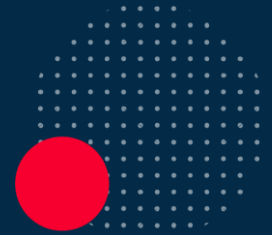




# Day of CPD

10 July 2024

Lelané Bezuidenhout, CFP®





# Introduction

- **Ombud Council**
- **Ombud Schemes**
- **FAIS ombud Rules update**
- **FSCA 3-year strategy update**

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The Ombud Council was established through the Financial Sector (FSR) Regulation Act (2017), Chapter 14. Its objective is to assist financial customers to have access to affordable, effective, independent and fair alternative dispute resolution when they have complaints about financial institutions. This includes complaints that relate to financial products, financial services and services provided by market infrastructures such as exchanges.

The Ombud Council does not handle customer complaints itself, but oversees all financial sector ombud schemes, in essence operating as the regulatory authority for ombuds. The Ombud Council will assist complainants with identifying which ombud is responsible for hearing their complaint in cases where the jurisdiction is unclear.

### **The Ombud Council will promote:**

- Accessibility and use of the ombud system,
- Cooperation and coordination among ombuds
- Effectiveness of the ombud system - including through imposing common standards of good practice.



**Ms Leanne Jackson**

*Chief Ombud*

(Chief Ombud)

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# *Ombud Council has oversight over the following schemes:*

- National Financial Ombud
- Pension Funds Adjudicator
- JSE Ombud
- Ombud for Financial Services Providers (FAIS Ombud)

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## [National Financial Ombud: Reana Steyn – See NFO Rules \(eff 1 January 2024\)](#)

The National Financial Ombud Scheme (NFO) is an industry ombud scheme, formed by the merger  
Of four (4) separate former industry ombud schemes:

- ✓ Credit Ombud,
- ✓ Ombudsman for Banking Services (OBS)
- ✓ Ombudsman for Long-term Insurance (OLTI) and
- ✓ the Ombudsman for Short-term Insurance (OSTI).



**Exclusions:** Complaints that falls within the jurisdiction of the Pension Fund Adjudicator (Muvango) and FAIS Ombud (Adv John) unless PFA and/or FAIS ombud decided that NFO should deal with the complaint.

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**THE ADJUDICATOR:** Ms Muvhango Antoinette Lukhaimane

She was appointed by the Minister of Finance, Mr.Pravin Gordhan as the Pension Funds Adjudicator with effect from 1 June 2013.

She served as Deputy Pension Funds Adjudicator from 1 June 2012.

She holds a B.luris, LLB and LLM degrees, from the University of Venda, the University of Pretoria and the University of South Africa, respectively. She also holds postgraduate Diplomas in Management Studies and Financial Planning from Buckinghamshire Chilterns University College and the University of Free State, respectively. She now holds MBA with WITS Business School.

She has had extensive knowledge in the pension fund industry where she worked as a research consultant and legal advisor to some of the major fund administrators. She also has direct fund administration experience as a principal officer. She has broad and in-depth knowledge of the management and administration of public entities from the Ministry of State Security where she managed the human resource department and also chaired the Intelligent Services Council.



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**The FAIS Ombud's** primary role is to investigate and resolve complaints under the FAIS Act and its associated rules. The FAIS Ombud addresses complaints made by specific clients against financial services providers (FSPs). A complaint involves a financial service provided by an FSP or its representative to the complainant.

## Complaints Criteria

A complaint can arise if an FSP:

- Contravened the FAIS Act, causing or likely causing financial prejudice.
- Acted negligently or willfully, causing or likely causing prejudice.
- Treated the complainant unfairly.

## Complaint Submission Process

- Complaints must concern acts after 30 September 2004.
- Monetary claims must not exceed R3,500,000 unless agreed otherwise.
- Complaints related to investment performance are excluded unless performance was explicitly guaranteed or shows prima facie fraud, negligence, or maladministration.
- Complaints must first be attempted to be resolved with the FSP within six weeks. If unresolved, the complaint can be submitted to the FAIS Ombud within six months of the final response from the FSP.
- Complaints under court proceedings will not be investigated.





# *FAIS Ombud Rules Update*



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## Key Changes and Impacts

### **Increased Compensation Limit:**

The maximum compensation the FAIS Ombud can award has been increased from R800,000 to R3.5 million. This adjustment reflects changes in the value of money and market conditions over the past two decades, aligning more closely with other financial sector ombud schemes. (This was a World bank recommendation)

### **Revocation of Previous Rules:**

The new Rules replace those from 2003, updating terminology, refining the FAIS Ombud's jurisdiction, and improving processes based on practical experience. (i.e., BN 81 of 2003 is repealed)

### **New Provisions**

**Complaints Against Unauthorized Providers:** The FAIS Ombud will not handle complaints regarding services provided by unlicensed individuals. Such complaints will be referred to the FSCA for enforcement and investigation.

### **Cooperation from Providers:**

New consequences for financial services providers that do not cooperate with the FAIS Ombud include:

- Mandatory reporting of material contraventions or failures to the FSCA.
- The FAIS Ombud has discretion to resolve complaints based on available facts if a party fails to respond or comply with the Rules.

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# FSCA's updated 3-year Regulatory Plan

## New Projects Included:

- Joint Standard on Third Party Service Provision/Outsourcing - Harmonize and strengthen outsourcing requirements.
- Joint Standard on Capital Requirements for ODPs - Strengthen capital requirements and risk management rules.
- Prudential Standard for Quarterly Regulation 28 Reporting - Implement holistic quarterly reporting for pension funds.
- Amendments to FSRA (Financial Sector Regulation Act) Conduct Standard No. 1 of 2019 (PFA) - Modify forms related to amalgamations and transfers due to the two-pot system.

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# New Strategic Focus Areas:

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**Sustainable Finance:** Implementing sustainable finance workplan, including disclosure and reporting.

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**Open Finance:** Transforming Open Finance to a strategic focus area, with regulatory interventions likely.

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**Artificial Intelligence and Machine Learning:** Exploring AI and ML impact, with potential policy recommendations and governance principles.

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**Operational Risk and Resilience, Cloud Computing:** Assessing regulatory framework needs for managing operational risk and cloud computing.

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**Transitional Arrangements for Prudential Regulation:** Transitioning prudential regulation of retirement funds, collective investment schemes, and friendly societies to the Prudential Authority.

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**Guidance Notices and Interpretation Rulings:** Planning for Guidance Notices and Interpretation Rulings to support regulatory frameworks.

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**Key Focus Areas  
for the Next Three  
Years:**

Developing a new  
conduct regulatory  
framework under  
the Conduct of  
Financial  
Institutions Bill.

Aligning financial  
markets regulatory  
framework with  
international  
standards.

Addressing peer  
review findings  
and emerging  
risks.

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