

Approval of amendments to the governing rules of the Johannesburg Stock Exchange Ombud Scheme

Date: 04 September 2023.

The Ombud Council has issued a Notice approving amendments to the governing rules of the Johannesburg Stock Exchange Ombud Scheme (JSE Ombud Scheme) with effect from 04 August 2023.

Background

The Ombud Council granted recognition as an industry ombud scheme to the JSE Ombud Scheme in terms of section 194 of the Financial Sector Regulation Act, No. 9 of 2017 (FSR Act), with effect from 1 May 2022, under Recognition Certificate No. OC/003/22. The JSE Ombud Scheme's recognition was granted subject to the Recognition Conditions, imposed in accordance with section 195(2) of the FSR Act. The Recognition Conditions were attached to the scheme's Recognition Certificate, and subsequently amended on 16 December 2022 in accordance with section 197 of the FSR Act, by notice on the Ombud Council's website.

The Recognition Conditions, as amended, were as follows:

1. *The scheme must make the following amendments to its governing rules:*
 - 1.1. *Add a provision requiring members of the scheme to ensure that their internal complaint handling rules require them to provide their financial customers with the information referred to in section 196(3)(b)(ii) of the Financial Sector Regulation Act, 2017.*
 - 1.2. *Add a provision confirming the accountability of the scheme's governing body to ensure adequate monitoring and oversight of the operation of the scheme, as contemplated in section 196(3)(b)(vi) of the Financial Sector Regulation Act.*
 - 1.3. *Add a provision indicating key features of the appointment process, terms of engagement and termination of appointment of the ombud, as contemplated in section 196(3)(b)(vi) of the Financial Sector Regulation Act, including confirming the accountability of the scheme's governing body for overseeing such matters.*
 - 1.4. *Add a provision requiring the ombud to apply principles of equity, where appropriate, when dealing with a complaint, as contemplated in section 196(3)(b)(vii) of the Financial Sector Regulation Act.*
2. *The scheme must, after completing such internal and regulatory procedures for amending its governing rules as may be agreed to by the Ombud Council and the Financial Sector Conduct Authority, submit a draft of the rule amendments referred to in paragraph 1 to the Ombud Council on or before 30 April 2023.*

3. Until such time as the rule amendment referred to in paragraph 1.4 above comes into operation, the scheme must ensure that, when any complaint is referred to the ombud, the referral must include a requirement that the ombud will, if appropriate, apply principles of equity when dealing with the complaint.

Consultation process

Section 214 of the FSR Act contains provisions relating to the amendment of the governing rules of a recognised industry ombud scheme, including the consultation process the Ombud Council must follow before approving an industry ombud scheme's governing rules or an amendment to such governing rules. In line with these provisions, the Ombud Council on 3 May 2023 invited public submissions on the draft governing rule amendments and published a statement explaining the need for, intended operation and expected impact of the proposed amendments. The Ombud Council indicated that it was satisfied that the proposed rule amendments met the Recognition Conditions and that they will assist in achieving the object of the FSR Act.

The JSE Ombud Scheme's governing rules are incorporated into the JSE Equities, JSE Derivatives and JSE Interest Rate & Currency Derivatives rules respectively. Accordingly, in addition to approval by the Ombud Council, amendments to the scheme's governing rules are also subject to the consultation and approval processes prescribed by the Financial Markets Act, 2012 for amendments to the rules of such market infrastructures.

In terms of these combined processes, three rounds of consultation on the proposed governing rules have therefore taken place:

- The JSE published a Market Notice in February 2022, inviting comment on the draft amendments from the JSE members concerned.
- The Financial Sector Conduct Authority (FSCA) published the draft amendments for comment on its website, after notice in the Government Gazette, in April 2022.
- The Ombud Council thereafter invited submissions on the amendments in May 2023, as noted above.

No objections to or comments on the draft amendments were received through any of these processes.

The FSCA subsequently confirmed its approval of the rule amendments in Board Notice 468 of 2023, published in Government Gazette No. 49079 of 4 August 2023.

Approval

Against the above background, the Ombud Council has also approved the amendments to the JSE Ombud Scheme's governing rules, as published for comment on 3 May 2023. The effective date of the approval is 4 August 2023, to coincide with the effective date of the FSCA approval.

A Notice confirming the approval of the amendments, together with the approved versions of the JSE Ombud Scheme's governing rules, has today been published on the Ombud Council's website.



Leanne Jackson
Chief Ombud

Date: 04 September 2023.