

Ombud Council

Ensuring an accessible and trusted
financial sector ombud system



Annual Report
2021|22

Ombud Council

Annual Report 2021|22

This is the first Annual Report of the Ombud Council. Although it attempts to follow the Guideline for Annual Reports of public entities, it cannot respond to all the sections yet in its inception year. In the absence of an Annual Performance Plan, it reports on the immediate requirements of the FSR Act, as well as the outcomes of an analysis of the establishment process and an operational plan. The Ombud Council has not yet been listed under the PFMA as listing is subject to the coming into operation of the Levies Bills, expected in April 2023. The FSCA is currently the 'hosting' entity under a shared services agreement which includes financial administration. Thus, the external audit was conducted under the auspices of the FSCA.

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Part A

General Information



1. ENTITY GENERAL INFORMATION

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2. LIST OF ABBREVIATIONS/ACRONYMS

| | |
|----------------------------|--|
| AA | Accounting Authority |
| AFS | Annual Financial Statements |
| AGSA | Auditor General of South Africa |
| B-BBEE | Broad Based Black Economic Empowerment |
| BIP | Business Implementation Plan of the Ombud Council. |
| Board | The Board of the Ombud Council, established by s.179 of the FSR Act. |
| CFO | Chief Financial Officer |
| COFI Bill | Conduct of Financial Institutions Bill, expected to be tabled in Parliament during 2022. |
| CO | Credit Ombud |
| Council | The Ombud Council, established by s.175 of the FSR Act as a juristic person and a national public entity. |
| FAIS Ombud | Ombud for Financial Services Providers |
| FSCA | Financial Sector Conduct Authority. |
| FSR Act | Financial Sector Regulation Act, 2017. |
| JSE | Johannesburg Stock Exchange |
| Levies Bills | The Financial Sector and Deposit Insurance Levies Bill, 2022; and the Financial Sector and Deposit Insurance (Administration) and Deposit Insurance Premiums Bill, expected to be promulgated in 2022. |
| MTEF | Medium Term Expenditure Framework |
| OBSSA | Ombudsman for Banking Services South Africa |
| OLTI | Ombudsman for Long-Term Insurance |
| Ombud Schemes | Industry ombud schemes and statutory ombud schemes, as defined in s.1 of the FSR Act. |
| OSTI | Ombudsman for Short-Term Insurance |
| PFA | Pension Funds Adjudicator |
| PFMA | Public Finance Management Act |
| SMME | Small Medium and Micro Enterprises |
| SCM | Supply Chain Management |
| SITA | State Information Technology Agency |
| SDIP | Service Delivery Improvement Plan |
| TR | Treasury Regulations |
| WB Diagnostic (WBD) | “South Africa: Financial Ombud System Diagnostic”, June 2021” undertaken by the World Bank Group. |



3. FOREWORD BY THE MINISTER OF FINANCE

The first year of existence of the Ombud Council has been a remarkable one. The new body has made strides in bringing stability to the ombud system. It is an underpinning of the market conduct “peak” of the Twin Peaks reform.

Effective alternative dispute resolution for financial customers and the government’s policy of financial inclusion as well as protection of the financial customer is enhanced through the existence of the Ombud Council as a regulatory body. The Ombud Council is indeed on the road to ensuring an accessible and trusted financial sector ombud system.

The results of the World Bank Diagnostic Study were presented two months after the inception of the Ombud Council with far-reaching recommendations for the ombud system. The Ombud Council has been instrumental in contributing to the analysis of the implications of these recommendations. However, it was not deterred from focussing on its mandate and implementing its founding legislation, Chapter 14 of the FSR Act.

The Ombud Council was faced with the challenges of legislative implementation deadlines in the absence of transitional institutional structures. Operations only commenced in May 2021, when the Board became quorate with the appointment of a Chief Ombud.

It faced its very first deadline with the repeal of the Financial Sector Ombud Schemes Act (FSOS Act), 2004, which meant that recognition of existing industry ombud schemes under the FSOS Act and the “catch-all” complaints-handling mandate of the Financial Services Providers Ombudsman (the FAIS Ombud) both had to be extended, using mechanisms under the FSR Act, to avoid gaps in ombud

system jurisdiction. It also had to develop a new recognition framework to meet the statutory deadline of April 2022 to renew recognition of all the existing financial sector industry ombud schemes under the FSR Act.

Although the Ombud Council had seed funding for its establishment from ring-fenced funds from fines and penalties collected by the Financial Sector Conduct Authority (FSCA), funding arrangements remained uncertain during this year of inception. This is because Chapter 16 of the FSR Act, which establishes a levy-based funding model for the Ombud Council, is yet to be operationalised through the promulgation of the Levies Bills. As the Ombud Council builds the organisation to meet its regulatory and developmental mandate, it is expected to implement the prescripts of the FSR Act while remaining flexible to the expected policy changes in the ombud system. Independence of the Ombud Council must be maintained within the framework of the FSR Act.

I want to thank the members of the Board of the Ombud Council under the leadership and stewardship of its Chairperson, Ms Deanne Wood, for steering the Council through its inception with vision and perseverance. I also want to acknowledge the commitment of the Chief Ombud, Ms Eileen Meyer, who was appointed temporarily to set up the Council and express my appreciation for ensuring that the Council met its statutory obligations and provided trust in the system again.

Ombud schemes are an important part of the financial services sector. The financial sector statutory and industry Ombud schemes not only ensure that the financial customer has recourse, but through an impartial, fair and

“ The financial sector statutory and industry Ombud schemes not only ensure that the financial customer has recourse, but through an impartial, fair and equity-based approach, they also provide financial institutions with the confidence that all parties will be dealt with fairly. ”

equity-based approach, they also provide financial institutions with the confidence that all parties will be dealt with fairly. It is also in the interest of our economy that financial customers become more literate and understand their rights and responsibilities. In this way they will be empowered to participate in our economy, realising the aspiration of making financial inclusion an important facet of our regulatory reform.

I wish the Ombud Council well as it continues on this trajectory to ensure that South Africa has a trusted and accessible financial sector Ombud system.



Hon. Enoch Godongwana
Minister of Finance





4. FOREWORD BY THE CHAIRPERSON OF THE BOARD

As the Chairperson of the Board of the Ombud Council, and its Accounting Authority, it is with great pleasure that I introduce the first Annual Report of the Ombud Council for the financial year 2021/22.

The Ombud Council was established to regulate and provide direction to financial service ombud schemes and to promote trust in the overall structure of the ombud system. In promoting its objectives, it is paramount that the Ombud Council is at all times fair and impartial.

The external, independent members of the Ombud Council's Board were appointed in November 2020. However, it was only in May 2021, when the first Chief Ombud, Ms Eileen Meyer, was appointed on an interim basis, that a quorate board was established. It has been a challenging and exciting if at times frustrating, journey navigating the Ombud Council through its operational first year. For much of the first year the Ombud Council operated with Ms Meyer serving as its only member of staff. Additional, much needed, support was provided to the Council through securing the consulting services of a financial regulation expert and the secondment of Mr Siphwe Dube as a senior manager towards the end of the financial year. Notwithstanding its resource constraints, the Ombud Council has done exceptionally well in fulfilling its functions and duties and in meeting its statutory obligations. The Board is extremely grateful to Ms Meyer and her team for their exceptional commitment and dedication to their roles.

Board members are: Chairperson, Ms Deanne Wood; Deputy Chairperson: Adv Dikeledi Chabedi; Mr Adam Horowitz; Mr Emmanuel Lekgau; Ms Charmaine Soobramoney; Ms Silindile Kubheka; Ms Eileen Meyer and Mr Unathi Kamlana.

Further exacerbating the uncertainty and challenges facing the Ombud Council, in June 2021 the World Bank released its diagnostic study in which it made far-reaching recommendations for reforming the financial ombud system. The extent to which these recommendations are to be implemented and the manner of their implementation remains undecided. What is clear, however, is that there is change afoot and that the future development of the financial ombud system will yield a dynamic, effective and efficient alternative dispute resolution mechanism for financial customers and institutions.

The transition from the Financial Services Ombud Schemes Act, repealed on 31 May 2021, to the implementation of the Financial Sector Regulation Act's Chapter 14 was managed by the Council in a consultative and effective manner. To this end, the provisions of s.301 (6) and (7) of the FSR Act were implemented to extend the deemed recognition of the existing industry ombud schemes. By December 2021, the new recognition process was designed and implemented marking the existence of a regulatory body which recognises ombud schemes under the FSR Act. This was a significant achievement for the Ombud Council. Ms Meyer, and Mr Dube with the great support of the financial regulation expert are to be congratulated on their efforts to ensure the timely recognition of the ombud schemes.

The Ombud Council has fulfilled its mandate under the leadership of the interim Chief Ombud. She has been greatly assisted in her endeavours by the commitment and dedication of the members of the Board, each of whom have played an active role in shaping the Council. My sincere thanks go to the Board members for their guidance and diligence in ensuring at all times that the Ombud

“ The Ombud Council was established to regulate and provide direction to financial service ombud schemes and to promote trust in the overall structure of the ombud system. ”

Council effectively managed its transitional arrangements notwithstanding the lack of organisational structures and that it fulfilled its mandates in terms of recognition and designations.

If the past year's progress is anything to go by, the upcoming financial year promises to be a dynamic and exciting one for the Ombud Council, its Board, its stakeholders and the financial ombud schemes that it oversees.



Ms Deanne Wood

Chairperson: Ombud Council



5. REPORT OF THE CHIEF OMBUD

I have the privilege as the first Chief Ombud to present the Annual Report of the Ombud Council, which was established through Chapter 14 of the FSR Act as a financial sector body and a national public entity. Its objective, in summary, is to assist in ensuring that financial customers have an alternative dispute resolution system that works for them when they have complaints about financial institutions. My role was to set up and operationalise the Council. I am pleased to be tabling the Ombud Council's 'maiden' Annual Report to account for its first year of activities.

Overall Performance

Upon reflection on the 'start-up' year, the Ombud Council was able to deliver on its statutory obligations despite not having its transitional institutional arrangements in place. It nonetheless managed the transition introduced by the implementation of the FSR Act and the repeal of the FSOS Act. This entailed a renewed designation to cover complaints not covered by other ombud schemes; managing the extension of recognition of the financial sector industry ombud schemes as contemplated in section 301 (6) and (7) of the FSR Act; and implementing sections 194 and 196 of the FSR Act dealing with the recognition of ombud schemes under the FSR Act. These steps provided certainty to the ombud schemes on their recognition status while ensuring that financial customers have continued access to affordable, independent and fair alternative dispute resolution processes. The Ombud Council can confirm that it delivered on its regulatory mandate.

Transitional arrangements were put in place for the Ombud Council's corporate services through the signing of a Memorandum of Agreement (MoA) with the FSCA in December 2021 which provided the preliminary backbone for its operations. The Ombud Council delivered a Business Implementation Plan (BIP) to the Minister of Finance in February

2022 for the design of the institutional framework, which took the implications of the WB Diagnostic recommendations of June 2021 into consideration. It entailed a Service Delivery Model and proposed an organisational structure and staff establishment for the Ombud Council. The approval of the staff establishment in the BIP will enable the Ombud Council to fill its key positions in the 2022/23 financial year.

Regarding service delivery, the Ombud Council has been challenged in responding to complaints from the public. A trend was the expectation that the Council could review decisions of ombuds, deal with ombud scheme employment matters and issues related to financial institutions. The Ombud Council has attempted through direct communication and through its website to reiterate its mandate and function with the overriding message that it is not our role to become involved in, or review or reconsider the outcome of any specific complaints handled by ombud schemes. This would be contrary to our mandate to protect the independence and impartiality of ombuds (section 177(1)(c) of the FSR Act.); nor does it have any jurisdiction over the conduct of financial institutions.

Policy Developments

Although the Ombud Council's mandate and functions are legislated in Chapter 14 of the FSR Act, proposed recommendations of the WB Diagnostic of June 2021, commissioned by the National Treasury and the FSCA, envisaged far-reaching changes to the overall South African financial ombud system. These proposals, if adopted, will entail significant changes to the current scope of the Ombud Council's mandate and functions. From October to December 2021, the Ombud Council undertook a mapping exercise overlaying the FSR Act onto the recommendations of the WB Diagnostic recommendations to identify the impact on the Ombud Council. This resulted in the formulation of operating principles to guide the Business Implementation Plan (BIP).

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These principles recognise the need for the Ombud Council to foremost implement its mandate as legislated in Chapter 14 of the FSR Act, while designing the organisation with the flexibility to adapt to any policy decisions taken as a result of the WB Diagnostic recommendations. The mapping exercise also enabled the Ombud Council to contribute to stakeholder engagements between the National Treasury, the FSCA and the World Bank Group Diagnostic Team as well as ensuring feedback in the regular ombud scheme meetings.

Funding, Budget and Expenditure

Chapter 16 of the FSR Act provides that funding of the Ombud Council will be covered through fees and levies payable by financial institutions. Chapter 16, however, will only be operationalised when the Levies Bills are passed and promulgated. For its establishment, the Council in the meantime received a budget of R10m for the first financial year 2021/22 from a ring-fenced allocation made by the Minister of Finance from the retention of fines and penalties collected by the FSCA. The Council has, through the implementation of its MoA with the FSCA, been able to meet its financial obligations and is able to also present its draft audited Annual Financial Statements for its first year of operations.

Governance

The Board and its two Committees, an Audit & Risk Management Committee and a Remuneration & HR Committee, have been operating effectively. Board and Committee meetings took place regularly with two special meetings/workshops on Operating Principles and Risk Management. The Board has provided oversight and guidance under the leadership of the Board and Committee Chairpersons. The Board has been highly responsive and

supportive during this crucial phase of establishment while constantly being aware of managing the boundary between oversight and operations. The support was greatly appreciated during the inception phase of the Ombud Council, which for part of the year only had a Chief Ombud on an interim basis and a part-time Board Secretariat deployed by the FSCA.

