

ANNUAL REPORT 2016



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INDEPENDENCE



It is vital to the credibility and success of the Ombudsman for Banking Services that it is, and is perceived to be, independent of the banking industry over which it has jurisdiction.

There must be no undue influence in this process by banks, consumers or any other party. The structure of the scheme ensures that the Ombudsman for Banking Services alone decides whether a bank has acted fairly or unreasonably when investigating a complaint.

The Ombudsman can be dismissed for incompetence, gross misconduct or inability to carry out duties effectively, or for senility, but never for recommendations or rulings that are unpopular with the banks or consumer groups.

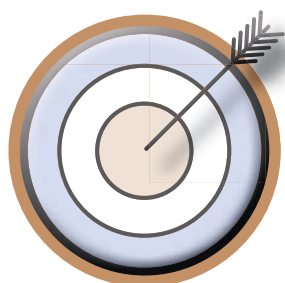
He is appointed by an independent board of directors (the majority unconnected with banking), among whose tasks is to protect the Ombudsman against improper pressure by the financiers of the scheme.

VISION



The Ombudsman for Banking Services will be known by all banks and their customers for its impartial and well-reasoned resolutions of all complaints within four months.

MISSION



The Ombudsman for Banking Services is dedicated to providing banks and their customers with a quick and efficient dispute resolution service. Our professional staff aims to do this in an impartial, independent, fair and confidential manner and strives to improve general banking practice.

SERVICE STANDARDS

CORE VALUES

The Ombudsman and his staff are committed to the following values:

- **Fairness**
- **Independence**
- **Professionalism**
- **Accountability**
- **Accessibility; and**
- **Timeliness**

The full service standards document is available on www.obssa.co.za

CHAIRMAN'S REPORT

It is an honour for me to present my 15th annual report as Chairman of the Ombudsman for Banking Services (OBS). I have witnessed the Office grow from modest beginnings in 2000 to the organisation of great stature it is today – arguably one of the most professional and respected ombuds in South Africa and certainly on at least a par with similar offices across the globe.

The Office has played a pivotal role in shaping the ombud landscape in South Africa, having pioneered and perfected many of the processes and systems that are now acknowledged as the standard throughout the ombud community. In addition, the Office has helped to influence the structure and approaches of fellow ombud offices through sharing best practices. This it continues to do as new ombud schemes are founded.

The Office operates in an environment of far-reaching regulatory change, rapid technological advancement and increasing awareness among consumers of their rights, most notably the right to reject poor service, inappropriate products and dubious business practices.

Against this backdrop, the banking sector in South Africa cannot afford to be complacent in its product offering, service standards or treatment of customers. Wooing consumers and retaining their loyalty to the bank's brand has never been more challenging and the competition will only intensify in the near future. The South African Reserve Bank (SARB) has, for the first time in 11 years, granted three provisional banking licences in 2016 – to Post Bank, Discovery Bank and TYME (Take Your Money Everywhere), a local mobile payments start-up acquired by the Commonwealth Bank of Australia.

This move will dramatically change the banking landscape and, from a consumer perspective, will go some way towards addressing what is perceived as limited competition in South Africa's banking



sector. The OBS has always been of the view that new entrants are beneficial, as competition is a spur to higher levels of service.

SARB's decision is just a taste of what is to come, with the prospect of banking services being offered by information technology firms, which are well able to compete with the banks in terms of transactional services; telecoms providers – Apple Pay and Android Pay are tipped to lead the next banking revolution – and online giants such as Google and Facebook.

The *Financial Mail* notes that: 'Disruption of the banking sector is well on its way, as slower and more traditional forms of banking fall victim to new technology.' The financial sector in Australia (where financial services development is similar to South Africa's) is expected to take some \$10 billion from big banks and contribute \$3 billion of new revenue by 2020, according to the *Financial Mail*. Financial technology (fintech) is not as well advanced locally as internationally, but that will change, and rapidly.

Closer to home, banks currently face considerable threats, not least due to their own desire to

innovate. There's nothing like a new technological advancement to stimulate the inventiveness of the cyber-criminal. Banks must remain at least one step ahead at all times, anticipating the security breaches that could result from each new smart product or service. With hacking incidents having been well publicised in the last year, banks ignore their customers' security concerns at their peril.

