1 July, 2010, and diagnosed as cognitively and functionally compromised. The doctor examined her again on 23 November, 2010, and on 17 February, 2011. During each of the latter visits, there was no marked improvement in Mrs Terblanche’s health. Rather, the report based on the visits of 23 November, 2010, and 17 February, 2011, confirmed that Mrs Terblanche’s condition had become progressively worse. The doctor found that since his first examination, Mrs Terblanche was not able to take care of herself and incapable of making decisions about her finances and recommended that a curator be appointed for her.

On 7 September, 2010, Mrs Terblanche consulted a specialist neurologist who filed an affidavit in support of an application to appoint a curator for Mrs Terblanche. His diagnosis was that she was suffering from Alzheimer Dementia. The Gauteng Provincial Division of the high court granted an order appointing a curator to take care of Mrs Terblanche’s affairs and day to day requirements. Mrs Terblanche’s daughter was appointed as the curator and

alleged that during 2009, she informed Mrs Terblanche’s husband, Mr Terblanche, that he was not to conduct any business transactions on behalf of her mother as the latter had Alzheimer Dementia. Notwithstanding, soon after the curator informed Mr Terblanche that he was not to conduct any business transactions on behalf of Mrs Terblanche, Mr Terblanche informed the curator that the respondent would be visiting him and Mrs Terblanche. According to the complainant, she repeated her warning to the respondent that he must not conduct any transactions on Mrs Terblanche’s behalf. Accordingly, the complainant sent this warning to both the respondent and Mrs Terblanche’s husband. This, however, did not deter Mr Terblanche because in April, 2010, the curator received a call from ABSA bank, informing her that R700 000 had been withdrawn from a family trust where Mrs Terblanche’s finances were being held. This was the money paid to Realcor Cape, which was withdrawn despite the fact that Mrs Terblanche and her three daughters, one of whom was the curator, were signatories on the account. The cheque to the syndication was signed only by Mrs Terblanche, and the curator claims that Mrs Terblanche had advised her that she was nervous about the transaction and that her husband had ‘emotionally’ forced her to invest in the syndication.

.....
“Thank you very much for your help. Much appreciated and quick response. Ombuds is the way to go thank you a lot.”
 15 December 2020

Mr Terblanche did not deny that he facilitated the transaction and that he had signed on Mrs Terblanche’s behalf. Soon after the investment was made, Realcor Cape was placed under liquidation and the complainant lost all of the money invested in the syndication. Mrs Terblanche passed away soon thereafter and as at the date the determination was issued by the Office, no part of Mrs Terblanche’s capital had been paid back. The complaint was lodged by the executor of Mrs Terblanche’s estate.

The complaint was sent to the respondent in accordance with the Rules on Proceedings of this Office, and the respondent was afforded an opportunity to either resolve the complaint with the complainant or to respond thereto. The respondent opted to respond

to the complaint and filed a lengthy response. Before dealing with the substantive issues in the complaint, the respondent raised a preliminary issue that the complaint had prescribed and that this Office, therefore, did not have the jurisdiction to deal with the complaint. The respondent made the claim because the investment was made in April, 2010, yet the complaint was received in January, 2016. This issue was, however, dispensed with because, as this Office pointed out to the respondent, the date from which prescription was to be calculated, as is clear from the provisions on which the respondent relied when alleging that the complaint had prescribed, was the date on which the complainant became aware of the issue raised in the complaint, or should reasonably have become aware of the issue. It was not in dispute that while the transaction had been concluded in 2010, the curator became aware of the issue on 19 March, 2013. The respondent objected to the fact that the complaint was then filed 'years later'. However, even if the complaint was filed 'years later', it was filed on 12 January, 2016, which was within three (3) years from the date on which the complainant became aware of the issue. The complaint had, therefore, not prescribed.

Having dealt with the issue of prescription, this Office proceeded to consider the other submissions made by the respondent in support of his reasons why he should not be held liable for the loss suffered by Mrs Terblanche. One of these submissions included an allegation that at the time the transaction was concluded, Mrs Terblanche showed no signs of mental incapacity, that she appreciated the conversations she had with the respondent, and had gone, on her own, to ABSA bank to withdraw the funds invested in the property syndication. The respondent also alleged that Mrs Terblanche "made certain declarations to assist the team who were supporting the business rescue of Realcor Cape." The respondent's submissions were, however, unsupported by the facts. For one, the cheque made out to the syndication was signed by the complainant but was prepared by her husband. Secondly, the chronology of Mrs Terblanche's condition contradicted the respondent's submissions. The transaction was concluded in April, 2010, and in July, 2010; at that stage, the family doctor had already given a report that Mrs Terblanche was cognitively and functionally compromised. If the respondent's version is accepted, this would mean that Mrs Terblanche's condition developed and deteriorated so rapidly

only some three (3) months after the transaction was concluded. The Office found this to be an improbable version and rejected the respondent's submissions.

The respondent's allegations that Mrs Terblanche was the one who requested the investment after she heard about it from a friend and that the risks inherent in the investment were disclosed to Mrs Terblanche was also rejected by this Office. Not only was the respondent aware of the fact that Realcor Cape was being investigated by the South African Reserve Bank (SARB) for possible contravention of the Banks Act, but Mrs Terblanche could not have, given her mental capacity, been able to contact the respondent to ask for his assistance to invest in especially that financial product. The respondent denied that the investment was inappropriate for the complainant but in doing so, overlooked the fact that at the time he advised the complainant to invest in Realcor Cape, it had been well over a year since Realcor Cape was placed under investigation for contravening the Banks Act. The respondent had not adequately looked into the product to assess not only its suitability to the client but its viability overall, even though he was compelled to do so before providing advice to Mrs Terblanche.

Not only did Mrs Terblanche lack the mental capacity to enter into any contract, but the funds from which the investment was made was held in a trust in order to safeguard her finances. Mrs Terblanche's daughters had taken steps to do so even to the point of ensuring that there were, at minimum, three (3) signatories on the account. The respondent, however, overlooked and/or ignored all of these factors and Mrs Terblanche's prevailing needs when rendering the financial service to her. This Office found that the respondent did not comply with the legal duties he had towards his client and that in rendering the financial service to Mrs Terblanche, acted wrongfully and negligently. This Office also found that the respondent had acted unconscionably, because Mrs Terblanche was legally incapable of entering into a contract and the respondent knew that Realcor Cape was under investigation by the SARB. At about the time the Realcor investment was made, Mrs Terblanche's mental state had deteriorated to the point where she could no longer recognise her own daughters' voices on the telephone. She was also unable to hold a normal conversation with her daughters and incapable of understanding basic financial transactions.

This Office ordered the respondent to pay to Mrs Terblanche's estate the R700 000 invested in Realcor Cape and referred the matter to the Financial Sector Conduct Authority because of the finding of unconscionable conduct.

Christiaan Frederick Scheepers v Jose Francisco Castro

The complainant made two investments in Sharemax, one in Zambezi Retail Park (Zambezi) for an amount of R100 000 and the second in The Villa Retail Park (The Villa) for an amount of R790 000. The investments were made through the respondent and, subsequently, the funds were lost after Sharemax collapsed. The complainant then filed a complaint with this Office. In his complaint, the complainant claimed that the respondent merely handed out brochures, which turned out to be "misleading, false, and untrue." The complainant stated that the respondent advised him with incorrect information and did so deliberately. According to the complainant, the respondent falsely informed the complainant that the buildings said to be owned by the property syndications that the complainant invested in, were already leased by tenants and purchase agreements were also in place. The complainant indicated that he believed there was a duty on the respondent to study the prospectus and draw his attention to the risks in the investment. The complainant pointed out that the respondent merely relied on the risks disclosed in the prospectus to absolve himself from blame.

The complaint was referred to the respondent and his response was requested. The respondent was also advised to attempt to settle the matter with the complainant, and he had a timeframe of six (6) weeks to achieve this. However, the respondent notified this Office that it was not possible for him to meet with the complainant as the latter had threatened him. The respondent did not suggest any basis or manner for settlement with which this Office could have assisted the parties to achieve this. The respondent provided the Office with a written response, supported by various documents. In his response, the respondent sought to have the matter dismissed by the Office on the grounds that this Office does not have jurisdiction to deal with the complainant because the complainant had instituted civil proceedings or launched a civil claim against him. This argument was, however, without merit since the

complainant had merely instructed an attorney to write to the respondent claiming repayment of the capital. No court action or application was, however, instituted by complainant against the respondent.

The essence of the respondent's response was that he denied that he was liable to the complainant and referred to the disclosure document. The purpose of the disclosure document was to disclose the fact that the FSP is acting as a representative of USSA and then set out a number of terms and conditions. A number of these documents were signed and dated by the complainant. Even so, the document was printed in English while the complainant is Afrikaans speaking. Secondly, the document is not user-friendly and presented in very small print with the minimum spacing, which would have been impossible for an elderly, Afrikaans speaker to read and understand. There is no evidence on record that the respondent explained this document to the complainant in Afrikaans, neither is there any evidence that an Afrikaans version was provided. This document, significantly, sets out the disadvantages and risks associated with the product. It also informs the investor that as a USSA representative, the respondent was only authorised to market Sharemax and no other product.

It was not disputed that the respondent did not provide the complainant with any other or alternative investment choice or choices. Even though these disclosures are apparent in the document, there is no proof that the content of the disclosure document was explained to the complainant and that the complainant was placed in a position to make an informed decision. The respondent also did not provide proof that an analysis of any information regarding the client's objectives and financial circumstances were analysed and that on the basis of this analysis, the respondent found the investment to be appropriate to the client's risk profile and personal circumstances. The respondent does not deny that the complainant was introduced to the financial product, but not through a detailed explanation of the material information regarding the product, rather with a brochure that was supplied to the complainant's wife. The complainant's wife had come to be in possession of the brochure after she responded to an advertisement that the respondent had placed in a newspaper about the syndication. Though the respondent referred to the brochure as a way to show that the complainant was provided with information about the product, the

material information necessary to place the complainant in a position to make an informed decision was absent from the brochure. As such, the brochure was not accepted as proof that material information about the product was provided to the complainant.

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*“I must say that it was a pleasure to deal with FAIS. Your professionalism and efficiency was astounding and you resolved my problem at a blistering speed - I never thought that I would see such great service again.” Complainant 10
 December 2020*

After receiving the brochure, the complainant met with the respondent. According to the respondent, they “discussed it thoroughly” and the way they explained the product was that it was like buying property. The respondent stated that he informed the complainant of the following: “The risks are about the same because if property in your name is not sold, you cannot claim the funds in any manner; the building or property needs to be sold. If you rent it out, then you receive income. If the lessee does not pay his rent, then no income is generated.” On his own version, the respondent misrepresented the product to the complainant. Firstly, the disclosure document contradicted this explanation and disclosed the real and substantial risks in this investment. The prospectuses also did not describe the investment in these terms. This Office accepted that the respondent read and understood the disclosure document and the prospectuses. The respondent must have known that Zambezi and The Villa did not own any property, as there were no buildings with rental income, and investors’ funds were to be used at the discretion of the directors to make unsecured loans to the developer. The investors’ capital was placed at risk immediately after the cooling-off period. On the respondent’s own version, this was not explained to the complainant.

On the question of liability, the respondents stated that they cannot be held liable for the complainant’s loss as they did not take his money and interest was not guaranteed. This Office, however, found that the response was evasive since it was not the complainant’s case that the respondents took his money. The complainant’s case was that he made a poor investment as a result of bad

advice from the respondent. The first respondent tried to shield himself from liability by claiming that he had been a representative of another financial services provider and by referring to the investigation undertaken by the South African Reserve Bank (SARB) into the manner in which capital was raised from members of the public. The investigation ended with the SARB ordering Sharemax to stop taking money from the public as it had because it was tantamount to taking deposits, yet the syndication was not licensed to do so. Sharemax was ordered to repay the money of those investors from whom it had collected the ‘deposits’. Shortly after being ordered to stop taking new investments from the public, the syndication scheme collapsed and did not, as ordered by the SARB, refund investors for their investments because of the payments that were made within days of the funds being paid into the designated attorneys’ trust account.

This Office found that the first respondent had failed to carry out a diligent research to become familiar with the nature of the Sharemax product he intended to sell; had he read and understood the prospectus, he would have noticed that contrary to what was initially stated in the prospectus, investor funds would not be kept in trust but be paid out to the developer at the discretion of the promoter. Though the respondent knew that investor funds were going to be lent to the developer at an interest rate of 14% and that there was no security for the loan, there was no proof that this was disclosed to the complainant. This Office found that the respondent did not act as a reasonably competent FSP at the time of providing financial advice to client in that he did not ensure that he:

- read and understood the Code;
- read and understood the Code;
- understood that he is obliged to comply with the Code in providing financial advice;
- understood the nature of the financial product/s he was recommending to the complainant as his client;
- understood the product so that he was in a position to explain it to the client in plain language;
- made full and frank disclosure of all the available information about the product to the complainant;
- understood that he is obliged to ensure that his client will be in a position to make an informed decision; and
- recommended a product that is suitable for the complainant, bearing in mind the complainant’s financial circumstances and tolerance for risk.

The defence the respondent had raised failed to successfully disprove the complainant’s allegations, and itself pointed to the respondent’s failure to render the financial service to the complainant in the manner demanded of him by the Code. Accordingly, the respondent was ordered to repay the complainant each of the amounts invested in the syndications, plus interest at 7,75% per annum on each capital amount, from a date 14 days from service of this order to date of payment.

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“I must say that it was a pleasure to deal with FAIS. Your professionalism and efficiency was astounding and you resolved my problem at a blistering speed - I never thought that I would see such great service again.” Complainant 10 December 2020

Jane Rosemary Todd (First Complainant) and Rosemary Alice Denning (Second Complainant) v Albe Haasbroek Solutions CC (First Respondent) and Albe Haasbroek (Second Respondent)

The complainants, Jane Rosemary Todd and Rosemary Alice Denning are daughter and mother respectively. They each filed a complaint against the respondents arising out of the latter’s advice to them to invest in Sharemax property syndications. Although the complainants filed separate complaints with the Office, the Office dealt with the complaints in a single determination together, having found that it will be convenient to do so. Both complaints are against the same respondents, Albe Haasbroek Solutions CC, the first respondent, and Albe Haasbroek, the second respondent. The facts in both complaints were also substantially the same. The complainants had used the services of the respondents over an extended period of time and the second respondent was their financial services provider (FSP). After the first respondent advised the complainants to make investments in Sharemax property syndications, the relationship between the parties soured when the investments did not deliver to the complainants what they had been advised by the second respondent, acting as a representative of the first respondent. The complainants alleged that the second respondent advised them to invest in financial products that were entirely unsuitable for them, bearing in mind their financial needs and tolerance for risk. The complainants have lost their capital and believe the loss was caused by the respondents’ inappropriate financial advice.

On the advice of the second respondent, the first complainant invested R100 000 in 2006 in Benoni Hyper and R62 000 in 2008 in Country View Retirement Village. The second complainant invested R80 000 in 2005 in The Village, R44 000 in Magalieskruin in 2005, and R100 000 in 2007 in Rivonia Square. Before any of the investments were made in the property syndication schemes, the complainants had known the respondent for some time and when the complainants lodged their complaint, they indicated that the respondent had provided financial services to them for about five (5) or six (6) years. In their complaint, the complainants alleged that the respondent knew them well and that during the time he had rendered financial services to them, he knew that they wanted their funds invested safely in a safe investment, as he knew that they did not want to risk losing money but expected their funds to “grow safely and gradually”. The complainants alleged that the respondent knew the origins of the capital they wanted to invest and that some money represented inheritance from family members. He also knew that the first complainant’s father gave her funds for her sons’ education. As for the second complainant, she feared that she might outlive her available funds. At all times, their investment goals were based on preserving their funds. The complainants are certain that the respondent was aware of this and though the respondent was afforded an opportunity to respond to the complaint and thereby dispute the allegations, he did not.

According to the complainants, the respondent visited them at their homes and told them that the investments into the property syndication were “fantastic” and that the complainants will be “guaranteed to receive their lump sum after five years”, plus interest of 18,5 % in respect of Benoni Hyper. The respondent advised that the funds were not liquid and that heavy penalties will apply if the funds were withdrawn during the investment period of five (5) years. Complainants understood this and had no intention of withdrawing the funds before the investment period of five (5) years expired. The complainants did not dispute that the respondent had presented the prospectus to them, and that he had referred to various pages whilst giving an explanation of the important facts about the investment. Even so, the complainants alleged that the respondent did not draw their attention to the downside of the investments, and that he, therefore, did not explain that the investment was a high-risk investment; that the complainants would

have to sell their shares to a third party after five (5) years in order to get their capital back. The complainants also alleged that they were not advised by the respondent that in respect of the Country View Retirement Village, the first complainant was not investing in a “growth plan” but that she was buying a “debt”, not an asset, and that the projections had no solid basis as there was no operating or trading history. The complainants alleged that if the above had been disclosed to them, they would not have invested.

Even though the complainants admitted to receiving the prospectus, they admitted that they did not read it because even if they had they attempted to, they would not have understood it. The complainants placed their trust in the respondent to choose the right investment for them and to explain it to them. The respondent pointed to the impressive “projected growth” and it all appeared to be sound, the first complainant states.

These allegations were put to the respondent when the complaint was forwarded to him under cover of a letter, in which he was advised that he had six (6) weeks to resolve the matter with the complainants and that if he elected not to do so, he was required to respond to the complaint. The respondent was advised that his response must be accompanied by the relevant documentary proof to support any assertions he may make in his response. The complaint was forwarded to the respondent in accordance with the Rules on Proceedings of this Office, which prescribe that a respondent must be made aware of the complaint lodged against them with sufficient detail to enable them to respond fully thereto.

The respondent began his response to the complaint lodged by the first complainant by stating that she was, in fact, not displeased with the advice that she had received from him—she was, however, complaining because she had been employed by the respondent but had then lost her job. The complainant denied this and stated that her employment with the respondent was of no substance to the complaint. The respondent went on to explain that he met the first complainant in 2004 when he assisted her to extend the term of an investment she had with Momentum. He visited the Todd family on an annual basis and noted that they were looking for good, consistent growth on their investments. The respondent stated that their portfolio offered flexibility and liquidity. The respondent denied that the first complainant was a ‘super conservative’ and attached what he deemed to be a risk profile he had conducted on the first complainant to support his allegation. The complainants, however,

pointed out that the documents submitted by the respondent in response to the complaint and in support of his submissions were irrelevant. The respondent was invited to provide the relevant documents to the Office but was unable to do so. Rather, the respondent alleged that he had carried out a risk analysis and found the first complainant to be ‘moderate/aggressive’ in 2007 and ‘moderate’ in 2008 and claimed that this proves that the investment was within the complainants’ risk profiles. Still, the necessary documentary evidence was absent from the response. There was, therefore, no record at all regarding the respondent’s profiling of either of the complainants.

Despite the submissions the respondent made about why he had recommended the particular financial investments to the complainants; they were devoid of proof that he had explained the risks inherent in the investments to the complainants; that he had explained the true nature of the products; disclosed material facts about the investments; had recommended products that were appropriate to the circumstances and risk profile of the complainants; and that the complainants were placed in a position to make an informed decision. The respondent also did not show an appreciation of the Sharemax syndications himself and, in a response, had stated that “the greatest risk of Sharemax was that you as an investor did not have free access to your money, there was high costs involved in liquidating and you had to wait for someone to buy your shares”, which was inaccurate. The respondent had rendered advice to the complainants based on the marketing material he received as a broker from the syndications but took no steps to validate the information himself. The respondent also did not show that he read and understood the prospectus and the annexures thereto. The respondent did not show that he appreciated the nature of the investments, including understanding how Sharemax intended to pay his commission and investors’ returns.

This Office found that the respondent had a duty to explain pertinent information regarding the investments to the complainants, including informing the complainants how the money they invested would be treated by the syndication and how this varied from the obligations placed on the syndications by the law. The respondent was found to have negligently rendered the financial service to the complainants and was held liable for their losses. The respondent was ordered to pay the value of the moneys to the complainants that they had lost in the syndications plus interest on these amounts at the rate of 7% per annum, seven (7) days from the date of on which the order was made to date of final payment.

Operational Effectiveness

ICT Governance Report

Shortly after the declaration of the COVID-19 pandemic lockdown in South Africa, it was amazing to see how the FAIS Ombud ICT were able to implement major ICT changes at the speed of lightning. The FAIS Ombud adopted technology that ensured business continuity. Microsoft Teams and Skype were implemented to enable collaboration and virtual meetings. A secured, virtual private network was also enabled for all the employees to continue working from home to deliver on the mandate.

During this period of the pandemic, the ICT department embarked on various cost-effective initiatives and projects to assist the organisation to continue working in a secure environment. The Case Management system, which is the core system to deliver on the organisational mandate, was moved to the cloud. The telephone system was also securely hosted in the cloud, and the call centre functionality was fully operational with the ability to receive and route calls while working from home. Moreover, ICT is working on moving all the in-house hosted systems to be hosted in the cloud to maximise performance, security, and reliability. The protocols and updates on working from home were constantly sent to all employees.

The total lockdown, which forced all our staff to work from home, resulted in heavier than normal traffic on the remote connectivity networks, causing capacity and access constraints. However, ICT increased the internet bandwidth and implemented a secondary internet line as a backup.

We elevated communication to staff on cyber security awareness, with the anticipation that cyber attackers might take advantage of the new way of doing things and use the opportunity to exploit the information housed in the organisation. The FAIS Ombud ICT has ensured that the ICT environment and ICT risks are managed and mitigated effectively by putting in place a number of compensating measures, such as Log360 to enable ICT to audit and monitor Active Directory changes in real-time, over and above the Security Information Event Management (SIEM) solution and vulnerability assessments that were already in place.

All these initiatives and projects are reported or communicated to the Risk Committee, as the Committee

monitors the FAIS Ombud ICT governance by considering the efficiency and effectiveness of ICT controls, policies, processes, and the associated risks. The ICT and the FAIS Ombud internal Committees will continue to initiate and monitor the technology developments in all spheres of technology. ICT succeeded in overcoming the challenges of transitioning everyone to work remotely.

TRENDS

Increase in Cryptocurrency Complaints

The Office of the FAIS Ombud has noted a significant increase in the number of complaints received in respect of investments made into cryptocurrencies during the 2020/2021 financial year. While recognising the high-risk nature of investing in crypto assets and the concerns about the suitability of crypto assets as an asset class, this Office was unable to assist complainants who submitted complaints in this respect, which meant that these matters had to be dismissed. The high-risk nature is a result of the underlying business models and the risk of large fluctuations in the market price. The reason for this is that currently, crypto assets are not regulated in terms of any financial sector law in South Africa. As a result, crypto assets are not classified as a financial product, which means that the product falls outside of this Office's jurisdiction.

The Office of the FAIS Ombud is, however, encouraged by a statement issued by the Financial Sector Conduct Authority ('FSCA') on 24 June, 2021, where it is considering declaring crypto assets a financial product. This statement followed a paper published earlier in the same month by the Intergovernmental Fintech Working Group ('IFWG') on crypto assets, which provided a framework on how these assets will be regulated in future. This position paper made 25 recommendations on how to bring crypto assets into the South African regulatory universe, one of these being an interim measure, which is that crypto assets should be declared by the FSCA to be a 'financial product' in terms of the definition of 'financial product' in section 1(1) of the FAIS Act. The declaration in terms of the FAIS Act will empower the FSCA to regulate the advisory and intermediary component of crypto assets, as well as allow this Office to investigate complaints received in this respect. This amendment is an interim measure as once the CoFI Bill has been enacted and brought into operation, crypto asset-related financial advice and intermediary services will be dealt with under the CoFI Bill (or CoFI Act, once enacted).

Until such time as crypto assets are brought within the Financial Sector laws that govern the South African financial sector, the Office of the FAIS Ombud would like to caution the public that, despite the promise of significant gains and quick returns during these trying economic times, where such promises can be enticing, unrealistically high returns more often than not suggest that an investment is too good to be true, which carries the risk of losing one's capital. More importantly, however, is that no investments should be made without seeking the assistance and advice of properly licensed financial services providers who should only offer products from legitimately licensed financial institutions.

Homeowners' Insurance

This may not necessarily be a trend that is unique to the 2020/2021 financial year, as it is an issue that has been a consistent complaint received by this Office through the years, but it is an issue that now requires attention. These complaints are in respect of homeowners' insurance claims related to damage caused by acts of nature, largely storm-related. As the nature of these complaints are claim-related, in that the complainant specifically highlights the dissatisfaction with the decision of the insurer to reject the claim on the basis of wear and tear and/or defective workmanship, these matters are more often than not referred by this Office to the Insurance Ombud Schemes.

In respect of homeowners' insurance claims, if the damage claimed is attributed to the poor condition of the property, whether as a result of a lack of maintenance or poor workmanship, the policy may not respond—even if an insured event did occur. The Office of the FAIS Ombud is, however, concerned that, despite the prevalence of these complaints both within this Office and the Ombudsman for Short-Term Insurance ('OSTI'), there does not appear to be any amendments or improvements made in the manner in which these policies are sold to the public. To put this into context, complaints considered by OSTI under homeowners' insurance related to acts of nature, represented 61%, 58%, and 54% of all complaints received in respect of homeowners' insurance claims for 2017, 2018, and 2019. Furthermore, of those complaints received by OSTI, the primary cause at 48% (2018) and 30% (2019) was the rejection of claims based on wear and tear, gradual deterioration, and lack of building maintenance being the proximate cause of the damage. This is in addition to what was alluded to above, which is that this Office has seen no reduction in the number of complaints of this nature it receives and subsequently refers to OSTI.

It is clear from these numbers that consumers do not always know or understand the material terms and conditions contained in their policy documents, yet despite these numbers, there does not appear to be any effort made by FSPs in the manner in which these policies are sold to the public. Many of these policies are sold pursuant to a loan agreement, where the application forms are signed whilst completing the paperwork with the lawyers with no financial advisor in sight. Treating Customers Fairly ('TCF'), which is a regulatory framework that governs the way an FSP business conducts daily dealings with its clients, ensures that all clients are treated fairly during all stages of the product life-cycle and advice process. The TCF framework provisions in Outcome 3 require that customers are provided with clear information and kept appropriately informed before, during, and after the point of sale. This is further reinforced in Sections 7(1)(a) and 7 (1)(c)(vii) of the General Code of Conduct for Authorised Financial Services Providers and Representatives ('General Code'), where customers must be provided with concise details of any special terms, exclusions, or instances in which cover will not be provided, so that the customer is placed in a position to make an informed decision as well as in instances such as those detailed above to make an effort to mitigate any potential losses. The Office of the FAIS Ombud shall, with all such complaints received, interrogate the disclosures made when the financial service was rendered and how the financial service was rendered. Where it is noted that no effort is being made to improve the sales process in respect of these products, referrals shall be made to the FSCA for further investigation.

Processes and Procedures of Product Providers

This trend is another example of an issue that is not unique to the financial year under review, but where this Office has noted that there have been no attempts made by FSPs to address the issues surrounding this matter and to put processes and procedures in place to mitigate the negative outcomes experienced by clients. In this regard, we are referring to assistance where child dependants who turn 21 no longer qualify for child dependant status, unless they are full-time students, and must be either noted as an extended family members on the policy or be provided for on a separate policy.

The Office of the FAIS Ombud does appreciate that in a number of matters investigated, this disclosure is made at the inception of the policy when the financial service is rendered. Having said that, no further attempt is made to

notify the client after the policy has incepted, other than a cursory mention in the annual renewal letter, which is a standard template not specifically directed to any client. What then happens is that once a child dependant has reached 21, the policy continues as normal, unless the client remembers and specifically requests the amendment to the policy. Premiums continue to be collected with the situation only rearing its head when there is a claim submitted in respect to the passing of the dependant.