Concluding Remarks

I am highly indebted and grateful for the technical and moral support provided to me by each member of the Board as we grappled together on how best to navigate new ground. The administrative support from the Board Secretariat, Khangweni Chauke, later joined by Siphwe Dube as Senior Manager Operations, was commendable. A special thanks goes to the Chairperson of the Board, Deanne Wood, who availed herself regularly, not only for guidance and oversight, but also as a ‘thinking’ partner. Later in the year, I was joined by an independent financial regulation expert, supporting me with regulatory interpretation and implementation which ensured rigorous application of the FSR Act. Thanks must also go to the ombuds of all the financial sector ombud schemes and their staff for their cooperation during the setting up of the Ombud Council, as well as our two key stakeholders, the National Treasury and the FSCA. Your cooperation and collaboration were highly appreciated. I wish my successor all the best in leading and managing the Ombud Council through the exciting changes from the expected regulatory reform while maintaining stability for the financial sector ombud system.



Ms Eileen Meyer
Chief Ombud (Interim)
Ombud Council

6. STATEMENT OF RESPONSIBILITY

STATEMENT OF RESPONSIBILITY AND CONFIRMATION OF ACCURACY FOR THE ANNUAL REPORT

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

All information and amounts disclosed in the annual report are consistent with the quarterly performance reports submitted to the Minister of Finance and the draft annual financial statements.

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

The annual report has been prepared by the Ombud Council as far as possible in accordance with the guidelines on the annual report as issued by National Treasury.

The Draft Annual Financial Statements (Part E)¹ was prepared by the FSCA under the Memorandum of Agreement for corporate services support in accordance with the South African Standards of GRAP applicable to public entities.

In terms of s.175(3) of the FSR Act, the Chairperson of the Ombud Council is the Accounting Authority of the Ombud Council for purposes of the PFMA. The Accounting Authority is responsible for the preparation of the annual

financial statements, in this instance, under the MoA with the FSCA and for the judgements made in this information.

As the Accounting Authority, I can confirm the integrity and reliability of the performance information provided, based upon regular reporting against the operational plan for the inception year, which was required by the Board. Where possible, the FSCA provided internal control as a service under the MoA.

In my opinion, the annual report fairly reflects performance information, human resources information and the financial affairs of the entity for the financial year ended 31 March 2022.

Yours faithfully



Ms Deanne Wood
Accounting Authority
Chairperson of the Board
Date: October 2022

¹ The Ombud Council has not yet been listed as a public entity under the Schedules to the PFMA as the 'Levies Bills' have not yet come into operation and the BIP still needs to be approved. Thus, the requirements of the PFMA do not yet apply. The audit of the Ombud Council took place as part of the audit of the FSCA, the shared services partner under a MoA, managing the finances of the Ombud Council.

7. STRATEGIC OVERVIEW

The first three months was about understanding what needs to be done which culminated in an operational plan focussing on how to get the nuts and bolts in place. With no Business Case to follow, Chapter 14 of the FSR Act became the document to guide the Council in terms of its strategy.

With the appointment of the Board in November 2020, clauses in the FSR Act became operational but could only be addressed once the Board was quorate which only happened in May 2021 with the appointment of a Chief Ombud. This meant that the Ombud Council had to start operations immediately in order to meet its statutory obligations. However, by September 2021 the Board was able to reflect on its strategic direction and by December 2021 it was also able to respond strategically to the WB Diagnostic recommendations through the mapping exercise undertaken.

The listing of the Ombud Council as a public entity for purposes of the PFMA, and the commencement of Chapter 16 of the FSR Act (which governs the Ombud Council's funding, can only occur once the Levies Bills come into operation. These interdependencies which were not yet resolved by the end of the financial year did not prevent the Council from trying to put good practice in place. What follows is the outcome of numerous engagements and the development of an inception strategy to assist with orientation.

Main Objective

The Ombud Council is established in terms of Chapter 14, section 175(1) of the FSR Act. The objective of the Ombud Council is to assist in ensuring that financial customers have access to, and are able to use affordable, effective, independent, and fair alternative dispute resolution processes for complaints about financial institutions in relation to financial products, financial services, and services provided by market infrastructures.

Strategic Objectives

The initial strategic objectives of the Ombud Council were developed knowing that with improved understanding of its mandate and reviewing its strategic direction against the outcome of the reform of the ombud system, further refinement would be done over the short to medium term. The ones presented reflect the initial perspective taken on its regulatory and oversight role in terms of its mandate; its transformational and stakeholder management focus; and, for the inception year, the necessity to set up the Ombud Council as an organisation to deliver on its statutory obligations.

Thus, the specific objectives were to:

REGULATORY AND OVERSIGHT

1. Develop governing rules that are suitable to the ombud environment and complement and strengthen those of the ombud schemes.
2. Provide guidance to voluntary industry and statutory ombud schemes to enable jurisdictional clarity.

STAKEHOLDERS (INCL. OMBUD SCHEMES)

3. Increase cooperation, coordination, and collaboration between ombud schemes through common standards and interoperable solutions.
4. Ensure financial inclusion by addressing accessibility and understanding of the financial services and the alternative dispute resolution channel through ombuds.

ORGANISATIONAL DEVELOPMENT

5. Build, develop and fund a sustainable Ombud Council with a culture and climate of ensuring effective, fair, and transparent services by ombud schemes for the financial customers and the financial service providers.



The vision, mission and values were informed by the founding legislation of the Ombud Council, viz., the FSR Act.

7.1. Vision

The Council will ensure that a known, trusted and easily accessible ombud system exists for all in the financial sector.

7.2. Mission

The Council will:

- recognise industry ombud schemes,
- set enhanced governance and accountability requirements for all ombud schemes; and
- harmonise and strengthen standards of practice for each ombud scheme through rulemaking and enforcement powers,

to develop a coordinated and consistent framework for alternative dispute resolution mechanisms across the financial services sector.

7.3. Values

The Ombud Council operates in accordance with the following core values:

| | |
|--------------|---|
| INTEGRITY | We execute our functions with integrity. |
| FAIRNESS | We treat all stakeholders fairly. |
| IMPARTIALITY | We act impartially without fear, favour or prejudice. |
| TRANSPARENCY | We perform our functions transparently. |

7.4. Planned Performance

The high-level Strategic Plan, drafted in year zero and five months after the commencement of business, was used as a compass to guide the Ombud Council regarding its organisational development.

In its 'year zero' Strategic Plan, the Ombud Council envisaged the implementation of the following building blocks in a phased approach:

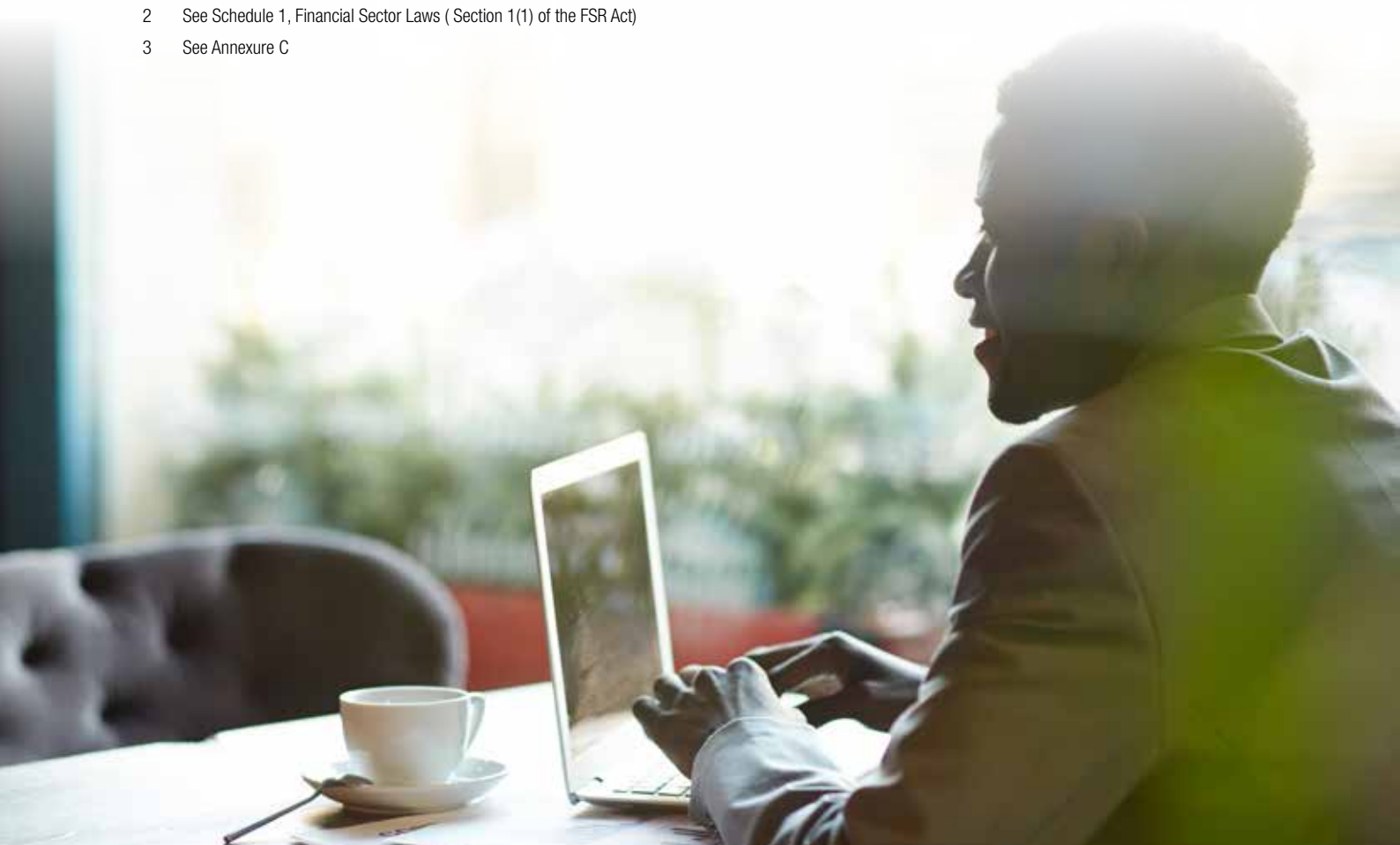
- **Implementation Year 0-1 (1 November 2020 – 31 March 2022) – Start-up – Getting the Nuts and Bolts in place**
 - Develop the BIP.
 - Secure a technical and administrative team.
 - Fulfil all statutory obligations against legislated timeframes.
 - Develop the first MTEF Strategic Plan and APP for 2022/23.
 - Recruit a permanent Chief Ombud.
- **Implementation Year 12 & 3 (1 April 2022 – 31 March 2024) – Build and develop – Roll-out of Implementation**
 - Appoint a permanent full-time Chief Ombud.
 - Recruit staff.
 - Implement performance areas of MTEF Strategic Plan and APP.
 - Build a cohesive organisation and integrity and trust in the ombud system.
 - Implement changes emanating from policy decisions regarding reform of the ombud system and manage the associated risks.
- **Implementation Year 4 (1 April 2024 – 31 March 2025) – Consolidate – Aspirational – a cohesive, coherent, and easily accessible ombud system for all financial users**
 - A deep understanding of the functions of the Ombud Council exists, the resources required, and the type of operations and systems needed.
 - Consolidate regulatory and oversight function.
 - Facilitate transformation and reach the aspirational goal of a cohesive, coherent and easily accessible ombud system for all financial customers.
 - Ensure an impartial and trusted ombud system by financial institutions.
- **Implementation Year 5 (1 April 2025 – 31 March 2026) – Review, Adjust – Continuous Improvement**
 - A review of the functioning of the Ombud Council in view of its functions and organisation should take place for necessary adjustment and continuous improvement in order to achieve and maintain as well as improve on its strategic goal and fulfil its legislative mandate.

8. LEGISLATIVE AND OTHER MANDATES

- The Council derives its mandate from the FSR Act.
- Chapter 14 of the FSR Act establishes the Council and confers oversight, enforcement, and regulatory powers on it in relation to both financial sector statutory and industry ombud schemes. The main objective of the Council, per section 176 of the FSR Act, is to assist in ensuring that financial customers have access to, and are able to use affordable, effective, independent and fair alternative dispute resolution processes for complaints about financial institutions in relation to financial products and services.
- Chapter 16 of the FSR Act 2017 facilitates the funding of the operations of the Ombud Council through levies collected from the financial institutions.
- Chapter 16 will be operationalised through the Levies Bills which will release funding for the Ombud Council to fund its operations.
- The Council is defined as a financial sector body in section 1 of the FSR Act, and section 96 provides that its administrative actions are subject to the Promotion of Administrative Justice Act, 2000. The Act also confirms (section 175(3)) that the Council is a national public entity as defined in the PFMA. In addition, the Council needs to take cognisance of the larger body of financial sector laws² within which ombud schemes and their member financial institutions operate.
- Although the Council has not yet been listed as a public entity under the Schedules to the PFMA, it has attempted to follow the prescripts of the PFMA and other legislation³ as far as possible in its inception year of establishment, e.g., submitting quarterly reports to the Minister of Finance, developing a MTEF Strategic Plan and APP for the next financial year, setting up an Audit & Risk Management Committee, and ensuring a financial audit under the auspices of the FSCA, thus draft Annual Financial Statements can be presented.

2 See Schedule 1, Financial Sector Laws (Section 1(1) of the FSR Act)

3 See Annexure C



9. ORGANISATIONAL STRUCTURE⁴

The Ombud Council started its operations as a regulator with the appointment of a Board and the Chief Ombud as contemplated in the FSR Act, sections 180 (1) and 188 (1). The governance and accountability structure resides with the Board, with the Chairperson of the Board as the Accounting Authority for PFMA purposes. A BIP was developed which entailed the design of a Service Delivery Model which in turn is intended to shape the organisational structure and staff establishment and thus form the institutional framework. The approach the Council

took was to do an analysis to understand how to implement Chapter 14 of the FSR Act and develop the BIP which was presented to the National Treasury. As statutory obligations had to be fulfilled, staff were seconded in support of the governance of the Board as well as the operations of the Council. The illustration below provides an overview of the skeleton structure with which the Council operated during its inception year. In addition, regulatory expertise was procured through the appointment of an independent consultant to support the Council to respond to its main functions and assist in meeting the statutory deadlines.