A Symantec survey published in July 2016 revealed that more than 8,8 million South Africans had been victims of cybercrime in the prior 12 months. This equates to roughly 30% of the online population and is a stark reminder to banks that they must live, breathe and sleep security.

Fortunately, moves are being made in the right direction, with the introduction of debit and credit cards that store biometric data and facilitate fingertip-recognition transactions. Plans are well advanced, too, for voice activated phone banking, which is already a growing trend in the UK.

“ I have witnessed the Office grow from modest beginnings in 2000 to the organisation of great stature it is today – arguably one of the most professional and respected ombuds in South Africa ”

Changing regulations are another daily reality for South African banks. The long-overdue Financial Sector Regulation Bill is nearing the end of its legislative journey and will be promulgated soon, heralding the adoption of the Twin Peaks regulation model. This will see the rebirth of the Financial Services Board (FSB) as the Financial Sector Conduct Authority, which will work side by side with the prudential authority within the SARB to achieve the Twin Peaks vision of soundness of financial institutions and consumer protection.

The related Financial Sector Levies Bill will impose a levy on banks to fund the above organisations and various other bodies acting in the interests of both financial service providers and their customers. While the Office supports attempts to ensure that the industry has sufficient funding to operate effectively, this particular move will add to the significant tax pressure that is already a feature of South African corporate life.

All the developments touched on here will influence business not only for the banks, but for the OBS. As you will learn as you read through this report, the FSB's Treating Customers Fairly initiative is already well entrenched in dispute adjudication processes and the Office's technological revolution is delivering improved customer service.

Exciting times lie ahead.

In closing, I thank my fellow Board members for another year of sterling service and measured decisions.

On behalf of the Board, I extend sincere gratitude to Ombudsman Clive Pillay and his extremely capable team for ensuring that the OBS remains a shining beacon on the world ombud map, and the epitome of what such an office should be: knowledgeable, impartial, fair, and above all, imbued with integrity.

Advocate John Myburgh SC
Chairman

OMBUDSMAN'S REPORT

The need for heightened and constantly upgraded security practices in banking was reflected in the 4% increase in the number of complaints involving internet banking lodged with our Office during 2016. The main culprits were phishing, cellphone transactions and SIM card swaps.

Although internet banking cases accounted for 20% of our caseload, ATMs remained at the top of the complaints list, as has been the case now for many years. Encouragingly though, we saw a drop in ATM complaint numbers of more than 300, which we hope is an indication that card users are becoming a little more vigilant and aware of the need to pay full attention when transacting in a public place.

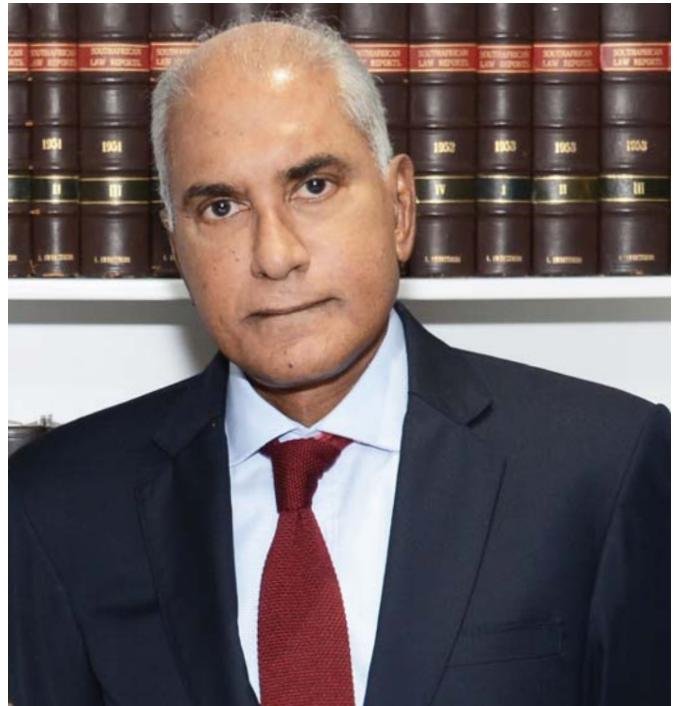
Overall, we opened almost 200 more cases in 2016 than in the previous year, but despite having fewer staff, we increased our record for cases closed within four months to 96% – 2,1% up on 2015. 'Days to closure' improved considerably, from 61 days in 2015 to just 52 days in 2016. All cases were closed within six months.