In an era when 'insuretech' is a buzz word in the industry and FSPs are continuously looking to make the most of technology and innovation, it is hard to imagine why FSPs who provide such policies are not able to employ technology to raise alerts when such thresholds are reached, so that the client can be contacted and provided with suitable advice to ensure that they remain appropriately insured. It would appear that the focus on technology is more towards creating more innovative products and streamlining distribution channels and claims processes, all designed to facilitate the sale of products and services, as opposed to addressing concerns experienced by existing clients. Once again, reference is made to TCF and Outcome 3, where customers must be provided with clear information and kept appropriately informed before, during, and after the point of sale. Once again, this is echoed in the General Code, section 11, where a provider must have and effectively employ the resources, procedures, and appropriate technological systems at all times that can reasonably be expected to eliminate, as far as reasonably possible, the risk to clients etc. Another aspect to consider is how many existing policies are in place where FSPs are collecting premiums for child dependents over the age of 21. Unless there is cause to submit a claim, these instances go unnoticed and premiums are being collected for a benefit that will never be provided. This is contrary to treating customers fairly and a matter that shall be brought to the attention of the FSCA when identified.

Failure to Make a Recommendation

Section 8(1) (a-c) of the General Code requires that an FSP obtain all appropriate and available information to conduct an analysis to identify the financial product or products that will be appropriate to the client's risk

profile and financial needs (The requirements in respect of Section 8(1)(a) of the General Code have also, been made even more comprehensive since 26 June, 2020.) In other words, there is a requirement on the FSP to make a recommendation to the complainant, a requirement that is reinforced by subsection 8(4)(c) (Previously 8(4)(b) prior to 26 June, 2021), which provides that where a client elects to conclude a transaction that differs from that recommended by the provider, or otherwise elects not to follow the advice furnished, the provider must alert the client as soon as reasonably possible of the clear existence of any risk to the client and advise the client to take particular care to consider whether any product selected is appropriate to the client's needs, objectives, and circumstances.

All too often and in response to complaints received by this Office, where we question why the product provided was deemed to have been appropriate to the complainant's needs and circumstances, we receive feedback that the complainant was provided with a range of options and selected the option that provided, for example, the lowest premium or the highest level of income. Alternatively, the response is that the FSP had simply provided the complainant what the complainant had asked for, such as the most cover for the lowest premium or the highest possible level of income. This is contrary to the provisions of the General Code and not acceptable by this Office. When a prospective client approaches an FSP, there is an expectation that they will receive advice that is appropriate to them; not for an FSP to simply leave it up to the client to make up his or her own mind, or to simply provide the client with what they request. There are many within the financial planning fraternity that are working hard to have financial planning acknowledged as a profession, and making appropriate recommendations and having those difficult conversations with clients, where an FSP manages the clients expectations and provides appropriate advice even when the client may believe that they know better, will enhance the status of financial planning and reduce the number of complaints received by this Office when the products provided are found wanting.

Using Risk Analysis Against Complainants

For a number of years, the importance of establishing a client's risk profile and what that entails has generated

vigorous debate within the financial planning environment, and this Office has previously made its stance on this aspect well known. This Office shall, therefore, not be repeating its stance in respect of risk profiling, but we wish to highlight a troubling aspect that is increasingly raising its head during the investigation of complaints. For many FSPs, there is still a significant reliance on the generic risk profiling questionnaire, which asks the client a specific number of multiple-choice questions, which provide a score that will indicate whether the client has a conservative, moderate, or aggressive approach to risk. This is then used to justify the selection of a specific portfolio in line with the established risk profile. The issue the Office of the FAIS Ombud would like to highlight is not the reliance on this questionnaire as a risk profiling tool (this is a subject for another day), but the fact that the answers, or selections made by the client are being used against them in response to complaints received by this Office. Not only is this questionnaire positioned as a risk profiling exercise and not a fact-finding exercise, but the clients are never informed that any information provided during the risk profile questionnaire can be used against them in the event of any possible future complaint. This is not considered to be in good faith, the basis upon which the industry is founded, and definitely not seen as treating customers fairly.

An example of this would be a question that asks the following:

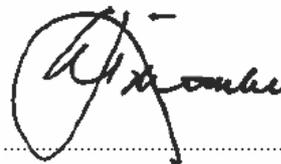
How long are you planning to invest your funds without accessing them?

An example of this would be a question that asks the following:

How long are you planning to invest your funds without accessing them?

- Less than two (2) years
- Two (2) to four (4) years
- Four (4) to seven (7) years
- More than seven (7) years

The client then selects four (4) to seven (7) years, as there is a genuine desire to want to save and provide for the future. This is then used by the FSP to motivate why the complainant was, for example, placed in an endowment policy with a restricted term of five (5) years, as the client wanted to invest for four (4) to seven (7) years, so the FSP provided the client with what the client wanted. It must be appreciated that this is simply a question designed to try and determine a client's wishes; in no way does the answer provided suggest that the client wanted a restrictive option such as an endowment policy or that such a policy is even appropriate to the client. This is only one of a number of examples seen in responses to this Office and are not acceptable in answering questions raised as to the appropriateness of the advice provided.



Adv Nonku Tshombe
Acting Ombud

SETTLEMENTS

The Office of the FAIS Ombud is committed to resolving complaints in a procedurally fair, informal, economical and expeditious manner with reference to what is equitable in all circumstances. In this regard the FAIS Ombud always explores every available avenue to resolve a complaint between the parties on an informal basis without the need to formally resolve the matter by way of a determination.

Detailed below are complaints where this Office was able to facilitate the successful resolution thereof by way of a conciliated settlement. Appreciating the fact that all matters settled by this Office are done on a without prejudice basis, these matters are highlighted as they address a few significant issues that this Office believes need to be highlighted.

M v B

The complainant, Mrs M, applied for a funeral policy with the respondent, a registered Financial Services Provider ('FSP') in terms of the FASI Act, that markets itself as a funeral service and assurance provider. The complainant claimed that the first premium was debited on the 14th of December 2019, and that his mother the life assured on the policy passed away on the 8th of June 2020. The subsequent claim that was submitted was rejected by the respondent claiming that the deceased had passed away within the waiting period which the respondent claimed was effective until 14 June 2020. The complainant was not satisfied with the rejection and the reasons advanced by the respondent, as she argued that the policy terms and conditions provided that the inception date of her policy was in fact the 1st of December 2019, which means that the 6-month waiting period had expired prior to the deceased's passing.

Unable to resolve the matter with the respondent the complainant approached this Office for assistance. Upon investigation the Office of the FAIS Ombud examined the policy schedule and noted the following: "Insurance cover in terms of the Policy commences on the inception date. This inception date is determined by the date a first premium is received. Should a premium be received between the 1st and the 15th of that month, the inception date will be the 1st of that particular month AND should premium be received between the 16th and the last day of that particular month, the inception date will be the 1st of the following month." Appreciating the fact that the first premium was collected on 14 December 2019, the inception date noted on the contract as 14 December 2019, was contradictory to the terms and conditions. The inception date of the policy should have been recorded as 1 December 2019, which would have provided for a successful claim.

The matter was referred to the respondent who reviewed the claim and took a decision to honor the claim for the full benefit of R50 000. In addition, the respondent provided the following: "We are internally rectifying any administration challenges that affect both us and our clients to avoid such future incidents from happening. We would like to thank you Ombudsman for allowing us the time to investigate and improve where necessary."

NB: This matter also highlights a very important role that the Office plays in not only investigating complaints in accordance with its mandate in a fair, economical, expeditious and equitable manner, but also as a mechanism to effect positive change within the financial services industry by facilitating changes towards fairness within the processes and procedures of financial services providers. Such changes do not only streamline the processes of the FSP but also benefit future consumers to be serviced by the financial services provider.

P v M

Upon the passing of his grandmother on the 15th of May 2020, the complainant submitted a claim on the 20th of May 2020, which was subsequently rejected on basis that the deceased had passed within the 6-month waiting period for death due to natural causes. The complainant was not satisfied with the rejection of the claim as he was of the view that the policy ought to have incepted on the 1st of November 2019.

"Your service has been truly remarkable! Thank you for your very kind and efficient service!"
Complainant 10 December 2020

In response to the complaint referred to it by this Office the respondent claimed that the policy had in fact commenced on the 14th of December 2019, after receipt of the first premium on that same date. The respondent was therefore of the view that the 6-month waiting period expired on the 14th of June 2020, and that the deceased, who had passed away on the 15th of May 2020, as a result of natural causes, did not enjoy cover. The respondent was also satisfied that the complainant had been made aware of the 6-month waiting period and that it was also standard industry practice.

Upon closer inspection of the respondent's response and the supporting documentation, the Office of the FAIS Ombud noted that the commencement date, i.e., the date upon which benefits would become valid is 6-months after the 1st premium is received. It was also noted that the application form was completed on 14th of October 2019 with the policy holder having indicated that the deduction date should be the 15th of each month. Despite this, there was no debit from the policy holders account on the 15th of October 2019 or on the 15th of November 2019. In fact, the first debit that was collected was indeed the one processed on the 14th of December 2019. There was no reason provided for the delay in processing the debit order, a delay that had the effect of increasing the waiting period, as had the policy incepted on either of 15 October 2019 or 15 November 2019 the deceased would have enjoyed cover.

The respondent was requested to answer to the delay in the inception of the policy and whether this had been discussed with the complainant together with the implications and consequences thereof. It was recommended that should the respondent be unable to justify the delay then it should reconsider its stance and look to resolve the matter with the complainant. The respondent reverted with its decision to honour the claim in full to the value of R50 000.

S v S

Complainant claimed that she and her husband shopped around with various banking institutions to find the best option to invest an amount of R1000 000.00, which represented their life savings to generate an income. Complainant states their instruction was that they wanted the capital protected and that any income to be paid only from interest earned. Complainant states that they needed the investment to be safe, since they had lost the bulk of their life savings in the "failed Pickvest Investment Scheme". Complainant was 80 years old at the time the financial service was rendered.

The respondent had recommended a 5-year termed investment where the funds invested would be split into two with one portion going towards providing a monthly annuity and the remainder of the funds would be invested to generate a return during the 5-year term. At maturity the complainants were stunned to learn that they would receive an amount R737 251.15, which was R262 748.85 less than what was originally invested.

In response to the complaint the respondent claimed that the complainant had never specifically requested that the funds be guaranteed, and that when one considers the level of income received during the term of the policy and maturity value of R737 251, 15 then the product provided had in effect provided the complainant an effective return in excess of the original R1 000 000 invested. This Office could not accept this response as when one considered the complainant's age and the previous losses that had left them with this sole R1 000 000 with which to provide an income, then the respondent's representative would appear to have contravened Section 8 of the General Code of Conduct in that the recommended product was not appropriate. Subsequent to meeting held with this Office the respondent then provided a response with a calculation of the income that the complainant would have earned from a guaranteed version of the product provided and then compared this from the difference between the maturity value and the original investment. The respondent claimed that any offer in excess of this would constitute enrichment.

The offer was rejected by the complainant and this Office responded to the respondent that a settlement that placed the complainant in the position they would have been had the advice been appropriate could never be considered as enrichment as the reality for the complainant is that she now has a reduced lumpsum with which to provide her with an income to sustain her standard of living, meaning that she may need to either significantly reduce her standard of living or assume greater risk in the portfolio's she is now invested in, placing her in an even more precarious situation. When one then adds the effects of inflation since the commencement of the investment and going forward, and the additional pressure this will place on whatever income she can now hope to generate, then one cannot possibly conclude that this complainant will be enriched by being placed in the position she would have been in, had she been placed in a position to make an informed decision.

Subsequent to this response the respondent amended its offer to pay the difference between the original capital and maturity value in the amount of R252 999.47.

S v M

The complainant stated that he was contacted by the broker to inform him about the change of insurer from Constantia to CIB as of 01 May 2019. He stated that he had accepted this recommendation and the first premium was deducted as per normal. However, the June and July premiums were unpaid due to insufficient funds in his bank account. He stated that he immediately contacted the broker to seek advice and the broker told him to make a bank deposit into the insurer's bank account and assured him that he would be covered. Unfortunately, the complainant had an accident on 10 July and the insurer rejected the claim on the basis that the cover was terminated when the premiums were unpaid. The complainant alleged that after he had made a deposit of an amount of R5477.00, he was assured that he had a valid cover for his vehicle, and claimed that it was a broker's duty to advise him accordingly.

The respondent submitted that they reject the complainant's allegation that he was "assured" that he had valid cover after he made the deposit of an amount of R 5477.00. They stated that the transcript of the voice recording does not unequivocally advise that the client had cover from the moment he made the deposit. They stated that in fact, their staff member says "it should be covered" and that she acknowledged confirmation of the premium payment. The acceptance of the premium was always going to be at the sole discretion of the Underwriter and in this case the Underwriter subsequently sent through documents requiring a vehicle inspection and a new debit order. They stated that the fact that the Underwriter was made aware of the payment, requested a new inspection certificate and debit order, and then only refunded the premium some 11 days after receipt (7 days after the loss, which they had then become aware of) is not something they could comment on beyond saying it reflected their intention to go back on risk, subject to certain provisions. They stated that they agree and acknowledge their mandate as brokers and the requirements pertaining to their duties. However, they do not accept that they provided "materially flawed advice" and their actions were consistent with the mandate provided to them by the Underwriter in that they had been allowing cash deposits into the Underwriters account as part of an agreement made when they transferred a number of policies from Dynamic to CIB (this complainant was one of those clients). At no stage had they been informed by CIB that they could no longer accept EFT payments by their clients into their account. They stated that the Insured was fully aware of the policy terms and conditions regarding the payment (or failure

to pay) of premium and following two failed debits the policy was thus cancelled by CIB.

This Office responded that any prudent Financial Services Provider would have known that the policy had lapsed, and immediately arranged alternative or new cover at the time. Instead, the complainant was advised to make a direct deposit of R5 477, 00, which he did on 05 July 2019. Despite the fact that the policy was no longer active or valid. The respondent subsequently submitted an offer of R369 457.00, which was rejected by the complainant. A revised offer of R400 000 was then made in full and final settlement which was then accepted by the complainant.

D v O

The complainant states that his father in-law, a self-employed mechanic, had a horrific injury when he almost lost 3 of his fingers and was not able to perform his functions as per normal and was unable to work for at least 5-6 months. The insured has also has never fully recovered due to the nature of the injury and that his hand will never have full function again. The complainant's father in-law did have disability cover with the respondent and had submitted a claim to due to his temporary disability as well as his loss of income which was rejected as the injury wasn't on his 'dominant' or 'strong' hand and as such the claim was not valid. The complainant claimed that the injuries sustained had prevented the insured from performing his duties and approached this Office for assistance.

.....
"Thank you , much appreciated for your efficient responses and direction to my claim . This is service delivery at its best." Complainant 9 December 2020

The respondent confirmed that the life insured would be considered functionally impaired if he was permanently unable to perform or meet a sufficient number of tasks and criteria in terms of the Daily Tasks Tests. The insured did not score the required number of points on the Daily Tasks Tests completed by the medical practitioner. In light of the above, the respondent was of the view that the insured's medical condition did not meet the above-mentioned required criteria for payment of the Daily Tasks Benefit. The policy contract confirmed that the type of product applied for was to provide a lump sum in the event of the insured being permanently unable to perform normal daily activities.

In response, this Office questioned whether the appropriate recommendation for a mechanic would have been a disability policy where one is unable to perform daily activities. It was put to the respondent that any disability for someone such as a mechanic would have impacted their ability to perform their occupation and so a more appropriate form of disability may well have been one that was occupational based. The respondent was requested to respond to this and to provide reasons why this form of disability was deemed to have been appropriate in respect of the insured's needs and circumstances, and whether the insured had been placed in a position to make an informed decision.

The respondent responded that it had reconsidered its stance and that the claim would be paid. The complainant received R100 000 in full and final resolution of the complaint.

C v W

Complainant was the policyholder of a funeral policy with the respondent which commenced on 19 January 2017. In terms of the policy, the complainant had insured his wife and children, with him as the policy owner and premium payer. On 07 November 2019, the complainant's son passed away, and a claim submitted was subsequently rejected as the deceased was over the age of 26 years, which exceeded the maximum age allowable in terms of a child dependent. The complainant states that he was never advised about this, and that he never received any written notice to say that once the child dependent reached 26 years, no cover will be provided. As a result the complainant was all along under the impression that the deceased was covered in terms of the policy.

In response the respondent maintained that the complainant was aware of the exclusion and referred this Office to the terms & conditions of the policy. This Office was not satisfied with the response, and advised that there was no record to show compliance with the General Code of Conduct that this material disclosure had been made to the complainant in accordance with section 7(1)(c)(vii). Furthermore, this Office was of the view that the respondent had also failed to adequately advise the complainant that once the deceased turned 26 he would no longer qualify as a child dependent. The recommendation made was that the respondent look to resolve this matter with the complainant.

The respondent subsequently proposed refunding the premiums paid an offer that was rejected by the complainant. In the end that respondent undertook to honour the claim for R5000 in full and final settlement.

G v O

Complainant claims that she invested an amount of R400 000 with the respondent during 2018 under the impression that her investment would attract a return of 11 %. Complainant goes on to say that she then realised that her investment was not generating the interest as promised and that when she tried to cancel the investment, she was advised that she would incur penalties as she would be taking her funds before the end of the 5-year term. The complainant was surprised by this as it had never been disclosed to her. The complainant contends that the full terms and conditions of the policy were not discussed with her and therefore requested this Office to investigate and assist.

.....
*“Thank you FAIS Ombud for valuing our complaint. Excellent service.” Complainant 4
 December 2020*

It was evident that the complainant's funds had been placed into an endowment policy and the matter was directed to the respondent to provide this Office with details of why this product was deemed to have been appropriate to the complainant's needs and circumstances and whether she had been informed of all the material terms and conditions of the policy recommended. The respondent responded that after having had the opportunity to consider the matter it was making an offer that it believed was fair and equitable in the circumstances. The respondent admitted that there was insufficient evidence that the product was properly explained to complainant at the point of sale (insufficient compliance documents), and it agreed to “undo” the investment and return the full investment amount to complainant. In addition, and because the respondent could not provide sufficient compliance documents in this instance, an additional award of R10 000.00 was offered. The value on the settlement therefore represented the return of the original investment of R300 000.00. The “non-compliance” compensation of R10 0000 would be over and above this.

The offer was accepted by the complainant.

S v D

Complainant states he had purchased a BMW 135i for R200 000 and had paid a deposit of R60 000. The car was subsequently written off in an accident and the

complainant was only offered R108 000.00 because the car was insured for retail value. The complainant was dissatisfied with this offer as he had never been informed that he would not be covered in respect of any outstanding finance changes and that he had never been offered any shortfall cover by the respondent.

In response the respondent claimed that according to the recording of the conversation at inception of the policy the complainant had been offered credit shortfall and that he had declined it. The transcribed call recording went as follows:

- Consultant:** You may also opt for credit shortfall cover. You said the car is fully paid up?
Client: No its not paid up
Consultant: Oh it's still financed through Absa
Client: Yeah
Consultant: Would you like credit shortfall or not
Client: No
Consultant: Ok then we have a write off accelerator

This Office responded that this could not be accepted as appropriate disclosure as the respondent's representative did not explain why the cover was required and that failure to activate such cover would result in the complainant being out of pocket in the event of a total loss as the vehicle was only insured for retail value. This office made a recommendation that the matter be resolved. The respondent in response agreed to resolve the matter by refunding the instalments made in respect

of the vehicle finance since the rejection of the claim as well as the outstanding finance on the vehicle, a total settlement of R44 118.61. An offer that was accepted by the complainant.

C v I

On 04 June 2019 the complainant's Toyota Hilux was stolen. Complainant lodged a claim, which was approved, but she was made to sign an agreement of loss that was less than the value of the vehicle as the respondent had failed to adequately provide for the additional extras on the vehicle to the value of R22 180.00.

This Office forwarded the complaint to the respondent and asked that respondent it provides this Office with documentation showing compliance with the provisions of the General Code specifically section 8 where there is a requirement to obtain all relevant and available information to ensure that a recommendation that was appropriate to the complainant's needs and circumstances, was made. The respondent was also asked to show compliance with section 7(1)(c)(vii), to establish that concise details of any special terms, exclusions and instances in which cover will not be provided, were communicated to the complainant.

The respondent did not provide the required response, however agreed to compensate the complainant in full for the shortfall of R22 180.00, which was accepted by the complainant.

STATISTICS

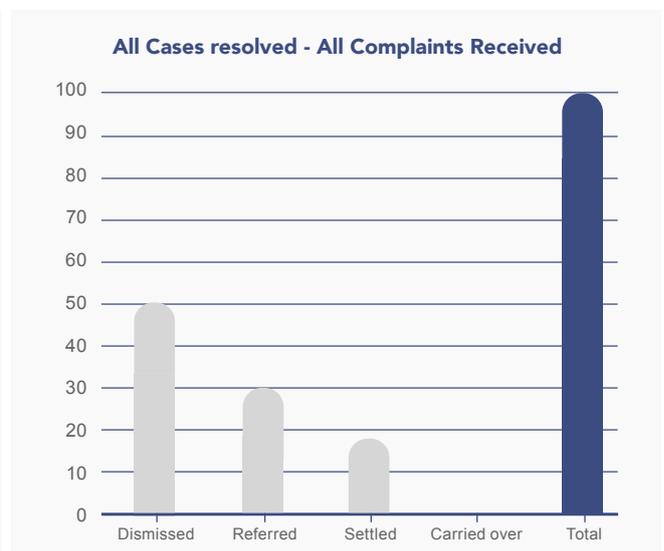
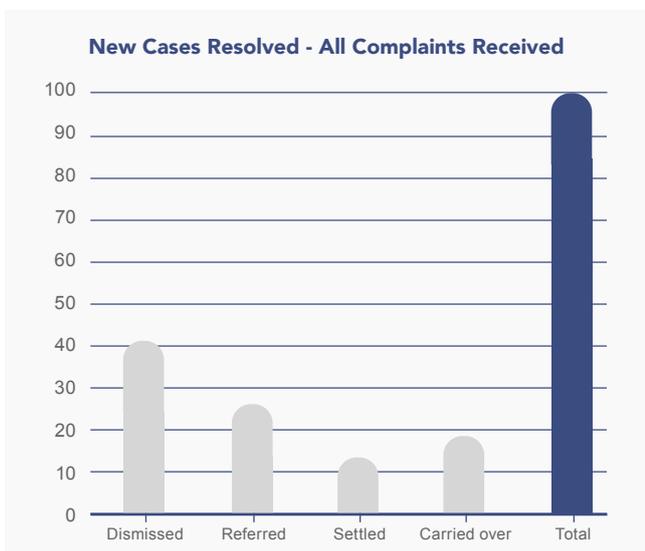


Annual report statistics for the year ending 31 March 2021

| Cases received | No. | Percentage |
|--------------------|--------------|----------------|
| Non FAIS | 3577 | 34% |
| Within Our Mandate | 6975 | 66% |
| Enquiries | - | - |
| Total | 10552 | 100,00% |

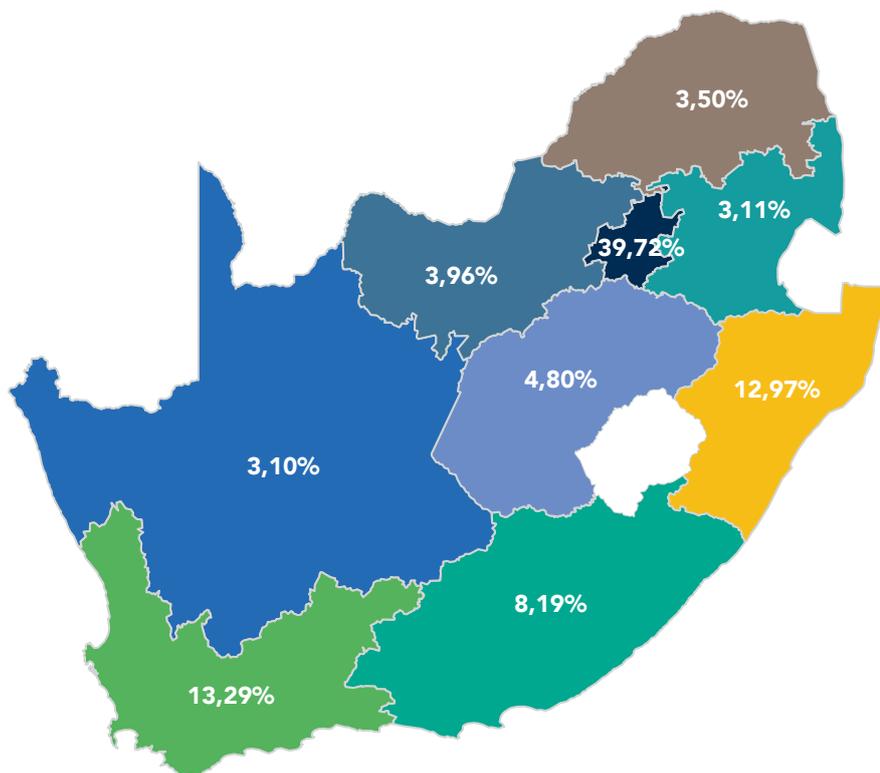
| New Cases Resolved - All Complaints Received | No. | Percentage |
|--|--------------|----------------|
| Dismissed | 4245 | 40,23% |
| Referred | 2877 | 27,26% |
| Settled | 1389 | 13,16% |
| Carried over | 2041 | 19,34% |
| Total | 10552 | 100,00% |

| All Cases resolved - All Complaints Received | No. | Percentage |
|--|-------------|----------------|
| Dismissed | 5079 | 52,07% |
| Referred | 2947 | 30,21% |
| Settled | 1710 | 17,53% |
| Determined | 19 | 0,19% |
| Total | 9755 | 100,00% |



| Product | No. | Percentage |
|-----------------------|--------------|----------------|
| Long term insurance | 3420 | 32,41% |
| Short term insurance | 2438 | 23,10% |
| Investment | 1377 | 13,05% |
| Retirement | 525 | 4,98% |
| Medical Aid/Assurance | 176 | 1,67% |
| Forex | 19 | 0,18% |
| Non FAIS | 2597 | 24,61% |
| | 10552 | 100,00% |

| Province | No. | Percentage |
|----------------|--------------|----------------|
| Eastern Cape | 864 | 8,19% |
| Free State | 507 | 4,80% |
| Gauteng | 4191 | 39,72% |
| Kwa-Zulu Natal | 1369 | 12,97% |
| Limpopo | 369 | 3,50% |
| Mpumalanga | 328 | 3,11% |
| North West | 418 | 3,96% |
| Nothern Cape | 327 | 3,10% |
| Western Cape | 1402 | 13,29% |
| International | 103 | 0,98% |
| Not provided | 674 | 6,39% |
| | 10552 | 100,00% |



| Referred to other Fora | No. | Percentage |
|------------------------------------|-------------|----------------|
| Other Fora | 509 | 17,69% |
| Financial Services Providers | 1124 | 39,07% |
| Financial Sector Conduct Authority | 41 | 1,43% |
| Ombudsman for Short Term Insurance | 314 | 10,91% |
| Ombudsman for Long Term Insurance | 63 | 2,19% |
| JSE Ombud | 5 | 0,17% |
| Ombudsman for Banking Services | 173 | 6,01% |
| National Credit Regulator | 590 | 20,51% |
| Motor Industry Ombud | 10 | 0,35% |
| Council for Medical Schemes | 31 | 1,08% |
| Credit Information Ombud | 17 | 0,59% |
| | 2877 | 100,00% |

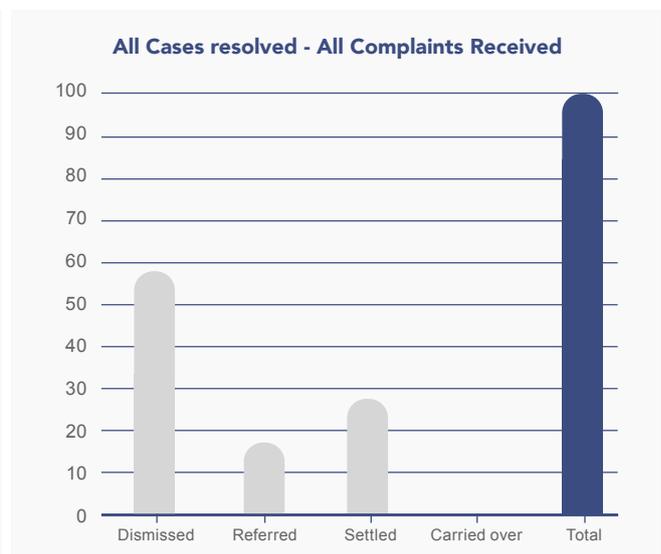
| Average Turnaround - Working Days | No. | Days |
|-------------------------------------|-------------|---------------|
| No. of Days - Inclusive of Weekends | 8511 | 29.76 (50.07) |
| No. of Days - Excluding Weekends | 8511 | 19.84 (33.38) |
| | 8511 | |

| Settlement Value - Product | No. | Percentage |
|----------------------------|-------------|----------------|
| Long term insurance | 835 | 47,34% |
| Short term insurance | 430 | 26,62% |
| Investment | 261 | 14,01% |
| Retirement | 86 | 5,53% |
| Medical Aid/Assurance | 27 | 1,77% |
| Forex | 4 | 0,38% |
| Non FAIS | 86 | 4,35% |
| | 1729 | 100,00% |

| Success Rate on Complaints Referred to the Tribunal | No. |
|---|---------------|
| Total number referred | 147 |
| Right of appeal granted | 3 |
| Referred back to this Office | 4 |
| Application dismissed | 117 |
| Awaiting Decision | 23 |
| | 96.75% |

| New Cases Resolved - Within Our Mandate | No. | Percentage |
|---|-------------|----------------|
| Dismissed | 2761 | 39,58% |
| Referred | 840 | 12,04% |
| Settled | 1389 | 19,91% |
| Carried over | 1985 | 28,46% |
| Total | 6975 | 100,00% |

| All Cases resolved - Within Our Mandate | No. | Percentage |
|---|-------------|----------------|
| Dismissed | 3561 | 57,44% |
| Referred | 909 | 14,66% |
| Settled | 1710 | 27,59% |
| Determined | 19 | 0,31% |
| Total | 6199 | 100,00% |



STATEMENT OF RESPONSIBILITY AND CONFIRMATION OF ACCURACY

To the best of my knowledge and belief, I confirm the following:

All information and amounts disclosed in the annual report is consistent with the annual financial statements audited by the Auditor General.

