

**Press Release: 3 December 2019**

**FAIS Ombud releases its Annual Report for the financial year 2018/2019**

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**Strictly Embargoed until 08H00 on Friday, 6 December 2019**

On Friday 6 December 2019, the Office of the FAIS Ombud (“OFO”) will launch its Annual Report for the year 2018/2019 at the Southern Sun Hotel in Arcadia Pretoria. The Annual Report provides a review of the performance of the OFO during the financial year, presented statistically as reflected below. The Annual Report also reports on the OFO’s financial affairs.

The mandate of the OFO is to resolve complaints in a manner that is impartial, expeditious, economical, accessible and at all times equitable, thereby promoting consumer protection and enhancing the integrity of the financial services industry. During the financial year the OFO received a total of 9323 new complaints a reduction of 8.7% from the 10 211 received during the 2017/2018 financial year. However, the OFO finalised 9954 complaints, 6.8% more than the total amount received during the financial year.

The heightened progress made was evident right through the year, with 92.9% of all new complaints finalised within a period of 6 months, and 99% of all complaints received closed within 9 months. Therefore, while the number of complaints received during the financial year was reduced, the OFO focused its energy and resources on the expeditious resolution of all active complaints.

When shifting to the question of whether the mandate of the OFO is understood, it is worthwhile to mention that of the 9323 complaints received during the financial year, a total of 5589 fell within the OFO mandate and this equates to 60% of all complaints received during the financial year. Of the 9323 complaints received, a total of 3684 complaints were dismissed in favour of the respondents, and 2770 complaints were referred to the appropriate fora. There was an increase in the number of complaints settled or resolved in favour of the complainant, which rose from 1392 during 2017/2018 to 1871, an increase of 34%. In addition to this we can also report that this Office’s settlement ratio, calculated on complaints that fell within the Office’s mandate, reached 30%, which compares favourably with industry standards. This in turn saw the settlement value increase from R60 889 786 during 2017/2018 to R66 668 302 during the 2018/2019 financial year an increase of 9.5%.

The number of complaints referred to other fora as referred to above, represented 29.7% of all complaints received by this Office during the 2018/2019 financial year. The referral of complaints to

other fora remains an important aspect of the service provided by the OFO as this demonstrates the continued commitment to appropriately assisting any person who refers a matter to the OFO.

The number of complaints dismissed by this Office, which totalled 3684, represented 39.5% of all complaints received by the OFO during the financial year. This Office is required by law to provide detailed reasons for any decision made inclusive of the dismissal of complaints and as mentioned above, everyone who feel aggrieved by decisions taken by this Office can approach the Financial Services Tribunal. During the 2018/2019 financial year a total of 154 applications were made to the Financial Services Tribunal, and of the 146 matters decided upon by the Tribunal as at 31 March 2019 141 of those applications were dismissed with only 5 being referred back to this Office for further investigation. The success rate of 96% constitutes confirmation of the level of fairness and impartiality exercised by the OFO in the investigating and adjudication of complaints.

Of the total number of complaints received during the financial year, the majority (32.31%), were from the short-term insurance industry. The concerns surrounding the provision of short-term insurance policies and the failure of FSPs to embrace the provisions of the FAIS Act and its corresponding General Code of Conduct for Authorised Financial Services Providers and Representatives is well documented, and there remains much work to be done in this area.

Complainants domiciled in Gauteng remained the source of the majority of complaints received by this Office (44.41%), followed by the Western Cape and Kwa-Zulu Natal at 13.72% and 13.55% respectively. This once again underlines the importance of increasing awareness of the existence of the OFO to other provinces especially those with smaller metropolitan areas such as the Eastern Cape, Northern Cape and Limpopo. This is a core component of the OFO mandate and it can only be effectively achieved when all South Africans and consumers of financial services are aware of this Office and the service we provide.

In addition to this statistical report regarding complaints received during the 2018/2019 financial year, the Office would be remiss not to make mention of what is commonly referred to as “property syndication complaints”. The investigation of complaints against FSPs as a result of investments made into property syndication schemes has encountered numerous legal challenges over the years, the first being during September 2011, when the respondent in that matter, E Barns v D Risk Insurance Consultants FAIS-06793-10/11 GP 1, brought an urgent application to set the determination of this office aside. The respondents subsequently brought an urgent application for

an interdict to stop the Office from filing further determinations in court, and issuing further determinations against them. The decision in the Gauteng High Court was finally delivered in favour of the OFO during July 2012.

Subsequent to the above High Court decision, the OFO continued to determine complaints involving property syndications until 2013, following the issuing of determinations in the matters involving Siegrist and Bekker, and the relevant appeals having been made to the then FSB Appeal Board, a decision was taken by the OFO to pend the processing of property syndication related complaints. The decision was not taken lightly, but was a precautionary and necessary risk-management step, as the Office had, for the first time, sought to hold the directors of property syndication schemes liable for complainants' losses. The said appeal was finally decided in April 2015, after which the OFO resumed processing complaints involving property syndications with due regard to the Appeal Board decision.

As many as 2000 complaints had to be shelved pending the Appeal Board decision, and since then this Office has, in the face of numerous challenges been able to reduce this number to 1147 as at 1 April 2019.

The Office of the FAIS Ombud would like to acknowledge the contribution made by its staff whose efforts remain crucial to the continued success of this Office, and to many entities and individuals who assist the Office in achieving its mandate.