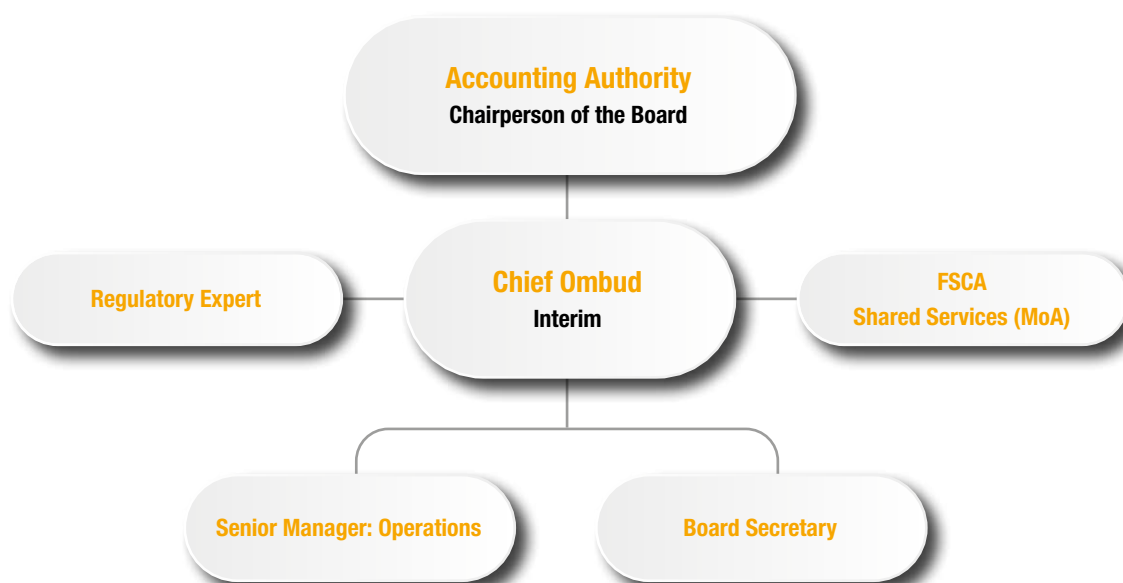


Figure 1: Setting-up team and outsourced administrative services

4 This was a transitional arrangement. The organisational structure for the Ombud Council is waiting for Ministerial approval.

Part B

Performance Information



1. AUDITOR GENERAL'S REPORT: PREDETERMINED OBJECTIVES

The Audit of performance information of the Ombud Council was not undertaken as it was the year of inception. The Council nonetheless drafted an operational plan setting out the activities to be undertaken with timelines and a high-level strategy which guided the Council during the start-up. The statutory timelines in Chapter 14 of the FSR Act also set the immediate targets to be met.

The Audit of the Ombud Council for the year under review was included in the Audit of the FSCA as the hosting entity of the Ombud Council for corporate services, including financial management.

2. SITUATIONAL ANALYSIS

2.1 Service Delivery Environment

During its first year of operations the Ombud Council was able to stabilise the ombud environment in so far as it could provide the public, the financial consumers, with certainty of the continuation of the existence of voluntary ombud schemes through the extension of recognition of the financial sector industry ombud schemes, viz.:

- the Ombudsman for Banking Services,
- the Credit Ombudsman,
- the JSE (Johannesburg Stock Exchange) Ombud,
- the Ombudsman for Short-term Insurance, and
- the Ombudsman for Long-term Insurance.

In addition, financial customers had continued access to the two financial sectors statutory ombud schemes viz:

- the Pension Fund Adjudicator, and
- the Ombud for Financial Service Providers, the FAIS Ombud.

With commencement of the business of the Ombud Council complaints from the public were received and processed. One key challenge the Ombud Council had to manage is the perception that the Ombud Council is an overarching adjudicator or escalation body in relation to complaints against financial institutions. In response to the complainant as well as on the website of the Ombud Council, it was and is made clear that it does not interfere in the decisions of the

ombud schemes in relation to consumer complaints. It is not the role of the Council to become involved in, or review or reconsider the outcome of any specific complaints handled by ombud schemes. This would be inconsistent with its mandate to protect the independence and impartiality of ombuds (section 177(1)(c) of the FSR Act.)

The Ombud Council does, however, consider complaints regarding the conduct of ombud schemes themselves to the extent that its powers permit.

2.2 Organisational environment

The statutory obligations in the FSR Act commenced with the establishment of a Board of Directors by the Minister of Finance in November 2020, the date on which Chapter 14 of the FSR Act came into operation. In May 2021, a Chief Ombud was appointed on an interim basis to manage the Ombud Council and perform its core functions, subject to a performance agreement, in accordance with s.188 of the FSR Act. With this appointment the Board of Directors was now quorate and properly constituted to commence business. An operational plan was agreed upon to ensure delivery of immediate statutory obligations and operational requirements, such as financial management and procurement. Without an organisational structure and staff, a transitional arrangement to enable start-up had to be considered. The following figure illustrates the implementation process followed.

Setting up the office...

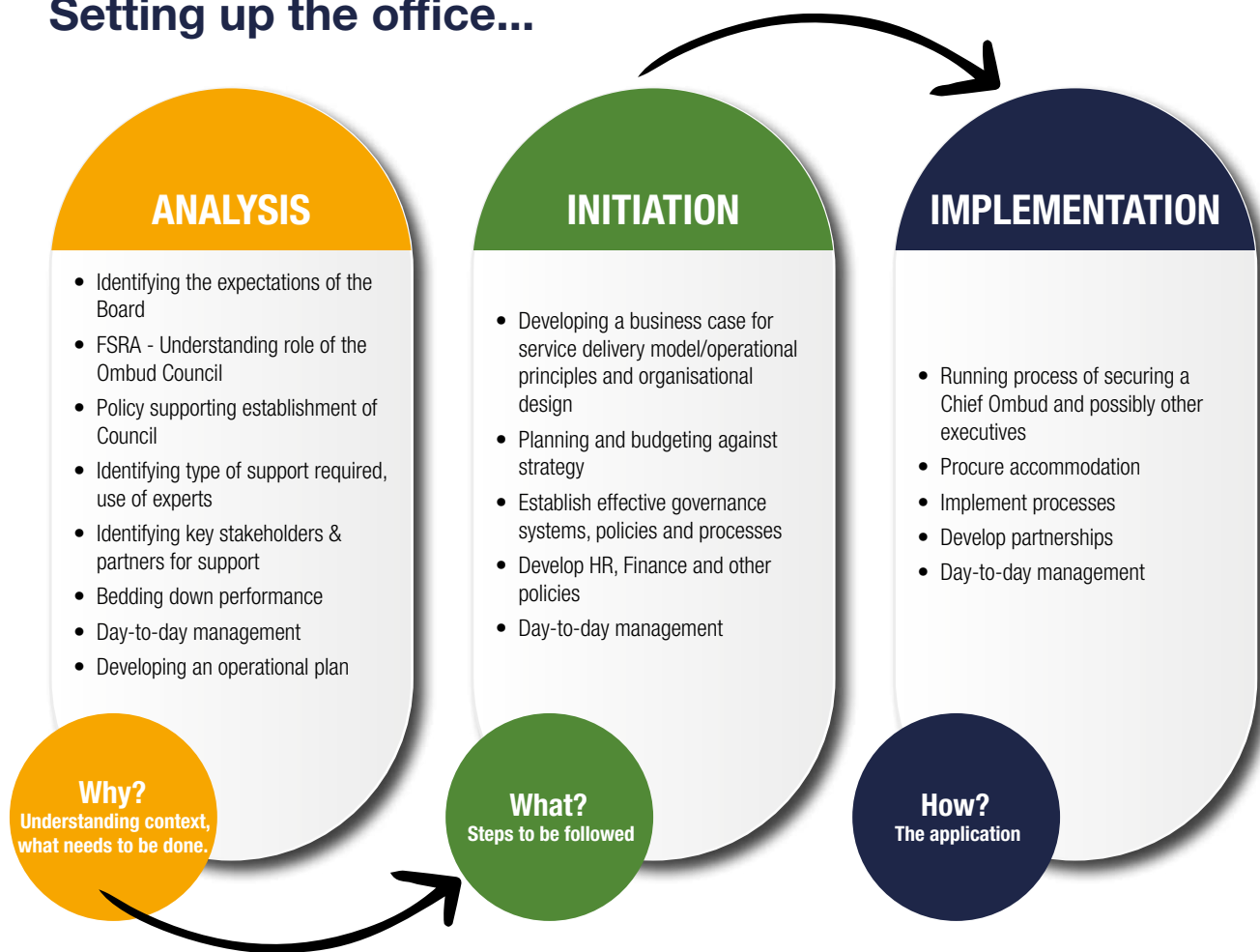


Figure 2: Situation in May 2021

The Chief Ombud undertook an analysis in May and June 2021 which identified the following challenges :

- Establishment not sequenced, no institutional framework.
- Legislation provided transitional provisions for some statutory functions, but no support for daily operations.
- No capability in place other than an interim Chief Ombud from May 2021. Shared services agreement entered into with FSCA for corporate services, including financial management – operational only since December 2021.
- National Treasury and FSCA legal support enabled compliance with key statutory deadlines.
- Six months lost between appointment of Board and appointment of Chief Ombud (required for Board to become quorate and perform statutory duties).
- Repeal of FSOS Act required urgent use of designation powers to avoid jurisdictional gaps in the ombud system.
- Funding risks identified for 2022/23 due to likely delayed enactment of Levies Bills. (Budget request submitted to National Treasury to mitigate this risk.)
- Listing as a public entity for PFMA purposes was dependent on an approved institutional framework. (A proposed framework was developed through a Business Implementation Plan and submitted for approval.)
- Relationship management with ombud schemes, the FSCA and National Treasury required improvement, to ensure key stakeholders were kept informed of Ombud Council and regulatory reform developments.

Status of Ombud Council

July 2021

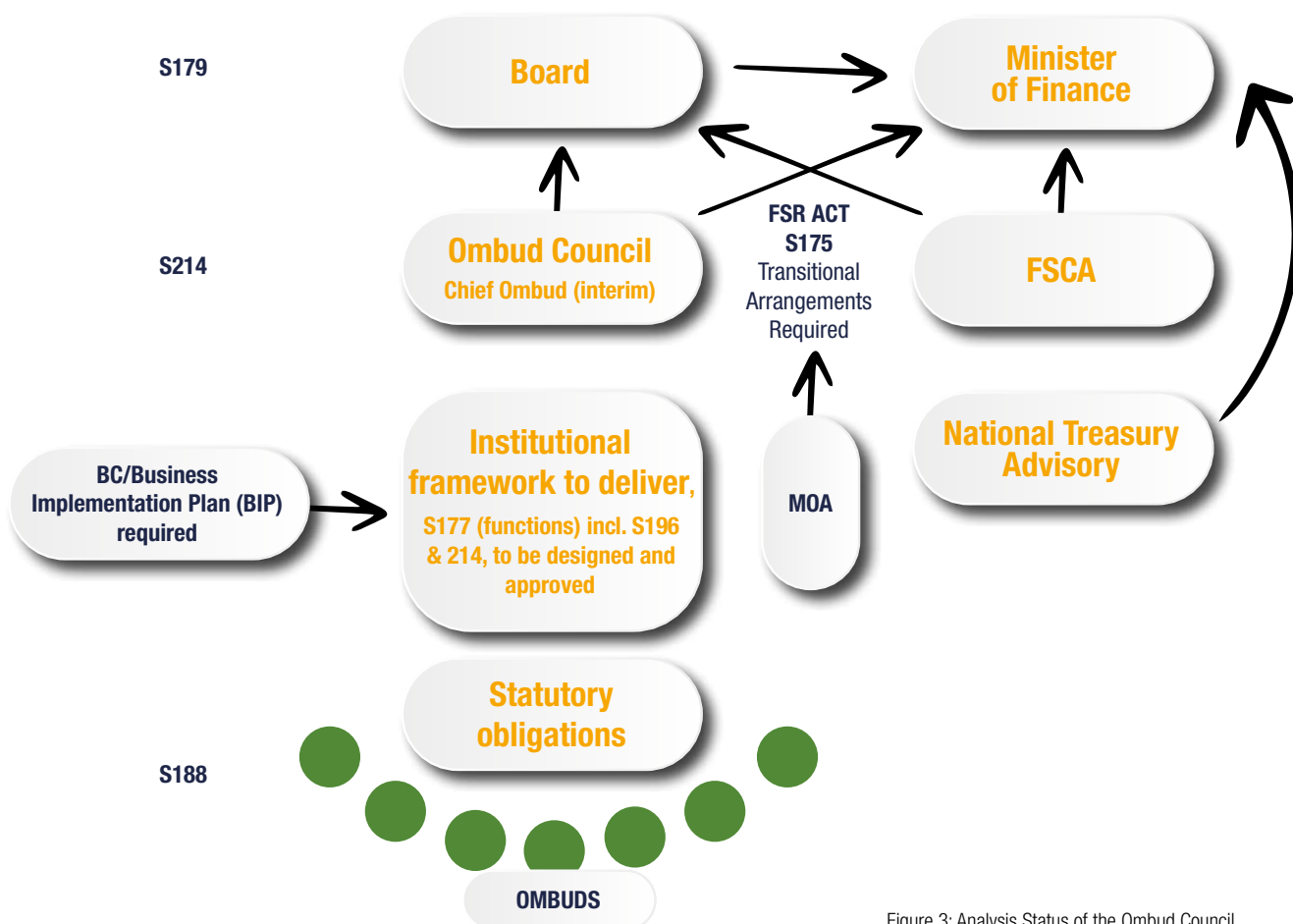


Figure 3: Analysis Status of the Ombud Council

2.3 Key policy developments and legislative changes

The regulatory framework, corporate form and legislative regime described below encompass the expected policy developments implied through the WB Diagnostic recommendations as well as legislative changes like the Levies Bills, the Conduct of Financial Institutions (COFI) Bill, and the consequential amendments to the FSR Act.