The annual report is complete, accurate and is free from any omissions.

The annual report has been prepared in accordance with the guidelines on the annual report as issued by National Treasury. The Annual Financial Statements have been prepared in accordance with the GRAP standards applicable to the public entity.

The accounting authority is responsible for the preparation of the annual financial statements and for the judgements made in this information.

The accounting authority is responsible for establishing, and implementing a system of internal control has been designed to provide reasonable assurance as to the integrity and reliability of the performance information, the human resources information and the annual financial statements.

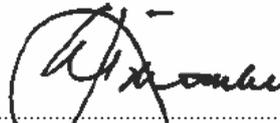
The external auditors are engaged to express an independent opinion on the annual financial statements.

In our opinion, the annual report fairly reflects the operations, the performance information, the human resources information and the financial affairs of the entity for the financial year ended 31 March 2021.

Yours faithfully,



.....
Mr. U. Kamlana
 Commissioner – FSCA
 30 July 2021



.....
Adv. N. Tshombe
 Acting Ombud
 30 July 2021

STRATEGIC OVERVIEW



Vision

To be an independent, effective and trusted alternative dispute resolution office for the resolution of complaints arising from the provision of financial services.



Mission

To promote consumer protection and enhance the integrity of the financial services industry by the fair and expeditious resolution of complaints, reasonably, informally and free of charge.

Credo

The FAIS Ombud's credo states:

- We believe our first responsibility is to the Constitution of the Republic of South Africa and to the statutory mandate which created our organisation. We are completely independent and deal with all disputes fairly and impartially.
- Our service is for people from all backgrounds. We will look at the facts of each complaint, not at how well the case is presented. No one should need any special expertise or professional help in order to bring their complaint to us.
- We aim to give clear, sound and logical reasons for our decisions - any fair-minded person should understand why we reached a particular conclusion.
- We are not bound by formal and rigid procedures to resolve complaints and we aim to be flexible in our approach.
- We will engage all concerned to help both consumers and financial services providers understand their respective rights and responsibilities. Our ultimate aim is to reduce the level of complaints and improve confidence in the financial services industry.
- We must constantly strive to educate both ourselves and those we serve about our services and make our services easily accessible. We will ensure all parties in a dispute have an opportunity to present their case. In doing so, we will ensure the dignity of those we serve by treating each with utmost respect and courtesy.
- We must at all times build a collegiate base that is diverse and equitable and encourage contributions to our core business. We are responsible to ensure that each of our colleagues is regarded as an individual and experiences an affirming and empowering learning environment.
- We must be mindful of the ways in which we help our colleagues fulfil their family responsibilities. We must encourage each other to communicate our opinions, feelings and indeed, our grievances in an environment conducive to amicable resolution, not recrimination. We will support each other, to be innovative, to exercise reasonable initiative, and to share our learning.
- We are responsible to the communities in which we live and work and to the larger international community. We must be good citizens and support civic initiatives.
- We believe our final responsibility is to industry. Business must make a sound profit, underpinned by good corporate governance and moral values. We must explore and suggest fresh approaches to consumer services in the course of our enterprise.
- We believe when we operate according to these principles, we will all realise a significant improvement.

LEGISLATIVE AND OTHER MANDATES

1. Constitutional mandate

The Constitution guarantees equality before the law and the right to equal protection and benefit of the Law. The Office of the FAIS Ombud protects this right of citizens by providing an alternative dispute resolution mechanism in the financial services industry free of charge.

2. Legislative mandates

The FAIS Ombud was established in terms of section 20 of the Financial Advisory and Intermediary Services Act, (Act 37 of 2002) ("FAIS Act"). The FAIS Ombud is a schedule 3A entity in terms of the Public Finance Management Act (Act 1 of 1999 as amended by Act 29 of 1999) ("PFMA") and reports to the Commissioner of the FSCA and National Treasury.

FAIS Act

The main objective of the FAIS Ombud is to investigate and resolve complaints in terms of the FAIS Act, the Code of Conduct for Financial institutions and the Rules promulgated thereunder.

A complaint could arise where, in the rendering of a financial service by a Financial Services Provider or their representative, it is alleged that the financial services provider:

- has contravened the provisions of the FAIS Act and that the complainant has or is likely to suffer financial prejudice or damage;
- has acted wilfully or negligently in rendering the financial service and has caused or is likely to cause prejudice or damage to the complainant;
- has treated the complainant unfairly.

In resolving complaints in terms of the FAIS Act and Rules, the FAIS Ombud acts independently and must be impartial.

FINANCIAL SERVICES OMBUD SCHEMES Act

A further function of the FAIS Ombud is to resolve complaints in terms of the Financial Services Ombud Schemes Act, (Act No. 37 of 2004) ("FSOS Act"), which are not covered by any of the other voluntary Ombud schemes or where there is uncertainty over jurisdiction.

In terms of the FSOS Act a complaint means:

"a complaint by a client relating to any agreement with, or a financial service or product of, a financial institution, and in which it is alleged that the client has suffered or is likely to suffer financial prejudice or damage as a result of the financial institution-

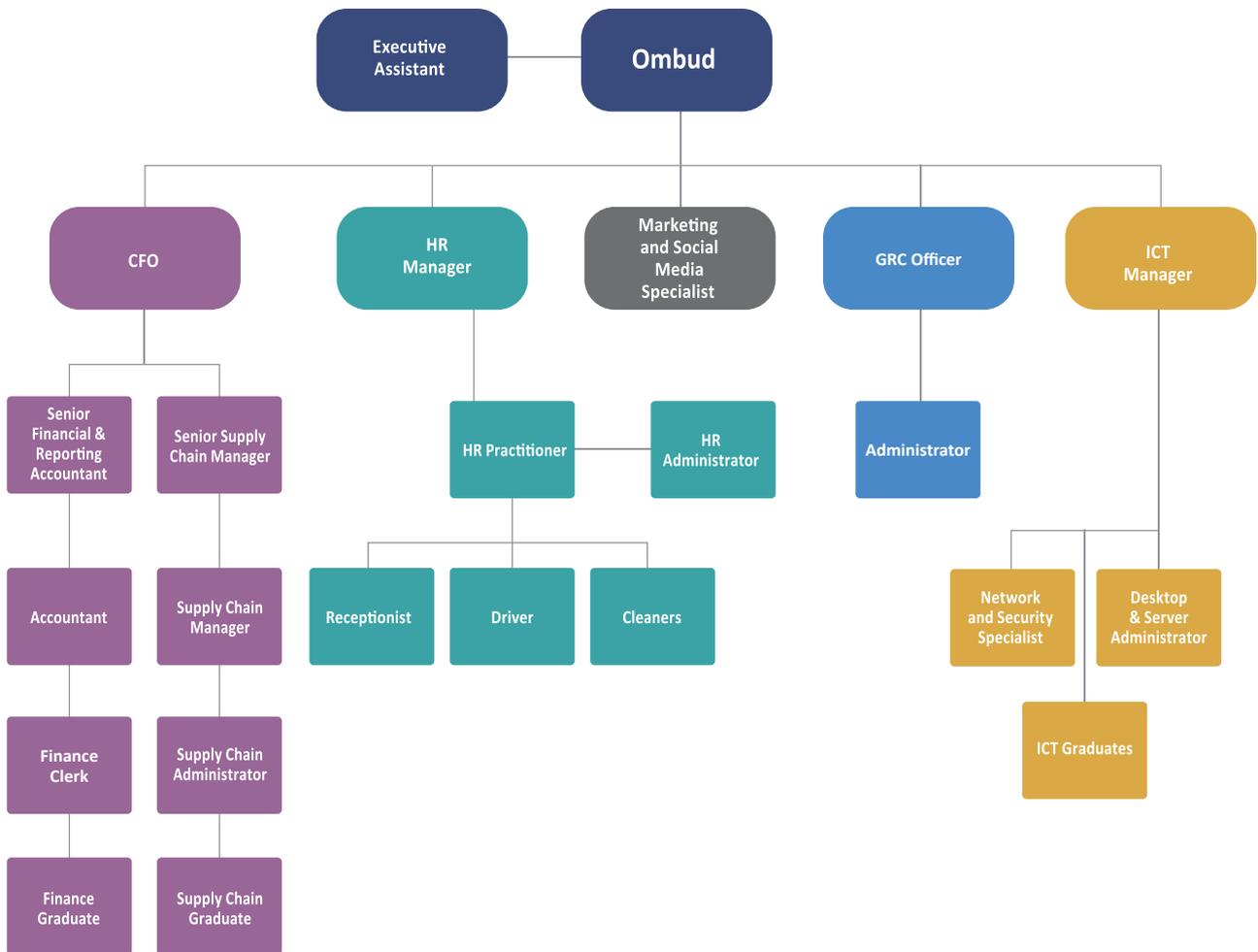
- (a) having contravened or failed to comply with a provision of any agreement or the law or of a code of conduct subscribed to by the financial institution;
- (b) having wilfully or negligently supplied, or failed to supply, a financial service or a product to the client;
- (c) having treated the client unreasonably or inequitably; or
- (d) having mal-administered the implementation of an agreement with, or the supply of a financial service or a product to, the client."

Reconsideration of Ombud Determinations by Tribunal

For parties aggrieved by determinations issued by the FAIS Ombud Office, there is a process of reconsideration of such determination by the Financial Services Tribunal established in terms of the FSR Act.

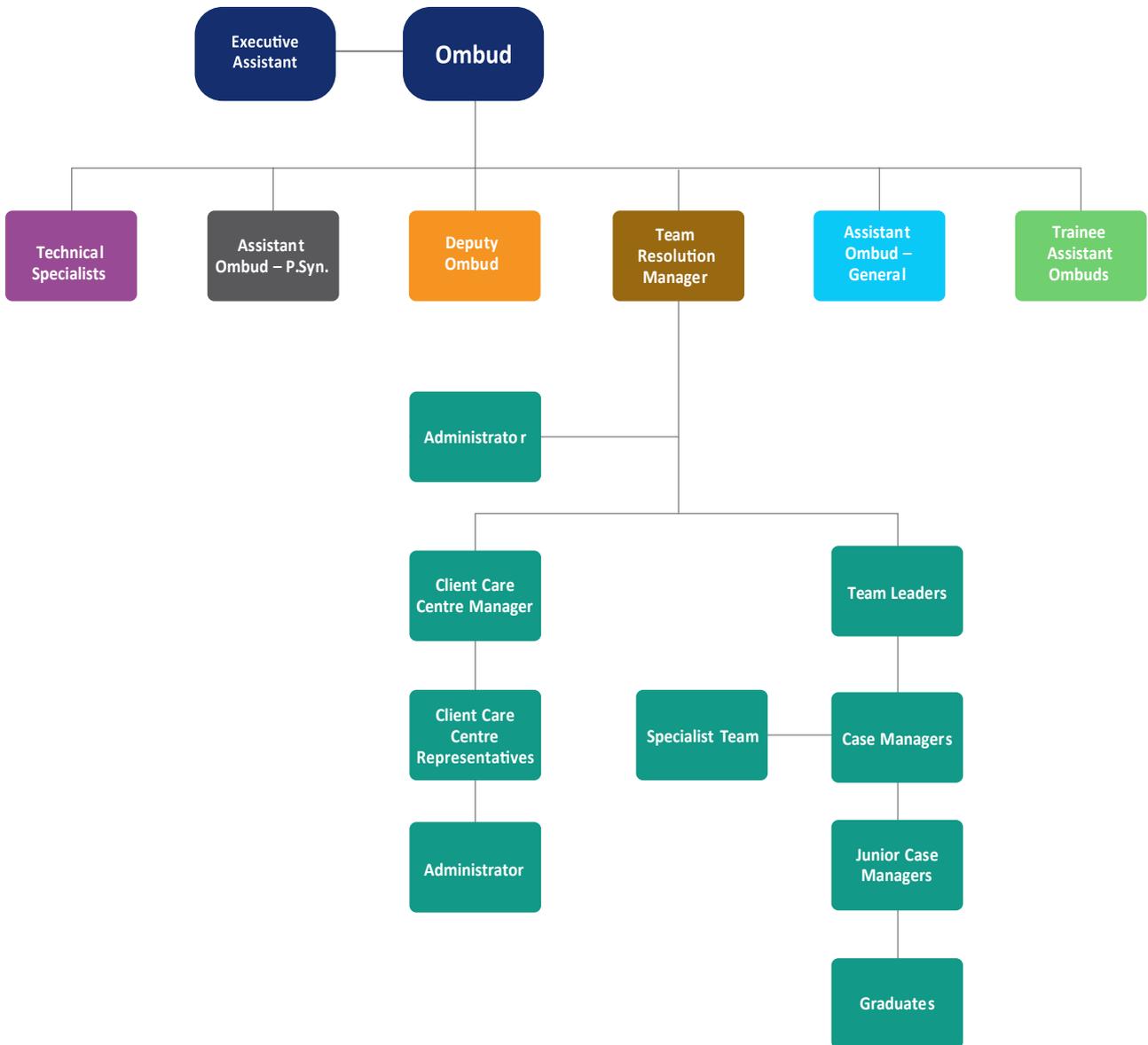
ORGANISATIONAL STRUCTURE

Support



As at 31 March 2021

Core



As at 31 March 2021

Executive Committee



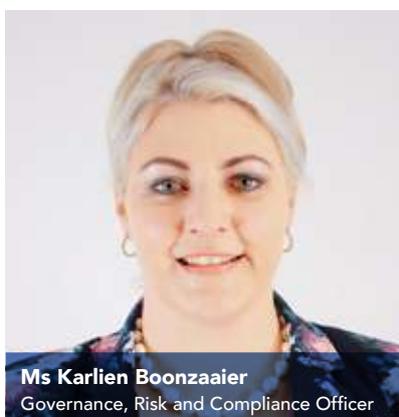
Adv Nonku Tshombe
Acting Ombud



Mr Shaunil Maharaj
Chief Financial Officer



Mr Lebogang Lebeko
HR Manager



Ms Karlien Boonzaaier
Governance, Risk and Compliance Officer

Management Committee



Adv Nonku Tshombe
Acting Ombud



Mr Shaunil Maharaj
Chief Financial Officer



Mr Lebogang Lebeko
HR Manager



Mr Marc Alves
Team Resolution Manager



Mr Tebogo Mashatole
Snr Supply Chain Manager



Mr Louis Pautz
Technical Specialist



Ms Ncebakazi Giqwa
Case Administration Manager



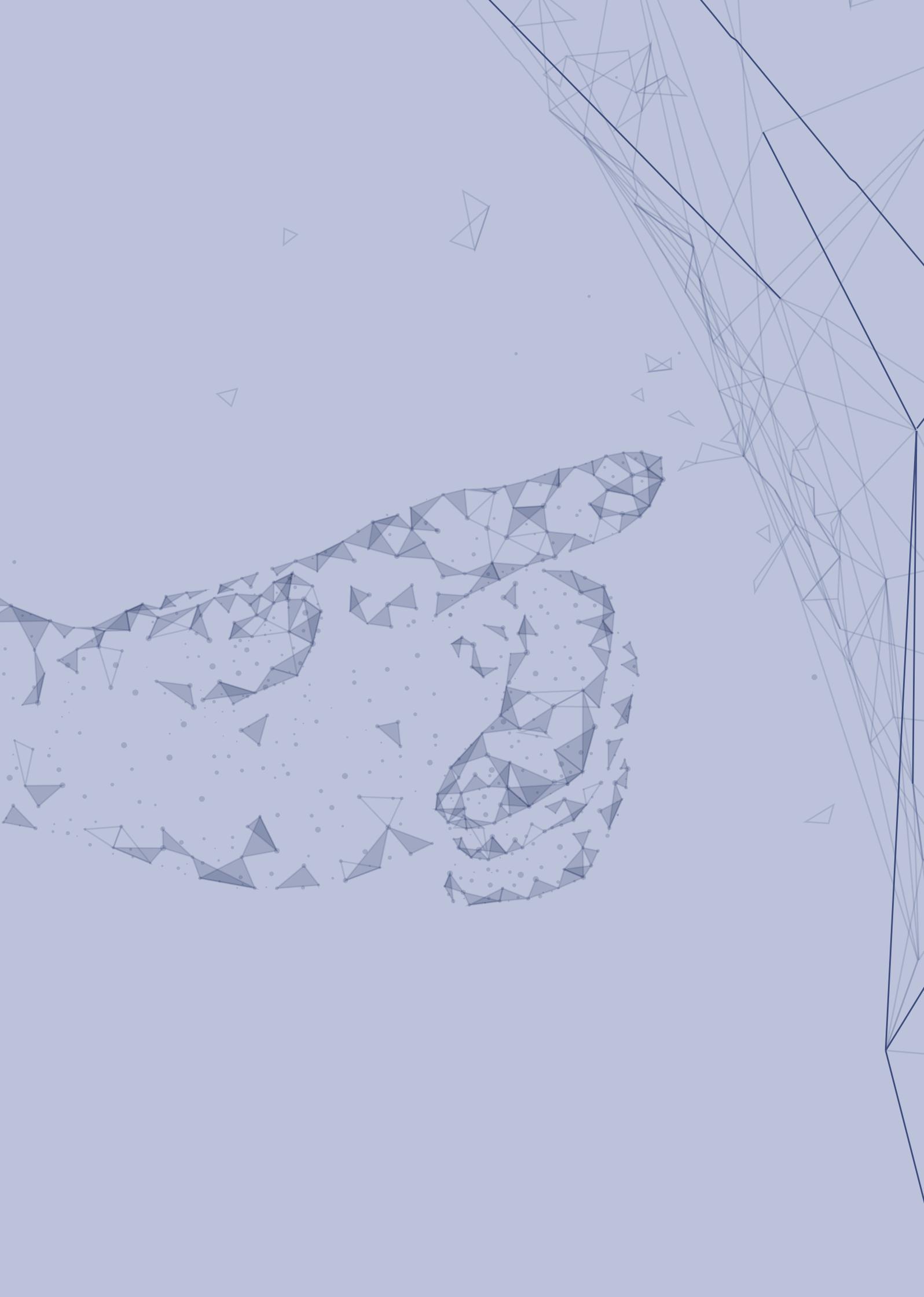
Ms Petronnell Sehlola
ICT Manager

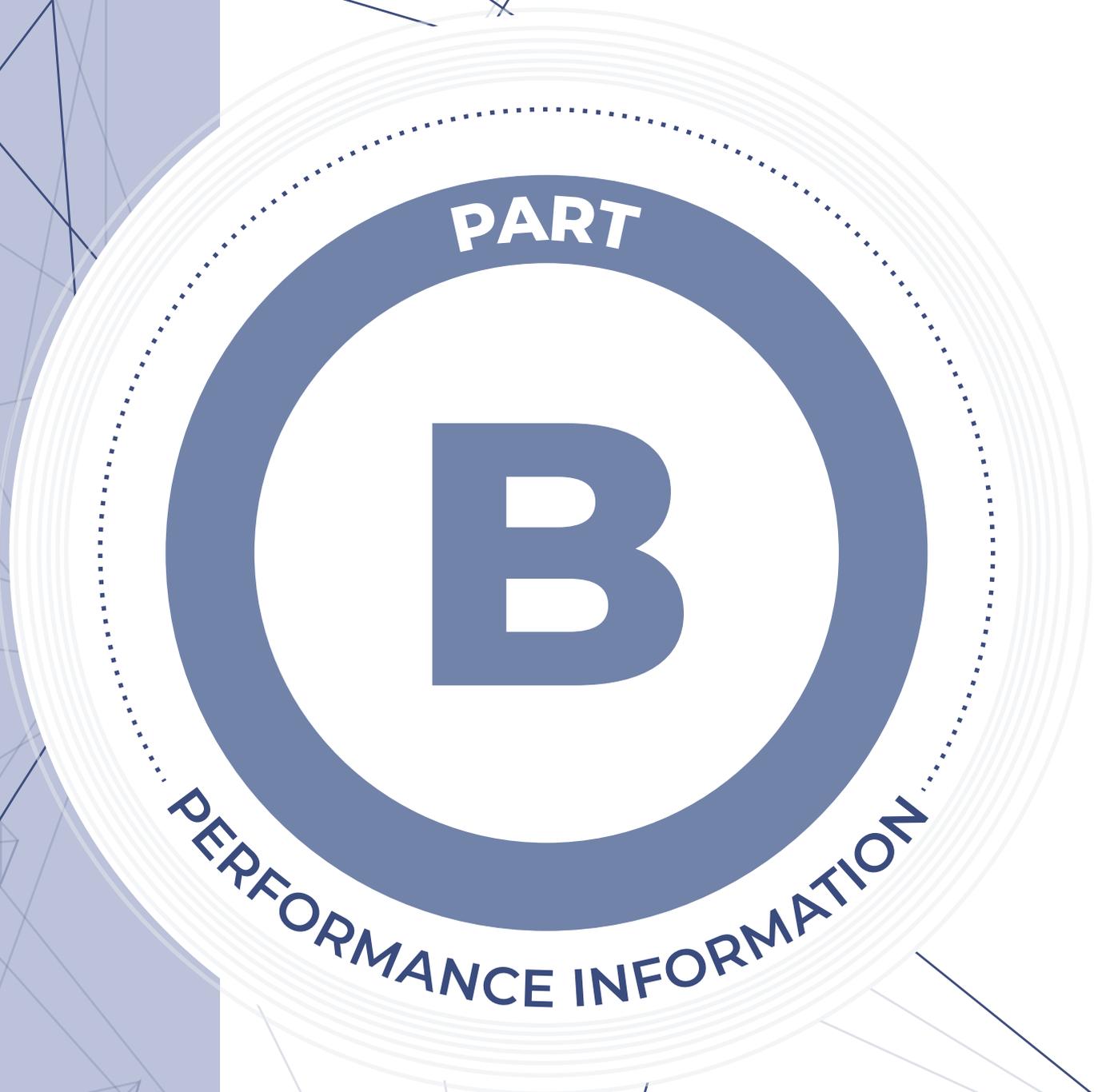


Ms Thobile Masina
Assistant Ombud



Ms Karlien Boonzaier
Governance, Risk and Compliance Officer





PART

B

PERFORMANCE INFORMATION

ANNUAL REPORT
2020/21

SITUATIONAL ANALYSIS

External environmental analysis

The external performance environment and the influences therefrom were considered and a PESTEL analysis (Political, Economic, Social, Technology, Environment and Legal) were completed for the entity. The assessment is reflected below.

1. Political environment

The governance and support structures are in a state of evolution due to legislative changes, the provisions of some of which are not yet effective. The further implementation of the provisions of the FSR Act will have an impact on the governance structures of the Ombud system in general, including the FAIS Ombud and changes are expected to move forward during the new decade. The Commissioner of the FSCA is currently the Accounting Authority of the FAIS Ombud until the Ombud structure i.e. the Ombud Council, as set out in the FSR Act, is finalised.

2. Economic environment

In 2019, South Africa was rated as the most economically unequal country in the world. Continued high levels of unemployment, low economic confidence, high levels of indebtedness, low levels of government guaranteed investments such as bond markets etc. have had negative effects in the economy. The effect of this is that vulnerable people are attracted to investments or investment vehicles with so-called high rates of return, only to fall victim to fraudulent schemes.

On the 27th of March 2020, the rating agency, Moody's, downgraded South Africa's sovereign credit rating to junk status. Subsequent to this, on 3 April 2020 Ratings agency Fitch downgraded South Africa to junk status. The third ratings agency, Standard & Poor's Global Ratings (S&P), followed suit with the same rating on 29 April 2020. In downgrading South Africa's sovereign credit rating to junk status, S & P cited the impact of COVID-19 on South Africa's public finances and economic growth as one of the reasons for its rating.

- According to the South African Reserve Bank (SARB) it was expected that the country's GDP is to contract by between 5 and 10 percent during 2020. This is an indication of how the economy is shrinking as a result of the junk status, Covid-19 and the corresponding lockdown implemented to reduce the spread of the pandemic. This has had a devastating effect

on businesses and employment levels; and place significant pressure on the financial services industry within which the Office of the FAIS Ombud operates.

- The above economic circumstances may likewise encourage people to pursue the emerging specialised financial products, such as crypto currencies, as an alternative to the financial products available in the traditional and predictable financial markets. Together with the inadequate deterrents to prevent or limit the influx of unscrupulous financial services providers, this points to the likelihood that there will be an increase in the number of complaints received by this office

3. Social environment

The majority of people in South Africa are inarguably illiterate. This illiteracy translates, in potentially greater respects, to financial illiteracy and illiteracy of consumers on how financial services are regulated in South Africa. If consumers are unaware, first, of the nature of the service they are receiving and whether it accords with the service that they should be receiving, the likelihood is that they may receive a financial service that does not comply with legislative prescripts without being aware. Consumer illiteracy presents itself in primarily two ways. In the first place, if consumers do not know how the financial sector is regulated, it is unlikely that they would know when there is a breach of regulation and where to go if they have an issue with a financial product or with the manner in which it was sold to them.

Secondly, consumer illiteracy of the regulated environment may impact on the preparedness of the majority of the South African public to engage in formal investment activities given that people tend to be less willing to participate in an activity they do not understand and instead turn to activities in the informal sector which are more prone to result in consumers being treated reproachfully,, thus increasing the risk of the complaints that should be lodged with this office.

- All of this continued financial illiteracy in the population results in vulnerability to pyramid, Ponzi schemes and products that still require regulatory investigation, such as cryptocurrency.
- The social impacts of COVID-19, such as job losses, often involving the sole breadwinner, interruptions to public health programs, loss of access to educational and other child support services, growing challenges with mental health, and increased gender-based violence are collectively deepening destitution in many communities.

