

# MEMBERS OF THE BOARD OF THE OMBUD COUNCIL

## Qualification Criteria for Nomination

1. Nominees must be fit and proper to serve on the Board. Fit and proper refers to the eligibility of an individual to hold an important position of trust in an entity such as the Board of the Ombud Council in terms of the FSR Act and other relevant laws. The criteria applicable to board members and which inform the eligibility requirements (which to a large extent inform the Fit and Proper requirement) may be gleaned from the extracts of sections of the FSR Act further below which will assist with identifying suitable candidates for the process of nomination.
  - 2.1 Dispute Resolution, Alternative Dispute Resolution and Complaints Handling;
  - 2.2 Seasoned practice in the Financial Services sector;
  - 2.3 Seasoned experience and skills in financial services regulation and supervision as well as compliance with financial sector laws;
  - 2.4 Experience in governance in financial services;
  - 2.5 Expertise in financial sector laws;
  - 2.6 Expertise in other areas to enable oversight of operations by the Ombud Council, for instance, Human Resources, Information and Communications Technology, Finance, Legal, Auditing and Risk Management.
2. Nominees must have the relevant skills and experience to enable them to discharge their oversight responsibilities with the required background concerning the operations of the Ombud Council. The requisite skills and experience that will be necessary for a Nominee to serve on the Board of the Ombud Council are, among others, in the fields listed below:
  - 2.1 Dispute Resolution, Alternative Dispute Resolution and Complaints Handling;
  - 2.2 Seasoned practice in the Financial Services sector;
  - 2.3 Seasoned experience and skills in financial services regulation and supervision as well as compliance with financial sector laws;
  - 2.4 Experience in governance in financial services;
  - 2.5 Expertise in financial sector laws;
  - 2.6 Expertise in other areas to enable oversight of operations by the Ombud Council, for instance, Human Resources, Information and Communications Technology, Finance, Legal, Auditing and Risk Management.

### EXTRACTS FROM CHAPTER 14 OF THE FSR ACT

#### 179. Board of Ombud Council

- (1) A Board for the Ombud Council is hereby established.
- (2) The Board consists of—
  - (a) the Chief Ombud;
  - (b) the Commissioner; and
  - (c) at least four, but not more than six, other members.
- (3) The Commissioner does not have a vote on a question being considered by the Board.

#### 180. Appointment of Board members

- (1) The members of the Board are appointed by the Minister.
- (2)
  - (a) The Minister must appoint a member as Chairperson and another member as Deputy Chairperson.
  - (b) The Commissioner and the Chief Ombud may not be appointed as Chairperson or Deputy Chairperson.

P.T.O



**national treasury**

Department:  
National Treasury  
REPUBLIC OF SOUTH AFRICA



## CALL FOR NOMINATIONS

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## Qualification Criteria for Nomination - CONTINUED

- (3) The Deputy Chairperson acts as Chairperson when the Chairperson is absent from office or is otherwise unable to perform his or her functions.
- (4) A person may not be appointed to, or hold office as, a member of the Board if the person is—
- (a) an ombud;
  - (b) a member of the governing body or staff of an ombud scheme;
  - (c) a member of the staff of the Ombud Council;
  - (d) a disqualified person;
  - (e) not ordinarily resident in the Republic; or
  - (f) engaged in—
    - (i) the business of a financial institution; or
    - (ii) the provision of financial products or financial services to financial customers.
- (f) is or has at any time been sanctioned for contravening a law relating to the regulation or supervision of financial institutions, or the provision of financial products or financial services or a corresponding law of a foreign jurisdiction;
- (g) is or has at any time been convicted of:
- (i) theft, fraud, forgery, uttering of a forged document, perjury or an offence involving dishonesty, whether in the Republic or elsewhere; or
  - (ii) an offence in terms of the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), the Corruption Act, 1992 (Act No. 94 of 1992), Parts 1 to 4, or section 17, 20 or 21 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or a corresponding offence in terms of the law of a foreign country;

### Definition of a disqualified person

A “disqualified person” is defined in section 1 of the FSR Act to mean a person who:-

- (a) is engaged in the business of a financial institution, or has a direct material financial interest in a financial institution, except as a financial customer;
- (b) is a member of the Cabinet, a member of the Executive Council of a province, a member of the National Assembly, a permanent delegate to the National Council of Provinces, a member of a provincial legislature or a member of a municipal council;
- (c) is an office-bearer of, or is in a remunerated leadership position in, a political party;
- (d) has at any time been removed from an office or position of trust;
- (e) is or has been subject to debarment in terms of a financial sector law;
- (h) is or has been convicted of any other offence committed after the Constitution came into effect, where the penalty imposed for the offence is or was imprisonment without the option of a fine;
- (i) is subject to a provisional sequestration order or is an unrehabilitated insolvent;
- (j) is disqualified from acting as a member of a governing body of a juristic person in terms of applicable legislation; or
- (k) is declared by the High Court to be of unsound mind or mentally disordered, or is detained in terms of the Mental Health Care Act, 2002 (Act No. 17 of 2002);

### 181. Terms of office of Board members

- (1) A person appointed as a member of the Board—
- (a) holds office for a term of no longer than five years, as the Minister may determine;
  - (b) is, at the expiry of that term of office, eligible for reappointment for one further term; and

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- (c) must vacate office before the expiry of a term of office if that person—
  - (i) resigns by giving at least three months written notice to the Minister, or a shorter period that the
    - (ii) Minister may accept; or
    - (iii) is removed from office.
- (2) The Minister must, at least three months before the end of a person's first term of office, inform the person whether or not the Minister intends to reappoint the person as a member of the Board.
  - (ii) trends in the nature of complaints and issues raised in complaints that ombud schemes are dealing with, and how those types of issues and complaints are being dealt with; and
  - (iii) the conduct of financial institutions that is giving rise to complaints to ombud schemes;
- (e) keep the financial sector regulators informed of the conduct of financial institutions that is giving rise to complaints to ombud schemes; and
- (f) address any other matter assigned in terms of a financial sector law to the Board.

### 182. Service conditions of Board members

A member of the Board holds office on the terms and conditions, including terms and conditions relating to remuneration, that are determined by the Minister.

### 184. Role of Board

The Board must—

- (a) generally oversee the management and administration of the Ombud Council in order to ensure that it is efficient and effective;
- (b) appoint members of committees of the Ombud Council required or permitted by a law, and give directions regarding the conduct of the work of any committee;
- (c) make determinations of fees in terms of a financial sector law;
- (d) keep the Minister informed of—
  - (i) compliance by ombud schemes with the financial sector laws in so far as they relate to ombud schemes;

### 189. Duties of Board members

- (1) A member of the Board must—
  - (a) act honestly in all matters relating to the Ombud Council; and
  - (b) perform his or her functions as a member—
    - (i) in good faith;
    - (ii) for a proper purpose; and
    - (iii) with the degree of care and diligence that a reasonable person in the member's position would exercise.
- (2) A person who is or was a member of the Board may not use that position, or any information obtained as a member of the Board, to—
  - (a) improperly benefit himself, herself or another person;
  - (b) impede the Ombud Council's ability to perform its functions; or
  - (c) cause improper detriment to another person.
- (3) For the purposes of this section, "benefit" and "detriment" are not limited to financial benefit or detriment.