2.3.1 Founding Act

The FSR Act is the Ombud Council's founding statute. Chapter 14 of the FSR Act sets out the Ombud Council's objective, prescribes its functions and duties, and provides the Ombud Council with a comprehensive toolkit of subordinate law-making, supervisory and enforcement functions to deliver on its mandate. The effect of these provisions is to establish the Ombud Council as the "regulator" of all financial sector ombud schemes, currently comprising several schemes voluntarily set up by various financial industry sectors (industry ombud

schemes); and two schemes created by statute (statutory ombud schemes).

2.3.2 Statutory objective and core functions

The Ombud Council's objective, contained in s.176 of the FSR Act is to -

"...assist in ensuring that financial customers have access to, and are able to use, affordable, effective, independent and fair alternative dispute resolution processes for complaints about financial institutions in relation to financial products, financial services, and services provided by market infrastructures."

To achieve this objective, s.177 of the FSR Act stipulates, in summary, the following core functions of the Ombud Council:

- recognise industry ombud schemes;
- promote co-operation between and co-ordination of ombud activities;

- strive to protect the independence and impartiality of ombuds;
- promote public awareness of ombuds and ombud schemes and their services;
- facilitate access by financial customers to appropriate ombuds;
- publicise ombud schemes, including the kind of complaints different ombud schemes deal with;
- resolve overlaps of the jurisdiction of different ombud schemes;
- monitor the performance of ombud schemes, including their compliance with Chapter 14 of the FSR Act and other specific financial sector laws; and
- support financial inclusion.

These core functions are fleshed out through the more detailed provisions of Chapter 14 of the Act, prescribing specific functions and duties to be performed by the Ombud Council, its Board and the Chief Ombud. These operational provisions were unpacked in the Service Delivery Model presented in the BIP of February 2022. The Ombud Council must also perform other functions conferred on it by statute and may do anything else reasonably necessary to achieve its objective. The Council is also enjoined to perform its functions without fear, favour or prejudice.

2.3.3 Corporate form and legislative regime

The FSR Act establishes the Ombud Council as a juristic person that is a national public entity for purposes of the Public Finance Management Act, 1 of 1999 (PFMA), with the Chairperson of the Ombud Council Board as the accounting authority for PFMA purposes.⁵ This means that the Ombud Council is subject to the comprehensive governance, control, financial, performance management and reporting requirements of the PFMA.

The FSR Act confirms that the Promotion of Administrative Justice Act, 3 of 2000 (PAJA), applies to any administrative action taken by the Ombud Council in performing its statutory functions. PAJA sets requirements to ensure that administrative action is lawful, reasonable, and procedurally fair as contemplated in the South African Constitution.

Although the Ombud Council is established as a juristic person, with a Board of Directors as its governing body, supported by Board governance committees for remuneration and risk management (see section 187 (1)(a)

and (b), it is not a company for purposes of the Companies Act. Nevertheless, the Ombud Council Board determined that the Ombud Council would adhere to the corporate governance principles of the King IV Code of Corporate Governance.

Additional items of legislation impacting the Ombud Council's operations, and legislation that the Ombud Council needs to understand as it impacts the financial sector and ombud system more broadly, are listed in the FSR Act of 2017, Schedule 1, Financial Sector Laws [Section 1 (1)]⁶.

2.3.4 WB Diagnostic Study (Policy Developments)

The National Treasury commissioned and published a World Bank Diagnostic Study report titled "South Africa: Financial Ombud System Diagnostic" (June 2021). The report made far-reaching recommendations for reform and strengthening of the ombud system which, if implemented, would significantly impact the structure of the ombud system and the role and functions of the Ombud Council.

The WB Diagnostic was presented to the Ombud Council two months after its commencement of business. It soon became clear that the WB Diagnostic recommending the consolidation of financial sector ombud schemes will also impact on the powers and functions of the Ombud Council in exercising its regulatory and oversight role. Some of the changes are being addressed in draft legislation, the COFI Bill, and in the amendments to the FSR Act, being managed and led by the National Treasury.

With the support of the Regulation Expert, the Ombud Council undertook a mapping exercise (see high-level outcome in Figure 4 below) overlaying the FSR Act onto the recommendations from the WB Diagnostic to understand the impact on the Ombud Council as well as the overall ombud system. After engaging in a workshop in December 2021 on the expected impact of the recommendations, the Board decided to focus on the statutory obligations as expressed in the founding legislation of the Ombud Council and developed operating principles to inform the Strategic Plan 2022/23 – 2026/27 and the BIP submitted to the National Treasury in February 2022. Besides the reiteration of commitment to its mandate, *the principle of flexibility and scalability* was adopted to accommodate any policy changes which would emanate from the WB Diagnostic Study recommendations in the following years.

5 The Ombud Council has however been advised that it is not yet required to comply with PFMA prescripts as it is not yet listed as a public entity in the relevant PFMA Schedules. Such listing is dependent on the enactment of the Levies Bills and the coming into operation of Chapter 16 of the FSR Act.

6 Also see Annexure C

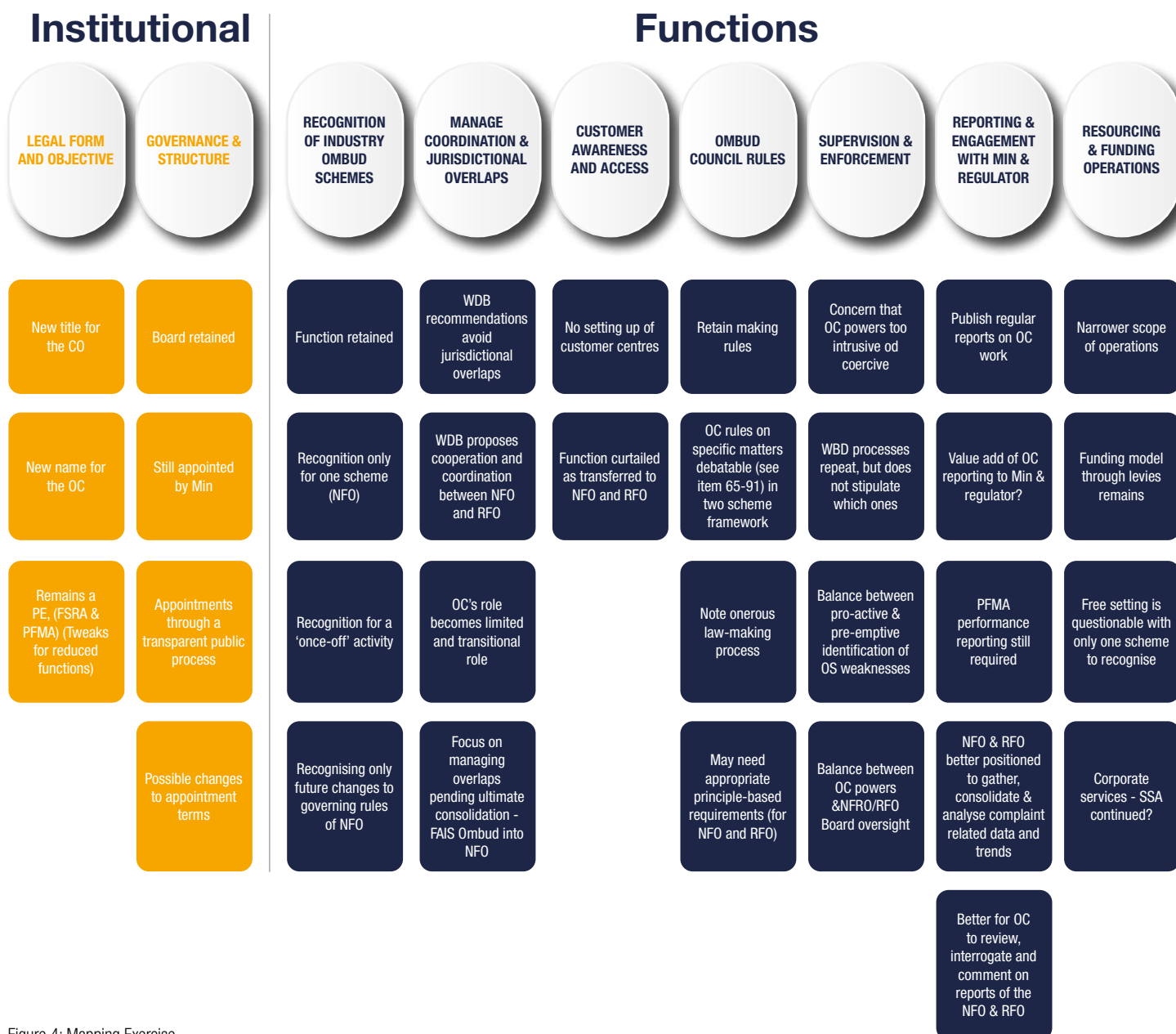


Figure 4: Mapping Exercise

2.3.5 Conduct of Financial Institutions (COFI) Bill

The COFI Bill proposes the repeal and consolidation of several existing financial sector laws into an overarching Act that will regulate the market conduct of all financial institutions, becoming the primary vehicle for the consumer protection peak in the Twin Peaks regulatory model. A draft version of the COFI Bill was published for comment in October 2020 and the National Treasury provided an updated draft to the Ombud Council for information in early December 2021. The Bill is expected to be formally tabled in Parliament in the course of 2022/23.

The COFI Bill introduces a new activity-based licensing framework for financial institutions, broadening the scope of financial products and services that will be subject

to oversight by the FSCA. Examples include extending oversight to services related to credit; payment service providers; debt collectors; and authorised users of market infrastructures. As a result, the ombud system will need to adapt to ensure coverage of complaints in respect of a wider range of financial products and services than that covered by the existing schemes. This has implications for the jurisdiction of current schemes and the Council's designation functions.

The COFI Bill is also expected to provide uniform definitions of 'complaint' and 'complainant', helping to resolve current inconsistencies across ombud schemes.

The COFI Bill includes several consequential amendments to Chapter 14 of the FSR Act, the Council's founding

legislation. These include moving the provisions establishing the two current statutory schemes, the Ombud for Financial Services Providers (FAIS Ombud) and the Pension Funds Adjudicator, from their current founding statutes⁷ to the FSR Act. Amendments to the jurisdiction and governance processes of the two schemes, aimed at greater alignment between them, are also proposed, impacting the Council's responsibilities.

2.4 Stakeholder Engagements

The Ombud Council has as its primary stakeholders the seven financial sector ombud schemes. Besides the statutory requirement to meet with the ombud schemes collectively, of which two meetings took place during the period under review, one on one engagements took precedence in order for the Ombud Council to understand the environment it had to operate in as well as the challenges the schemes faced in their particular industries. Furthermore, engagements based on the recognition applications not only served to clarify information submitted, but also facilitated the improvement of the relationship and understanding of the role of the Ombud Council in its regulatory and oversight function.

The outcome of the WB Diagnostic Study also facilitated engagement not only with the ombud schemes to deliberate on an improved alternative dispute resolution mechanism for financial customers, but also with the National Treasury as the driver of policy development and the FSCA as the other key regulator regarding the implications of the WB recommendations. Regular stakeholder engagements with the National Treasury and the FSCA enabled the Ombud Council to quickly understand the impact of the recommendations on the Ombud Council and enable the Ombud Council to position itself to respond appropriately.

The National Credit Regulator was also identified as a key stakeholder in relation to ensuring a shared understanding of the implications of the current FSR Act provisions on alternative dispute resolution structures in the credit sector. Engagements with additional regulatory and industry stakeholders will need to be established to ensure that the Ombud Council is able to support the effectiveness of the ombud system as the broader financial regulatory reforms evolve under the pending COFI Bill. These are expected to include stakeholders in the debt collection, payment systems, financial markets and crypto asset sectors.

Stakeholders



Figure 5: Stakeholder Mapping

7 Being the Financial Advisory and Intermediary Services (FAIS) Act, 37 of 2002 and the Pension Funds Act, 24 of 1956 respectively.

3. PROGRESS TOWARDS ACHIEVEMENT OF INSTITUTIONAL IMPACTS AND OUTCOMES

The Ombud Council was able to support the ongoing delivery of alternative dispute resolution services to the public by ensuring continuity in the ombud system. It averted jurisdictional gaps by designating the FAIS Ombud to deal with certain complaints not covered elsewhere and through the extension of recognition of the industry ombud schemes. The Ombud Council was also able to develop a new recognition framework in line with sections 194 to 196 of the FSR Act, which enabled the Ombud Council to commence with the applications for recognition of the industry ombud schemes. By the end of the financial year, all the schemes had submitted their applications and the Ombud Council was able to process them and publish the draft governing rules of industry ombud schemes for public comment on 11 March 2022. This recognition enabled the ombud schemes to amend their rules which had been outstanding for years and provided a sense of certainty that the ombud sector will be stabilised.

In parallel with the recognition process, the Council issued an Information Request to the industry schemes under

s.217(1)(b) of the FSR Act. Responses to the Information Request were received during March 2022. The purpose of the Information Request was to help the Council identify opportunities for future alignment of approaches and processes between recognised industry schemes, including through appropriate recognition conditions and / or future Ombud Council rules. Schemes were asked, inter alia, to provide information on the extent to which their existing annual reports are consistent with aspects of the WB Diagnostic scheme reporting proposals.