4. Technology environment

The COVID-19 pandemic has exacerbated a number of existing challenges in the South African insurance industry. The lack of digitization has been strongly highlighted during the COVID-19 lockdown, with many insurers' operations heavily constrained and new sales limited. COVID-19 has motivated insurers as to the value and need to digitize their own internal processes. This will also fast-track existing plans or adoption of new plans to digitize their operations. This will expedite aspects such as Robo-Advice and its associated challenges as detailed above.

Robo advice is a consequence of advancement in technology. It is intended, by financial services providers, to be a convenient and efficient way of rendering services by relying on technology. As indicated in the FAIS Ombud Strategic Plan 2020 – 2025, page 22, Robo advice does not exist as a separate category of financial services or products but it is a tool of providing largely the known financial services and products. Consequently, the products and/or services are regulated in the same manner as the known provisions of financial services and products either face to face or in written material. Because the FAIS Act dictates how advice on financial services must be rendered, the industry's reliance on technology intended to improve and expedite the process must still be compliant with current legislation. The risk is that robo-advice misses some of the prescribed steps in the advice process might lead to negligence on the side of the FSP and that will compromise the organisation and give rise to possible complaints due to that element of negligence.

In the same way that organisations in the country, and around the world, are improving their business processes by relying on technology, the FAIS Ombud has done the same through the introduction of a voice-log system that allows it to receive complaints by telephone. The Rules that govern the proceedings of the FAIS Ombud provides that complaints to the FAIS Ombud must be submitted in writing. The Rules however make provision for the FAIS Ombud to receive complaints in any other manner in circumstances deemed appropriate. The voice log system was introduced in response to the fact that the FAIS Ombud office is located in a single city in South Africa, in a metropolis, which materially affects the ability of a number of South Africans to access the office. The voice log system caters for the many South Africans without access to electronic means such as email and fax as well as those without access to postal services. Developments and advancement in technology have

also brought about a general increase in cyber-crime and theft of data.

This office, by virtue of the work it undertakes, is a custodian for a great deal of personal information and is therefore obliged to take certain measures to protect all the data and personal information it receives by compliance with; primarily, the Protection of Personal Information Act, 4 of 2013 ("the PoPI Act"). The FAIS Ombud office, in implementing compliance with its legal obligations to protect the personal information of all stakeholders, it is compelled to take more strenuous measures to achieve this task. This means that the office must employ people with the appropriate expertise and procure appropriate systems to ensure that all the personal information it receives is secure. A general increase in cyber-crime and computer viruses therefore has a bearing on the legal obligations this office has in terms of safeguarding personal information and also ultimately this will affect its budgetary needs in respect of a support function.

5. Environmental impact

We interpret environment to mean both the natural environment as well as the financial services environment. We then consider circumstances and conditions to both and how these impact on the environment. As regards the natural environment, climate change has resulted in an increase in natural disasters and events. This has put a strain on insurance products because the premiums that are payable in exchange for cover are determined with reference to, amongst others, the propensity of a particular disaster event occurring. Natural disasters that were not common in certain areas are now common in those areas. An insurer's ability to provide cover may be affected and this may give rise to an increase in complaints;

With respect to the financial services environment, the global exposure of the SA economy to international products and practices affects this area because South African consumers may purchase or invest in international products that are not regulated in South Africa. Should the product fail to deliver what was represented, this office may not, even if a complaint is brought before it, be able to render the assistance required by the consumer. There are also growing concerns about the unscrupulous behaviour in the financial services environment with financial service providers wilfully disregarding their legal duties. The consequence is that consumers will be impacted by this behaviour, and this is therefore another element that gives rise to an increase in the

complaints received by the FAIS Ombud. The financial services industry will not escape the economic impacts of the COVID-19 pandemic and it will be affected by the increase in the cancellation of policies, savings and investments as well as the reduction in new business as a result of increased unemployment and poor business performance. This could result in a significant number of smaller FSPs leaving the industry in addition to the shrinking workforces within the larger FSPs which will culminate in the reduction of levies collected by the FSCA on behalf of this office. This could have a significant impact on the manner in which the Office of the FAIS Ombud operates going forward.

6. Legislative environment

The FAIS Ombud is a creature of statute. It was created by and derives its mandate from the FAIS Act. There are intended amendments to the legislative environment, one of which is the repeal of the FAIS Act. This then, will affect the way the FAIS Ombud operates. In particular, there is uncertainty regarding governance

and support structures due to the establishment of the Ombud Council which it seems, will be responsible for governance of Statutory Ombuds as well as Ombud schemes recognised under the FSR Act.

Changes following the establishment of the Ombud Council were expected to be implemented during the 2020/2021 financial year. In addition, there are also legislative prescripts that speak to the FAIS Ombud's support functions. Legislative, regulatory and policy changes by National Treasury and the DPSA, such as those that speak to cost containment, have an effect on the operations of the entity as well as the speed of implantation of legislative changes. From the office's perspective, this has an impact on forward planning, both strategically and operationally.

Internal environmental analysis

The internal performance environment and the influences thereon were considered and an analysis of Strengths, Weaknesses, Opportunities and Threats (SWOT) was completed for the period under review.

| Strengths | Weaknesses |
|--|--|
| <ul style="list-style-type: none"> Clear Legislative mandate which sets out the FAIS Ombud's function, power and independence; | <ul style="list-style-type: none"> Very low financial jurisdictional limit for awards to complainants thereby jeopardising the restitution effect of determinations; |
| <ul style="list-style-type: none"> Strong oversight support from National Treasury via governance committees, audit processes and the provision of the necessary corporate governance. Support from established structures at the FSCA with the understanding of the financial services industry and its laws in general; | <ul style="list-style-type: none"> Resource and budget limitations of the office affecting consumer outreach, poor accessibility to the office by consumers affecting awareness creation and interaction with the office; |
| <ul style="list-style-type: none"> Status of determinations as court rulings, same being in the public domain, thereby ensuring enforcement thereof and hopefully changing market behavior in the industry and related business practices; | <ul style="list-style-type: none"> Budget limitations affecting salary levels and the ability to attract and retain specialist resources to execute on the mandate and specialist support services; |
| <ul style="list-style-type: none"> The FAIS Ombud is seen as independent by the industry and other stakeholders given its impartiality, its funding from the industry and the prevailing objective and independent reconsideration process via the Financial Services Tribunal. | <ul style="list-style-type: none"> Lack of succession planning due to vacancies of senior positions; |
| | <ul style="list-style-type: none"> Lack of business process automation in HR, Finance and Supply Chain. |

| Opportunities | Threats |
|---|---|
| <ul style="list-style-type: none"> One Ombud system after chapter 14 of FSR Act becomes effective; | <ul style="list-style-type: none"> Challenges with funding impacting on operational ability as a result of negative economic rating, the impact of COVID-19 on the collection of levies from the industry and thereby impacting operational ability; |
| <ul style="list-style-type: none"> FAIS Ombud collaboration initiative with FSCA Consumer Education Department (FSCA CED) via MoU to partner in initiatives planned by FSCA CED – for instance outreach programs such as MoneySmart Week thus improving consumer outreach and awareness enhancement; | <ul style="list-style-type: none"> Poor economic activity which gives rise to mischievous and illegal behavior in the financial services industry, thus affecting the reputation of the industry and undertaking against financial inclusion and transformation in this sector; |
| <ul style="list-style-type: none"> Improved office brand awareness, financial literacy and customer awareness by creation of a social media footprint; | <ul style="list-style-type: none"> Cyber-attacks; |
| <ul style="list-style-type: none"> Opportunity to attract and relevant skills and expertise in order to capacitate the office; | <ul style="list-style-type: none"> Emergence of Fintech and International developments that may result in unregulated products; |
| <ul style="list-style-type: none"> The review of the Ombud system sponsored by National Treasury and the FSCA, which will hopefully build on and achieve a “Known and Trusted Ombud System for All” as set out in the National Treasury Policy document released in 2017; | <ul style="list-style-type: none"> The FAIS Ombud has for the first time since establishment commenced a relationship with a union in which its staff are members. The FAIS Ombud envisages challenges with regard to some of the demands that the union is likely to make especially those relating to staff salaries and benefits. |
| <ul style="list-style-type: none"> Expected automation of Business processes involved in executing the mandate, including voice logging system which allows the FAIS Ombud to receive complaints by telephone outside of office; thereby achieving Real time updating of complaints. | |

Key policy developments and legislative changes

On 26 June GN No. 706 was gazetted, which brought with it a number of changes to the General Code of Conduct for Authorized Financial Services Providers and Representatives. A number of these amendments took place on 26 June 2020 whilst some became effective on 26 December 2020. These amendments are listed below:

Amendments effective 26 June 2020 –

1. Specific duties of the provider

Section 3 of the Code has been amended to include subsections 4(a) and 4(b) which provide that and PSF may not indicate or imply that it is authorised, regulated or otherwise supervised by the FSCA in respect of business for which it is not so authorised, regulated or supervised, nor may it in any manner refer to its authorisation or name the FSCA as its regulator in any advertisement relating to products or services

that are not financial products or financial services in respect of which it is authorised, in such a manner as to create the impression that its authorisation extends to such products and services or that its provision of such products or services is regulated by the FSCA.

In addition, subsection (5) has also been inserted which provides that an FSP may not describe itself or the financial services it renders as being “Independent” if any relationship exists between the provider and any product supplier in respect of whose products the provider renders financial services that gives rise to a material conflict of interest (e.g. the provider or its associate is a significant owner of the product supplier, or vice versa, or receives or is eligible for any financial interest from a product supplier, subject to certain exceptions).

2. Information on product suppliers

Section 4 of the Code sees the substitution of subsection (4) which provides that a provider, in dealing with a client may not compare different

financial services, financial products, product suppliers, providers or representatives, unless the differing characteristics of each are made clear, and may not make inaccurate, unfair or unsubstantiated criticisms of any financial service, financial product, product supplier, provider or representative. (There is also the insertion of subsection (5) which deals with advertising.)

3. Information about financial service

- A new section 7A has been included in the Code which provides that advertising requirements contained in the new section 14(15), relating to the use of forecasts, illustrations, hypothetical data or projected benefits and past performance data in advertisements, also apply to the use of such data or projections in the rendering of a financial service.
- The new section 7A also provides that a provider may only make a statement regarding the past performance (including awards and rankings) of a financial product or financial service if: (a) the basis on which the performance is measured, is clearly stated and the presentation of the performance is accurate, fair and reasonable; (b) the statement is accompanied by a warning that past performance is not indicative of future performance; and (c) the past performance is relevant to the financial service being rendered.
- In addition, a provider that uses forecasts, illustrations, hypothetical data or projections when rendering financial services must provide the client with certain specified information, disclosures and risk warnings in respect of such forecasts, illustrations, hypothetical data or projections.

4. Suitability

- Section 8(1)(a) of the Code has been amended in total. It now places a positive obligation on the provider to obtain from the client such information regarding the client's needs and objectives, financial situation, risk profile and financial product knowledge and experience as is necessary for the provider to provide the client with appropriate advice, which advice takes into account –
 - the client's ability to financially bear any costs or risks associated with the financial product;
 - the extent to which the client has the necessary experience and knowledge in order to understand the risks involved in the transaction; and
 - in respect of pension funds, medical schemes, friendly societies, employers, and other entities

aimed at providing benefits to underlying members, the reasonably identified collective needs and circumstances of members, employees or other natural persons.

- There is also the insertion of a paragraph (cA) where as a result of regulatory or contractual limitations a provider is not able to identify a financial product or products that will be appropriate to the client's needs and objectives, financial situation, risk profile and product knowledge and experience, the provider must make this clear to the client, decline to recommend a product or transaction and suggest to the client that they should seek advice from another appropriately authorised provider.
- Subsection (4) of the 'original' Code is substituted by a new subsection (4). Subsection 4(b) provides that in certain specified circumstances, for example where the client has explicitly requested the provider to focus or not focus on specific objectives in its analysis of the client, there is also an obligation on a provider to alert a client that there may be limitations on the appropriateness of the advice provided in light of such circumstances, and that the client should take particular care to consider on its own whether the advice is appropriate considering the client's objectives, financial situation and particular needs, particularly any aspects of such objectives, situation or needs that were not considered in light of such circumstances.
- Subsection (4)(b) now becomes subsection (4)(c), which provides that where a client elects to conclude a transaction that differs from that recommended by the provider, or otherwise elects not to follow the advice furnished, or elects to receive more limited information or advice than the provider is able to provide, the provider must alert the client as soon as reasonably possible of the clear existence of any risk to the client, and must advise the client to take particular care to consider whether any product selected is appropriate to the client's needs, objectives and circumstances.

5. Record of advice

- Section 9 of the Code has been amended to include that a provider must provide a client with a copy of the record of advice contemplated in section 9(1) of the Code in writing, and that the Registrar may determine the format of and the matters to be addressed in the record of advice.

6. Definitions effective 26 June 2020

- “advertisement” has been substituted with a broader definition, in particular to include “any communication published through any medium and in any form, by itself or together with any other communication...”;
- “direct marketing” has been expanded to include rendering of financial services by way of “digital application platform”;
- “financial interest” has been expanded to include “a qualifying enterprise development contribution to a qualifying beneficiary entity by a provider that is a measured entity” (as those specific terms are defined in the Financial Sector Code published in terms of the Broad-Based Black Economic Empowerment Act, 2003)

Amendments effective 26 December 2020 –

Direct Marketers

- Section 15 of the General Code (Applicable to direct marketers) was amended by the deletion of subsections (2), (3) and (4).
- Subsection (5) was substituted with the following subsection: “A direct marketer shall be obliged to record all telephone conversations with clients in the course of direct marketing and must have appropriate procedures and systems in place to store and retrieve such recordings.
- Subsection (6) has been substituted with the following subsection: “Notwithstanding the above, a direct marketer must at the earliest reasonable opportunity after conclusion of a transaction provide in writing the client with all Information referred to in sections 4 and 5 of this Code to the extent that such information has not already been provided to the client In writing
- The following subsection has been inserted after subsection (6): “A provider must, on request of the client, make recordings of telephone discussions available to the client.

Information about a financial service – enhancing disclosure of a client’s monetary obligations

- Section 7 of the Code has been amended firstly, by the substitution of paragraph (v) of subsection (1)(c) of the following paragraph: “(v) the nature and extent of monetary obligations assumed by the client, directly or indirectly, in favour of the provider, including [the

manner of payment or discharge thereof, the frequency thereof, and the consequences of non-compliance:

(aa) the amount, frequency and payment method thereof;

(bb) details of the services that are to be provided by the provider or its representatives In exchange therefore; and

(cc) the client’s rights in relation to terminating those obligations and the consequences of termination or failing to meet the obligations” which information should wherever feasible be included In a written agreement between the client and the provider.

- The insertion after subsection (3) of the following subsection: “ 3A A provider must at the earliest reasonable opportunity after conclusion of a transaction provide the client with all Information referenced to In subsections 1 2 and 3 in writing to the extent that such Information has not already been provided to the client in writing .”
- Section 14 on advertising has been completely overhauled and aligned, where possible, with other regulation such as the Long-term and Short-term Insurance Policyholder Protection Rules (PPRs). This section will require FSPs to have a close look at their Advertising Policy and Procedures and to make appropriate changes by the end of the year when it takes effect on 26 December 2020.

Complaints Management, engagement with Ombud and reporting

- Section 17 has been included dealing with the requirements of FSPs to maintain a Complaints Management Policy and report on the nature, number and manner in which complaints were handled.
- Section 18 has been added in respect of dealing with Ombuds as detailed below:

A provider must –

- (i) have appropriate processes in place for engagement with any relevant ombud in relation to its complaints;
- (ii) clearly and transparently communicate the availability and contact details of the relevant ombud services to complainants at all relevant stages of the relationship with a client, including at the start of the relationship and in relevant periodic communications;
- (iii) display and/or make available information regarding the availability and contact details of the relevant ombud services at the premises and /or on the web site of the provider;
- (iv) maintain specific records and carry out specific analysis of complaints referred to them by the ombud and the outcomes of such complaints; and

- (iv) monitor determinations, publications and guidance issued by any relevant ombud with a view to identifying failings or risks in their own policies, services or practices.
- (b) A provider must –
 - (i) maintain open and honest communication and co-operation between itself and any ombud with whom it deals; and
 - (ii) endeavour to resolve a complaint before a final determination or ruling is made by an ombud, or through its Internal escalation process, without impeding or unduly delaying a complainant's access to an ombud.

Institutional Programme Performance Information

Resolve Complaints in a fair, expeditious and informal manner

All the processes and procedures within the Client Care Centre and the Case Management Department are tailored towards enhancing the customer experience to all parties to a complaint. This includes the manner in which the outputs for this outcome have been crafted. All the outputs, as detailed below, are designed to measure the effectiveness of the Office of the FAIS Ombud in executing its mandate in respect of the expeditious investigation of complaints. Ensuring the expeditious investigation of complaints is central to not only delivering upon the mandate of the FAIS Ombud but also to the satisfaction of all those that utilise its services. The following outputs, measure the effectiveness of the FAIS Ombud in expeditiously investigating complaints and the achievement thereof is vital to enhancing the customer experience and delivering upon this outcome:

- The Percentage number of complaints resolved with a period of 9 months from date of receipt – The Office of the FAIS Ombud has committed to ensuring that 92% of all complaints that are received are resolved within a period of 9 months.
- The Percentage number of complaints resolved within a period of 6 Months from date of receipt - The Office of the FAIS Ombud has committed to ensuring that 87% of all complaints that are received are resolved within a period of 6 months.
- The Percentage number of complaints resolved within a period of 3 Months from date of receipt- The Office of the FAIS Ombud has committed to ensuring that

76% of all complaints that are received are resolved within a period of 3 months.

- Maximum % active complaints older than 9 months of total active complaints (excluding property syndication complaints) – The Office of the FAIS Ombud has committed to ensuring that at any time not more than 20% of all active complaints will be older than 9 months from date of receipt.
- Efficiency Ratio measuring the percentage number of closed complaints received in a specific financial year – The Office of the FAIS Ombud has committed to ensuring that a minimum of 80% of all complaints received during the 2021/2022 Financial Year are resolved within the financial year.
- The percentage reduction in the number of active property syndication complaints - The Office of the FAIS Ombud has committed to ensuring that the number of active property syndication complaints as at 1 April 2021 is reduced by 10% as at 31 March 2022.

In addition to the outputs listed above, the Office of the FAIS Ombud has an additional output that is designed to measure the effectiveness of these outputs in enhancing the customer experience. At the conclusion of all investigations conducted by the Office of the FAIS Ombud a Customer Satisfaction Form ('CSF') is sent to all the parties of a complaint to rate the service provided during the investigation and the effectiveness thereof. This output is detailed below:

- The percentage number of satisfied customers as measured on returned CSFs for all resolved cases – The Office of the FAIS Ombud has committed to ensuring that 90% of all CSFs that are returned are positive.

Operational Excellence/Achievement of legislative mandate

Operational excellence is achieved through compliance with applicable legislation/prescripts which is measured via achieving an unqualified audit opinion. The graduate trainee program is a means by which the Office meets its resource requirements and creates a skilled workforce to achieve our strategic goals. Employment equity statistics contributes to compliance with prevailing legislation.

Enhanced Stakeholder Management

Given the nature of the work undertaken by this Office, enhancing stakeholder relationships requires that we

engage in a number of programmes, if we are to achieve this objective or outcome. To this end, the Office identifies outreach programmes in various parts of the country including in rural and peri-urban areas, engagements with members of the industry.

Education of consumers can generally be split into two sub sections or categories. The first is financial literacy and the second is consumer literacy of the regulated environment. Financial literacy means an understanding of and ability to differentiate financial products skills and will likely lead to consumers seeking financial advice or help so they can adequately manage their finances. This because the knowledge that you need a financial product may not translate into knowing which financial product you need given your circumstances. Financial advisors provide a service to assist with the latter. Consequently, financially literate consumers, though wise to the need to manage their finances may not know what products can assist them to do so, and will very likely continue to rely entirely on the advice received from financial services providers and to trust this advice implicitly. Financial literacy alone may not translate to less reliance on the services of this Office if these consumers experience the failings that can give rise to a complaint.

The levels of literacy of the consumers about the regulated environment is however different. It speaks to knowing, more intimately, how financial services and products are regulated and that very likely means that a consumer can identify the processes that must be followed in the provision of such financial services and products to them. Ideally, this should lead to less complaints especially in the category of complaints based on misinformation, failure to provide information (about risks and the nature of a financial product) and incorrectly recording or failing to record and/or reliance on information received from a consumer because a consumer can scrutinize the process and identify any shortcomings during the process of the rendering of the financial service or advice.

Where the collective literacy is not sufficient to afford such protection, this Office will continue to serve as a free resource to consumers to resolve such disputes to people who often don't have access to our Courts because of the prohibitive costs, lengthy delays and the adversarial nature of the litigation process.

The Office of the FAIS Ombud believes that our final responsibility is to industry. Business must make a sound

profit, underpinned by good corporate governance and moral values. The Office of the FAIS Ombud must therefore explore and suggest fresh approaches to consumer services in the course of our enterprise. This is achieved through constant engagement and interaction with key industry entities and industry bodies, which includes the Financial Planning Institute.

Reporting on the Institutional Response to the COVID-19 Pandemic

All interventions that were implemented in response to the COVID-19 pandemic were internal.

During April 2020 the Management Committee of the FAIS Ombud conducted a risk assessment and developed a workplace plan in accordance with regulation 16(6) (b) of the directive by the Minister of Employment and Labour in terms of regulation 10(8) of the regulations issued by the Minister of Cooperative Governance and Traditional Affairs in terms of Section 27(2) of the Disaster Management Act, 2002 (Act No.57 of 2002). Since then the Office of the FAIS Ombud has continued to update the Workplace Plan in accordance with latest directives issued by the Department of Employment and Labor. The most recent of which was issued 30 June 2021.

The Office of the FAIS Ombud has also ensured that all staff members had, and continue, to have access to the required PPE should they have cause to work from the Office. Furthermore, the Office of the FAIS Ombud took steps to bolster its ICT capabilities and provided all staff members with access to a monthly data and telephone allowance to ensure that as many individuals as possible could work remotely in an effort to reduce the spread of the virus. These initiatives and the costs associated with these initiatives are detailed in the table below.

During the 2020/2021 Financial Year, a total of 7 employees contracted COVID-19. In accordance with the provisions of the FAIS Ombud Workplace Plan, an investigation was conducted in each instance which confirmed that none of the infections had been caused as a result of any failure in the control measures implemented by this Office. In addition to conducting the required investigations, the Office of the FAIS Ombud also ensures that the required contact tracing is conducted, and that the Office is closed for a period of 10 days to ensure that any and all contacts or potential contacts symptoms can be

evaluated whilst they self-isolate. During the period of closure, disinfection and sanitation services are procured to ensure that the premises are safe for staff to return.

A summary of some of the initiatives instituted by the Office of the FAIS Ombud are detailed below:

- There is regular communication to staff informing them of any COVID developments and ensuring that they are reminded of the appropriate COVID protocols and restrictions during the various Alert Levels;
- In accordance with the workplace plan, the Office of the FAIS Ombud has implemented strict COVID protocols in respect of hand sanitation, social distancing and the wearing of masks. This is reinforced with signage and disinfection stations throughout the Office;
- The Office of the FAIS Ombud conducts quarterly risk assessments to assess the effectiveness of the protocols employed. This assessment shows that the overall risk rating within the Office is Low;
- The Office of the FAIS Ombud has compulsory screening for both staff and visitors to the Office upon entry;
- The Office of the FAIS Ombud conducts pre-screening for all vendors and suppliers before granting approval to access the premises;
- Despite 7 positive infections that have been reported amongst staff members the investigations conducted indicate that no staff member has contracted the virus whilst on the premises or that there have been any lapses in the controls implemented;
- The Office of the FAIS Ombud is disinfected on a monthly basis and it is disinfected and fogged upon the identification of any positive infection or close contact.
- The Office of the FAIS Ombud also closes the Office for a period of 10 days after any positive infection or close contact to allow for the required self-isolation period;
- The Office of the FAIS Ombud has also procured and maintains appropriate levels of PPE for all staff inclusive of masks and hand sanitisers as well as disinfectants to be used to clean the Office;
- The majority of staff have the ability to, and do indeed, work remotely, and there are mechanisms in place for those whose roles are office bound, such as Reception and Office Support Staff to work in a more flexible manner.

Table 1: Progress on Institutional Response to the COVID-19 Pandemic

| Programme/ Sub Program | Intervention | Geographic location (Province/District/local municipality) (Where Possible) | No. of beneficiaries (Where Possible) | Disaggregation of Beneficiaries (Where Possible) | Total budget allocation per intervention (R'000) | Budget spent per intervention | Contribution to the Outputs in the APP (where applicable) | Immediate outcomes |
|---|--|---|---------------------------------------|--|--|-------------------------------|---|---|
| To resolve complaints in a fair, expeditious and informal manner to the satisfaction of customers / Administration/ Enhanced Stakeholder Management | Airtime and Data Allowance - Provide staff with resources to work remotely | Gauteng, Tshwane Municipality | All Staff | N/A | N/A | 147 963,48 | Contribution to all Outputs in all 3 Programs | The Office was able to effectively have staff work remotely to continue to deliver upon its mandate. |
| To resolve complaints in a fair, expeditious and informal manner to the satisfaction of customers / Administration/ Enhanced Stakeholder Management | Deep Cleaning and Disinfection -Monthly sanitation of the Office and disinfection after any positive COVID test to ensure a safe working environment | Gauteng, Tshwane Municipality | N/A | N/A | N/A | 128 076,43 | N/A | Created a safe working environment for staff that may have been required to work from the Office. |
| To resolve complaints in a fair, expeditious and informal manner to the satisfaction of customers / Administration/ Enhanced Stakeholder Management resolve | Laptops - Provide staff with resources to work remotely | Gauteng, Tshwane Municipality | All Staff | N/A | | 932 878,33 | Contribution to all Outputs in all 3 Programs | The Office was able to effectively have staff work remotely to continue to deliver upon its mandate. |
| Stakeholder Management | | | | | | | | |
| To resolve complaints in a fair, expeditious and informal manner to the satisfaction of customers / Administration/ Enhanced Stakeholder Management | PPE - Ensure that all staff have access to masks, hand sanitation etc. to ensure protection whilst on the premises | Gauteng, Tshwane Municipality | All Staff | N/A | N/A | 135 913, 34 | N/A | Promote compliance with COVID Protocols for staff that may have been required to work from the Office |



Mr Marc Alves
 COVID-19 Compliance Officer





PART

C

GOVERNANCE RISK AND COMPLIANCE

ANNUAL REPORT
2020/21



INTRODUCTION

The King IV Report on Corporate Governance (2016) describes governance as the exercise of ethical and effective leadership by the governing body to achieve particular governance outcomes, such as ethical culture, good performance, effective control, and legitimacy.

The FAIS Ombud is committed to driving and maintaining a culture that is accountable and upholds values of integrity and honesty. Good corporate governance is not a set of rules but rather principles that organisations, such as the FAIS Ombud, choose to live by.

GOVERNANCE COMMITTEE APPOINTMENTS

The FAIS Ombud accounts to the Minister of Finance through the Accounting Authority (the Commissioner of the FSCA) assisted by the appointed Governance

Committees. The Governance Committees, as appointed by the Director-General in terms of Section 68 (1) of the Financial Sector Regulation Act (FSR Act), consist of non-executive members with diverse backgrounds. These appointments are made with consideration to experience, technical skills, and the competencies required for service in the financial services industry with due regard to public interest.

The Governance Committees are empowered by the FSR Act to review, monitor, and advise the FSCA Executive Committee (EXCO) on the policies of the FAIS Ombud regarding remuneration and the risks faced by the Office as well as plans for managing those risks. Furthermore, being a public entity in terms of the (PFMA), the Accounting Authority of the FSCA and thus of the FAIS Ombud Office is required in terms of Section 51 (1)(a) to establish an Audit Committee, which will direct and control internal and external audits as well as reporting responsibilities of the Accounting Authority in terms of the PFMA.

