

**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](http://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](mailto: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](mailto:Jeannine.Bednar-Giyose@treasury.gov.za).

**DITLHABOLOLO TSE DI THADILWENG TSA MELAWANATAOLO GO YA KA MOLAO WA  
TAOLO YA LEFHATA LA DITŠHELETE, 2017**

Tona ya Matlotlo o dira kitsiso jaaka go tlhokega go ya ka karolo 288(7) le (8) ya Molao wa Taolo ya Lephata la Ditšhelete, 2017 (Molao 9 wa 2017) ("FSRA ") ya phasalatso ya Ditlhabololo tse di tlhokegang ka bonako tse di thadilweng tsa Melawanataolo tse go tshitsintsweng gore di tla dirwa go ya ka karolo 288(7) le (8) le 304 ya FSRA, mabapi le ditshwaelo tsa phatlalatsa. Khopi ya Ditlhabololo tse di thadilweng tsa Melawanataolo e ka fitlhelelwa mo webesaeteng ya Matlotlo a Setšhaba: [www.treasury.gov.za/twinpeaks](http://www.treasury.gov.za/twinpeaks).

Ditlhabololo tse di thadilweng tsa Melawanataolo ya Lephata la Ditšhelete mo Šejuleng di tshitshinya gore go tlhabololwe molawana 4(1) wa Melawanataolo ya Lephata la Ditšhelete go atolosa dithulaganyetso tsa diphetogo mabapi le thuso ya ditšhelete ya Lekgotla la Ditirelo tsa Ditšhelete go fitlhela Molaotlomo o o lebeletsweng wa Makgethwana a Lephata la Ditšhelete o dirwa molao le go tsenngwa mo tirisong. Tlhabololo eno e a tlhokega gore go netefatswe gore Lekgotla le kgona go amogela thuso ya ditšhelete mo ngwageng o o tlang wa ditšhelete wa 2019/20.

Molawanataolo o mošwa wa 4A o a tshitsinngwa, go tlhalosa gore Mokhomišenara wa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ke ena molaodi yo o rwalang maikarabelo mabapi le maitlomo a *Public Finance Management Act, 1999* (Molao 1 wa 1999) ("PFMA") a Kantoro ya Moatlhodi wa Matlole a Phenšene (go ya ka karolo 30T ya *Pension Funds Act, 1956* (Molao 24 wa 1956)(PFA)) le a Kantoro ya Ombud wa Batlamedi ba Ditirelo tsa Ditšhelete (go ya ka karolo 23 ya *Financial Advisory and Intermediary Services Act, 2002* (Molao 37 wa 2002) (*FAIS Act*)) (ombuds wa semolao). Gajaana molao ga o tlhalose seno ka botlalo, le fa karolo 1A(1) ya PFA le karolo 1A(1) ya Molao wa FAIS, ka puiso mmogo le karolo 56(2) ya FSRA, e laela ka nonofo gore Mokhomišenara wa FSCA ke molaodi yo o rwalang maikarabelo wa ombuds wa semolao. Tlhabololo eno ya Melawanataolo ya Lephata la Ditšhelete e tla netefatsa tirisano e e nepagetseng ya PFMA ya ombuds wa semolao.

Molawana o mošwa wa 4B o a tshitsinngwa go kgontsha Khansela ya Dikema tsa Kalafi go busetsa ditshenyegelo tse di amanang le tiragatso ya dithata go ya ka Kgaolo 9 ya FSRA, jaaka go tlhalositswe mo karolong 129(2) ya FSRA. Dithata tse di mo Kgaolong 9 ya FSRA di amana le go kgobokanngwa ga tshedimosetso, ditlhatlhobo tsa botlhokomedi tsa kwa tirong le dipatlisiso tsa ditheo tsa ditšhelete. Bokgoni jwa Khansela ya Dikema tsa Kalafi jwa go busetsa ditshenyegelo tsa ditlhatlhobo tsa dikema tsa kalafi bo ne bo tlhagisitswe mo malobeng mo karolong 11 ya *Inspection of Financial Institutions Act, 1998* (Molao 80 wa 1998), o o phimotsweng. Molawanataolo ono ke kgato ya nakwana go fitlhela FSRA kgotsa *Medical Schemes Act, 1998* (Molao 131 wa 1998) e tlhabololwa sentle.

Jaaka fa ditlhabololo tseno tsa Melawanataolo di tshwanetse go nna teng pele ga go ya bokhutlong ga ngwaga wa ditšhelete ka di 31 Mopitlwe 2019, go botlhokwa gore ditlhabololo tseno di diragatswe go ya ka kgato e e botlhokwa e e tlhagisitsweng mo karolong 288(7) le (8) ya FSRA. Fa kgato e e tlwaelegileng ya go dira melawanataolo go ya ka karolo 288(4) le (6) ya FSRA e ne e lateletswe, go ne go ka se kgonege gore ditlhabololo tseno di tsene mo tirisong ka di 31 Mopitlwe 2019.

Thuso ya ditšhelete ya go dira ga Lekgotla le Khansela ya Dikema tsa Kalafi e ne e tllile go amega thata, e bile bokgoni jwa bona jwa go direla barekedi ba ditšhelete le barekedi ba dikema tsa kalafi bo ne bo tllile go amega thata. Go botlhokwa gape gore bolaodi jo bo rwalang maikarabelo jwa ombuds wa semolao bo tlhaloswe, go netefatsa gore go rwalwa maikarabelo a ditšhelete le ponalatshego mabapi le ngwaga wa ditšhelete wa 2019/20. Maitlomo a ditlhabololo tseno a ne a ka se fitlhelelwe, fa ditlhabololo tsa Melawanataolo di ne di sa dirwa ka bonako go ya ka karolo 288(7) le (8) ya FSRA.

Ditshwaelo tse di kwetsweng tsa ditlhabololo tse di thadilweng tsa Melawanataolo ya Lephata la Ditšhelete di tshwanetse go romelwa go [commentdraftlegislation@treasury.gov.za](mailto:commentdraftlegislation@treasury.gov.za) ka nako ya tiro ka 27 Mopitlwe 2019. Dipotso tsotlhe tse di mabapi le tlhaloso di ka romelwa ka imeile go Jeannine Bednar-Giyose mo: [Jeannine.Bednar-Giyose@treasury.gov.za](mailto:Jeannine.Bednar-Giyose@treasury.gov.za).