The recognition applications, follow-up engagements and the information request responses provided extensive details of the scope, governance, and operations of the schemes, which have been analysed. A report summarising the findings and observations from that analysis is expected in the next financial year which will provide possible responses for the Council's consideration. This information request has enabled the Ombud Council to collect the necessary data to set a foundation upon which it can exercise rulemaking where necessary, in a risk-based and proportional manner.



4. INSTITUTIONAL PROGRAMME PERFORMANCE INFORMATION

During the year of inception, the Ombud Council did not have a Programme Budget Structure nor a Strategic Plan and Annual Performance Plan and thus the first Annual Report is not yet fully aligned to the National Treasury Guidelines. The first year of operations was guided by the analysis undertaken during the first two months after commencement of business, i.e., in May 2021, and an initial operational plan covering activities required to set up a public entity. The strategy approved by the Board in September 2021 provided the foundation for the development of the BIP.

The Ombud Council can present the following institutional performance information as documented in its operational plan.

Table 1: Institutional performance information

| OUTCOME | OUTPUT | PLANNED ANNUAL TARGET 2021/22 | ACTUAL ACHIEVEMENT 2021/22 |
|--|---|--|--|
| Statutory obligations implemented | Confirmation of recognition. | Fulfilment of statutory obligations | The Council started operations with no institutional framework. In order to fulfil its statutory mandate, it followed the prescripts of the FSCA which had deadlines against which the Council had to perform. See below. All statutory deadlines met. |
| | Designation to cover gaps in complaints | Fulfilment of statutory obligations | Designation by 31 May 2021. |
| | Extension of recognition | Fulfilment of statutory obligations | Recognition Extension under the FSOS Act six months after operations begins/began. Further extension of six months can be granted. Recognition of industry ombud schemes under the FSR Act s.194 to be granted at the end of the six months extension. |
| | Complaints are managed during transition from FSOS Council to Ombud Council | Consult with the appropriate ombud scheme | Designation issued to the FAIS Ombud in June 2021. |
| | Meetings take place with the Ombuds (FSRA, 188(4)) | Meetings per quarter | Ombud Scheme meetings took place with several bi-lateral meetings enabling good working relationship. |
| | Reporting to the MoF acc to FSRA and PFMA | Quarterly reports submitted on Ombud Council progress, on issues arising in the sector (designation report) and on meetings with Ombud | Quarterly reports were submitted since the inception of the Ombud Council. |
| | Follow MTEF guidelines ito. Strategic Planning and APPs | Strategic Plan and Annual Performance Plan | Presented first strategic plan acc. to MTEF for 2022/23 over five years approved by the Board in January 2022. |
| Ombud Council operationalised | Chief Ombud in place | Operationalisation of the Ombud Council | Appointment of a Chief Ombud on a temporary basis to kick-start the organisation. Recruitment for a full-time permanent Chief Ombud underway. |
| | MoA for Corporate Services | Establishment of an operational platform | Institutional arrangements for shared corporate services in place through the MoA with the FSCA |

Table 1: Institutional performance information (continued)

| OUTCOME | OUTPUT | PLANNED ANNUAL TARGET 2021/22 | ACTUAL ACHIEVEMENT 2021/22 |
|------------------------|---|-----------------------------------|--|
| Good governance | Board Charter Terms of Reference for the two Committees of the Board. Annual Workplans for Board and Committee | Functioning governance structures | Board operational. Committees established to cover Audit & Risk Management as well as Remuneration & HR. Charter and ToRs drafted and approved and Annual Workplans developed for the next financial year. |
| | Key policies like Code of Conduct & Ethics, Enterprise Risk Management Policy, Strategic Risk Register, Recruitment & Selection Policy, Disciplinary Policy | Appropriate policies developed | All necessary policies in place and approved by the Board to cover the immediate needs of the Council. A Risk Management Workshop was held to assess the risk appetite of the Board which completed the development of the Strategic Risk Register for the Ombud Council. |
| | Agreement of FSCA as 'Holding Entity' with MoU in place | MoA in place | MoA with the FSCA in place enabling corporate services support until organisational structure as part of the BIP is approved by the National Treasury. |

Reporting on the Institutional Response to the COVID-19 Pandemic

The Ombud Council was set up during the COVID-19 pandemic in May 2021. It was agreed that all staff, contracted or seconded, would work remotely, until the restrictions were dropped. This enabled the Ombud Council to reflect on its approach to securing physical space and how to operate in a remote and later in a hybrid setting. All Board and Board Committee meetings as well as the Operating Principles and Risk Management Workshops in December 2021 and February 2022 respectively took place remotely thus ensuring the safety of all Board members and staff of the Ombud Council.

Linking performance with budgets

| ACTIVITY | 2020/2021 | | |
|--|---------------|--------------------------|-----------------------------|
| | BUDGET R'000 | ACTUAL EXPENDITURE R'000 | OVER/UNDER COLLECTION R'000 |
| Staff Expenses (Chief Ombud and secondments) | 4,400 | 2,095 | 2,305 |
| General Expenses (Board claims) | 5,600 | 352 | 5,248 |
| Total | 10,000 | 2,447 | 7,552 |

5. REVENUE COLLECTION

As approved by the Minister, the establishment of the Ombud Council was funded through ring-fenced funding of R10 million from fines and penalties collected by the FSCA. Future funding for the Ombud Council will be through fees and levies for its operations as enabled through Chapter 16 of the FSR Act. The implementation of Chapter 16 is dependent on the coming into operation of the Levies Bills.

By the end of the financial year 2021/22, the Levies Bills were not yet enacted. The Ombud Council submitted a request to the National Treasury for funding either through a budget transfer or further ring-fenced funding.

Part C

Governance



1. INTRODUCTION

The Board of the Ombud Council applies corporate governance through the Council's enabling legislation, the Companies Act as well as the PFMA (noting that the Council is not yet listed in the schedules of the PFMA) and follows the principles contained in the King IV Report on Corporate Governance.

2. PORTFOLIO COMMITTEES

As the year under review is the inception year, there were no engagements with parliament.

The Standing Committee on Public Accounts (SCOPA) which would review the annual financial statements and the audit reports of the external auditor will be able to do so through the audit reports of the external auditor of the FSCA which is providing the Ombud Council with financial management and administration through its shared services agreement.

The Standing Committee on Finance will also be able to exercise oversight over the service delivery performance of the Council as a public entity as it will have this, the first, inception Annual Report for 2021/22 with the first MTEF Strategic Plan and Annual Performance Plan for 2022/23 to review going forward.

3. EXECUTIVE AUTHORITY

The Minister of Finance has the power to appoint and dismiss the Board of the Ombud Council as contemplated in section 180(1) of the FSR Act. The Ombud Council Board consists of an executive in the form of a Chief Ombud appointed by the Minister of Finance and non-executive directors appointed by the Minister of Finance with the necessary skills to guide the Ombud Council.

The Ombud Council has an obligation under the PFMA and the Treasury Regulations (although technically not enforceable yet) to submit a quarterly report after each quarter of the financial year to the Minister of Finance. The quarterly reports for the financial year under review were provided with the last quarterly report submitted on the 29th of April 2022, and reported on the following amongst others:

- the management of the establishment of the Ombud Council,
- the transition introduced by the implementation of the FSR Act No. 9 of 2017 in terms of repeal of the FSOS

Act which led to a renewed designation,

- the extension of recognition of industry ombud schemes,
- implementing section 194 and 196 of the FSR Act in terms of recognition of the ombud schemes,
- the impact of the WB Diagnostic recommendations and the mapping exercise undertaken against the FSR Act, and
- submission of the BIP to the Minister of Finance.

Section 217(4) of the FSR Act provides that the Ombud Council must provide information to the Minister and the National Treasury on request, or as prescribed in Regulations made for that section. No such requests were received during the year under review and no such Regulations have been prescribed.

4. ACCOUNTING AUTHORITY

The Ombud Council is established in terms of section 175 of the FSR Act, and it is a juristic person. The Ombud Council is also a national public entity as defined in terms of the PFMA, and notwithstanding section 49 (2) of that Act, the Chairperson of the Ombud Council is the accounting authority of the Ombud Council for the purposes of this Act.

As recommended by the King IV Code, the Board has a charter ("the Board Charter") setting out its role and responsibilities as well as the requirements for its membership, its meetings, and other procedures.

The Board acts as the focal point and custodian of corporate governance in the Ombud Council by steering the organisation and setting its strategic direction; granting approvals to give effect to that direction; overseeing and monitoring the implementation and execution of the strategy by management; and ensuring accountability for the organisation's performance through reporting and disclosure.

Determination of policy processes

Given the size of the organisation and the fact that it is in its infancy, the Board agreed to enter into a transitional agreement with the FSCA to provide corporate services support to the Ombud Council. However, where necessary it started developing policies to cover the immediate needs, viz.,

- a. Code of Conduct and Ethics Policy for Board and 'staff' members.

- b. Disciplinary Procedure Policy.
- c. Enterprise Risk Management Policy framing the development of the Strategic Risk Register.
- d. Human Resource Framework Policy identifying the key HR policies for the Council to focus on.
- e. Recruitment and Selection Policy to support the process to secure a permanent, full-time Chief Ombud.

During the period under review the Board achieved the following in accordance with the Board Charter:

- Establishment of an Audit and Risk Committee and a Remuneration and Human Resources Committee, as per section 187(1)(a) and (b).
- The Board members attended all Board meetings as scheduled and there was a quorum in all the Board and Committee meetings convened.
- The Board performed its duties and responsibility in terms of overseeing the management and administration of the Ombud Council in order to ensure that it is efficient and effective.
- Through the quarterly reports approved by the Board the Minister of Finance was informed of compliance of the ombud schemes with the financial sector laws, trends in the nature of complaints and issues raised in complaints that ombud schemes are dealing with.

Composition of the Board

The Board consists of the Chief Ombud, the Commissioner of the FSCA and six Non-Executive Directors. The Commissioner does not have a vote on a question being considered by the Board (as per s.179(3) of the FSR Act).

The members of the Board were appointed by the Minister of Finance on 30 November 2021. The Minister appointed a member as Chairperson and another member as Deputy Chairperson. The Deputy Chairperson acts as Chairperson when the Chairperson is absent from office or is otherwise unable to perform her functions.

Regarding the attendance of Board Meetings, seven (7) Board meetings were convened during the period under review. Five meetings were ordinary board meetings and two were special meetings. All Board meetings took place on a virtual platform due to the COVID-19 pandemic.

The Chairperson of the Board resigned on 14 January 2022 but was requested by the National Treasury to continue until a new Chair could be appointed.

An overview of Directors and their attendance of Board and Committee Meetings follows:

Table 2: Composition of the Board

| NAME | DESIGNATION | DATE APPOINTED | DATE RESIGNED | QUALIFICATIONS | AREA OF EXPERTISE | BOARD DIRECTORSHIPS | OTHER COMMITTEES OR TASK TEAMS | NO OF MEETINGS ATTENDED |
|---------------------------------|---|----------------|-----------------------|--|--|---------------------|--------------------------------|-------------------------|
| Ms Deanne Wood | Board Chairperson | 30/11/21 | 01/12/21 ⁸ | LLB Law, Post Graduate Certificate in Pension Law | Legal expert and financial sector industry | None | None | 7 |
| Adv. Diki Chabedi | Dep. Chairperson | 30/11/21 | N/A | Bachelor of Laws degree (Blurs) and a Bachelor of Laws (LLB and postgraduate) degree | Legal expert | None | Audit and Risk Committee | 8 |
| Ms Silindile Kubheka | Board member/ Audit and Risk Chairperson | 30/11/21 | N/A | CA(SA) Bachelor of Commence (BCom) Honours degree in Accounting | Financial, risk, accounting | None | Audit and Risk Committee | 11 |
| Ms Charmaine Soobramoney | Board member/ Audit and Risk Committee member | 30/11/21 | N/A | Master's degree in Financial Management, a Higher Diploma in Company Law, and a Baccalaureus Procuratoris (BProc) in Law | Legal expert | a | Audit and Risk Committee | 10 |

8 The Chairperson was requested by the National Treasury on behalf of the Minister to continue her service for another six months after expiry of the notice period.

Table 2: Composition of the Board (continued)

| NAME | DESIGNATION | DATE APPOINTED | DATE RESIGNED | QUALIFICATIONS | AREA OF EXPERTISE | BOARD DIRECTORSHIPS | OTHER COMMITTEES OR TASK TEAMS | NO OF MEETINGS ATTENDED |
|---------------------------|--|----------------|---------------|---|---|---------------------|--|-------------------------|
| Mr Emmanuel Lekgau | Board member/ Remuneration and HR Chairperson | 30/11/21 | N/A | Post Graduate Diploma in Compliance, LLB degree, Master of Laws (LLM) degree in Corporate Law, LLM degree in Labour and Social Security | Human resources, remuneration, recruitment and selection, social and ethics and code of conduct | a | Remuneration and HR Committee | 9 |
| Mr Adam Horowitz | Board member/ Remuneration and HR member | 30/11/21 | N/A | | Financial | None | Remuneration and HR Committee | 11 |
| Ms Eileen Meyer | Board member/ Executive director | 01/05/21 | N/A | Master of Arts in Sociology, Psychology & Political Science | Institutional development. Programme Management & Executive Coaching | None | Audit and Risk Committee & Remuneration and HR Committee | 15 |
| Mr Unathi Kamlana | Board member/ FSCA Commissioner | 01/06/21 | N/A | BCom Economics and Information Systems, Higher Diploma in Tax, MCom Tax Laws, Masters in Economic Policy | | | | 4 |

Board Governance Committees

According to the FSR Act section 187 (1)(a) and (b) the Board must establish a committee to review, monitor and advise on the remuneration policy and the risks faced by the Ombud Council respectively. Since the Council was in its establishment phase and with the small number of Board members, it was decided to combine the audit oversight with risk management and Human Resources with remuneration. The following committees were thus established.

- Audit and Risk Management Committee, and
- Remuneration and Human Resources Committee.