The FSCA EXCO has also established a Human Resources and Social and Ethics Committee with responsibilities that extend to the FAIS Ombud office. These Governance Committees are responsible for ensuring the institution complies with relevant legislation, codes of good corporate governance, and practices. Each committee has its own terms of reference, which are reviewed annually in line with best practice.

Within the reporting period, the Governance Committees met at least once per quarter and special meetings were convened when required. The names of the members as well as a record of the number of Committee and Sub-committee meetings attended are noted below:

| Committee Member | Audit Committee | Risk Management Committee | Human Resources Committee | Remuneration Committee |
|--|-----------------|---------------------------|---------------------------|------------------------|
| Total number of meetings | 5 | 4 | 4 | 4 |
| Ms J Mogadime - Chairperson Audit until 31/07/2020 | 5 | 1 | 3 | N/A |
| Ms D Msomi – Chairperson HR from 1/08/2020 | 1 | N/A | 4 | N/A |
| P Sutherland - Chairperson REMCO from 01/07/2020 | 1 | N/A | 4 | 4 |
| H Wilton – Chairperson REMCO until 31/07/2020 | 1 | 1 | 1 | 1 |
| Mr S Gounden – Chairperson Audit from 01/08/2020 | 4 | 3 | N/A | N/A |
| Dr P Mokgobu from 1/08/2020 | 4 | N/A | N/A | N/A |
| Ms P Mvulane from 1/11/2020 | 2 | N/A | N/A | N/A |
| Mr H Ratshefola - Chairperson Risk from 1/07/2020 | 5 | 4 | 2 | N/A |
| Adv S Malatji from 1/07/2020 | N/A | 3 | N/A | N/A |
| Mr P Koch from 1/07/2020 | N/A | 3 | N/A | N/A |
| Professor T Ajam from 1/07/2020 | N/A | 3 | N/A | N/A |
| Dr L Matlhape from 1/08/2020 | N/A | N/A | 1 | N/A |
| Ms L Molebatsi from 1/07/2020 | N/A | N/A | N/A | 3 |
| Ms T Randall from 1/07/2020 | N/A | N/A | N/A | 3 |
| Ms V Balgobind from 1/07/2020 | N/A | N/A | N/A | 3 |

Risk Committee

The Risk Committee, as a statutory sub-committee of the FSCA EXCO, has the same responsibilities towards the FAIS Ombud as it does towards the FSCA. Accordingly, the Risk Committee has committed the FAIS Ombud to a process of risk management that is aligned with the Public Sector Risk Management Framework applicable to all national public entities as set out in the PFMA, National Treasury Regulations as well as the principles of King IV.

The Risk Management Committee is responsible for assisting the Accounting Authority and the Ombud in addressing its oversight requirements of risk management and evaluating and monitoring the organisation's performance with regards to risk management. The Risk Management Committee's role is to formulate, promote, and review the institution's Enterprise Risk Management objectives, strategy, and policy and monitor the process at strategic and management levels.

Audit Committee

The Audit Committee is, amongst others, responsible for overseeing the internal and external audit functions, maintaining effective and efficient internal controls, reviewing the financial information, and ensuring the integrity of the annual financial statements. The Audit Committee assists the Accounting Authority to safeguard the assets of the FAIS Ombud and to manage financial and other risks that might affect the organisation.

Human Resources Committee

The Human Resources Committee assists the Accounting Authority by ensuring that the FAIS Ombud's Human Resources strategy and policies are adequate, reviewed regularly for relevance, and is implemented effectively by management.

Remuneration Committee

The role of the Remuneration Committee is to assist the Accounting Authority in ensuring that senior management and employees of the FAIS Ombud are appropriately rewarded for the contribution they make towards the goals of the organisation. Not only does this ensure the retention of employees with appropriate skills but also employees that are motivated to contribute in a positive manner.

DEFINED AND SEPARATE ROLES: ACCOUNTING AUTHORITY AND THE OMBUD

The roles of the Accounting Authority and the Ombud are separate, with a clear division of responsibilities to ensure a balance of power and authority as set out in a Delegation of Authority document. The Accounting Authority fulfils a non-executive function.

Delegation of Authority

The Delegation of Authority evidences the separation of the roles of the Accounting Authority and the Ombud. In terms of the FAIS Act, the Ombud has administrative powers that enable the Ombud to run the day-to-day operations of the FAIS Ombud efficiently.

FAIS Ombud Risk Management Philosophy

The FAIS Ombud's philosophy is to ensure a safe working environment for employees, wherein risk is effectively managed and improved service delivery for the benefit of all stakeholders.

While the Accounting Authority is ultimately responsible for ensuring that effective, efficient, and transparent systems of financial and risk management and internal control are maintained, the reality is that every official in the Office of the FAIS Ombud has a part to play in risk management.

The Office is further committed to conducting risk management activities in a cost-effective manner that is commensurate with the principles of fairness, accountability, responsibility, and transparency.

To this end, the Executive Committee of the FAIS Ombud ('EXCO') is committed to ensuring the following:

- There is a sound and effective system of internal controls and an enterprise-wide risk management plan in place;
- That the FAIS Ombud's risk management framework ensures risk ownership from line management to the Executive Committee of the FAIS Ombud;
- This framework is embedded in the operations of the FAIS Ombud and all measures are taken to ensure its effectiveness;
- That the FAIS Ombud's risk management strategies are consistently reviewed; and
- That there is an effective system of monitoring and reporting.

RISK MANAGEMENT WITHIN THE FAIS OMBUD

The EXCO exercises ongoing oversight of risk management and sets the direction for how risk should be approached and addressed in the organisation. In making decisions, risks are treated as integral. EXCO sets the tone for the organisation through its commitment to risk management and its support of internal policies.

EXCO further exercises oversight over the operations of the FAIS Ombud through monthly reporting by the respective departments and/or sub-committees within the organisation. This ensures accountability, transparency, and fairness. The aforesaid function is supported by regular internal and external audits.

Risk management is the responsibility of every employee at the FAIS Ombud. Not only is risk management incorporated in the individual performance contracts of each employee, but the respective departments in the organisation are actively involved in managing their risk registers on a regular basis. It is imperative that all employees understand the risks confronting the FAIS Ombud in their day-to-day activities and how to manage these risks.

Below is a list of the top five (5) strategic risks faced by the FAIS Ombud during the 2020/21 financial year, including the risk stemming from the global pandemic crisis the FAIS Ombud is currently faced. Detailed assessments of these risks are performed on a quarterly basis and an annual strategic risk workshop.

| No. | Risk |
|-----|--|
| 1 | Going concern risk, including the risk of not being able to fund the operations of the Ombud |
| 2 | Uncertainty in the Ombud landscape |
| 3 | Inability/Restraint in filling of key senior management positions |
| 4 | Fraud and corruption risk—exposure to fraud and corruption |
| 5 | Business continuity risk—inability of the FAIS Ombud to continue functioning in the case of a disaster |

FRAUD AND CORRUPTION

Fraud and corruption in the public sector are a reality and regarded as one of the major risks faced by public entities. No entity is immune to fraud and the FAIS Ombud, therefore, manages this risk relentlessly. Not only are newly-appointed employees made aware about the FAIS Ombud’s zero tolerance attitude to fraud but, throughout an employee’s stay at the FAIS Ombud, they are reminded by means of training and information sessions.

The FAIS Ombud’s fraud and corruption prevention strategy includes its Fraud and Corruption Prevention Policy, Fraud and Corruption Prevention Plan, Fraud and Corruption Response Plan, and Whistle Blowing Policy. The whistle blowing hotline is managed by an independent service provider. A register of tip-offs is maintained to ensure that all tip-offs received that fall within the mandate of the FAIS Ombud are followed up on. Tip-offs that fall within the mandate of other regulators are passed on to them. Ethical conduct and organisational integrity are key to preventing fraud and corruption in any organisation.

Code of Conduct and Ethics

The FAIS Ombud’s code of conduct and ethics/credo statement establishes norms and standards related to integrity, ethics, professional conduct, and anti-corruption. It acts as a guideline to employees with regards to their conduct from an ethical point of view, both in their individual conduct and in their relationship with others. It helps to uphold organisational integrity as well as build a value- driven workplace.

The code/credo statement spells out the spirit in which employees should perform their duties, what should be done to avoid conflicts of interest, and what is expected of them in terms of their personal conduct. Compliance with the code of conduct and ethics enhances professionalism and helps ensure confidence in the Office of the FAIS Ombud. The code/credo statement always places a duty and responsibility on the employees to behave ethically. Employees will be subject to disciplinary steps if they are in breach of the code of conduct and ethics.

HEALTH, SAFETY, AND ENVIRONMENTAL ISSUES

In terms of the OHS Act (Act 85 of 1993) and Regulations, the Office must ensure and maintain a safe working environment for employees.

Furthermore, the Office of the FAIS Ombud is required to comply with the Consolidated Direction on Occupational Health and Safety Measures in Certain Workplaces, issued by the Department of Employment and Labour in respect of COVID-19 safety measures in the workplace. The Office updates staff on the directives as they get published.

The FAIS Ombud remains committed to ensuring that the entity continues to operate whilst prioritising the health and safety of its employees. The FAIS Ombud has developed a workplace plan that is constituted in accordance with regulation 16(6)(b) and shall remain in force for as long as the directive and the declaration of a national disaster, published in the National Gazette 43096 on 15 March, 2020, remains in force. Therefore, the Office is in adherence to the Occupational Health and Safety Act, Act 85 of 1993, as well as the COVID-19 Government Notices published in terms of the Disaster Management Act, 2002.

Remote working vs working from the office

Due the effects of COVID-19 and the imminent risk of infection, the FAIS Ombud continues to implement aggressive strategies to maintain the health and safety of employees while ensuring that business continuity is not compromised. The majority of staff members continued to worked remotely.

SOCIAL RESPONSIBILITY

The Office of the FAIS Ombud will continue the practice of donating the assets whose book values have been fully depreciated to schools and charitable institutions. Notwithstanding that these assets have been fully depreciated for accounting purposes, they can still be used by such institutions. The Office remains committed to sustainable business operations.

Environment

As an office-based organisation, the Office of the FAIS Ombud has a limited impact on the environment. Our office buildings incorporate many green features, particularly elements of energy and water saving.

Electricity Consumption

Some of our sustainable initiatives include the auto detector to switching off of lights and basement fans when no movement is detected, or after-hours and during weekends. Light sensors were installed in the bathrooms, meeting rooms, and training rooms.

Compliance with Laws and Regulations

Quarterly regulatory compliance reports in terms of the PFMA and Treasury Regulations were submitted to National Treasury and reports were reviewed by the Risk and Audit Committee. No deviations were noted. Internal policies and procedures were reviewed to ensure compliance with applicable laws and regulations.





PART

D

HUMAN RESOURCES MANAGEMENT

ANNUAL REPORT
2020/21



Mr Lebogang Lebeko
HR Manager

Introduction

The Human Resources (HR) Department's mandate is to implement HR policies, systems, and processes to attract, develop, and retain the requisite skills within the Office of the Ombud for the Financial Services Providers (FAIS Ombud). This is done through effective recruitment and selection processes, the facilitation of appropriate training and development programmes, performance management processes, and a healthy and safe work environment. The FAIS Ombud's performance management system provides standards by which the performance of individual employees is monitored and measured to allow for high performance, employee rewards, and improvement of poor performance to enhance efficiency and effectiveness to achieve the FAIS Ombud mandate.

The FAIS Ombud continues to be a caring organisation, giving constant attention to the health and wellbeing of its employees. It provides a comprehensive, integrated employee wellness programme through ICAS, which focuses on the promotion of healthy living and provides psychological assistance.

Challenges

The FAIS Ombud has been affected by the COVID-19 pandemic, which necessitated the need to change the then 'normal' way of working. This included providing staff members with the necessary tools to enable them to

work from home. This was a big change, as there needed to be a mind-shift from all staff members to enable an efficient and effective service delivery to the industry and on-going engagements with stakeholders.

The other challenge that the FAIS Ombud encountered is the inability to attract and retain talent and the specialist skills needed to execute on the mandate. Measures have been put in place to attempt to address this challenge. In addition to that, we need to include people with disabilities.

Successes

The HR policies were reviewed and approved. This enabled the FAIS Ombud to operate with updated policies, which regulate all the HR processes.

In addition, the FAIS Ombud conducted a climate survey. The purpose of the climate survey was to assist the FAIS Ombud to achieve the following objectives:

- Identify levels of staff satisfaction;
- Measure new areas in the institution that may potentially impact the climate;
- Identify possible interventions based on an analysis of the quantitative and qualitative data, which includes getting employees' inputs on possible interventions; and
- Design and implement measures to:
 - create a high-performance culture.
 - build excellence that will enable the achievement of the organisation's goals and objectives.
 - deal with the impact of changed working conditions.

A total of 46 FAIS Ombud employees participated in the climate survey. This was a response rate of 82% overall based on a total of 56 employees.

Graduate Recruitment (Internship) Programme

In the period under review, eleven graduates participated in the FAIS Ombud's Graduate Recruitment Programme. The purpose of the Graduate Programme (Internship Programme) is to assist with the continuous development of unemployed graduates for future appointment in the labour market. This is a career-specific work experience that one undertakes during/after one's studies in order to gain the practical experience required to operate and make a positive contribution with respect to the career path they eventually pursue. With the acknowledgement of the very challenging nature of the job market, acquiring such experience at an early stage places such

an individual at a more competitive advantage than the average career seeker with little or no experience at all.

Organised Labour

A Recognition Agreement was concluded with the National Education, Health and Allied Workers Union (NEHAWU) during the period under review. NEHAWU is the only union recognised by FAIS Ombud, and its membership represented 51% of the total staff complement (including graduates) of the FAIS Ombud.

Future Goals

The FAIS Ombud wishes to continue efforts to build a high-performance culture by continuously encouraging its employees to attend various education and training programmes, therefore, remaining up to date with trends in the markets in which the office operates.

In addition to the above, the Office plans to continue to support and educate staff with regards to the challenges of managing performance while working from home and dealing with COVID-19 complications through Performance Management Programmes and Change Management Programmes, such as those designed by ICAS, our employee wellness service provider.

HUMAN RESOURCES OVERSIGHT STATISTICS

Table 1 - Employment Equity Statistics

| Occupational Level | African | | Indian | | Coloured | | White | | M | F | Total |
|---|-----------|-----------|----------|----------|----------|----------|----------|----------|-----------|-----------|-----------|
| | M | F | M | F | M | F | M | F | | | |
| Top management | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| Senior management | 1 | 2 | 1 | 0 | 0 | 0 | 1 | 1 | 3 | 3 | 6 |
| Professionally qualified and experienced specialists and mid-management | 1 | 2 | 0 | 0 | 0 | 0 | 1 | 0 | 2 | 2 | 4 |
| Skilled technical and academically qualified | 4 | 8 | 0 | 0 | 0 | 1 | 1 | 1 | 5 | 10 | 15 |
| Semi-skilled | 5 | 11 | 0 | 0 | 0 | 1 | 0 | 0 | 5 | 12 | 17 |
| Unskilled | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| Fixed-term contractors | 3 | 6 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 6 | 9 |
| Total | 14 | 33 | 1 | 0 | 0 | 2 | 3 | 2 | 18 | 37 | 55 |

Table 2 – Personnel Cost

| Occupational Level | Salaries (R'000) |
|---|------------------|
| Top management | 2 452 |
| Senior management | 6 412 |
| Professionally qualified and experienced specialists and mid-management | 2 626 |
| Skilled technical and academically qualified | 8 338 |
| Semi-skilled | 4 190 |
| Unskilled | 710 |

| | |
|--------------|---------------|
| Total | 24 728 |
|--------------|---------------|

Table 3 - Performance Rewards

| Occupational Level | Performance Rewards (R'000) |
|---|------------------------------------|
| Top management | 239 |
| Senior management | 445 |
| Professionally qualified and experienced specialists and mid-management | 99 |
| Skilled technical and academically qualified | 491 |
| Semi-skilled | 315 |
| Unskilled | 12 |
| Total | 1 601 |

Table 4 - Training

| Type of training | Number of attendees | Total cost incurred (R'000) |
|-------------------------------|----------------------------|------------------------------------|
| Short courses | | 50 |
| Formal studies (e.g., Degree) | | 373 |
| Total | | 423 |

Table 5 - Terminations

| Reason for Leaving | Number |
|---------------------------|---------------|
| Death | 0 |
| Resignation | 2 |
| Dismissal | 0 |
| Retirement | 0 |
| Ill health | 0 |
| Expiry of contract | 11 |
| Total | 13 |

B-BBEE COMPLIANCE PERFORMANCE INFORMATION

The FAIS Ombud's Broad-Based Black Economic Empowerment (B-BBEE) status was verified during the year under review and the overall B-BBEE Contribution level received was "Non-Compliant".

The scoring is as follows:

| Scorecard Element | Target Score | Actual Score |
|---|---------------------|---------------------|
| Management Control | 20 | 13.67 |
| Skills Development | 25 | 3.12 |
| Procurement | 30 | 26.89 |
| Enterprise & Supplier Development | 20 | 0.00 |
| Socio-Economic Development & Consumer Education | 05 | 0.00 |
| Total Score | 100 | 43.68 |

The FAIS Ombud has put measures in place to ensure an improved rating in the future. These include ensuring that staff below the management levels attend as many relevant training interventions as possible, as well as providing them with study assistance to enable them to acquire the necessary qualifications. The planned training interventions are, amongst others: Ethics and compliance training, insurance-related product training, performance management, change management, and stress management (work-life balance).





SECTION

E

FINANCIAL INFORMATION

ANNUAL REPORT
2020/21



Mr Shaunil Maharaj
Chief Financial Officer

THE OFFICE OF THE OMBUD FOR FINANCIAL SERVICES PROVIDERS

Annual Financial Statements for the year ended 31 March 2021

General Information

| | |
|---|---|
| Country of incorporation and domicile | South Africa |
| Nature of business and principal activities | Handling of complaints against financial service providers |
| Registered office | Kasteel Park Office Park, Orange Building, 2nd Floor 546 Jochemus Street Erasmusklouf Pretoria 0048 |
| Business address | Kasteel Park Office Park, Orange Building, 2nd Floor 546 Jochemus Street Erasmusklouf Pretoria 0048 |
| | Postal address P.O Box 74571 Lynnwood Ridge 0040 |
| Bankers | Standard Bank |
| Auditors | Auditor-General South Africa |

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LIST OF ABBREVIATIONS

| | |
|----------------|--|
| PFMA | Public Finance Management Act |
| GRAP | Generally Recognised Accounting Practice |
| SA GAAP | South African Statements of Generally Accepted Accounting Practice |
| IAS | International Accounting Standards |
| TR | Treasury Regulations |
| AGSA | Auditor General South Africa |
| ASB | Accounting Standards Board |
| FSCA | Financial Sector Conduct Authority |

ACCOUNTING AUTHORITY’S RESPONSIBILITIES AND APPROVAL

The Commissioner of the FSCA, as Accounting Authority, is required by the Public Finance Management Act (Act 1 of 1999), to maintain adequate accounting records and are responsible for the content and integrity of the annual financial statements and related financial information included in this report. It is the responsibility of the members to ensure that the annual financial statements fairly present the state of affairs of the entity as at the end of the financial year and the results of its operations and cash flows for the period then ended. The external auditors are engaged to express an independent opinion on the annual financial statements and was given unrestricted access to all financial records and related data.

The annual financial statements have been prepared in accordance with Generally Recognised Accounting Practice (GRAP) including any interpretations, guidelines and directives issued by the Accounting Standards Board (ASB).

The annual financial statements are based upon appropriate accounting policies consistently applied and supported by reasonable and prudent judgements and estimates.

The Accounting Authority acknowledges that he is ultimately responsible for the system of internal financial control established by the entity and place considerable importance on maintaining a strong control environment. To enable the Accounting Authority to meet these responsibilities, the he sets standards for internal control aimed at reducing the risk of error or deficit in a cost-effective manner. The standards include the proper delegation of responsibilities within a clearly defined framework, effective accounting procedures and adequate segregation of duties to ensure an acceptable level of risk. These controls are monitored throughout the entity and all employees are required to maintain the highest ethical standards in ensuring the entity’s business is conducted in a manner that in all reasonable circumstances is above reproach. The focus of risk management in the entity is on identifying, assessing, managing and monitoring all known forms of risk across the entity. While operating risk cannot be fully eliminated, the entity endeavours to minimise

it by ensuring that appropriate infrastructure, controls, systems and ethical behaviour are applied and managed within predetermined procedures and constraints.

The Accounting Authority is of the opinion, based on the information and explanations given by management, that the system of internal control provides reasonable assurance that the financial records may be relied on for the preparation of the annual financial statements. However, any system of internal financial control can provide only reasonable, and not absolute, assurance against material misstatement or deficit.

The Accounting Authority has reviewed the entity’s cash flow forecast for the year to 31 March 2022 and, in the light of this review and the current financial position, he is satisfied that the entity has or has access to adequate resources to continue in operational existence for the foreseeable future.

The annual financial statements are prepared on the basis that the entity is a going concern and that the entity has neither the intention nor the need to liquidate or curtail materially the scale of the entity.

Although the Accounting Authority are primarily responsible for the financial affairs of the entity, they are supported by the entity’s external auditors, the AGSA.

The external auditors are responsible for independently reviewing and reporting on the entity’s annual financial statements. The annual financial statements have been examined by the entity’s external auditors and their report is presented on page 70.

The annual financial statements set out on page 75 to 105, which have been prepared on the going concern basis, were approved by the on 30 July 2021 and were signed on its behalf by:



.....
Mr. U Kamlana
Commissioner: FSCA

CORPORATE GOVERNANCE REPORT

1. Governance Committees

The governance committees are empowered by the Financial Sector Regulation Act to review, monitor and advise the reports from management and thereafter make recommendations to the Accounting Authority for decision-making. These governance committees are responsible for ensuring the institution complies with relevant legislation, codes of good corporate governance and practices. Each committee has its own terms of reference, which are reviewed annually in line with best practice.

2. Audit Committee

The committee assists the institution in its responsibility for safeguarding assets, operating control systems, combined assurance, finance functions, internal and external audit services, and advises the on the adequacy of risk management processes and strategies. It meets at least five times per annum.

| Member | 20/07/20 | 03/09/20 | 29/09/20 | 19/11/20 | 23/03/21 |
|---------------------------------------|----------|----------|----------|----------|----------|
| S Gounden, Appointed in August 2020 | N/a | Yes | Yes | Yes | Yes |
| J Mogadime - Chairperson | Yes | Yes | Yes | Yes | Yes |
| P Mokgobu, Appointed in August 2020 | N/a | Yes | Yes | Yes | Yes |
| P Mvulane, Appointed in November 2020 | N/a | N/a | N/a | Yes | Yes |
| H Ratshefola | Yes | Yes | Yes | Yes | Yes |
| D Msomi, (Until August 2020) | Yes | N/a | N/a | N/a | N/a |
| PJ Sutherland, (Until August 2020) | Yes | N/a | N/a | N/a | N/a |
| H Wilton, (Until August 2020) | Yes | N/a | N/a | N/a | N/a |

*N/A - Not applicable

3. Risk Management Committee

The committee assists the institution in ensuring the institution implements effective policies and plans for risk management that will enhance its ability to achieve strategic objectives. It advises the institution on the adequacy of risk management processes and strategies. It met four times in the review period, with attendance reflected below.

| Member | 10/06/20 | 03/09/20 | 18/11/20 | 04/03/21 |
|-----------------------------------|----------|----------|----------|----------|
| T Ajam, Appointed in July 2020 | N/a | Yes | Yes | Yes |
| S Gounden, Appointed in July 2020 | N/a | Yes | Yes | Yes |
| P Koch, Appointed July 2020 | N/a | Yes | Yes | Yes |
| S Malatji, Appointed July 2020 | N/a | Yes | Yes | Yes |
| J Mogadime, (Until August 2020) | Yes | N/a | N/a | N/a |
| H Ratshefola - Chairperson | Yes | Yes | Yes | Yes |
| H Wilton, (Until August 2020) | Yes | N/a | N/a | N/a |

*N/A - Not applicable

4. Human Resources Committee

The function of this committee is to ensure the institution's human resources strategy and policies are implemented. The committee also fulfills the duties of an ethics and social committee it meets at least four times per annum.

| Member | 15/06/20 | 16/09/20 | 24/11/20 | 16/03/21 |
|-------------------------------------|----------|----------|----------|----------|
| L Matlhabe, Appointed August 2020 | N/a | Yes | N/a | N/a |
| J Mogadime, Appointed August 2020 | N/a | Yes | Yes | Yes |
| D Msomi | Yes | Yes | Yes | Yes |
| H Ratshefola, Appointed August 2020 | N/a | Yes | No | Yes |
| P Sutherland | Yes | Yes | Yes | Yes |
| H Wilton (Until August 2020) | Yes | N/a | N/a | N/a |

*N/A - Not applicable

5. Remuneration Committee

The committee ensures the institution's remuneration strategies and policies are implemented. It reviews compensation matters, benchmarks salaries of staff. The committee met four times in the review period, with attendance reflected below.

| Members | 15/06/20 | 16/09/20 | 24/11/20 | 16/03/21 |
|--|----------|----------|----------|----------|
| V Balgobind, Appointed in July 2020 | N/a | Yes | Yes | Yes |
| L Molebatsi, Appointed in July 2020 | N/a | Yes | Yes | Yes |
| D Msomi | Yes | Yes | Yes | Yes |
| TL Randall, Appointed in July 2020 | N/a | Yes | Yes | Yes |
| P Sutherland - Chairperson from September 2020 | Yes | Yes | Yes | Yes |
| H Wilton - Chairperson until August 2020 | Yes | N/a | N/a | N/a |

*N/A - Not applicable

AUDIT COMMITTEE REPORT

The Audit Committee is pleased to present its report for the financial year ended 31 March 2021.

Audit Committee members and attendance

The Committee consists of the members listed hereunder and should meet four (4) times per annum as per its approved terms of reference. During the current year a total of five (5) meetings were held. The Committee consists of the members listed hereunder

| Name of member | Number of meetings attended |
|--|-----------------------------|
| S Gounden (Chairperson), Appointed 1 August 2020 | 4/4 |
| M Mokgobu, Appointed 1 August 2020 | 4/4 |
| P Mvulane, Appointed 1 November 2020 | 2/2 |
| J Mogadime, Reappointed 1 August 2020 | 5/5 |
| H Ratshefola, Reappointed 1 August 2020 | 5/5 |

Audit Committee's responsibilities

The Committee reports that it has complied with its responsibilities arising from section 51(1)(a) and section 77 of the PFMA and Treasury Regulations 27.1.

The Committee confirms that it has adopted appropriate formal terms of reference as its Audit Committee Charter, has regulated its affairs in compliance with this charter and has discharged all its responsibilities as contained therein.

Risk Management

The Risk Management Committee has been established in terms of the Financial Sector Regulation Act to oversee the risks associated with the entity. The chairperson of the Audit Committee is a member of the Risk Management Committee and vice versa to ensure that relevant information is transferred effectively. The Risk Management Committee fulfils an oversight role on financial reporting risks, internal financial controls, compliance risks, fraud risk as it relates to financial reporting, and information technology risks as these relate to financial reporting.

The effectiveness of internal financial controls

The system of internal controls applied by the entity over financial and risk management is effective, efficient and transparent, in line with the PFMA requirements, Internal Audit and management provides the Committee with assurance that the internal controls are appropriate

and effective. This is achieved by means of the risk management process, as well as the identification of corrective actions and suggested enhancements to the controls and processes. From the various reports of the Internal Auditors and, the Auditor-General of South Africa, it was noted that no matters were reported that indicate any material deficiencies in the system of internal control or any deviations therefrom. Accordingly, the Committee reports that the system of internal control over financial reporting for the year under review was adequate and effective.

