

NATIONAL TREASURY**NOTICE 143 OF 2019****DRAFT URGENT AMENDMENTS TO REGULATIONS IN TERMS OF FINANCIAL SECTOR****REGULATION ACT, 2017**

The Minister of Finance gives notice as required in terms of section 288(7) and (8) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) ("the FSRA ") of the publication of draft urgent Amendments to Regulations that are proposed to be made in terms of sections 288(7) and (8) and 304 of the FSRA, for public comment. A copy of the draft Amendments to the Regulations are available on the National Treasury website: www.treasury.gov.za/twinpeaks.

The draft amendments to the Financial Sector Regulations in the Schedule propose to amend regulation 4(1) of the Financial Sector Regulations to extend transitional arrangements for the funding of the Financial Services Tribunal until the forthcoming Financial Sector Levies Bill is enacted and brought into operation. This amendment is necessary to ensure that the Tribunal is able to receive funding for the forthcoming 2019/20 financial year.

A new regulation 4A is proposed to clarify that the Commissioner of the Financial Sector Conduct Authority is the accounting authority for the purposes of the Public Finance Management Act, 1999 (Act No. 1 of 1999) ("the PFMA") of the Office of the Pension Funds Adjudicator (in terms of section 30T of the Pension Funds Act, 1956 (Act No. 24 of 1956) (PFA)) and of the Office of the Ombud for Financial Services Providers (in terms of section 23 of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002) (FAIS Act)) (the statutory ombuds). Legislation currently does not explicitly state this, although section 1A(1) of the PFA and section 1A(1) of the FAIS Act, read in conjunction with section 56(2) of the FSRA, effectively provide that the Commissioner of the FSCA is the accounting authority for the statutory ombuds. This amendment of the Financial Sector Regulations will ensure the appropriate application of the PFMA to the statutory ombuds.

A new regulation 4B is proposed to enable the Council for Medical Schemes to recover costs related to the exercise of powers in terms of Chapter 9 of the FSRA, as contemplated in section 129(2) of the FSRA. The powers in Chapter 9 of the FSRA relate to information gathering, supervisory on-site inspections and investigations of financial institutions. The ability of the Council for Medical Schemes to recover the costs of inspections of medical schemes was previously provided by section 11 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998), which has been repealed. This regulation is intended to be a transitional measure until the FSRA or the Medical Schemes Act, 1998 (Act No. 131 of 1998) can be appropriately amended.

As these amendments to the Regulations must be in place prior to the end of the financial year on 31 March 2019, it is necessary for these amendments to be processed in terms of the urgent process provided for in section 288(7) and (8) of the FSRA. If the usual process for making regulations in terms of section 288(4) and (6) of the FSRA were followed, it would not be possible for these amendments to be in place by 31 March 2019.

The funding of the operations of the Tribunal and the Council for Medical Schemes would be seriously affected, and their ability to serve financial customers would be significantly compromised. It is also essential that the accounting authority for the statutory ombuds is clarified, so that financial accountability and transparency is ensured for the 2019/20 financial year. The purpose of these amendments to the Regulations would be defeated, if the amendments to the Regulations are not made on an urgent basis in terms of section 288(7) and (8) of the FSRA.

Written comments on the draft amendment to the Financial Sector Regulations should be submitted to commentdraftlegislation@treasury.gov.za by close of business on 27 March 2019. Any clarification questions can be emailed to Jeannine Bednar-Giyose at: Jeannine.Bednar-Giyose@treasury.gov.za.