The following is the list of the members for each of these committees, their roles in these committees and the number of meetings held during the year.

Table 3: Board Governance Committees

| COMMITTEE | NO. OF MEETINGS HELD | NO. OF MEMBERS | NAMES OF MEMBERS | NO. OF MEETINGS ATTENDED |
|--|-------------------------------|----------------|------------------------------------|--------------------------|
| Audit & Risk Committee | 4 including 1 special meeting | 3 | Ms Silindile Kubheka (Chairperson) | 4 |
| | | | Ms Charmaine Soobramoney | 4 |
| | | | Adv. Dikeledi Chabedi | 4 |
| Remuneration & HR Committee | 4 including 1 special meeting | 2 | Mr Emmanuel Lekgau (Chairperson) | 4 |
| | | | Mr Adam Horowitz | 4 |

Members of the Board



Ms Deanne Wood
Board Chairperson



Adv. Diki Chabedi
Deputy Board Chairperson



Ms Silindile Kubheka
Board member



Ms Charmaine Soobramoney
Board member



Mr Emmanuel Lekgau
Board member



Mr Adam Horowitz
Board member



Ms Eileen Meyer
Board member/ Executive director



Mr Unathi Kamlana
Board member/ FSCA Commissioner

Remuneration of Board members

The remuneration of Board members is determined according to the National Treasury circular of 2019⁹. The Ombud Council falls into Category S. The rates are as follows:

- Board member: R540.00 per hour with a maximum rate of R4,317.00 per day,
- Vice-Chairperson: R589.00 per hour with a maximum rate of R4,709.00 per day, and
- Chairperson: R694.00 per hour with a maximum rate of R5,549.00 per day.

The indicated rates are sitting fees and exclusive of payments for preparation, research and travelling time to and from meeting venues. The meeting preparation time is based on an hourly rate and more than five hours preparation time requires a motivation from the Board member. During the period under review there were no travel reimbursements for the members as all meetings were held virtually since the appointment of the Board in November 2020 and the operationalisation of the Ombud Council in May 2021.

The Council has one Board member, Ms Silindile Kubheka, who, as an employee of a public entity, is not remunerated for serving on the Board nor on the Audit and Risk Management Committee of the Council. This is in line with section 195(1) of the Constitution of 1996 which provides guidance on promoting and maintaining a high standard of professional ethics read together with section 30 of the Public Service Act No. 103 of 1994 which provides guidance on management of other remunerative work performed by a public servant.

The amount of remuneration paid to each Board member for the attendance of meetings is listed below. These payments include the special meetings and workshops held during the period under review.

5. RISK MANAGEMENT

Risk management policy and strategy

An Enterprise Risk Management Policy with an Enterprise Risk Management Framework was developed to guide the Ombud Council in establishing risk management capability. A Strategic Risk Register was developed allocating risks against the five (5) strategic objectives mentioned under point 7 in part A of this report. The Strategic Risk Register was finalised under the guidance of the Chief Risk Officer of the FSCA in terms of the MoA for the provision of corporate services to the Ombud Council. A Risk Management Workshop was held on 21 February 2022 to confirm the strategic risks against the strategic objectives and ascertain the organisation's risk appetite.

Risk assessments

Risks were assessed and reported to the Board as part of the progress reports tabled at Board meetings. The Strategic Risk Register was also used to guide the Board and the Committee on overseeing the risks in relation to the strategic objectives and the setting up of the Ombud Council operationally while addressing its statutory functions. Key risks identified were: achieving the recognition of the ombud schemes which was required by statute to be conducted

Table 4: Remuneration of Board members

| NAME | REMUNERATION R | OTHER ALLOWANCES | OTHER REIMBURSEMENTS | TOTAL R |
|--------------------------|----------------|------------------|----------------------|-----------|
| Ms Deanne Wood | 67,650.00 | Nil | Nil | 67,650.00 |
| Adv. Dikeledi Chabedi | 62,990.00 | Nil | Nil | 62,990.00 |
| Ms Charmaine Soobramoney | 59,907.00 | Nil | Nil | 59,907.00 |
| Ms Silindile Kubheka | N/A | Nil | Nil | Nil |
| Mr Emmanuel Lekgau | 55,050.00 | Nil | Nil | 55,050.00 |
| Mr Adam Horowitz | 67,974.00 | Nil | Nil | 67,974.00 |
| Mr Unathi Kamlana | N/A | Nil | Nil | Nil |
| Ms Eileen Meyer | N/A | Nil | Nil | Nil |

9 National Treasury Circular 2019: Remuneration Levels: Service Benefit Packages for Office Bearers of Certain Statutory and Other Institutions, Annexure A, Category S.

within a specific timeframe; the delayed appointment of a full-time permanent Chief Ombud to ensure certainty in the ombud environment and managing the change expected from the pending regulatory reforms. A regulation expert was procured to assist with the former and the Interim Chief Ombud's contract was extended by a further six months to ensure management of the recruitment process for the appointment of the permanent Chief Ombud.

The Council has seen progress in the management of its risks. The Strategic Risk Register helped in ensuring that identified risks were assessed and mitigated accordingly. The necessary documentation was drafted and implemented to support the Audit and Risk Management Committee and Board to oversee the management of the key risks faced by the Ombud Council during its inception year.

The Audit and Risk Management Committee advised the Council on risk management and independently monitored the effectiveness of the system of risk management through robust engagements and interrogation of management as well as undertaking its own research where necessary.

6. INTERNAL CONTROL, AUDIT AND AUDIT COMMITTEES

The internal control function is fulfilled by the FSCA through the MoA the Ombud Council entered into with the FSCA, to provide all corporate services functions as far as possible for a set period of time as discussed earlier in the report.

This internal audit function is also exercised by the FSCA under the MoA between the two parties. The Chief Audit Executive and Risk Officer of the FSCA attends Audit and Risk Management Committee meetings to ensure that the Committee is provided with all necessary information and guides management on what may be required. The Ombud Council was integrated into the external audit of the FSCA for the year under review, which enabled the Council to present a draft Audited Financial Statement which was reviewed by the Audit and Risk Management Committee and approved by the Board. All audit related matters were dealt with in the Annual Report of the FSCA.

Key activities and objectives of the audit committee

Section 187(5)(a) of the FSR Act read together with Chapter 6 of the PFMA requires the Board of the Ombud Council to establish a Committee to review, monitor and advise the Board on the financial reporting, budget, audit and risk matters

Quarterly financial reports were presented and interrogated. The uncertainty on the budget for the Ombud Council was one of the biggest challenges that had to be managed because, by the end of the period under review, the Levies Bills were not yet enacted to operationalise Chapter 16 of the FSR Act, which enables the funding of the Ombud Council through fees and levies for its operations. Regular engagements with the National Treasury were undertaken to ensure that there was awareness of the funding risk and to find alternative funding methods until the Levies Bills are promulgated.

In addition, the organisation could not yet be listed in the Schedules to the PFMA as, on the one hand the funding mechanism as foreseen through legislation was not yet implemented and, on the other, the BIP which included the organisational structure and staff establishment was not yet approved as it too was dependent on the passing of the Levies Bills required to fund the structure.

7. COMPLIANCE WITH LAWS AND REGULATIONS

The Ombud Council has as far as it was able to in its 11 months of operations complied with all the applicable provisions of its founding legislation, the FSR Act, with the exception of provisions like Chapter 16 which will only be operationalised through the enactment of the Levies Bills.

All tax, levy, duty, pension and audit commitments as required by legislation, to the extent applicable to the Ombud Council, are performed by the FSCA in terms of the MoA signed by both parties. There was no act that could trigger section 51(e) of the PFMA during the period under review.

8. MINIMISING CONFLICT OF INTEREST

All the Board members are requested to submit their declaration of interest in every first quarter of the year. During the period under review all members submitted their annual declaration of interest as required by section 193 of the FSR Act and section 50(3)(a) of the PFMA. Further to that, members declared their interest, if any, in relation to specific agenda items to be considered during meetings. The Supply Chain Management processes are managed by the FSCA as part of the shared services agreement. As the Ombud Council participates in the Bid Evaluations a declaration of interest is placed on record at the beginning of the process.

9. CODE OF CONDUCT

During the period under review the Board approved the Code of Conduct and Ethics for Board members and staff. The aim of the code is to promote professional and ethical behaviour across the board in the Council. The Ombud Council has a Disciplinary Procedure Policy in place in order to manage any misdemeanors. Furthermore, section 183 of the FSR Act addresses conditions under which the Minister of Finance can remove a Board member. Section 71 of the Companies Act also has provisions for the removal of Board members which act as a guide in the event of a violation of the Code of Conduct by a Board member.

10. HEALTH, SAFETY AND ENVIRONMENTAL ISSUES

Although the Ombud Council is not materially directly impacted by environmental issues, they have indirect impacts - in particular in relation to the insurance sector. Examples of environmental factors that lead to spikes in insurance claims and thus complaint volumes include: climate change related extreme weather events; energy supply challenges, such as Eskom load shedding leading to equipment damage and business interruption claims; and health events, with the COVID pandemic massively increasing death and health insurance claims in the life insurance sector, and business interruption claims in the non-life sector.

During the period under review, the Council did not have an office to operate from. The staff were allocated a desk within the FSCA's premises and abided by the policies developed by the FSCA. The COVID-19 instructions were clear and communicated constantly to all staff.

11. COMPANY SECRETARY

The Ombud Council Board is supported by a Board Secretariat seconded from the FSCA and covered by the MoA between the two parties. The function of the Board Secretariat is to provide professional secretariat services and administrative support to the Board of the Ombud Council and its Committees working closely with the Chairperson of the Board, the Chairpersons of the Committees and the Chief Ombud to ensure good governance and oversight of the Ombud Council through efficient and effective governance processes. The Board Secretariat ensures that Board and Committee meetings are set for the year, agendas and minutes of meetings are drafted and presented to the Chairpersons of the Board and the Committees, that declarations of interest are confirmed at every meeting and the annual forms are submitted and filed accordingly and that quarterly progress reports are presented to the Board and submitted to the Minister of Finance.



12. SOCIAL RESPONSIBILITY

Economic and Social environment

The COVID-19 pandemic continues to impact economies negatively and places pressure on businesses and consumers. SA's economic growth has stagnated, and economic forecasts indicate a long way to recovery. The level of unemployment, poverty, and inequality are unacceptably high. These factors exacerbate already low levels of financial inclusion, while many South Africans (particularly individuals and small businesses) who do participate in the formal financial sector by utilising the products and services of licensed financial institutions, are over-indebted and struggling to make ends meet. This puts them at risk of not fully realising the benefits of the financial products and services they pay for.

The economic situation thus has negative social consequences, which particularly impact lower income and less sophisticated financial customers. This highlights the imperative for ombud schemes to have processes in place that are accessible, suitable, and empathetic for vulnerable complainants. Customer outreach and consumer education initiatives by ombud schemes and the FSCA, and the Ombud Council's participation in and facilitation of these, is also important in this context.

Conversely, many consumers are becoming increasingly aware and assertive of their rights to fair treatment by financial institutions, supported by active media scrutiny. Social media platforms have become a powerful tool for consumers to voice dissatisfaction with the conduct of financial institutions, with examples of specific complaints going 'viral' and exposing systemic conduct risks in the sector. In such cases, well-functioning ombud schemes allow for proper investigation of these cases, for the identification and resolution of actual legitimate complaints, and for impartial assessment of their underlying causes. Conversely, ineffective handling of such cases poses reputational risks for the ombud system and the Council.

South Africa's high levels of crime and social unrest also play out in the financial sector, impacting the ombud system. Both financial customers and financial institutions are victims of fraud, with a high proportion of complaints to the Ombud for Banking Services, for example, being fraud related and with insurance industry bodies reporting ever increasing numbers of fraudulent claims. This requires careful application of equity principles by ombud schemes, to impartially balance the need for financial institutions to protect their customers while also limiting their own exposure to criminal activity. Incidents of social unrest, with the riots and looting that took place in KZN and Gauteng in July 2021 being an extreme example, also trigger spikes in insurance claim volumes - particularly relating to property damage - and resulting claim dispute volumes.



13. AUDIT COMMITTEE REPORT

The Audit and Risk Committee under the leadership of Ms Silindile Kubheka satisfied its responsibilities with the support of the Chief Audit Executive and Risk Officer of the FSCA under the MoA between the two parties. The FSCA provided the expertise regarding governance and risk management. In addition, the FSCA fulfilled the internal audit function which also covered the activities of the Ombud Council. The Council will procure its own services at a later stage which would include investigation services. See Annexure C, the Report of the Chairperson of the Audit & Risk Management Committee.

The income/revenue of the Council for the financial year 2021/22 was R 10 million received as ring-fenced funding from penalties and fines collected by the FSCA and allocated with approval of the Minister of Finance for the establishment of the Ombud Council. The expenditure accrued was R2.4 million leaving the Council with a surplus of R 7.5 million. The expenditure of the Council for 2021/22 covered Board remuneration, payment of the Interim Chief Ombud and a one-month secondment salary for the Senior Manager: Operations. The Quarterly Reports to the Minister of Finance which included the financial information were submitted to the Audit and Risk Management Committee. The financial management support rendered by the FSCA under the shared services agreement (MoA) started formally in December 2021.

The draft Annual Financial Statement for 2021/22 for the Ombud Council was the outcome of the external audit undertaken by the Auditor-General of the FSCA, reviewed by the Audit and Risk Management Committee and recommended to and approved by the Board by 17 June 2022. The Council operated with the support of the Chief Audit Executive and Risk Officer of the FSCA.

It is expected that once the Ombud Council is listed under the Schedules of PFMA, an external independent Audit by the AG will take place. The Council has included the draft AFS for completeness of the Annual Report.