Evaluation of annual financial statements

The Committee has:

- reviewed and discussed the audited annual financial statements to be included in the annual report, with the Auditor-General of South Africa ;
- reviewed the Auditor-General of South Africa's management report and management's response thereto;
- reviewed changes in accounting policies and practices;
- reviewed the entities compliance with legal and regulatory provisions;
- reviewed significant adjustments resulting from the audit.

The Committee has discussed and agreed on the conclusions of the Auditor-General of South Africa on the annual financial statements. The Committee has recommended the annual financial statements to the Commissioner for approval.

In-Year Management and Monthly/Quarterly Report

The Committee has:

- Reviewed the quarterly financial management and performance reports submitted to National Treasury in terms of the PFMA and Treasury Regulations.
- Reviewed the policies and procedures to ensure compliance with applicable laws and regulations.

The Committee is satisfied with the quality of the in-year reports that were presented at the Audit Committee meetings

Internal Audit

The Committee's review of the findings of the Internal Audit work, which was based on the risk assessments conducted in the entity revealed certain weaknesses, which were then raised with the entity.

Internal Audits overall assessment of internal controls, based on the results of audits and reviews conducted during the 2020/21 financial year are considered adequate and effective in the following areas:

- Safeguarding of assets;
- Effectiveness and efficiency of operations and programmes;
- Achievement of organisation's strategic objectives.

The Committee is satisfied that the internal audit function is operating effectively and that it has addressed the risks pertinent to the entity and its audits.

Auditor-General of South Africa (External Auditors)

The Committee has reviewed the entity's implementation plan for audit issues raised in the prior year and is satisfied that the matters have been adequately resolved.

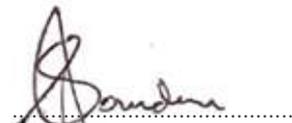
The Committee is satisfied with the independence and objectivity of the Auditor-General of South Africa. The Committee has met with external auditors separately to ensure that there were no unresolved issues.

The Committee also approved the audit strategy and acknowledged the contents of the engagement letter presented by External Auditors.

Conclusion

The Committee concurs with and accepts the Auditor-General of South Africa's report on the annual financial statements, and are of the opinion that the audited annual financial statements should be accepted and read together with the report of the Auditor-General of South Africa.

Signed on behalf of the Audit Committee by:



Mr. S. Gounden

Chairperson

30 July 2021

RISK MANAGEMENT COMMITTEE'S REPORT

COMMITTEE MANDATE

Effective risk management is imperative to the FAIS Ombud to fulfil its mandate. Risk management efforts are focused on supporting the FAIS Ombud's strategic objectives.

1. Governance of Risk

The Accounting Authority has committed the FAIS Ombud to a process of risk management that is aligned to the principles of good corporate governance, as supported by the PFMA.

The Accounting Authority has delegated certain aspects of its authority as it pertains to risk management to the Risk Management Committee.

The committee consists only of non-executive members. The committee's overall objective is to assist the Accounting Authority in fulfilling its responsibility of risk management by ensuring that management identifies significant risks associated with the environment within which the FAIS Ombud operates and develops a framework for managing these risks. The Risk Management Strategy, incorporating a Fraud Prevention Plan, has been developed accordingly.

The committee meets at least four times a year. The Ombud, Chief Financial Officer, Governance, Risk and Compliance Officer; and Human Resources Manager are permanent invitees of the Committee. Members of the FAIS Ombud Management Committee or other members of senior management of the FAIS Ombud, assurance providers and other members may be required to attend committee meetings by invitation only.

The committee is an advisory committee and not an executive committee and as such it does not perform any management functions or assume any management responsibilities. Its role is that of an independent and objective adviser and it operates as an overseer, making recommendations to the Accounting Authority for final approval.

The committee has complied with its responsibilities as stipulated in Section 51 of the PFMA. Furthermore, the Risk Management Committee has regulated its affairs and discharged its responsibilities in accordance with its formal terms of reference and provided objective oversight and advice.

2. Roles and Responsibilities

The Risk Management Committee has fulfilled its oversight responsibility for risk management by ensuring that:

- The risk management strategy, risk management policy and risk management plans were considered;
- The continual monitoring of risks was undertaken;
- The risk management plan is integrated into the daily activities of the FAIS Ombud;
- Management has identified significant risks associated with the environment within which the FAIS Ombud operates and has developed a framework for managing these risks;
- The risk management strategy covering strategic, operational and financial risks was reviewed and approved;
- The risk management strategy incorporates a Fraud Prevention Strategy, which in turn incorporates the Fraud Prevention Policy, the Fraud Prevention Plan, the Fraud Response Plan and the Whistle Blowing Policy; and
- The systems for risk management processes are effective.



Mr H Ratshefola

Chairperson

30 July 2021

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE OFFICE OF THE OMBUD FOR FINANCIAL SERVICE PROVIDERS

Report on the audit of the financial statements

Opinion

1. I have audited the financial statements of the Office of the Ombud Financial Services Providers set out on pages 75 to 105, which comprise the statement of financial position as at 31 March 2021, the statement of financial performance, statement of changes in net assets and cash flow statement and statement of comparison of budget information with actual information for the year then ended, as well as notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Office of the Ombud Financial Services Providers Financial Sector Conduct Authority as at 31 March 2021, and its financial performance and cash flows for the year then ended in accordance with the Standards of Generally Recognised Accounting Practice (GRAP) and the requirements of the Public Finance Management Act (Act no. 1 of 1999) (PFMA).

Basis for opinion

3. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the auditor-general's responsibilities for the audit of the financial statements section of my report.
4. I am independent of the public entity in accordance with the International Ethics Standards Board for Accountants' International code of ethics for professional accountants (including International Independence Standards) (IESBA code) as well as other ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA code.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Responsibilities of the accounting authority for the financial statements

6. The accounting authority is responsible for the preparation and fair presentation of the financial statements in accordance with the Standards of Generally Recognised Accounting Practice (GRAP) and the requirements of the Public Finance Management Act (Act no. 1 of 1999) (PFMA), and for such internal control as the accounting authority determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.
7. In preparing the financial statements, the accounting authority is responsible for assessing the public entity's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless the appropriate governance structure either intends to liquidate the public entity or to cease operations, or has no realistic alternative but to do so.

Auditor-general's responsibilities for the audit of the financial statements

8. My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.
9. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor's report.

Report on the audit of the annual performance report

Introduction and scope

10. In accordance with the Public Audit Act 25 of 2004 (PAA) and the general notice issued in terms thereof, I have a responsibility to report on the usefulness and reliability of the reported performance information against pre-determined objectives for selected programmes presented in the annual performance report. I performed procedures to identify material findings but not to gather evidence to express assurance.
11. My procedures address the usefulness and reliability of the reported performance information, which must be based on the public entity's approved performance planning documents. I have not evaluated the completeness and appropriateness of the performance indicators included in the planning documents. My procedures do not extend to any disclosures or assertions relating to planned performance strategies and information in respect of future periods that may be included as part of the reported performance information. Accordingly, my findings do not extend to these matters.
12. I evaluated the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework, as defined in the general notice, for the following selected programmes presented in the public entity's annual performance report for the year ended 31 March 2021:

| Programmes | Pages in the annual performance report |
|---|--|
| Programme: To resolve complaints in a fair, expeditious and informal manner | 106 – 110 |

13. I performed procedures to determine whether the reported performance information was properly presented and whether performance was consistent with the approved performance planning documents. I performed further procedures to determine whether the indicators and related targets were measurable and relevant, and assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.
14. I did not identify any material findings on the usefulness and reliability of the reported performance information for this programme:

Programme: To resolve complaints in a fair, expeditious and informal manner

Other matter

Achievement of planned targets

15. Refer to the annual performance report on pages 106 to 109 for information on the achievement of planned targets for the year and management's explanations provided for the under/over achievement of targets.

Report on the audit of compliance with legislation

Introduction and scope

16. In accordance with the PAA and the general notice issued in terms thereof, I have a responsibility to report material findings on the public entity's compliance with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.
17. I did not identify any material findings on compliance with the specific matters in key legislation set out in the general notice issued in terms of the PAA.

Other information

18. The accounting authority is responsible for the other information. The other information comprises the information included in the annual report. The other information does not include the financial statements, the auditor's report and those selected programmes presented in the annual performance report that have been specifically reported in this auditor's report.
19. My opinion on the financial statements and findings on the reported performance information and compliance with legislation do not cover the other information and I do not express an audit opinion or any form of assurance conclusion on it.
20. In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and the selected programme presented in the annual performance report, or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
21. I did not receive the other information prior to the date of this auditor's report. When I do receive and read this information, if I conclude that there is a material misstatement therein, I am required to communicate the matter to those charged with governance and request that the other information be corrected. If the other information is not corrected, I may have to retract this auditor's report and re-issue an amended report as appropriate. However, if it is corrected this will not be necessary.

Internal control deficiencies

22. I considered internal control relevant to my audit of the financial statements, reported performance information and compliance with applicable legislation; however, my objective was not to express any form of assurance on it. I did not identify any significant deficiencies in internal control.

Other reports

23. I draw attention to the following engagements conducted by various parties which had, or could have, an impact on the matters reported in the public entity's financial statements, reported performance information, compliance with applicable legislation and other related matters. These reports did not form part of my opinion on the financial statements or my findings on the reported performance information or compliance with legislation.
- An independent consultant was investigating an allegation of misappropriation of the public entity's assets, performance of remunerative work without prior approval as well as disregard of supply chain management policies and procedures at the request of the accounting authority, covering the period 2019/20 to 2020/21. The investigation was still in progress at the date of this report.
 - An independent consultant was investigating an allegation of misconduct during the recruitment process within the public entity at the request of the accounting authority, covering the period 2020/21. The investigation was still in progress at the date of this report.

Auditor-General

Pretoria
31 July 2021



AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

ANNEXURE – AUDITOR-GENERAL'S RESPONSIBILITY FOR THE AUDIT

1. As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the financial statements and the procedures performed on reported performance information for selected programmes and on the public entity's compliance with respect to the selected subject matters.

Financial statements

2. In addition to my responsibility for the audit of the financial statements as described in this auditor's report, I also:
 - identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error; design and perform audit procedures responsive to those risks; and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control
 - obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the public entity's internal control.
 - evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the accounting authority
 - conclude on the appropriateness of the accounting authority's use of the going concern basis of accounting in the preparation of the financial statements. I also conclude, based on the audit evidence obtained, whether a material uncertainty exists relating to events or conditions that may cast significant doubt on the ability of the Office of the Ombud for Financial Services Providers to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements about the material uncertainty or, if such disclosures are inadequate, to modify my opinion on the financial statements. My conclusions are based on the information available to me at the date of this auditor's report. However, future events or conditions may cause a public entity to cease operating as a going concern
 - evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

Communication with those charged with governance

1. I communicate with the accounting authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.
2. I also provide the accounting authority with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and, where applicable, actions taken to eliminate threats or safeguards applied.

STATEMENT OF FINANCIAL POSITION

| | Note(s) | 2021 R | 2020 R |
|--|---------|-------------------|-------------------|
| Assets | | | |
| Current Assets | | | |
| Receivables from exchange transactions | 2 | 949 912 | 635 660 |
| Statutory receivables from non-exchange transactions | 3 | 47 836 848 | 36 246 492 |
| Prepayments | 4 | 383 178 | 697 990 |
| Cash and cash equivalents | 5 | 2 126 956 | 3 428 592 |
| | | 51 296 894 | 41 008 734 |
| Non-Current Assets | | | |
| Property, plant and equipment | 6 | 2 905 652 | 2 338 842 |
| Intangible assets | 7 | 5 563 930 | 433 043 |
| | | 8 469 582 | 2 771 885 |
| Total Assets | | 59 766 476 | 43 780 619 |
| Liabilities | | | |
| Current Liabilities | | | |
| Finance lease obligation | 8 | - | 11 615 |
| Payables from exchange transactions | 9 | 2 416 536 | 1 858 366 |
| | | 2 416 536 | 1 869 981 |
| Total Liabilities | | 2 416 536 | 1 869 981 |
| Net Assets | | 57 349 940 | 41 910 638 |
| Accumulated surplus | | 57 349 940 | 41 910 638 |
| Total Net Assets | | 57 349 940 | 41 910 638 |

STATEMENT OF FINANCIAL PERFORMANCE

| | Note(s) | 2021 R | 2020 R |
|---|---------|-------------------|-------------------|
| Revenue from non-exchange transactions | 10 | 57 627 407 | 64 384 188 |
| Revenue from exchange transactions | 11 | 4 519 | 1 000 |
| Operating expenses | 12 | (14 437 831) | (12 505 871) |
| Personnel costs | 13 | (26 546 831) | (26 473 969) |
| Depreciation, impairment and amortization | 6&7 | (1 187 239) | (1 057 989) |
| Operating surplus | | 15 460 025 | 24 347 359 |
| Finance costs | 14 | (20 725) | (30 815) |
| Surplus for the year | | 15 439 300 | 24 316 544 |

STATEMENT OF CHANGES IN NET ASSETS

| | Accumulated surplus R | Total net assets R |
|---------------------------------|-----------------------------|--------------------------|
| Balance at 01 April 2019 | 17 594 094 | 17 594 094 |
| Surplus for the year | 24 316 544 | 24 316 544 |
| Total changes | 24 316 544 | 24 316 544 |
| Balance at 01 April 2020 | 41 910 640 | 41 910 640 |
| Surplus for the year | 15 439 300 | 15 439 300 |
| Total changes | 15 439 300 | 15 439 300 |
| Balance at 31 March 2021 | 57 349 940 | 57 349 940 |

CASH FLOW STATEMENT

| | Note(s) | 2021 R | 2020 R |
|---|---------|--------------------|--------------------|
| Cash flows from operating activities | | | |
| Cash received from entities | | 46 037 611 | 42 241 215 |
| Cash paid to suppliers and employees | | (40 426 486) | (38 962 395) |
| Net cash flows from operating activities | 15 | 5 611 125 | 3 278 820 |
| Cash flows from investing activities | | | |
| Purchase of property, plant and equipment | 6 | (1 584 822) | (1 250 849) |
| Insurance proceeds from disposal of property, plant and equipment | 6 | 46 218 | 1 000 |
| Purchase of intangible assets | 7 | (5 341 813) | (217 425) |
| Net cash flows from investing activities | | (6 880 417) | (1 467 274) |
| Cash flows from financing activities | | | |
| Finance lease payments | | (32 340) | (19 200) |
| Net decrease in cash and cash equivalents | | (1 301 632) | 1 792 346 |
| Cash and cash equivalents at the beginning of the year | | 3 428 592 | 1 636 246 |
| Cash and cash equivalents at the end of the year | 5 | 2 126 960 | 3 428 592 |

STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS

Budget on Cash Basis

| | Approved budget R | Adjustments R | Final Budget R | Actual amounts on comparable basis R | Difference between final budget and actual R | Reference |
|---|----------------------|------------------|---------------------|---|---|-----------|
| Statement of Financial Performance | | | | | | |
| Revenue | | | | | | |
| Levies | 58 011 980 | - | 58 011 980 | 57 627 407 | (384 573) | 27 |
| Expenditure | | | | | | |
| Personnel cost | (38 989 848) | - | (38 989 848) | (26 546 831) | 12 443 017 | 27 |
| Depreciation and amortisation | (2 366 000) | - | (2 366 000) | (1 187 240) | 1 178 760 | 27 |
| Finance costs | (62 400) | - | (62 400) | (20 725) | 41 675 | |
| Operating expenses | (18 829 732) | - | (18 829 732) | (14 437 830) | 4 391 902 | 27 |
| Total expenditure | (60 247 980) | - | (60 247 980) | (42 192 626) | 18 055 354 | |
| Operating (deficit) / surplus | (2 236 000) | - | (2 236 000) | 15 434 781 | 17 670 781 | |
| Profit on sale of property, plant and equipment | - | - | - | 4 519 | 4 519 | |
| Savings / Retention of surplus | 2 236 000 | - | 2 236 000 | - | (2 236 000) | 27 |
| | 2 236 000 | - | 2 236 000 | 4 519 | (2 231 481) | |
| (Deficit) / Surplus for the year | - | - | - | 15 439 300 | 15 439 300 | |
| Actual amount on comparable basis as presented in the Statement of Comparison of Budget and Actual Amounts | - | - | - | 15 439 300 | 15 439 300 | |

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

1. Presentation of Annual Financial Statements

The annual financial statements have been prepared in accordance with the Standards of Generally Recognised Accounting Practice (GRAP), issued by the Accounting Standards Board in accordance with Section 91(1) of the Public Finance Management Act (Act 1 of 1999).

These annual financial statements have been prepared on an accrual basis of accounting and are in accordance with historical cost convention as the basis of measurement, unless specified otherwise.

A summary of the significant accounting policies, which have been consistently applied in the preparation of these annual financial statements, are disclosed below.

These accounting policies are consistent with the previous period.

1.1 Presentation currency

These annual financial statements are presented in South African Rand, which is the functional currency of the entity.

1.2 Going concern assumption

These annual financial statements have been prepared based on the expectation that the entity will continue to operate as a going concern for at least the next 12 months.

1.3 Materiality

Material omissions or misstatements of items are material if they could, individually or collectively, influence the decisions or assessments of users made on the basis of the financial statements. Materiality depends on the nature or size of the omission or misstatement judged in the surrounding circumstances. The nature or size of the information item, or a combination of both, could be the determining factor.

Assessing whether an omission or misstatement could influence decisions of users, and so be material, requires consideration of the characteristics of those users. The Framework for the Preparation and Presentation of Financial Statements states that users are assumed to have a reasonable knowledge of government, its activities, accounting and a willingness to study the information with reasonable diligence. Therefore, the assessment takes into account how users with such attributes could reasonably be expected to be influenced in making and evaluating decisions.

The FAIS Ombud Materiality and Significance Framework is used to assess whether an omission or misstatement is material and could influence the user's decision.

1.4 Significant judgements and sources of estimation uncertainty

In preparing the annual financial statements, management is required to make estimates and assumptions that affect the amounts represented in the annual financial statements and related disclosures. Management is also required to exercise judgement in the process of applying the entity's accounting policies. Use of available information and the application of judgement is inherent in the formation of estimates. Actual results in the future could differ from these estimates which may be material to the annual financial statements. Significant judgements include:

Other significant judgements, sources of estimation uncertainty and/or relating information, have been disclosed in the relating notes.

Impairment of financial assets

The entity assesses its financial assets for impairment at the end of each reporting period. In determining whether an impairment loss should be recorded in surplus or deficit, the entity makes judgements as to whether there is observable data indicating a measurable decrease in the estimated future cash flows from a financial asset.

Useful lives and residual values

The entity reassesses the useful lives and residual values of property, plant and equipment and intangible assets on an annual basis. In reassessing the useful lives of these assets, management considers the condition and the use of the individual assets to determine the remaining period over which the asset can and will be used.

The residual values of these assets have been estimated as the amount that the entity would currently obtain from disposal of each significant asset, in its current location, if the asset were already of the age and in the condition expected at the end of its useful life.

1.5 Property, plant and equipment

Property, plant and equipment are tangible non-current assets (including infrastructure assets) that are held for use in the production or supply of goods or services, rental to others, or for administrative purposes, and are expected to be used during more than one period.

The cost of an item of property, plant and equipment is recognised as an asset when:

- it is probable that future economic benefits or service potential associated with the item will flow to the entity; and
- the cost of the item can be measured reliably. Property, plant and equipment is initially measured at cost.

The cost of an item of property, plant and equipment is the purchase price and other costs attributable to bring the asset to the location and condition necessary for it to be capable of operating in the manner intended by management. Trade discounts and rebates are deducted in arriving at the cost.

Where an asset is acquired through a non-exchange transaction, its cost is its fair value as at date of acquisition.

Recognition of costs in the carrying amount of an item of property, plant and equipment ceases when the item is in the location and condition necessary for it to be capable of operating in the manner intended by management.

Property, plant and equipment is carried at cost less accumulated depreciation and any impairment losses.

Property, plant and equipment are depreciated on the straight-line basis over their expected useful lives to their estimated residual value.

Property, plant and equipment is carried at cost less accumulated depreciation and any impairment losses. The useful lives of items of property, plant and equipment have been assessed as follows:

| Item | Depreciation method | Average useful life |
|------------------------|---------------------|------------------------|
| Furniture and fixtures | Straight-line | 3 - 17 years |
| Motor vehicles | Straight-line | 17 years |
| Office equipment | Straight-line | 4 - 17 years |
| Computer equipment | Straight-line | 3 - 16 years |
| Leasehold improvements | Straight-line | Lease period (3 years) |
| Paintings | Straight-line | 17 years |

The depreciation method used reflects the pattern in which the asset’s future economic benefits or service potential are expected to be consumed by the entity. The depreciation method applied to an asset is reviewed at least at each reporting date and, if there has been a significant change in the expected pattern of consumption of the future economic benefits or service potential embodied in the asset, the method is changed to reflect the changed pattern. Such a change

is accounted for as a change in an accounting estimate.

The entity assesses at each reporting date whether there is any indication that the entity expectations about the residual value and the useful life of an asset have changed since the preceding reporting date. If any such indication exists, the entity revises the expected useful life and/or residual value accordingly. The change is accounted for as a change in an accounting estimate.

The depreciation charge for each period is recognised in surplus or deficit unless it is included in the carrying amount of another asset.

Items of property, plant and equipment are derecognised when the asset is disposed of or when there are no further economic benefits or service potential expected from the use of the asset.

The gain or loss arising from the derecognition of an item of property, plant and equipment is included in surplus or deficit when the item is derecognised. The gain or loss arising from the derecognition of an item of property, plant and equipment is determined as the difference between the net disposal proceeds, if any, and the carrying amount of the item.

The entity separately discloses expenditure to repair and maintain property, plant and equipment in the notes to the financial statements.

1.6 Intangible assets

An asset is identifiable if it either:

- is separable, i.e. is capable of being separated or divided from an entity and sold, transferred, licensed, rented or exchanged, either individually or together with a related contract, identifiable assets or liability, regardless of whether the entity intends to do so; or
- arises from binding arrangements (including rights from contracts), regardless of whether those rights are transferable or separable from the entity or from other rights and obligations.

A binding arrangement describes an arrangement that confers similar rights and obligations on the parties to it as if it were in the form of a contract.

An intangible asset is recognised when:

- it is probable that the expected future economic benefits or service potential that are attributable to the asset will flow to the entity; and
- the cost or fair value of the asset can be measured reliably.

Where an intangible asset is acquired through a non-exchange transaction, its initial cost at the date of acquisition is measured at its fair value as at that date.

Intangible assets are carried at cost less any accumulated amortisation and any impairment losses.

An intangible asset is regarded as having an indefinite useful life when, based on all relevant factors, there is no foreseeable limit to the period over which the asset is expected to generate net cash inflows or service potential. Amortisation is not provided for these intangible assets, but they are tested for impairment annually and whenever there is an indication that the asset may be impaired. For all other intangible assets amortisation is provided on a straight-line basis over their useful life.

The amortisation period and the amortisation method for intangible assets are reviewed at each reporting date. Amortisation is provided to write down the intangible assets, on a straight-line basis, to their residual values as follows:

| Item | Depreciation method | Average useful life |
|------------------------|---------------------|---------------------|
| Licenses | Straight-line | 2 - 5 years |
| Computer software | Straight-line | 3 - 10 years |
| Data management system | Straight-line | 3 years |
| Website | Straight-line | 6 - 7 years |

Intangible assets are derecognised:

- on disposal; or
- when no future economic benefits or service potential are expected from its use or disposal.

The gain or loss arising from the derecognition of intangible assets is included in surplus or deficit when the asset is derecognised.

1.7 Financial instruments

A financial instrument is any contract that gives rise to a financial asset of one entity and a financial liability or a residual interest of another entity.

The amortised cost of a financial asset or financial liability is the amount at which the financial asset or financial liability is measured at initial recognition minus principal

repayments, plus or minus the cumulative amortisation using the effective interest method of any difference between that initial amount and the maturity amount, and minus any reduction (directly or through the use of an allowance account) for impairment or uncollectibility.

Credit risk is the risk that one party to a financial instrument will cause a financial loss for the other party by failing to discharge an obligation.

The effective interest method is a method of calculating the amortised cost of a financial asset or a financial liability (or group of financial assets or financial liabilities) and of allocating the interest income or interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments or receipts through the expected life of the financial instrument or, when appropriate, a shorter period to the net carrying amount of the financial asset or financial liability. When calculating the effective interest rate, an entity shall estimate cash flows considering all contractual terms of the financial instrument (for example, prepayment, call and similar options) but shall not consider future credit losses. The calculation includes all fees and points paid or received between parties to the contract that are an integral part of the effective interest rate (see the Standard of GRAP on Revenue from Exchange Transactions), transaction costs, and all other premiums or discounts. There is a presumption that the cash flows and the expected life of a group of similar financial instruments can be estimated reliably. However, in those rare cases when it is not possible to reliably estimate the cash flows or the expected life of a financial instrument (or group of financial instruments), the entity shall use the contractual cash flows over the full contractual term of the financial instrument (or group of financial instruments).

Fair value is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable willing parties in an arm's length transaction.

A financial asset is:

- cash;
- a residual interest of another entity; or
- a contractual right to:
 - receive cash or another financial asset from another entity; or
 - exchange financial assets or financial liabilities with another entity under conditions that are potentially favourable to the entity.

A financial liability is any liability that is a contractual obligation to:

- deliver cash or another financial asset to another entity; or
- exchange financial assets or financial liabilities under conditions that are potentially unfavourable to the entity.

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates.

Liquidity risk is the risk encountered by an entity in the event of difficulty in meeting obligations associated with financial liabilities that are settled by delivering cash or another financial asset.

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. Market risk comprises three types of risk: currency risk, interest rate risk and other price risk.

Other price risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices (other than those arising from interest rate risk or currency risk), whether those changes are caused by factors specific to the individual financial instrument or its issuer, or factors affecting all similar financial instruments traded in the market.

A financial asset is past due when a counterparty has failed to make a payment when contractually due.

Financial instruments at amortised cost are non-derivative financial assets or non-derivative financial liabilities that have fixed or determinable payments, excluding those instruments that:

- the entity designates at fair value at initial recognition; or
- are held for trading.

Financial instruments at cost are investments in residual interests that do not have a quoted market price in an active market, and whose fair value cannot be reliably measured.

Classification

The entity has the following types of financial assets (classes and category) as reflected on the face of the statement of financial position or in the notes thereto:

| Class | Category |
|--|--|
| Cash and cash equivalents | Financial asset measured at amortised cost |
| Receivables from exchange transactions | Financial asset measured at amortised cost |
| Receivables from non exchange transactions | Financial asset measured at amortised cost |

The entity has the following types of financial liabilities (classes and category) as reflected on the face of the statement of financial position or in the notes thereto:

| Class | Category |
|---|--|
| Trade and other payables from exchange transactions | Financial liability measured at amortised cost |
| Trade and other payables from non exchange transactions | Financial liability measured at amortised cost |

The entity has the following types of residual interests (classes and category) as reflected on the face of the statement of financial position or in the notes thereto:

Initial recognition

The entity recognises a financial asset or a financial liability in its statement of financial position when the entity becomes a party to the contractual provisions of the instrument.

The entity recognises financial assets using trade date accounting. The trade date is the date on which the entity commits to purchase or sell the instrument.

Subsequent measurement of financial assets and financial liabilities

The entity measures all financial assets and financial liabilities after initial recognition using the following categories:

Financial instruments at fair value - subsequently measured at fair value, with gains and losses arising from changes in fair value being included in surplus or deficit for the period.

Financial instruments at amortised cost - subsequently measured at amortised cost, using the effective interest rate method, less accumulated impairment losses.

Financial instruments at cost - subsequently measured at cost less accumulated impairment losses. All financial assets measured at amortised cost, or cost, are subject to an impairment review.

