

**SPEECH BY THE MINISTER OF FINANCE AT THE LAUNCH OF THE OFFICE
FOR FINANCIAL SERVICE PROVIDERS, 23 SEPTEMBER 2004**

Distinguished Guests,

Ladies and Gentleman,

I must admit that I dislike clichés, but today we truly “usher in a new era” in South Africa’s financial services industry, and it is my pleasure to be a part of this opening ceremony. My sincere thanks go to Charles Pillai, South Africa’s first FAIS Ombud, for the cordial invitation extended to me.

Though the FAIS Act, and therefore the ombud’s office, only comes into full operation on 1 October 2004, Charles has spent the last year or so working extremely hard in laying the institutional foundation for the efficient operation of his office. He has told me that he is keenly anticipating his first case, and heaven help the person in the wrong!

For decades in South Africa, the financial services consumer did not have an easily accessible and cost effective way of seeking redress against a financial institution or service provider. The ordinary consumer does not have the financial means, nor the time and knowledge, to effectively access the court system. Clearly a gap exists for a more expeditious and cost-effective way of resolving consumer complaints.

I am sure many of you before me today will have anecdotes of how your uncle or grandmother was duped by an insurance salesman, sold an inappropriate product, or given inadequate advice. The FAIS Act aims to put a stop to this sort of behaviour by intermediaries and other industry players. It requires them to be licensed in order to operate lawfully. It also requires them to carefully consider which product is suitable for their client. In short, unscrupulous practices are stopped dead in their tracks.

Financial service providers must therefore act in a far more responsible and professional manner, giving careful consideration to the advice they give to their clients. The Act is quite specific on exactly what constitutes a complaint, and what will be considered as advice. At the risk of sounding like a lawyer, let me highlight that the definition of advice includes “any recommendation, guidance or proposal of a financial nature furnished ... to any client or group of clients.”

Allow me to briefly update you on the progress made in the licensing of applicants in terms of FAIS. To date, the FSB has received applications from approximately 11 700 advisors and intermediaries, of which 2 500 have already been issued with a license. The FSB informs me that they are experiencing a flood of last minute applications.

There will be no extension of the deadline of 30 September 2004 for the submission of applications to be licensed. We have, however, published an exemption notice, which permits people who have made their application by 30 September 2004, to continue to operate lawfully until they receive their actual licence from the FSB.

Thousands of applications are in the final stages of processing, and the FSB expects that all successful applicants will be issued licenses by the end of November this year.

Returning to the main theme for this evening, I would like to highlight that protection under FAIS will not only be within the grasp of the financially sophisticated or well-to-do. Everyone will be afforded the same safeguards, regardless of income level or degree of financial acumen. FAIS protects all consumers through the establishment of an ombud office that will offer cost-effective, accessible and expeditious service.

One might argue that there are already financial service ombud offices in South Africa, some operational for almost 20 years. So, one may ask, why create another ombud in the financial services industry?

Firstly, differences between the FAIS Ombud and the voluntary schemes should be highlighted. It must be recognised that the voluntary scheme ombuds – like

the long and short term insurance ombuds, and the banking adjudicator – have voluntary membership, are industry-established and industry-funded schemes. Furthermore, in terms of their rules, they may not have jurisdiction over complaints concerning intermediaries.

Though these ombuds have performed admirably over the years, there remains a gap in the system. It is my belief that the FAIS Ombud will more than adequately remedy this deficiency. The jurisdiction of the FAIS Ombud will extend across the entire spectrum of financial service providers, including product suppliers, independent intermediaries and corporate brokers. Let the message be clear: membership is not optional!

Secondly, the independence of the FAIS Ombud cannot be questioned. The FAIS Ombud is independently appointed and is not funded by industry.

Both industry and consumer can therefore rest assured that the Ombud will be impartial in determining the complaints before him. In the unlikely event that the parties feel aggrieved by the ruling of the Ombud, provision has been made in the Act for an appeal mechanism. This appeal will be heard by the Board of Appeal established under section 26 of the Financial Services Board Act.

It is evident therefore that the regulatory environment surrounding the FAIS Ombud's office has been carefully designed to encapsulate a high standard of

consumer protection. In the drafting of the FAIS Act, cognisance was taken of developments in other countries, such as Canada and the United Kingdom, which have operated financial service ombud arrangements with great success. Their experiences have informed our thoughts on how best to structure the FAIS Ombud's office.

The Ombud's office is subject to oversight by both the FSB and the Ministry of Finance. The office is obliged to submit to us an annual report, including financial statements. These financial statements, and the accounting records of the ombud's office, are also subject to audit by the Auditor-General.

Sceptics may shout from the side-lines that FAIS Ombud will be overwhelmed with complaints, or that the system will never work. This is an uninformed point of view. As I mentioned earlier, a great deal of work has gone into setting up the Ombud's office, prior to the opening of its doors for business. Yes, we are stepping into uncharted territory – but it is a necessary journey for us to embark on if we are truly serious about protecting consumers.

Part of what will make this a successful journey is a recognition of the importance of consumer education. For FAIS to truly be a success, the consumer must be made aware of the complaint resolution channels available to him or her. Therefore educating the public with regard to the existence and purpose of the FAIS Ombud is critical.

Informing the public is the duty not only of the Ombud's office itself, but also that of financial institutions and intermediaries in their interactions with clients. Additionally, under section 32 of the FAIS Act, the registrar should facilitate such consumer education in co-ordination with the FAIS Ombud.

Earlier this year, the FSB launched a financial services consumer education campaign. The FSB has stepped-up the mobilisation of resources directed towards making the consumer better educated about the appropriateness of various financial products and services on offer, with the aim of helping consumers make the most informed decisions possible. Consumer education cannot, however, be left up to the regulator alone. It has explicitly been made the *shared* responsibility of both the regulators and industry.

Ladies and Gentlemen, the era of FAIS has dawned, and there can be no turning back to the consumer-unfriendly past. Consumers demand our protection, and legitimate industry players demand a level playing field. We must banish the dark ages of non-disclosure, unreadable fine print, and mis-selling. An era in which the consumer is treated equitably is the only truly sustainable future for all players in the industry.

Ladies and Gentlemen, thank you for being part of this special occasion. I extend my best wishes to Charles Pillai. I will follow your Office's progress with keen interest!

Thank you.