Compliance with legal and regulatory provisions

PFMA

- The listing of the Ombud Council as a public entity in the applicable Schedules to the PFMA was also not resolved in the financial year 2021/22. The prerequisite for listing is twofold: approval by the Minister of the Business Implementation Plan (BIP), approved by the Board in January 2022 which included the organisational structure, staff establishment and budget based on expected levies collected by the FSCA and allocated for the Ombud Council; and the enactment of the Levies Bill which operationalises Chapter 16 of the FSR Act which forms the basis for the funding of the Council through levies. The Council attempted to follow best practice as far as possible.

FSR Act

- The Ombud Council fulfilled its statutory obligations. During the period under review, it extended the recognition of industry ombud schemes, issued a designation to the FAIS Ombud in response to section 211 (1) of the FSR Act and the repeal of the FSOS Act on 31 May 2021, and held regular meetings with all financial sector statutory and industry ombud schemes.

14. B-BBEE COMPLIANCE PERFORMANCE INFORMATION

The Council follows the SCM policies of the FSCA under the MoA for shared corporate services. It has done minimal procurement.

Part D

Human Resources Management



1. INTRODUCTION

As this was the inception year of the Ombud Council, it commenced its operations with the appointment of a Chief Ombud, on an interim part-time basis, by the Minister of Finance in accordance with section 188 of the FSR Act. According to the section 188(1)(a) of the FSR Act a performance agreement was agreed upon for the interim Chief Ombud.

As no institutional framework had been developed, a BIP was drafted to develop a Service Delivery Model (SDM), design an organisational structure, and develop a staff establishment which could deliver on the SDM.

The top priority was to recruit a permanent full-time Chief Ombud while developing the BIP and addressing the immediate statutory obligations according to the FSR Act. The recruitment process for the Chief Ombud was initiated in August 2021. After sorting out process issues, it was expected that the position would be advertised during the first quarter of the 2022/23 financial year. The BIP was submitted to the National Treasury in February 2022 for approval. In the meantime, the Ombud Council under the MoA with the FSCA, acquired Board Secretariat services on a part-time basis and in December 2021 was able to reach an agreement with the National Treasury on a secondment to support the operations of the Ombud Council. With seconded staff on board, the Ombud Council prioritised policies such as the Code of Conduct and Ethics

policy, a disciplinary procedure policy and, by the end of the financial year, a performance management policy was in development.

Until the Levies Bills come into operation, which will release funds to support the appointment of staff onto the staff establishment, the Ombud Council is making use of seconded staff and service providers to enable it to deliver its services.

The Ombud Council intends appointing senior staff to manage its regulation and oversight function and its operations, in accordance with the staff establishment proposed in the BIP. In addition, it will seek to appoint executive administrative support and financial management capability. The latter is currently being covered by the FSCA.

2. HUMAN RESOURCES OVERSIGHT STATISTICS

As a Programme Budget Structure has not yet been developed, personnel expenditure is presented according to the Budget and financial reports.

As reported earlier, a Chief Ombud was appointed on a temporary basis from 1 May 2021 for 12 months and one secondment from the National Treasury was appointed for 12 months, starting on 1 March 2022, of which one month fell within the 2021/22 financial year.

Management team



Ms Eileen Meyer
Interim Chief Ombud



Mr Siphwe Dube
Head of Operations



Mr Khangweni Chauke
Board Secretariat

Table 5: Personnel related expenditure

| PROGRAMME/ACTIVITY/OBJECTIVE | TOTAL EXPENDITURE FOR THE ENTITY (R'000) | PERSONNEL EXPENDITURE (R'000) | NO OF EMPLOYEES |
|--|--|-------------------------------|-----------------|
| Top management: Chief Ombud (Interim) | R 1,997 | R 1,997 | 1 |
| Senior management: Operations (secondment) | R 97 | R 97 | 1 |
| Total | R 2,094 | R 2,094 | 2 |

All HR areas such as Performance Rewards, Training Costs, Employment and Vacancies, Employment Changes, Reasons for Staff leaving and Labour Relations: Misconduct and disciplinary action were not affected during the inception year of the Council.

Equity Target and Employment Equity Status

The employment equity status of the Ombud Council is one coloured female executive manager and two seconded, African males (one is an in-kind contribution from the FSCA, i.e., the Board Secretariat as a professional and one senior manager from the National Treasury). The organisation does not have any disabled staff.



Part E

Financial Information



1. REPORT OF THE EXTERNAL AUDITOR

The Audit of the Ombud Council was included in the Audit of the FSCA as the hosting entity of the Ombud Council for corporate services, which included Financial Management.

The Annual Financial Statements which follow are thus a draft, as the AG could not undertake an independent financial audit as the Council is not yet listed under the schedules of the PFMA.

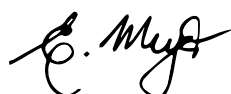
2. REPORT BY THE ACCOUNTING AUTHORITY

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

The Accounting Authority acknowledges its responsibility for the preparation and integrity of the financial statements and related information included in the annual report. In order for the Accounting Authority to discharge these responsibilities, as well as those bestowed on it in terms of the Public Finance Management Act 1 of 1999 (PFMA) and other applicable legislation, it has been able to have the assurance through the MoA with the FSCA that a system of internal control is in place. Internal controls included a risk-based system of internal accounting and administrative controls designed to provide reasonable, but not absolute assurance that assets are safeguarded and that transactions are executed and recorded in accordance with GRAP, as well as policies and procedures established by the FSCA as the hosting entity with independent oversight by the Audit and Risk Management Committee of the Ombud Council.

This is the first year of reporting on the Ombud Council operations. The Ombud Council will be well placed to manage future funding requirements pertaining to its activities once the Levies Bills have been passed into law and will have sufficient resources to continue its business for the foreseeable future. The Accounting Authority therefore concludes using the going concern basis is appropriate in preparing its financial statements as there are no material uncertainties related to events or conditions that may cast significant doubt about the Ombud Council's ability to continue as a going concern.

The financial statements for the year ended 31 March 2022, as set out on pages 3 to 13, were approved by the Accounting Authority on 17 June 2022 and were signed on its behalf by:



Eileen Meyer
Chief Ombud (Interim)

3. STATEMENT OF FINANCIAL POSITION

as at 31 March 2022

| | NOTES | 2022 R | 2021 R |
|---|-------|------------------|-----------|
| Assets | | | |
| Current Assets | | | |
| Statutory receivables from non-exchange transaction | | 8,029,972 | - |
| Total Assets | | 8,029,972 | - |
| Liabilities | | | |
| Current Liabilities | | | |
| Payables from exchange transactions | | 477,949 | - |
| Total Liabilities | | 477,949 | - |
| Net Assets | | 7,552,023 | - |
| Accumulated Reserves | | | |
| Accumulated surplus | | 7,552,023 | - |
| Total Net Assets | | 7,552,023 | - |

4. STATEMENT OF FINANCIAL PERFORMANCE

for the year ended 31 March 2022

| | NOTES | 2022 R | 2021 R |
|-----------------------------------|-------|--------------------|-----------|
| Revenue | | | |
| Transfer | | 10,000,000 | - |
| Expenses | | | |
| Board and Committee Fees | | (313,245) | - |
| Executive remuneration | | (1,997,853) | - |
| Other Operating expenses | | (38,885) | - |
| Salaries and other staff expenses | | (97,994) | - |
| | | (2,447,977) | - |
| Surplus for the year | | 7,552,023 | - |

5. STATEMENT OF CHANGES IN NET ASSETS

for the year ended 31 March 2022

| | Accumulated Surplus R | Total net assets R |
|---------------------------------|-----------------------------|--------------------------|
| Balance at 01 April 2021 | | |
| <i>Changes in net assets</i> | | |
| Surplus for the year | 7,552,023 | 7,552,023 |
| Total changes | 7,552,023 | 7,552,023 |
| Balance at 31 March 2022 | 7,552,023 | 7,552,023 |

6. CASH FLOW STATEMENT

for the year ended 31 March 2022

| | NOTES | 2022 R | 2021 R |
|--|-------|-----------|-----------|
| | | - | - |

7. STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS

for the year ended 31 March 2022

| | 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 | | | | | | |
| Transfer | 10,000,000 | - | 10,000,000 | 10,000,000 | - | |
| Expenses | | | | | | |
| Board and Committee fees | (1,378,046) | - | (1,378,046) | (313,245) | 1,064,801 | 10 |
| Executive remuneration | (4,400,000) | - | (4,400,000) | (1,997,853) | 2,402,147 | 10 |
| Operating lease rentals | (500,000) | - | (500,000) | - | (500,000) | 10 |
| Other Operating expenses | (1,500,000) | - | (1,500,000) | (38,885) | 1,461,115 | 10 |
| Salaries and other staff expenses | (300,000) | - | (300,000) | (97,994) | 202,006 | 10 |
| Total expenditure | (8,078,046) | - | (8,078,046) | (2,447,977) | 5,630,069 | |
| Surplus for the year | 1,921,954 | - | 1,921,954 | 7,552,650 | 5,630,069 | |

8. ACCOUNTING POLICIES

1. Presentation of Annual Financial Statements

Reporting entity

The Ombud Council was established in terms of Chapter 14 of the Financial Sector Regulation Act 9 of 2017 ("the FSR Act"). 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 infrastructure such as exchanges.

Basis of accounting

The principal accounting policies applied in the preparation and presentation of these financial statements are set out below. These policies were consistently applied to the years presented, unless otherwise stated. The Ombud Council financial statements are prepared by the FSCA on its behalf in accordance with South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP), as set out in the Accounting Standards Board (ASB) Directive (Determining the GRAP Reporting Framework) and the PFMA (as amended by Act No 29 of 1999). The financial statements are presented in South African Rand.

The financial statements are prepared in concurrence with the going-concern principle and on an accrual basis in line with the measurement base applied, being the historical cost unless stated otherwise. In applying accounting policies, management is required to make various judgements, apart from those involving estimations, which may affect the amounts of items recognised in the financial statements. Management is also required to make estimates of the effects of uncertain future events that could affect the carrying amounts of certain assets and liabilities at the reporting date. Actual results in the future could differ from estimates that may be material to the financial statements. Details of any significant judgements and estimates are explained in the relevant policy, where the impact on the financial statements may be material.

1.1 Significant judgements and sources of estimation uncertainty

The preparation of financial statements in conformity with GRAP requires the use of certain critical accounting estimates. It also requires management to exercise its judgement in the process of applying the FSCA's accounting policies on behalf of the Ombud Council. Estimates and judgements are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances. The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimates are revised and in any future periods affected.

1.2 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.

Financial instruments are classified in the following categories:

Financial Instrument at amortised cost

Receivables

Receivables which are not accounted for as statutory receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method less provision for impairment losses. A provision for impairment loss

is established when there is objective evidence that not all amounts due will be collected according to original terms of the receivables. Significant financial difficulties of the debtor, probability that the debtor will enter bankruptcy or financial reorganisation, and default or delinquency in payments are considered indicators that the trade receivable is impaired.

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

Payables

Payables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method.

1.3 Statutory receivables

Identification

Statutory receivables are receivables that arise from legislation or supporting regulations and require settlement by another entity in cash. The Ombud Council's statutory receivables is made up of an amount allocated by the Minister for its establishment payable by the FSCA.

The statutory receivables are initially recognised at their transaction amount. Subsequently, statutory receivables are measured at their transaction amount, plus any accrued interest or other charges (where applicable), and less any accumulated impairment losses and any amounts derecognised.

Statutory receivables are recognised as follows:

- if the transaction is an exchange transaction, using the policy on revenue from exchange transactions; or
- if the transaction is a non-exchange transaction, using the policy on revenue from non-exchange transactions.

An impairment loss is established when there is an indication that a statutory receivable, or a group of statutory receivables that are due, will not be collected according to the original terms of the receivables. Significant financial difficulty of the debtor which may be evidenced by an application for debt counselling or business rescue, probability that the debtor will enter sequestration, liquidation or other financial re-organisation, default, bankruptcy or delinquency in payments, and adverse changes in international, national or local economic conditions are considered indicators that the trade receivable is impaired.

The amount of the impairment loss recognised is the difference between the asset's carrying amount and the present value of estimated future cash flows discounted at the effective interest rate. Where the carrying amount is higher than the estimated future cash flows, the carrying amount of the statutory receivable is reduced, through the use of an allowance account.

When the statutory receivable is uncollectable, it is written off and subsequent recoveries of amounts previously written off are credited in the statement of financial performance.

1.4 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.

All payments to executive management and non-executive members of the Ombud Council are disclosed as related party transactions. Transactions and balances with National Departments of Government and State-controlled Entities which occur other than in accordance with the operating parameters established are disclosed separately in the notes to the financial statements.

1.5 Employee benefits

Short-term employee benefits

The cost of short-term employee benefits, (those payable within 12 months after the service is rendered, such as sick leave, bonuses, and non-monetary benefits such as medical care), are recognised in the period in which the service is rendered. In the case of the Ombud Council these costs are included in the secondment agreement with the National Treasury for the Senior Operations Manager.

1.6 Revenue from non-exchange transactions

Non-exchange transactions are defined as transactions where the entity receives value from another entity without directly giving approximately equal value in exchange.

Revenue is recognised when the asset is recognised and if an obligation arises from the receipt of the asset, the revenue is recognised to the extent that there is no further obligation. Revenue from non-exchange transactions comprises levies, penalties and other income.

The Ombud Council will be funded through levies charged to the industry. The levies will be accounted for on an accrual basis. In the interim, funding was obtained from the National Treasury to assist with the establishment. The funding has been accounted for as a transfer from the National Treasury. The transfer is not subject to any conditions.

Services in-kind are recognised as assets and revenue when they are significant to operations and/or service delivery

objectives and it is probable that the future economic benefits or service potential will flow to the entity and the fair value of the assets and revenue can be measured reliably. If the services in-kind are not significant to the operations and/or service delivery objectives and/or do not satisfy the criteria for recognition, the nature and type of services in-kind received during the reporting period are disclosed in the notes to the annual financial statements.