Impairment and uncollectibility of financial assets

The entity assess at the end of each reporting period whether there is any objective evidence that a financial asset or group of financial assets is impaired.

Receivables from exchange from exchange and non-exchange

Receivables are recognised initially at fair value and subsequently measured at amortised cost, using the effective interest method less allowance for impairment. An allowance for impairment is established when there is objective evidence that not all amounts due will be collected in accordance with the original terms, significant financial difficulties of the debtor, probability that the debtor will enter bankruptcy, and default or delinquency in payments are considered indicators that the receivable is impaired.

The amount of the impairment is the difference between the asset's carrying amount and the present value of estimated future cashflow, discounted at the effective interest rate. The carrying amount of the asset is reduced by the amount of the impairment, which is recognised in the statement of financial performance. When the receivable is uncollectable, it is written off and subsequent recoveries of amounts previously written off are credited in operating expenses in the statement of financial performance.

Trade and other payables from exchange from exchange and non-exchange

Trade and other payables are recognised initially at fair value and subsequently measured at amortised cost, using the effective interest method.

Cash and cash equivalents

Cash and cash equivalents include cash on hand and deposits held at banks. Cash and cash equivalents are recognised at cost, which equates to their fair value.

Derecognition

Financial assets

Financial assets are derecognised when the rights to receive cash flows from the investments have expired or have been transferred and the entity has transferred substantially all risks and rewards of ownership.

Financial liabilities

Financial liabilities (or a part of a financial liability) are removed from its statement of financial position when, and only when, they are extinguished — i.e. when the obligation specified in the contract is discharged, cancelled or expired.

Presentation

Interest relating to a financial instrument or a component that is a financial liability is recognised as finance income or finance costs in surplus or deficit.

Offsetting financial instruments

A financial asset and a financial liability are only offset and the net amount presented in the statement of financial position when the entity currently has a legally enforceable right to set off the recognised amounts and intends either to settle on a net basis, or to realise the asset and settle the liability simultaneously.

Statutory receivables are receivables that arise from legislation, supporting regulations, or similar means, and require settlement by another entity in cash or another financial asset.

Carrying amount is the amount at which an asset is recognised in the statement of financial position.

The cost method is the method used to account for statutory receivables that requires such receivables to be measured at their transaction amount, plus any accrued interest or other charges (where applicable) and, less any accumulated impairment losses and any amounts derecognised.

Nominal interest rate is the interest rate and/or basis specified in legislation, supporting regulations or similar means.

1.8 Statutory receivables

Identification

Statutory receivables are receivables that arise from legislation, supporting regulations, or similar means, and require settlement by another entity in cash or another financial asset.

Carrying amount is the amount at which an asset is recognised in the statement of financial position.

The cost method is the method used to account for statutory receivables that requires such receivables to be measured at their transaction amount, plus any accrued interest or other charges (where applicable) and, less any accumulated impairment losses and any amounts derecognised.

Nominal interest rate is the interest rate and/or basis specified in legislation, supporting regulations or similar means.

The transaction amount for a statutory receivable means the amount specified in, or calculated, levied or charged in accordance with, legislation, supporting regulations, or similar means.

Recognition

The entity recognises statutory receivables as follows:

- if the transaction is an exchange transaction, using the policy on Revenue from exchange transactions;
- if the transaction is a non-exchange transaction, using the policy on Revenue from non-exchange transactions (Taxes and transfers); or
- if the transaction is not within the scope of the policies listed in the above or another Standard of GRAP, the receivable is recognised when the definition of an asset is met and, when it is probable that the future economic benefits or service potential associated with the asset will flow to the entity and the transaction amount can be measured reliably.

Initial measurement

The entity initially measures statutory receivables at their transaction amount.

Subsequent measurement

The entity measures statutory receivables after initial recognition using the cost method. Under the cost method, the initial measurement of the receivable is changed subsequent to initial recognition to reflect any:

- interest or other charges that may have accrued on the receivable (where applicable);
- impairment losses; and
- amounts derecognised.

Impairment losses

The entity assesses at each reporting date whether there is any indication that a statutory receivable, or a group of statutory receivables, may be impaired.

In assessing whether there is any indication that a statutory receivable, or group of statutory receivables, may be impaired, the entity considers, as a minimum, the following indicators:

- Significant financial difficulty of the debtor, which may be evidenced by an application for debt counselling, business rescue or an equivalent.
- It is probable that the debtor will enter sequestration, liquidation or other financial re-organisation.
- A breach of the terms of the transaction, such as default or delinquency in principal or interest payments (where levied).
- Adverse changes in international, national or local economic conditions, such as a decline in growth, an increase in debt levels and unemployment, or changes in migration rates and patterns.

If there is an indication that a statutory receivable, or a group of statutory receivables, may be impaired, the entity measures the impairment loss as the difference between the estimated future cash flows and the carrying amount. Where the carrying amount is higher than the estimated future cash flows, the carrying amount of the statutory receivable, or group of statutory receivables, is reduced, either directly or through the use of an allowance account. The amount of the losses is recognised in surplus or deficit.

In estimating the future cash flows, an entity considers both the amount and timing of the cash flows that it will receive in future. Consequently, where the effect of the time value of money is material, the entity discounts the estimated future cash flows using a rate that reflects the current risk-free rate and, if applicable, any risks specific to the statutory receivable, or group of statutory receivables, for which the future cash flow estimates have not been adjusted.

An impairment loss recognised in prior periods for a statutory receivable is revised if there has been a change in the estimates used since the last impairment loss was recognised, or to reflect the effect of discounting the estimated cash flows.

Any previously recognised impairment loss is adjusted either directly or by adjusting the allowance account. The adjustment does not result in the carrying amount of the statutory receivable or group of statutory receivables exceeding what the carrying amount of the receivable(s) would have been had the impairment loss not been recognised at the date the impairment is revised. The amount of any adjustment is recognised in surplus or deficit.

Derecognition

The entity derecognises a statutory receivable, or a part thereof, when:

- the rights to the cash flows from the receivable are settled, expire or are waived;
- the entity transfers to another party substantially all of the risks and rewards of ownership of the receivable; or
- the entity, despite having retained some significant risks and rewards of ownership of the receivable, has transferred control of the receivable to another party and the other party has the practical ability to sell the receivable in its entirety to an unrelated third party, and is able to exercise that ability unilaterally and without needing to impose additional restrictions on the transfer. In this case, the entity:
 - derecognise the receivable; and
 - recognise separately any rights and obligations created or retained in the transfer.

The carrying amounts of any statutory receivables transferred are allocated between the rights or obligations retained and those transferred on the basis of their relative fair values at the transfer date. The entity considers whether any newly created rights and obligations are within the scope of the Standard of GRAP on Financial Instruments or another Standard of GRAP. Any difference between the consideration received and the amounts derecognised and, those amounts recognised, are recognised in surplus or deficit in the period of the transfer.

1.9 Leases

A lease is classified as a finance lease if it transfers substantially all the risks and rewards incidental to ownership. A lease is classified as an operating lease if it does not transfer substantially all the risks and rewards incidental to ownership.

Finance leases - lessee

Finance leases are recognised as assets and liabilities in the statement of financial position at amounts equal to the fair value of the leased property or, if lower, the present value of the minimum lease payments. The corresponding liability to the lessor is included in the statement of financial position as a finance lease obligation.

The discount rate used in calculating the present value of the minimum lease payments is the interest rate implicit in the lease.

Minimum lease payments are apportioned between the finance charge and reduction of the outstanding liability. The finance charge is allocated to each period during the lease term so as to produce a constant periodic rate of on the remaining balance of the liability.

Operating leases - lessee

Operating lease payments are recognised as an expense on a straight-line basis over the lease term. The difference between the amounts recognised as an expense and the contractual payments are recognised as an operating lease asset or liability.

1.10 Impairment of non-cash-generating assets

Cash-generating assets are assets used with the objective of generating a commercial return. Commercial return means that positive cash flows are expected to be significantly higher than the cost of the asset.

Non-cash-generating assets are assets other than cash-generating assets.

Impairment is a loss in the future economic benefits or service potential of an asset, over and above the systematic recognition of the loss of the asset's future economic benefits or service potential through depreciation (amortisation).

Carrying amount is the amount at which an asset is recognised in the statement of financial position after deducting any accumulated depreciation and accumulated impairment losses thereon.

Costs of disposal are incremental costs directly attributable to the disposal of an asset, excluding finance costs and income tax expense.

Depreciation (Amortisation) is the systematic allocation of the depreciable amount of an asset over its useful life.

Fair value less costs to sell is the amount obtainable from the sale of an asset in an arm's length transaction between knowledgeable, willing parties, less the costs of disposal.

Recoverable service amount is the higher of a non-cash-generating asset's fair value less costs to sell and its value in use. Useful life is either:

- the period of time over which an asset is expected to be used by the entity; or
- the number of production or similar units expected to be obtained from the asset by the entity.

1.11 Employee benefits

Employee benefits are all forms of consideration given by an entity in exchange for service rendered by employees.

Short-term employee benefits

Short-term employee benefits are employee benefits (other than termination benefits) that are due to be settled within twelve months after the end of the period in which the employees render the related service.

Short-term employee benefits include items such as:

- wages, salaries and social security contributions;
- short-term compensated absences (such as paid annual leave and paid sick leave) where the compensation for the absences is due to be settled within twelve months after the end of the reporting period in which the employees render the related employee service;
- bonus, incentive and performance related payments payable within twelve months after the end of the reporting period in which the employees render the related service; and
- non-monetary benefits (for example, medical care, and free or subsidised goods or services such as housing, cars and cellphones) for current employees.

The expected cost of compensated absences is recognised as an expense as the employees render services that increase their entitlement or, in the case of non-accumulating absences, when the absence occurs.

The entity measures the expected cost of accumulating compensated absences as the additional amount that the entity expects to pay as a result of the unused entitlement that has accumulated at the reporting date.

The entity recognises the expected cost of bonus, incentive and performance related payments when the entity has a present legal or constructive obligation to make such payments as a result of past events and a reliable estimate of the obligation can be made. A present obligation exists when the entity has no realistic alternative but to make the payments.

Post-employment benefits: Defined contribution plans

Defined contribution plans are post-employment benefit plans under which an entity pays fixed contributions into a separate entity (a fund) and will have no legal or constructive obligation to pay further contributions if the fund does not hold sufficient assets to pay all employee benefits relating to employee service in the current and prior periods.

1.12 Provisions and contingencies

Provisions are recognised when:

- the entity has a present obligation as a result of a past event;
- it is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; and
- a reliable estimate can be made of the obligation.

The amount of a provision is the best estimate of the expenditure expected to be required to settle the present obligation at the reporting date.

Where the effect of time value of money is material, the amount of a provision is the present value of the expenditures expected to be required to settle the obligation.

The discount rate is a pre-tax rate that reflects current market assessments of the time value of money and the risks specific to the liability.

Where some or all of the expenditure required to settle a provision is expected to be reimbursed by another party, the reimbursement is recognised when, and only when, it is virtually certain that reimbursement will be received if the entity settles the obligation. The reimbursement is treated as a separate asset. The amount recognised for the reimbursement does not exceed the amount of the provision.

Provisions are reviewed at each reporting date and adjusted to reflect the current best estimate. Provisions are reversed if it is no longer probable that an outflow of resources embodying economic benefits or service potential will be required, to settle the obligation.

Where discounting is used, the carrying amount of a provision increases in each period to reflect the passage of time. This increase is recognised as an interest expense.

A provision is used only for expenditures for which the provision was originally recognised. Provisions are not recognised for future operating surplus (deficit). Contingent assets and contingent liabilities are not recognised. Contingencies are disclosed in note 20.

1.13 Commitments

Items are classified as commitments when an entity has committed itself to future transactions that will normally result in the outflow of cash.

Disclosures are required in respect of unrecognised contractual commitments.

Commitments for which disclosure is necessary to achieve a fair presentation should be disclosed in a note to the financial statements, if both the following criteria are met:

- Contracts should be non-cancellable or only cancellable at significant cost (for example, contracts for computer or building maintenance services); and
- Contracts should relate to something other than the routine, steady, state business of the entity – therefore salary commitments relating to employment contracts or social security benefit commitments are excluded.

1.14 Revenue from exchange transactions

Revenue is the gross inflow of economic benefits or service potential during the reporting period when those inflows result in an increase in net assets, other than increases relating to contributions from members.

An exchange transaction is one in which the entity receives assets or services, or has liabilities extinguished, and directly gives approximately equal value (primarily in the form of goods, services or use of assets) to the other party in exchange.

Fair value is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's length transaction.

Measurement

Revenue is measured at the fair value of the consideration received or receivable, net of trade discounts and volume rebates.

Sale of goods

Revenue from the sale of goods is recognised when all the following conditions have been satisfied:

- the entity has transferred to the purchaser the significant risks and rewards of ownership of the goods;
- the entity retains neither continuing managerial involvement to the degree usually associated with ownership nor effective control over the goods sold;
- the amount of revenue can be measured reliably;
- it is probable that the economic benefits or service potential associated with the transaction will flow to the entity; and
- the costs incurred or to be incurred in respect of the transaction can be measured reliably.

1.15 Revenue from non-exchange transactions

Revenue comprises gross inflows of economic benefits or service potential received and receivable by an entity, which represents an increase in net assets, other than increases relating to contributions from owners.

Exchange transactions are transactions in which one entity receives assets or services, or has liabilities extinguished, and directly gives approximately equal value (primarily in the form of cash, goods, services, or use of assets) to another entity in exchange.

Non-exchange transactions are transactions that are not exchange transactions. In a non-exchange transaction, an entity either receives value from another entity without directly giving approximately equal value in exchange, or gives value to another entity without directly receiving approximately equal value in exchange.

Recognition

An inflow of resources from a non-exchange transaction recognised as an asset is recognised as revenue, except to the extent that a liability is also recognised in respect of the same inflow.

Measurement

Revenue from a non-exchange transaction is measured at the amount of the increase in net assets recognised by the entity, which is based on the annual budget

When, as a result of a non-exchange transaction, the entity recognises an asset, it also recognises revenue equivalent to the amount of the asset measured at its

fair value as at the date of acquisition, unless it is also required to recognise a liability. Where a liability is required to be recognised it will be measured as the best estimate of the amount required to settle the obligation at the reporting date, and the amount of the increase in net assets, if any, recognised as revenue. When a liability is subsequently reduced, because the taxable event occurs or a condition is satisfied, the amount of the reduction in the liability is recognised as revenue.

1.16 Comparative figures

Where necessary, comparative figures have been reclassified to conform to changes in presentation in the current year.

1.17 Fruitless and wasteful expenditure

Fruitless expenditure means expenditure which was made in vain and would have been avoided had reasonable care been exercised.

Fruitless and wasteful expenditure is accounted for in line with all relating requirements, including, but not limited to, ruling Legislation, Regulations, Frameworks, Circulars, Instruction Notes, Practice Notes, Guidelines etc (as applicable).

1.18 Irregular expenditure

Irregular expenditure as defined in section 1 of the PFMA is expenditure other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including -

- (a) the PFMA; or
- (b) the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of the Act; or
- (a) the entity's supply chain management policy.

Irregular expenditure that was incurred and identified during the current financial and which was condoned before year-end and/or before finalisation of the financial statements must also be recorded appropriately in the irregular expenditure register. In such an instance, no further action is required with the exception of updating the note to the financial statements.

Where irregular expenditure was incurred in the previous financial year and is only condoned in the following financial year, the register and the disclosure note to the financial statements must be updated with the amount condoned.

1.19 Budget information

Entity are typically subject to budgetary limits in the form of appropriations or budget authorisations (or equivalent), which is given effect through authorising legislation, appropriation or similar.

General purpose financial reporting by entity shall provide information on whether resources were obtained and used in accordance with the legally adopted budget.

The approved budget is prepared on an accrual basis and presented by functional classification linked to performance outcome objectives.

The approved budget covers the fiscal period from 2020/04/01 to 2021/03/31.

The budget for the economic entity includes all the entities approved budgets under its control.

The annual financial statements and the budget are on the same basis of accounting therefore a comparison with the budgeted amounts for the reporting period have been included in the Statement of comparison of budget and actual amounts.

The Statement of comparative and actual information has been included in the annual financial statements as the recommended disclosure when the annual financial statements and the budget are on the same basis of accounting as determined by National Treasury.

The annual financial statements and the budget are not on the same basis of accounting therefore a reconciliation between the statement of financial performance and the budget have been included in the annual financial statements. Refer to note 28.

Comparative information is not required.

1.20 Related parties

A related party is a person or an entity with the ability to control or jointly control the other party, or exercise significant influence over the other party, or vice versa, or an entity that is subject to common control, or joint control.

Control is the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities.

Related party transaction is a transfer of resources, services or obligations between the reporting entity and a related party, regardless of whether a price is charged.

Management are those persons responsible for planning, directing and controlling the activities of the entity, including those charged with the governance of the entity in accordance with legislation, in instances where they are required to perform such functions.

1.21 Events after reporting date

Events after reporting date are those events, both favourable and unfavourable, that occur between the reporting date and the date when the financial statements are authorised for issue. Two types of events can be identified:

- those that provide evidence of conditions that existed at the reporting date (adjusting events after the reporting date); and
- those that are indicative of conditions that arose after the reporting date (non-adjusting events after the reporting date).

The entity will adjust the amount recognised in the financial statements to reflect adjusting events after the reporting date once the event occurred.

The entity will disclose the nature of the event and an estimate of its financial effect or a statement that such estimate cannot be made in respect of all material non-adjusting events, where non-disclosure could influence the economic decisions of users taken on the basis of the financial statements.

1.22 Prepayments

Prepayments are payments made in advance for services that have not been delivered for which the entity expects the delivery in the next financial period. Prepayments are recognised as current assets and are not discounted as the discounting effect thereof is considered immaterial.

1.23 Statement of Compliance

The annual financial statements have been prepared in accordance with the Standards of Generally Recognised Accounting Practice ("GRAP"), issued by the Accounting Standards Board ("ASB") in accordance with Section 91(1) of the Public Finance Management Act (Act 1 of 1999) ("PFMA").

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2021

These annual financial statements have been prepared on the going concern basis and on an accrual basis of accounting and are in accordance with the historical cost convention as the basis of measurement, unless specified otherwise. Standards and amendments to standards issued and implementation date:

| | | |
|----------|-----------------------|-------------------|
| GRAP 25 | Employee Benefits | No effective date |
| GRAP 104 | Financial Instruments | No effective date |

2. Receivables from exchange transactions

| | 2021 R | 2020 R |
|----------------|----------------|----------------|
| Sundry debtors | 425 203 | 398 632 |
| Study advances | 524 709 | 237 028 |
| | 949 912 | 635 660 |

Fair value of receivables from exchange transactions

The carrying amount of receivables from exchange transactions approximates their fair value. The maximum exposure to credit risk at the reporting date is the fair value of each class of receivable mentioned above. The entity does not hold any collateral as security.

3. Statutory receivables from non-exchange transactions

Financial Sector Conduct Authority

47 836 848

36 246 492

Fair value of statutory receivables from non-exchange transactions

The carrying amount of receivables from non-exchange transactions approximates their fair value. The maximum exposure to credit risk at the reporting date is the fair value of each class of receivable mentioned above. The entity does not hold any collateral as security.

Transaction(s) arising from statute

The FAIS Ombud is funded by the levies that are collected from the financial services industry. These levies are in terms of the relevant legislation. The FSCA collects these levies on behalf of the FAIS Ombud and recognises these levies in their financial records. Annually, the FAIS Ombud submits its budgetary requirements to the Commissioner of the FSCA, who is also the Accounting Authority for the FAIS Ombud for approval. Once approved by the Commissioner, these funds become available to the FAIS Ombud for their operational and capital requirements. The FSCA then deposits the approved funds in trenches throughout the year as and when required by the FAIS Ombud. The trenches received are recognised as income and presented as 'Revenue from non-exchange transactions' in the Statement of Financial Performance. The receivable arises when a portion of the total budget has not been transferred by year end.

4. Prepayments

| | 2021 R | 2020 R |
|-------------------------------------|----------------|----------------|
| Heading | | |
| CPD bundles | - | 8 506 |
| Caseware license | 80 309 | - |
| Rental of office premises | 279 016 | 258 348 |
| ICT support services | 23 853 | - |
| Office car - purchase consideration | - | 431 136 |
| | 383 178 | 697 990 |

5. Cash and cash equivalents

Cash and cash equivalents consist of:

| | | |
|---------------|------------------|------------------|
| Cash on hand | 2 573 | 3 033 |
| Bank balances | 2 124 383 | 3 425 559 |
| | 2 126 956 | 3 428 592 |

Credit quality of cash at bank and short-term deposits, excluding cash on hand

The credit quality of cash at bank and short-term deposits, excluding cash on hand that are neither past due nor impaired can be assessed by reference to external credit ratings (if available) or historical information about counterparty default rates:

Credit rating

| | | |
|------------------|-----------|-----------|
| F1+(zaf) (Fitch) | 2 124 383 | 3 425 559 |
|------------------|-----------|-----------|

6. Property, plant and equipment

| | 2021 | | | 2020 | | |
|------------------------|---------------------|---|-------------------|---------------------|---|-------------------|
| | Cost / Valuation | Accumulated depreciation and accumulated impairment | Carrying Value | Cost / Valuation | Accumulated depreciation and accumulated impairment | Carrying Value |
| Furniture and fixtures | 1 318 177 | (1 206 691) | 111 486 | 1 318 177 | (1 155 876) | 162 301 |
| Motor vehicles | 587 112 | (203 342) | 383 770 | 137 285 | (137 285) | - |
| Office equipment | 1 089 337 | (981 396) | 107 941 | 1 089 337 | (907 407) | 181 930 |
| Computer equipment | 4 585 099 | (2 473 067) | 2 112 032 | 3 509 913 | (1 808 743) | 1 701 170 |
| Leasehold improvements | 891 512 | (701 089) | 190 423 | 891 512 | (598 071) | 293 441 |
| Total | 8 471 237 | (5 565 585) | 2 905 652 | 6 946 224 | (4 607 382) | 2 338 842 |

Reconciliation of property, plant and equipment - 2021

| | Opening balance | Additions | Disposals | Depreciation | Total |
|------------------------|------------------|------------------|-----------------|------------------|------------------|
| Furniture and fixtures | 162 301 | - | - | (50 815) | 111 486 |
| Motor vehicles | - | 449 828 | - | (66 058) | 383 770 |
| Office equipment | 181 930 | - | - | (73 989) | 107 941 |
| Computer equipment | 1 701 170 | 1 134 994 | (41 699) | (682 433) | 2 112 032 |
| Leasehold improvements | 293 441 | - | - | (103 018) | 190 423 |
| | 2 338 842 | 1 584 822 | (41 699) | (976 313) | 2 905 652 |

Reconciliation of property, plant and equipment - 2020

| | Opening balance | Additions | Depreciation | Total |
|------------------------|------------------|------------------|------------------|------------------|
| Furniture and fixtures | 217 899 | 8 625 | (64 223) | 162 301 |
| Motor vehicles | 958 | - | (958) | - |
| Office equipment | 191 301 | 82 040 | (91 411) | 181 930 |
| Computer equipment | 981 551 | 1 154 664 | (435 045) | 1 701 170 |
| Leasehold improvements | 390 807 | 5 520 | (102 886) | 293 441 |
| | 1 782 516 | 1 250 849 | (694 523) | 2 338 842 |

The residual values of the assets were assessed at year end and no change was required.

Expenditure incurred to repair and maintain property, plant and equipment included in the statement of financial performance

| | 2021 R | 2020 R |
|------------------|-----------|-----------|
| General expenses | 5 204 | 21 030 |

7. Intangible assets

| | 2021 | | | 2020 | | |
|------------------------|------------------|---|------------------|------------------|---|----------------|
| | Cost / Valuation | Accumulated amortisation and accumulated impairment | Carrying Value | Cost / Valuation | Accumulated amortisation and accumulated impairment | Carrying Value |
| Computer software | 1 243 156 | (1 168 764) | 74 392 | 1 183 236 | (1 056 181) | 127 055 |
| Data management system | 5 449 150 | (485 843) | 4 963 307 | 485 843 | (485 843) | - |
| Website | 497 340 | (277 709) | 219 631 | 497 340 | (207 239) | 290 101 |
| Total | 7 762 414 | (2 198 484) | 5 563 930 | 2 420 600 | (1 987 557) | 433 043 |

Reconciliation of intangible assets - 2021

| | Opening balance | Additions | Amortisation | Total |
|------------------------|-----------------|------------------|------------------|------------------|
| Licenses | 15 887 | 318 586 | (27 873) | 306 600 |
| Computer software | 127 055 | 59 920 | (112 583) | 74 392 |
| Data management system | - | 4 963 307 | - | 4 963 307 |
| Website | 290 101 | - | (70 470) | 219 631 |
| | 433 043 | 5 341 813 | (210 926) | 5 563 930 |

Reconciliation of intangible assets - 2020

| | Opening balance | Additions | Amortisation | Total |
|------------------------|-----------------|----------------|------------------|----------------|
| Licenses | 32 810 | - | (16 923) | 15 887 |
| Computer software | 281 152 | 121 975 | (276 072) | 127 055 |
| Data management system | - | - | - | - |
| Website | 265 121 | -95 450 | (70 470) | 290 101 |
| | 579 083 | 217 425 | (363 465) | 433 043 |

8. Finance lease obligation**Minimum lease payments due**

| | 2021 R | 2020 R |
|--|----------|---------------|
| Minimum lease payments due | | |
| - within one year | - | 32 340 |
| | - | 32 340 |
| less: future finance charges | - | (20 725) |
| Present value of minimum lease payments | - | 11 615 |

9. Payables from exchange transactions

| | | |
|---------------------------|------------------|------------------|
| Trade payables | 673 274 | 329 073 |
| Operating lease liability | 141 103 | 238 318 |
| Accrued leave pay | 1 191 119 | 981 493 |
| Other accrued expenses | 411 040 | 309 482 |
| | 2 416 536 | 1 858 366 |

Fair value of trade and other payables

The carrying amount of trade and other payables from exchange transactions approximates their fair value. Furthermore, the operating lease liability results from the smoothing of the operating lease over the lease term. The entity entered into a three-year lease for the office premises which escalates at 8% p.a. The operating lease for the office accommodation comes to an end on 31 October 2021.

Operating lease smoothing

| | 2021 | 2022 | Total |
|-------------------|---------|------|---------|
| Current liability | 141 103 | - | 141 103 |

10. Revenue from non exchange transactions

| | 2021 R | 2020 R |
|---|------------|------------|
| Funds from the FSCA | 57 627 407 | 64 384 188 |
| The amount included in revenue arising from non-exchange transactions is as follows: | | |
| Transfer revenue | | |
| Funds from the FSCA | 57 627 407 | 64 384 188 |

Revenue from non exchange transactions relates to the levies collected from the industry. The levies are transferred to the FAIS Ombud on the basis of the approved budget for the year.

