

Annexure B

The following recommendations are interrelated and should be considered as a whole. Otherwise, the reformed system would be unbalanced.

Detailed recommendations are set out in chapter 17 of the World Bank Group (WBG) diagnostic report. They are interrelated and should be considered as a whole. Without a coherent approach, the reformed system would be unbalanced.

- The proposed reforms would work to create a system that works across sectors only if there are clear decisions at the outset about what the end point looks like.
- In part, the piecemeal reforms of the past have resulted in the complexity and lack of coherence of the current system described in this report.
- Once a policy decision on the end point of a reformed ombud system is made, the transition can take place in phases described in the diagnostic, with earlier progress on those aspects that do not require statutory changes.

Area	Recommendation
Standard Definition of Complaint	<ul style="list-style-type: none">• One consistent standard definition of a complaint (currently seven) - to be used by ombud schemes, financial providers, and regulators.• The definition to include oral expression of dissatisfaction and not require a complaint to be in writing.
Requirements for Financial Providers	There should be consistent requirements for financial providers (set and enforced by legislation or the relevant regulators) about how providers should: <ul style="list-style-type: none">• Resolve complaints fairly.• Give a clear written final decision on complaints within a specified maximum time; and• Give complainants information about the ombud system.
Consequences for Financial Providers for non-compliance regarding:	There should be explicit adverse consequences (that can be implemented by the Ombud Council or the FSCA) if financial institutions (as defined in the Financial Sector Regulation Act 9 of 2017) fail to: <ul style="list-style-type: none">• Join relevant ombud schemes;• Non-cooperation with the ombud schemes; or

	<ul style="list-style-type: none"> • Non-compliance with their decisions.
A New National Financial Ombud Scheme	<p>A new National Financial Ombud (NFO), independent of both industry and government, should be established to cover the whole financial sector (including credit) – apart from pension funds (as explained below).</p> <ul style="list-style-type: none"> • It should absorb the work of the Banking Ombud, Credit Ombud, LTI, OSTI, JSE and FAIS Ombuds, plus that of the statutory FAIS Ombud, and be extended to cover all financial providers regulated by the Prudential Authority (PA)/FSCA and National Credit Regulator (NCR). • The consolidation should be managed by the new NFO board—which should be appointed at the earliest possible opportunity, so that it can establish the NFO, oversee the consolidation process, and make any necessary design decisions. • The NFO should be demonstrably independent—not only from the industry but also from the government. It should have the governance arrangements set out in our recommendations and preferably take the corporate form of a non-profit company without members. • The NFO should not be a statutory body. This will make it easier to undertake the transition, retain the flexibility to adapt to future changing circumstances and products, retain the support of existing stakeholders, and avoid bureaucracy. • The NFO will need to obtain recognition from the Ombud Council. It will require some statutory underpinning (through extending the powers of the Ombud Council) in order to ensure that its coverage is comprehensive. • The NFO would handle all complaints that seek redress from providers of financial services including credit, to enable the NCR and the FSCA to focus on dealing with enforcement, systemic sector-wide issues, and broader financial-literacy efforts.
A Reformed Retirement Funds Ombud¹	<p>Reform and Rename Statutory Pension Funds Adjudicator (PFA) into Retirement Funds Ombud</p> <ul style="list-style-type: none"> • PFA’s governance should be enhanced in order to underpin its independence, including creation of an independent board, with power to appoint the ombuds.

¹ This name reflects the COFI Bill proposal to rename the Pensions Funds Act of 1956 (Act 24 of 56) as the “Retirement Funds Act.” If that does not happen, the reformed PFA would become the Pension Funds Ombud.

	<ul style="list-style-type: none"> • The statutory PFA, reformed and renamed, should continue to have jurisdiction over pension funds. It should add to its jurisdiction complaints about advice/intermediary services (currently with FAIS Ombud) concerning retirement funds where the service is provided by any person or entity that is otherwise within its jurisdiction. • Retaining a separate scheme for retirement funds at this stage will avoid adding further complexity to what will already be a complex transition. This can be reviewed five years after full implementation of the NFO. • The major issue in the retirement-funds sector is employers not paying over contributions. This is primarily an issue for regulators that will not be solved by changing the ombud system—and it would be helpful to focus on resolving this issue before focusing on any possible consolidation with the NFO. • Pending future consideration of its relationship with the NFO, the PFA’s governance should be enhanced in order to underpin its independence, including creation of an independent board, with power to appoint the ombuds. • The PFA should be renamed “Retirement Funds Ombud” (RFO). The name change (contingent on the recommended governance changes) will make its role and range of processes clearer to consumers and also facilitate working jointly with the NFO to enhance the outreach and accessibility of the ombud system.
A Modified Ombud Council	<ul style="list-style-type: none"> • The existing statutory provisions relating to the Ombud Council should be modified in order to increase its independence, give its chief executive a name more appropriate than “Chief Ombud,” and modify its powers in order to facilitate (and then adapt to) the new structure that is recommended. • This includes giving it powers that will enable it to authorize the new NFO to handle complaints about advice/intermediary services and give the NFO automatic jurisdiction, as well as making binding decisions of recognized ombud schemes enforceable in the same way as a court judgment. • It also includes reviewing its statutory powers with a view to repealing any intrusive or coercive powers that are no longer appropriate or cost effective in the light of the reform of the ombud system arising from this report.
Transition Plan	<p>A carefully planned and managed transition to a reformed system is crucial to achieving the benefits of reform without disrupting the ongoing work of handling complaints.</p> <ul style="list-style-type: none"> • The reform process is inherently complex. It is important to retain the expertise of all the existing personnel and to keep broad stakeholder support for the work of the ombuds.

- It will help to minimize uncertainty if as much as possible can be done early—with cooperation from the ombud schemes, under existing legislation, and with the support of the Ombud Council.
- Cooperation would be facilitated if the South African authorities were to share this report in full with the relevant stakeholders. The WBG may be able to provide further assistance with the transition.
- However, some reforms, primarily affecting the statutory ombud schemes and the Ombud Council, will ultimately require legislative changes (possibly through the forthcoming COFI Bill).

Further detailed work on the operational details of transition will be required once a formal policy decision is made on the main reform proposals. However, from the time a formal policy decision is made, transition could involve the following three stages (with the following indicative time frames):

- **Stage 1 (within six months):** Establish the NFO board—with power to decide on the new constitution, single rulebook, funding model, operational systems, and transitional plans. Once this has been done, seek approval for the NFO from the Ombud Council.
- **Stage 2 (within 12 months):** Progressively transfer staff and assets to the NFO. As in other countries that have undergone a similar process, this may involve ombuds and staff holding dual appointments for a period so the NFO can continue the work of the current schemes until the formal handover.
- **Stage 3 (within two years):** Formal handover to the NFO, which would handle all new complaints under the NFO rules, process, and powers.

Additional clarification on the implementation of the proposed new Ombud system—including the order of events and the many steps that do not require legislation—is set out in **appendix G** of the WBG diagnostic.