1.7 Accumulated funds and reserves

Accumulated funds

Accumulated surplus includes non-cash amounts such as invoiced income not recovered, hence the full balance at year end is not always represented by actual cash. National Treasury approval will be obtained at the end of every financial year in order to retain the accumulated surplus.

1.8 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) this Act; or
- (b) the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of the Act; or
- (c) any provincial legislation providing for procurement procedures in that provincial government.

All expenditure relating to irregular expenditure is recognised as an expense in the surplus or deficit in the period that the expenditure was incurred. The expenditure is classified in accordance with the nature of the expense and where recovered it is subsequently accounted for as revenue in the surplus or deficit.

1.9 Fruitless and wasteful expenditure

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

All expenditure relating to fruitless and wasteful expenditure is recognised as an expense in the statement of financial performance in the year that the expenditure was incurred. The expenditure is classified in accordance with the nature of the expense, and where recovered, it is subsequently accounted for as revenue in the statement of financial performance.

| | 2022 R | 2021 R |
|--|-----------|-----------|
| | R 0,00 | R 0,00 |

2. Risk management

Financial risk management

The Ombud Council is exposed to a variety of financial risks as a consequence of its operations, namely credit risk and liquidity risk. Financial risk management is carried out under approved policies of the FSCA.

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 Ombud Council, the entity was awarded a grant by the National Treasury for its establishment in the interim until such a time as the Levies Bill is enacted. The entity will continue to manage liquidity risk closely through an ongoing review of future commitments.

Cash flow and fair value interest rate risk

The Ombud Council does not have any interest-bearing borrowings and therefore there is no adverse exposure relating to the interest rate movements in borrowings.

The table below analyses the Ombud Council's financial liabilities at reporting date.

| At 31 March 2022 | Less than 1 year R |
|--------------------------|-----------------------|
| Trade and other payables | 477,949 |

Credit risk

Financial assets that potentially subject the Ombud Council to credit risk consist mainly of receivables. The Ombud Council's maximum exposure to credit risk relating to account receivables is the amount as shown in the Statement of Financial Position.

| 3. Statutory receivables from non-exchange transactions | 2022 R | 2021 R |
|--|------------------|------------------|
| Other receivables: FSCA | 8,029,972 | - |

4. Payables from exchange transactions

| | | |
|----------------|----------------|----------|
| Trade payables | 97,994 | - |
| Accruals | 379,995 | - |
| | 477,949 | - |

5. Financial liabilities by category

The accounting policies for financial instruments have been applied to the line items below:

| 2022 | Other financial liabilities R | Total R |
|-------------|---|-------------------|
| Payables | 477,949 | 477,949 |

| 6. Reconciliation of net surplus before interest and cash | 2022 R | 2021 R |
|--|------------------|------------------|
| Surplus for the year | 7,552,023 | - |
| Changes in working capital: | | |
| Increase in receivables | (8,029,972) | - |
| Increase in payables | 477,949 | - |
| | - | - |

7. Related parties

Related party balances

Year-end balance arising from services provided (to)/by related parties

| | | |
|---|------------------|----------|
| Financial Sector Conduct Authority (FSCA) | 8,029,972 | - |
| National Treasury | (97,994) | - |
| | 7,931,978 | - |

Funds allocated by the National Treasury for the establishment of the Ombud Council, payable by the FSCA.

7. Related parties (continued)

Remuneration of management

Management class: Board members: 2022

| Name | Board Committee R | HR and Remuneration Committee R | Audit and Risk Committee R | Board Sub Committee R | Other R | Total R |
|---------------|----------------------|------------------------------------|-------------------------------|--------------------------|---------------|----------------|
| E Lekgau | 29,685 | 20,508 | - | 4,857 | - | 55,050 |
| C Soobramoney | 28,605 | - | 21,588 | 4,857 | 4,857 | 59,907 |
| MPD Chabedi | 26,490 | - | 24,137 | - | 12,363 | 62,990 |
| AM Horowitz | 42,099 | 20,508 | - | - | 5,397 | 68,004 |
| D Wood | 45,786 | - | - | 12,489 | 9,019 | 67,294 |
| | 172,665 | 41,016 | 45,725 | 22,203 | 31,636 | 313,245 |

U Kamlana and S Kubheka are serving as Board members of the Ombud Council and are employed by the FSCA and Transnet respectively. In terms of the PFMA, public servants serving as Board members in the public entities should not be remunerated for their services. Therefore, no remuneration was paid to these members.

| Management class: Executive management: 2022 | Basic salary R | Total R |
|--|-------------------|------------|
| E Meyer, Chief Ombud (Appointed 1 May 2021) | 1,997,853 | 1,997,853 |

8. Revenue

| | 2022 R | 2021 R |
|----------|------------|-----------|
| Transfer | 10,000,000 | - |

9. In-kind donations and assistance

The Ombud Council receives secretarial and administrative support from the FSCA as per the Memorandum of Agreement (MoA). In addition, National Treasury provided a regulatory expert to assist with advisory support.

10. Budget differences

Material differences between budget and actual amounts

The current financial year marks the first year of the Ombud Council's existence. This year was about establishing and capacitating the Ombud Council. Although R10 million was ring-fenced from the retention of penalties and fines collected by the FSCA through Ministerial approval for the establishment of the Ombud Council, the Council could not be operationalised immediately as it had to design an organisational structure and staff establishment, develop a transitional arrangement for shared corporate services to enable financial management and procurement to deal with immediate operational activities. The costs incurred in this financial year were thus for the Board and the Interim Chief Ombud in the main. Furthermore, the delay in the appointment of a permanent Chief Ombud with no external experts appointed also contributed to the difference between budget and spend. The financial regulation expert was in-kind from the National Treasury.

10. Budget differences (continued)

Board Other Committee Fees

Favourable variance secretariat cost being paid for by the FSCA and no independent advisors appointed to the Board or the Committees.

Executive Remuneration

Favourable variance due to the lag in appointing the Chief Ombud.

Operating lease-rentals building

Favourable variance due to deferment of leasing arrangement in the absence of a full staff complement as well as the impact of the COVID-19 pandemic which enforced remote working.

Other operating expenses

Favourable variance due to the delayed start in operationalisation of the Ombud Council.

Salaries and other staff expenses

Favourable variance due to part-time contract of the Chief Ombud, all engagements were undertaken virtually, staff could not be appointed as a result of the delay in the passing of the Levies Bills.

Part F

Annexures



ANNEXURE A

STATEMENT OF RESPONSIBILITY AND CONFIRMATION OF ACCURACY

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

All information and amounts disclosed throughout the annual report are consistent.

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

The annual report has been prepared, as far as it was possible, for an unlisted entity in its first year of establishment in accordance with the guidelines on the annual report as issued by National Treasury.

The Draft Annual Financial Statements (Part E) have been prepared under the auspices of the FSCA in accordance with the modified cash standards of GRAP applicable to the 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 that has been designed to provide reasonable assurance as to the integrity and reliability of the performance information, and the human resources information. During this first year of operations, integrity and reliability was ensured through regular reporting to and monitoring by the Board and its Committees with the support of the FSCA through the MoA.

In my opinion, the annual report fairly reflects the operations, the performance information, the human resources information and the financial affairs of the Ombud Council for the financial year ended 31 March 2022.

Yours faithfully



Ms. Deanne Wood

Accounting Officer
Chairperson of the Board
Date: 30 October 2022

ANNEXURE B

REPORT OF THE AUDIT & RISK MANAGEMENT COMMITTEE

We are pleased to present our report for the financial year ended 31 March 2022.

The Audit and Risk Management Committees were combined to be more effective for a small Board overseeing a fledgling organisation.

Audit Committee Responsibility

The Audit & Risk Management Committee reports that it has complied with its responsibilities arising from Section 38 (1) (a) (ii) of the Public Finance Management Act (PFMA) and Treasury Regulation 3.1.13 albeit that the Ombud Council is not yet listed under the Schedules of the PFMA. The Audit and Risk Management Committee Terms of Reference were adopted by the Committee on the 28th of June 2021, recommended to the Board and approved.

It has, as far as is possible, regulated its affairs in compliance with this Terms of Reference and has discharged all its responsibilities as contained therein, except that a review of changes in accounting policies and practices was not undertaken as the Council currently operates under the MoA with the FSCA who manages the audit function on behalf of the Ombud Council. The Audit & Risk Management Committee has thus satisfied its responsibilities with the support of the Chief Audit Executive and Risk Officer of the FSCA.

The Effectiveness of Internal Control

The Internal Audit work could only be carried out once the MoA with the FSCA was agreed to in December 2021. The Chief Audit Executive and Risk Officer of the FSCA supported the Ombud Council with the development of the Strategic Risk Register against which the Council reported to the Audit & Risk Management Committee during its year of inception. Our review of the reports revealed areas to be addressed which were then raised with the Management of the Council.

The following were areas of concern:

- Sustainable funding of the Ombud Council, its dependency on the implementation of Chapter 16 of the FSR Act (Levies Bills), and

- The listing of the Ombud Council which is also dependent on the Levies Bills (for funding of the organisational structure). To date, the funding of the Ombud Council is through ring-fenced funding of the collected penalties by the FSCA with Ministerial approval.
- The Ombud Council will need financial management capacity earlier than proposed in the BIP to ensure consistent financial administration and reporting to the Committee on financial management accounts. This should be addressed in the next financial year 2022/23.
- The Committee will also have to consider acquiring technology expertise to address ICT governance in the future.
- Contracting Audit Services for the Council during the next financial year 2022/23 should be considered so that the Council is ready to respond to an external audit in 2023/24.

In-Year Management and Monthly/Quarterly Report

The Council submitted quarterly reports to the Minister of Finance. The reports covered updates on progress of the establishment of the Council and progress on the financial and non-financial performance of the Ombud Council.

Evaluation of Financial Statements

We have reviewed the draft annual financial statements prepared by the finance department of the FSCA on behalf of the Ombud Council.

The Audit & Risk Management Committee concurs with and accepts the conclusions of the Auditor-General as presented to the FSCA on the draft annual financial statements and is of the opinion that the draft audited annual financial statements for the Ombud Council be accepted and read together with the report of the Auditor-General on the FSCA.



Ms. Silindile Kubheka

Chairperson of the Audit & Risk Management Committee
Ombud Council

Date: 30 October 2022

ANNEXURE A

THE LEGISLATIVE FRAMEWORK FOR THE OMBUD COUNCIL

| REASON | LEGISLATION | AREA IMPACTED |
|---|--|--|
| Mandatory Legislation The legal framework for the establishment and running of the Ombud Council | <ol style="list-style-type: none"> 1. FSR Act (2017) Chapter 14 & 16 2. PFMA Act (2009) Chapter 6 | <ul style="list-style-type: none"> • Accountability to Parliament • Financial management |
| Awareness of Financial Sector Laws impacting the Ombud Council directly & indirectly | List in FSR Act (2017): Schedule 1, Financial Sector Laws [Section 1 (1)]: <ol style="list-style-type: none"> 1. Pension Funds Act, 1956 (Act No. 24 of 1956) 2. Friendly Societies Act, 1956 (Act No. 25 of 1956) 3. Banks Act, 1990 (Act No. 94 of 1990) 4. Financial Services Board Act, 1990 (Act No. 97 of 1990) 5. Financial Supervision of the Road Accident Fund Act, 1993 (Act No. 8 of 1993) 6. Mutual Banks Act, 1993 (Act No. 124 of 1993) 7. Long-term Insurance Act, 1998 (Act No. 52 of 1998) 8. Short-term Insurance Act, 1998 (Act No. 53 of 1998) 9. Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001) 10. Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002) 11. Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002) 12. Co-operative Banks Act, 2007 (Act No. 40 of 2007) 13. Financial Markets Act, 2012 (Act No. 19 of 2012) 14. Credit Rating Services Act, 2012 (Act No. 24 of 2012) | <ul style="list-style-type: none"> • Risk Management • Application of Governing Rules • Oversight of Ombud Schemes' conduct |
| Related Laws | <ul style="list-style-type: none"> • COFI Bill (September 2020 draft of proposed) Conduct of Financial Institutions Bill • Financial Services Ombud Schemes Act (Act 37 of 2004) • National Credit Act (Act 34 of 2005) • Prescription Act (1969) • Consumer Protection Act (1986/2019) • Protection of Personal Information Act (2013) | <ul style="list-style-type: none"> • Conduct of Financial Institutions • Complaints management • Jurisdiction & jurisdictional overlaps |
| Company Law Awareness of King IV principles | <ol style="list-style-type: none"> 1. Company's Act (2008) | Corporate governance |
| Cyber Security Cyber Crimes and Cyber Security Bill – an avenue to assist with safeguarding against cyber security risks. | <ol style="list-style-type: none"> 1. Cyber Crimes Act (2020) 2. Protection of Personal Information Act (2013) 3. Electronic Communications and Transactions Act (ECT Act) (2002) | ICT governance Electronic contracts |

| REASON | LEGISLATION | AREA IMPACTED |
|--|---|--|
| <p>Compliance Legislation (Finance & Audit) Integrity of the Ombud Council Ensuring no fruitless and wasteful expenditure</p> | <ol style="list-style-type: none"> 1. PFMA (Act 1 of 1999) 2. Levies Bill (2016) 3. Financial Services Board Act (1990) Section 15A (1) (read with FSR Act 2017 and the Financial Sector Regulations (2018) Regulation 2(3), 3(1) and 3(2)(e)) 4. Income Tax Act (1962) 5. Value-add Tax Act (1991) 6. Labour Relations Act (1995) 7. Basic Conditions of Employment Act (1997) 8. Supply Chain Management Act (2003) 9. Preferential Policy Framework Act (2000) 10. Promotion of Administrative Justice Act (2000) 11. Electronic Communications and Transactions Act (ECT Act) (2002) | <ul style="list-style-type: none"> • Funding of the Ombud Council Remuneration of employees • Labour Relations as a governance matter • Impact of digitisation on administration, e.g., contracting |



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