11. Other revenue

The amount included in other revenue arising from exchanges of goods or services are as follows:

| | 2021 R | 2020 R |
|------------------------|-----------|-----------|
| Gain on sale of assets | 4 519 | 1 000 |

12. Operating expenses

| | 2021 R | 2020 R |
|--|-------------------|-------------------|
| Auditors' remuneration | 2 140 589 | 2 237 380 |
| Bank charges | 21 804 | 25 881 |
| Cleaning | 290 581 | 107 726 |
| Committee members fees | 768 969 | 457 816 |
| Conference and seminars | 26 996 | 191 766 |
| Consulting and professional fees | 1 665 352 | 713 203 |
| Entertainment | 7 920 | 35 966 |
| Flowers and gifts | 418 | 2 550 |
| IT expenses | 1 003 881 | 683 488 |
| Insurance | 187 590 | 115 939 |
| Lease rentals on operating lease | 3 106 305 | 3 106 305 |
| Litigation fees | 1 816 530 | 1 326 445 |
| Operating cost - office building lease | 169 292 | 193 927 |
| Pool car maintenance and fuel | 5 204 | 21 030 |
| Postage and courier services | 2 741 | 3 175 |
| Printing and stationery | 292 763 | 503 382 |
| Promotions | 6 573 | 137 773 |
| Recruitment and advertising | 632 057 | 148 879 |
| Repairs and maintenance | 1 007 912 | 1 001 227 |
| Security | 10 822 | 18 282 |
| Staff welfare | 141 146 | 113 285 |
| Strategic planning and workshops | - | 57 965 |
| Subscriptions and membership fees | 107 006 | 103 601 |
| Telephone and fax | 328 110 | 146 385 |
| Text books or library books | - | 17 058 |
| Training and study costs | 99 762 | 120 348 |
| Travel - Domestic | 1 870 | 311 831 |
| Water and electricity | 595 637 | 603 258 |
| | 14 437 830 | 12 505 871 |

13. Personnel costs

| | | |
|---|-------------------|-------------------|
| Accrued leave pay charges | 1 191 119 | 981 493 |
| Bonus payments | 1 600 679 | 641 596 |
| Compensation Fund contributions | 10 880 | 34 805 |
| Long-service awards | 72 000 | 78 000 |
| Salaries | 23 407 619 | 24 411 324 |
| Skills development levies | 168 115 | 229 615 |
| Unemployment Insurance Fund contributions | 96 419 | 97 136 |
| | 26 546 831 | 26 473 969 |

14. Finance costs

| | 2021 R | 2020 R |
|----------------|-----------|-----------|
| Finance leases | 20 725 | 30 815 |

15. Cash generated from operations

| | | |
|--|------------------|------------------|
| Surplus | 15 439 300 | 24 316 544 |
| Adjustments for: | | |
| Depreciation and amortisation | 1 187 240 | 1 057 989 |
| Profit on sale of assets | (4 519) | (1 000) |
| Finance costs - Finance leases | 20 725 | 30 815 |
| Other non-cash items | - | 10 |
| Changes in working capital: | | |
| Receivables from exchange transactions | (314 252) | 343 749 |
| Other receivables from non-exchange transactions | (11 590 356) | (22 468 225) |
| Prepayments | 314 812 | (390 547) |
| Payables from exchange transactions | 558 175 | 389 485 |
| | 5 611 125 | 3 278 820 |

16. Auditors' remuneration

| | | |
|----------------|------------------|------------------|
| External audit | 1 601 776 | 1 514 165 |
| Internal audit | 538 813 | 723 215 |
| | 2 140 589 | 2 237 380 |

17. Taxation

No provision has been made for taxation as the entity is exempt from taxation in terms of section 10(1)(cA)(i)(bb) of the Income Tax Act, 1962 (Act No. 58 of 1962 as amended).

18. Commitments

| Operating leases - as lessee | | |
|-------------------------------------|------------------|------------------|
| Minimum lease payments due | | |
| Within one year | 1 953 114 | 3 203 520 |
| In second to fifth year inclusive | - | 1 953 114 |
| | 1 953 114 | 5 156 634 |

Office lease: The lease of the office premises comes to an end on 31 October 2021. The operating lease was for a period of three years which had an annual escalation of 8%. No contingent rent is payable and the amount payable included the rental, parking, operational costs, rates and taxes.

CRM System: A commitment for the Complaints Resolution Management System (CRM) was disclosed previously. During the course of the current financial period the procurement processes for the CRM system took place and as of year-end an amount of R1,193,473 (excluding support and maintenance) (2020: R8,870,000) is still due.

Software Licenses: The entity also engaged a service provider for the provision of software licenses for the period of three years. The total value of the contract amounts over the three-year period will vary due to the fluctuations in the exchange rates between the Rand and the Dollar. In the 2020/21 financial period, an amount of R318,586 was incurred on the contract and the future value cannot be determined as the exchange rates cannot be determined.

Primary Internet Line: Services relating to the primary internet line have been procured for a three-year period from 31 March to 31 March 2026 for a contract amount of R994,679.

ICT Security Support Services: Services relating to the procurement of ICT security support services were procured for a three-year period for the period 1 March 2021 to 31 March 2024 for a contract amount of R1,550,000.

Business Continuity & Disaster Recovery: Business continuity and management related services were procured for a period of 5 years. The cost relating to the contract is variable and will be determined annually. For the 2021/22 financial period, an amount of R532,108 was incurred.

Internal Audit: An amount of R532,108 (2020: R491,279) has been allocated for the internal audit services.

19. Broad Based Black Economic Empowerment (B-BBEE)

The entity reported its B-BBEE statistics for the first time during the 2020/21 financial period to the B-BBEE Commission. The entity attained a non-compliant status based on the verification process that was conducted with a total score of 38.92. Areas in which the entity scores its points were for Management Control – 14,75, Procurement – 24.17. Areas where no points were scored were in the areas of Skills Development, Enterprise and Supplier Development and Consumer Education. The B-BBEE Commission noted it was the first reporting of its B-BBEE status by entity and advised that the entity develop a plan to effectively implement B-BBEE.

20. Contingent liabilities

During the course of the year, the Office decided to start defending their determinations in a court of law. There nine pending court matters that are being currently dealt with by the Office which requires defending. The dates for the eight of these matters still need to be set down in a court of law. In the one matter, the cost order has been issued against the office. The cost order relating to this matter could not be reasonably and reliably estimated at this stage as the court taxation process still has to be completed. The matter should be resolved in the next financial period. In order to cater for these costs, the office has an allocated budget which it allocated towards this expense.

21. Related parties

Relationships

Public Entities in National Sphere of Government

Financial Sector Conduct Authority

- Both entities report to the National Treasury

Related party balances

| | 2021 R | 2020 R |
|---|------------|------------|
| Amounts included in Statutory Trade receivable (Trade Payable) regarding related parties | | |
| Financial Sector Conduct Authority | 47 836 848 | 36 246 492 |
| Related party transactions | | |
| Revenue from statutory non exchange transactions | | |
| Financial Sector Conduct Authority | 57 627 407 | 64 384 188 |
| Administration fees paid to (received from) related parties | | |
| Financial Sector Conduct Authority | (15 640) | (28 260) |

The entity and the Financial Sector Conduct Authority both report to the Commissioner who is the Accounting Authority. The entity is funded by levies collected on its behalf by the Financial Sector Conduct Authority.

22. Members' emoluments

Executive

2021

| | Emoluments | Pension paid | Performance bonus | Leave commutation | Total |
|---|------------------|----------------|-------------------|-------------------|------------------|
| KE Boonzaaier, Governance, Risk & Compliance Officer, (Appointed 11 January 2021) | 331 762 | 54 984 | - | - | 386 746 |
| LC Lebeko, HR Manager | 723 922 | 78 208 | 67 256 | 16 009 | 885 395 |
| NL Tshombe, Acting Ombud | 2 320 125 | - | 239 000 | 109 568 | 2 668 693 |
| S Maharaj, CFO | 1 317 885 | 142 313 | 121 635 | - | 1 581 833 |
| | 4 693 694 | 275 505 | 427 891 | 125 577 | 5 522 667 |

2020

| | Emoluments | Pension paid | Performance bonus | Leave commutation | Total |
|---|------------------|----------------|-------------------|-------------------|------------------|
| LC Lebeko, HR Manager | 686 182 | 74 130 | 56 250 | 15 175 | 831 737 |
| NL Tshombe, Acting Ombud | 575 000 | - | - | - | 575 000 |
| NS Tulsie, Ombud (Resigned 31 October 2019) | 1 329 823 | 132 382 | - | 223 194 | 1 685 399 |
| S Maharaj, CFO | 1 191 525 | 128 724 | 99 375 | - | 1 419 624 |
| | 3 782 530 | 335 236 | 155 625 | 238 369 | 4 511 760 |

Committee Members

2021

| | Human Resources and Remuneration Committee | Audit Committee | Risk Committee | Special Meetings | Total |
|---------------|--|-----------------|----------------|------------------|----------------|
| D Msomi | 50 192 | - | | 131 987 | 182 179 |
| H Wilton | 6 466 | - | 8 083 | 56 578 | 71 127 |
| J Mogadime | 19 398 | 19 398 | 8 081 | 24 248 | 71 125 |
| L Matlhabe | 11 316 | - | - | - | 11 316 |
| L Molebatsi | 17 782 | - | - | - | 17 782 |
| MH Ratshefola | 12 932 | 19 398 | 35 563 | 38 796 | 106 689 |
| P Koch | - | - | 27 480 | - | 27 480 |
| P Mokgobu | - | 19 398 | - | - | 19 398 |
| P Mvulane | - | 12 932 | - | - | 12 932 |
| PJ Sutherland | 43 646 | - | - | 53 345 | 96 991 |
| S Gounden | - | 19 398 | 27 480 | 14 549 | 61 427 |
| S Malatji | - | - | 27 480 | - | 27 480 |
| T Ajam | - | - | 27 480 | - | 27 480 |
| TL Randall | 17 782 | - | - | - | 17 782 |
| V Balgobind | 17 781 | - | - | - | 17 781 |
| | 197 295 | 90 524 | 161 647 | 319 503 | 768 969 |

2020

| | Human Resources and Remuneration Committee | Audit | Risk Committee | Special Meetings | Total |
|---------------|--|----------------|----------------|------------------|----------------|
| AM Sithole | 6 218 | - | - | - | 6 218 |
| D Msomi | 29 069 | 40 914 | - | 49 784 | 119 767 |
| H Wilton | 22 850 | 34 696 | 18 964 | 17 100 | 93 610 |
| J Mogadime | - | 40 914 | 23 628 | 15 341 | 79 883 |
| MH Ratshefola | - | 25 368 | 23 628 | 15 793 | 64 789 |
| PJ Sutherland | 29 069 | 40 914 | - | 23 566 | 93 549 |
| | 87 206 | 182 806 | 66 220 | 121 584 | 457 816 |

23. Risk management

Financial risk management

In the course of the entity's operations, it is exposed to credit, liquidity, and market risk (currency, interest rate and other price risk). The entity has developed a strategy in terms of Treasury Regulation 28.1 in order to monitor and

control these risks. Internal audit reports are submitted quarterly to the Audit and Risk Management Committees, independent committees that monitor risks and policies implemented to mitigate risk exposures. The entity is not exposed to significant currency risk or other price risk. The risk management process relating to each of these risks are discussed under the headings below.

Liquidity risk

Prudent liquidity risk management implies maintaining sufficient liquid resources and the ability to settle debts as they become due. In the case of the entity, liquid resources consist mainly of cash and cash equivalents. The entity maintains adequate resources by monitoring rolling cashflow forecast of the cash and cash equivalents on the basis of expected cashflow.

The table below analyses the entity's financial liabilities at year end. The amounts disclosed in the tables are the contractual undiscounted cash flows.

| At 31 March 2021 | Less than 1 year | Between 1 and 2 years | Between 2 and 5 years | Over 5 years |
|---|-------------------------|------------------------------|------------------------------|---------------------|
| Trade and other payables from exchange transactions | 1 225 418 | - | - | - |
| At 31 March 2020 | Less than 1 year | Between 1 and 2 years | Between 2 and 5 years | Over 5 years |
| Trade and other payables from exchange transactions | 876 875 | - | - | - |
| Finance lease obligations | 32 340 | - | - | - |
| | 909 215 | - | - | - |

The previous year's figure of R1,858,368 incorrectly included an amount of R981,493 which related to leave accrual.

Credit risk

Credit risk is the risk of financial loss to the entity if the counterparty to a financial instrument fails to meet its contractual obligations, and arises principally from the entity's accounts receivable and cash and cash equivalents. Strict credit control is exercised and when necessary, provision is made for doubtful debts.

The entity is exposed to certain concentrations of credit risk relating to its cash balances. The entity only deposits cash with major banks with high quality credit standings. The counterparties that are used by the entity are evaluated on a continuous basis. Financial assets that potentially subject the entity to concentrations of credit risk consist primarily of cash and cash equivalents as well as accounts receivables. The maximum exposure to credit risk relating to accounts receivable is the amount as shown in the statement of financial position.

Financial assets exposed to credit risk at year end were as follows:

| Financial instrument | 2021 R | 2020 R |
|--|---------------|---------------|
| Standard Bank SA | 2 124 383 | 3 425 559 |
| Receivables from exchange transactions | 949 912 | 635 660 |

Market risk

Interest rate risk

The entity's exposure to interest rate risk is reflected under the respective notes. As part of managing the entity's exposure to interest rate risk, interest rate characteristics of new borrowings and the refinancing of existing

borrowings are positioned according to expected movements in interest rates.

The entity manages its cash flow interest rate risk by using fixed interest rates. As a result, the entity's income and operating cash flows are substantially independent of changes in market interest rates.

Capital risk management

The entity's objectives when managing capital are to safeguard the entity's ability to continue as a going concern in order to provide services to the public. The entity has developed systems and internal controls that are sufficient and effective in maintaining efficient levels of working capital which ensure that the entity has sufficient cash flow to fund its operations. As a Public Entity, the office has no desire to maintain a highly geared capital structure.

24. Events after the reporting date

The Office previously submitted applications for condonation to National Treasury with respect to expenditure amounting to R1,010,361 and R1,196,055 respectively, which was previously disclosed as irregular in the 2018/19 financial period. These expenses related to the use of consultancy services and the procurement of office space which were procured without following the applicable procurement processes. On 20 July 2021 and 27 July 2021 respectively, written communications were received from National Treasury that supported the condoning of both the expenses previously disclosed as irregular expenditure. Note 26 (Irregular Expenditure) has been updated accordingly to reflect the decision from National Treasury.

25. Fruitless and wasteful expenditure

| | 2021 R | 2020 R |
|-------------------------------------|---------------|---------------|
| Opening balance brought down | 39 941 | 39 941 |
| Less: Amount written off | (39 941) | - |
| Closing balance | - | 39 941 |

26. Irregular expenditure

| | | |
|---|------------------|------------------|
| Opening balance as previously reported | 6 130 917 | 2 348 373 |
| Add: Irregular Expenditure - current | 4 037 942 | 3 782 544 |
| Less: Amount Condoned | (2 206 416) | - |
| Closing balance | 7 962 443 | 6 130 917 |

| Incidents/cases identified in the current year include those listed below: | Disciplinary steps taken/criminal proceedings | 2021 | 2020 |
|---|---|------------------|------------------|
| | | R | R |
| The matter relates to the payments made towards the lease of the current office space. The competitive bid process as required had not been followed. The matter has been submitted to National Treasury and a response is still awaited. Legal services were required during the year but the SCM process were not followed before engaging the supplier for legal services. The matter has not been finalised as at year end. | None | 3 967 972 | 3 782 544 |
| | In progress | 69 969 | - |
| | | 4 037 941 | 3 782 544 |

27. Actual operating expenditure versus budgeted operating expenditure

The budget is prepared on the accrual basis. The reasons for differences between the budget and actual amounts are provided below where significant variances were identified.

Revenue from non-exchange transactions

The variance was as a result of the difference between the amount budgeted for and the amount actually received during the course of the year. The variance between the amount budgeted for and the amount actually received was impacted by the on- set of the COVID-19 pandemic.

Personnel cost

In addition to the deputy Ombud, the office was unable to fill the vacancies of a number of crucial positions. The positions amongst others included the vacant positions of the various Assistant Ombuds, the Governance, Risk and Compliance Officer, Senior Supply Chain Manager, Senior Financial and Reporting Accountant, Technical Specialists, Public Relations Practitioner, various Case Manager positions, Social Media Practitioner and other positions on the approved organogram.

Depreciation and amortisation

Management expected that the new CRM System to have been implemented at the commencement of the financial period however, the approval from the Minister of Finance was only received in latter part of the year thus resulting in the variance between the amount budgeted for and the amount actually incurred.

General expenses

The Covid19 pandemic negatively impacted the spending towards general expenses. A large portion of the expenses were not incurred by the office due to the National Lockdown and the office adopting a remote working environment resulting in underspending.

The expenditure where a significant savings had been incurred during the year relate to the following:

Annual reports and promotions – The costs relating to the annual report function was minimized with the entity hosting a virtual function using the various social media platforms. The guest at the face-to-face function was limited to adhere to COVID_19 protocols. Promotions relates to the consumer awareness activities to have been undertaken by the entity but these did not materialize due to the lockdown regulations.

Recruitment expenditure saw a raise as the entity embarked on a recruitment drive to try and fill the vacancies of the critical positions within the organization. Expenses were incurred in the recruitment drive by utilizing the services of a head-hunter for the appointment of the deputy Ombud which was later halted by the Minister of Finance.

Consultants and professional fees: The entity was not able to fully utilise the outsourced services it originally intended in doing. Again, this was impacted by the pandemic which saw the services of certain professional services being put on hold. Certain matter could not be brought before the courts as matters could not be put onto the court rolls. Library Expenses: The savings surrounding this line items were as a result of the entity attempting to procure the services of an online service provider. This matter was delayed due to the department of the staff members that were crucial in the procurement process.

Computer and Equipment Maintenance: A reduction in this expense had been noted due to the entity procuring new equipment at the commencement of the financial period. This was to enable staff members to work remotely due to the national lockdown. As a result, less expense needed to be incurred with respect to maintenance.

Stationery: The Office is moving towards a paperless environment and the saving in this regard has become evident.

Employees working remotely also contributed towards the reduction in the expense.

Strategic planning sessions: Due to the pandemic, no sessions were held to ensure the safety of the staff members.
International Travel: Due to the pandemic no international travel could be undertaken.

Savings/ Retention of Surplus

An amount of R2,236 million was apportioned to the budget from the previous year's savings. A possible shortfall was identified between the amount budgeted for versus the amount that was expected to be collected for the year. It was forecast that the levies expected would not cover the operating expenses and as a result the amount allocated to augment the budget.

28. Employee benefits - Defined contribution plan

The entity pays contributions towards the pension fund established for its employees. Other than these monthly contributions, the entity has no other obligation to provide retirement benefits to its employees. The amounts recognised in the statement of financial performance are as follows

| | 2021 R | 2020 R |
|----------------------------|-----------|-----------|
| Pension fund contributions | 1 971 804 | 2 179 216 |

29. Change in estimate

Property, plant and equipment

The useful life of property, plant and equipment and intangible assets was reassessed and management have revised their estimates. The effect of this revision has decreased the depreciation charges for the current period by R10,745 (2020: R26,305). In future periods the depreciation and amortization charges will increase by R10,745.

The change in estimate per class of assets is as follows:

| | 2021 R | 2020 R |
|--|---------------|---------------|
| Property, plant & equipment | | |
| Computer equipment | 8 074 | 6 299 |
| Furniture & fittings | 1 240 | 817 |
| Office equipment | 1 431 | 4 129 |
| | 10 745 | 11 245 |
| Intangible Assets | | |
| Licenses | - | 15 060 |

30. Covid19 impact assessment

The office had to adapt its operations for the 2020/2021 financial period due to the impact of the Covid19 pandemic. The office was not equipped to operate from a remote working environment when the President of Republic implemented the Disaster Management Act in March 2020. In order to ready the office to deal with the remote working environment, the office incurred additional capital expenditure earlier than expected to equip all employees with the necessary tools and equipment to carry out their day-to-day function. From an operational perspective, certain budgetary savings had been noted due to certain expenses not being incurred. The pandemic also affected the office's ability to achieve certain key performance indicators that related to its mandate. The detailed results of these KPIs have been disclosed in the attached annual performance report.

ANNUAL PERFORMANCE REPORT for the period ending 31 March 2021

Program: To resolve complaints in a fair, expeditious and informal manner

| Outcome | Output | Output Indicator | Audited Actual Performance 2018/2019 | Audited Actual Performance 2019/2020 | Planned Annual Target 2020/2021 | Actual Achievement 2020/2021 | Deviation from planned target to Actual Achievement 2020/2021 | Reasons for Deviation |
|---------------------|--|------------------|--------------------------------------|--------------------------------------|---------------------------------|------------------------------|---|--|
| Satisfied Customers | % Satisfied customers | 90% | 98% | 96.42% | 90% | 96.90% | +6.90% | The achievement of this goal in excess of the 90% target is as a result of the processes and procedures put in place within Case Management to monitor customer satisfaction on an ongoing basis. This included but was not restricted to incorporating this goal into the individual KPAs of the Case Managers. |
| Satisfied Customers | % Complaints closed within 9 months of receipt | 92% | 95% | 96.25% | 92% | 94.99% | +2.99% | The achievement of this goal in excess of the 92% target was as a result of the processes and procedures put in place within Case Management to monitor and report on the achievement of this goal on an ongoing basis and to address any concerns that may arise as and when they occur. |
| Satisfied Customers | % Complaints closed within 6 months of receipt | 87% | N/A | 91.18% | 87% | 91.12% | +4.12% | The achievement of this goal in excess of the 87% target was as a result of the processes and procedures put in place within Case Management to monitor and report on the achievement of this goal on an ongoing basis and to address any concerns that may arise as and when they occur. |
| Satisfied Customers | % Complaints closed within 3 months of receipt | 76% | N/A | 81.76% | 76% | 84.43% | +8.43% | The achievement of this goal in excess of the 76% target was as a result of the processes and procedures put in place within Case Management to monitor and report on the achievement of this goal on an ongoing basis and to address any concerns that may arise as and when they occur. |

| Program: To resolve complaints in a fair, expeditious and informal manner | | | | | | | | | |
|---|---|------------------|--------------------------------------|--------------------------------------|---------------------------------|------------------------------|---|---|--|
| Outcome | Output | Output Indicator | Audited Actual Performance 2018/2019 | Audited Actual Performance 2019/2020 | Planned Annual Target 2020/2021 | Actual Achievement 2020/2021 | Deviation from Planned target to Actual Achievement 2020/2021 | Reasons for Deviation | |
| Satisfied Customers | % Complaints responded to within 4 days of date of receipt of complaint | 100% | 99% | 99.95% | 100% | 97.86% | -2.14% | This goal has been affected by the upheaval of working remotely during the COVID-19 pandemic | |
| Satisfied Customers | % of all active complaints that are older than 9 months | 17% | 15% | 17.93% | 17% | 19.27% | +2.27% | This goal has been affected by the upheaval of working remotely during the COVID-19 pandemic as well as the significant increase in the number of complaints and the burden placed on available resources. The goal of 17% did not account for unforeseen risks such as the pandemic. | |
| Satisfied Customers | Efficiency ratio (% closed complaints of received complaints) | 80% | 82% | 84.91% | 80% | 80.66% | +0.66% | The achievement of this goal in excess of the 80% target was as a result of the processes and procedures put in place within Case Management to monitor and report on the achievement of this goal. | |
| Satisfied Customers | % Decrease in active property syndicate complaints | 20% (1300) | N/A | 14.31% | 20% (1300) | 20.31% | -0.31% | The achievement of this goal in excess of the 20% required was as a result of having allocated resources to specifically manage these matters. | |

| Program: Administration | | | | | | | | |
|-------------------------|--|----------------------------|--------------------------------------|--------------------------------------|---------------------------------|---|---|--|
| Outcome | Output | Output Indicator | Audited Actual Performance 2018/2019 | Audited Actual Performance 2019/2020 | Planned Annual Target 2020/2021 | Actual Achievement 2020/2021 | Deviation from planned target to Actual Achievement 2020/2021 | Reasons for Deviation |
| Operational excellence | Type of Audit opinion issued by AG in respect of Annual Financial Statements and Performance Information | Unqualified audit opinion | Unqualified audit opinion. | Clean audit opinion. | Unqualified audit opinion. | A Clean Audit has been achieved for the 2019/20 period. The result for 2020/21 are still on-going | 0 | The entity will continue implementing the controls and processes to continue achieving this goal. |
| | Minimum number of trainee contracts concluded | 9 trainee contracts | 09 | 11 | 9 | 9 | 0 | The entity will continue implementing controls and processes to continue achieving this goal. |
| | % Disabled employees of total employees Annual Target: % adherence to this goal. | 2% adherence to this goal. | 2% | 0% | 2% | 2% | 0 | The entity will continue implementing the controls and processes to continue achieving this goal. |
| | % Female employees of total employees | 51% | 64% | 67% | 51% | 67% | +16% | The entity over-achieved on the performance indicator due to the historical employment statistics. |
| | % Black employees of total employees | 75%. | 89% | 86% | 75% | 90% | +15% | The entity over-achieved on the performance indicator due to the historical employment statistics. |

| Program: Enhanced Stakeholder Management | | | | | | | | |
|--|--|------------------|--------------------------------------|--------------------------------------|---------------------------------|------------------------------|---|---|
| Outcome | Output | Output Indicator | Audited Actual Performance 2018/2019 | Audited Actual Performance 2019/2020 | Planned Annual Target 2020/2021 | Actual Achievement 2020/2021 | Deviation from planned target to Actual Achievement 2020/2021 | Reasons for Deviation |
| Sound and effective stakeholder relations (Previously - To manage stakeholder relationships) | Numbers of engagements with key stakeholders, including outreach programmes | 120 | 44 | 83 | 120 | 120 | 0 | The entity will continue implementing the controls and processes to continue achieving this goal. |
| | Numbers of media related activities | 28 | 18 | 43 | 28 | 28 | 0 | The entity will continue implementing the controls and processes to continue achieving this goal. |
| | Attend 80% of all planned activities by the FSCA Consumer Education Department | 7 | N/A | N/A | 7 | 1 | -6 | Due to COVID-19 and budgetary constraints, the Office was unable to participate in activities planned by the FSCA most of which were not settled well in advance as would ordinarily be the case. |

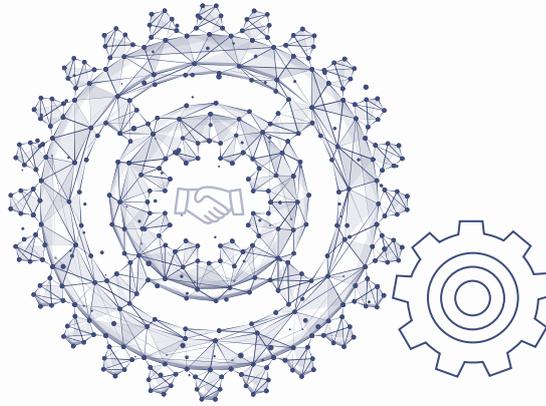
Linking performance to budget

| Programme/ Activity / objective | 2019/2020 | | | 2020/2021 | | |
|--|--------------------|--------------------|--------------------------|--------------------|--------------------|--------------------------|
| | Operational Budget | Actual Expenditure | (Over)/Under Expenditure | Operational Budget | Actual Expenditure | (Over)/Under Expenditure |
| | R'000 | R'000 | R'000 | R'000 | R'000 | R'000 |
| Administration | 22,648 | 17,307 | 5,341 | 25,304 | 17,721 | 7,583 |
| To resolve complaints in a fair, expeditious and informal manner to the satisfaction | 32,305 | 21,161 | 11,144 | 31,932 | 22,362 | 9,570 |
| Enhanced stakeholder management | 2,246 | 1,624 | 0,622 | 3,012 | 2,110 | 0,902 |
| Total | 57,199 | 40,069 | 17,130 | 60,248 | 42,193 | 18,055 |

Due to the COVID-19 pandemic, the 2020/21 budget was revised downward to R58,011 million. It was a precautionary measure undertaken by the Accounting Authority, as the full impact of the pandemic on the service providers could not be determined at that commencement of the financial period. Based on this, the levy expectation was revised in anticipation that service providers were negatively impacted by the implementation of the National Disaster Act and the country being placed in lockdown.

Based on the feedback received from National Treasury, no key performance indicator (KPI) was adjusted for the period under review. In response to the pandemic, the Office took a decision to enable a remote working environment. Due to the large number of staff members that worked off-site, a large saving was noted as many of the daily expenses were reduced to a large extent.

The Office was not able to attain most of the external stakeholder engagements planned for the period under review. Many of these events that were planned for the period under review were cancelled by the organisers. A significant portion of the capital expenditure could not be spent during the year and some of these projects that have been deferred to the 2021/22 financial period.



GENERAL INFORMATION

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