Much of the year's work was performed at our new, smaller home in Illovo, Johannesburg, which was refurbished to reflect our image and meet our needs for comfort and functionality. The move, while giving us more-than-adequate space, also brought substantial rental savings.

The decision to leave Houghton formed part of our drive to contain operating costs so as to ensure optimal use of our funders' money.

Operating in a technologically sophisticated sector such as banking, it is incumbent on us to match the convenience and ease of use bank customers enjoy from their institutions with a similarly modern, user-friendly service should they need to lodge a complaint.

We also need to be mindful of our responsibility



in terms of the Financial Sector Regulation Bill, which stipulates that citizens must have easy access to an independent and fair dispute resolution mechanism.

Thus, while we have retained our traditional methods of lodging complaints – namely website, email, fax, post and hand delivery – during 2016 we rolled out a range of innovative services designed to make complainants' lives easier and the burden of being a party to a dispute less onerous.

Our first development was the introduction of a dedicated telephone complaints system, whereby a complainant explains to a consultant the nature and details of his case. These are then captured, a case opened and a reference number issued immediately. Two new staff members were recruited to operate this call centre.

In addition, complainants are now able to keep tabs on their cases, through the new OBS tracking system. Previously, only those submitting forms via the website would receive a password to monitor progress.

Mobile technology being a feature of daily life for almost all South Africans, we have also launched a mobile app service, which, when downloaded, enables consumers to complete the application for assistance form on their smartphones. They can then submit the form at the touch of a button.

These services herald an exciting new era for the OBS and will, we are confident, be used extensively. They are particularly valuable for those in outlying areas, those who do not have access to email and the incapacitated.

Another boon to complainants outside the Johannesburg area is the introduction of electronic mediations. Although mediation is a fairly infrequent activity, the service is the perfect solution for consumers who cannot visit our offices. A session is activated by a link sent to the bank and the customer. Our Office controls the interaction and can speak individually to the bank or to the customer if need be, or to both together when appropriate.

“Our drive to enhance external services is balanced by our ongoing attention to improving internal efficiencies and capabilities”

Our drive to enhance external services is balanced by our ongoing attention to improving internal efficiencies and capabilities, particularly through the development of our staff. In terms of the Codes of Good Practice of the Broad-based Black Economic Empowerment Amendment Act, we have set aside 3% of our salary bill to invest in skills development programmes. And an investment it certainly is, as we see the rewards in the growing motivation and capabilities of our people. Our long-standing programme of financially supporting senior staff in their postgraduate studies remains in place, but we are just as committed to assisting more junior administrative employees, many of whom aspire to become legal professionals.

Currently, three of our team members are working towards a compliance management qualification, two towards an LL.B degree and two towards an LL.M degree.

Much of our marketing through the year centred on maintaining our social media profile and on radio interviews to create awareness, particularly in more rural areas, of the work of the Office.

Our glittering annual awards ceremony in November again honoured the top performers in dispute resolution. Nedbank and Ubank triumphed in the bank categories, while Les Barrett of Standard Bank and Colett Claassens of Capitec Bank beat off the competition in the individual bank official categories.

My thanks go to the Board for its strategic oversight, OBS staff for their sustained efforts to serve South Africans no matter the pressure of the workload, and to the banks for their growing commitment to expeditiously resolving customer issues.

Clive Pillay
Ombudsman

OBS ANNUAL AWARDS

RECOGNISING EXCELLENCE IN DISPUTE RESOLUTION ON THE PART OF BANKS AND INDIVIDUALS

The OBS Annual Awards help to promulgate the work of the office by recognising the efforts of banks and individual bank officials in banking dispute resolution.

The 2016 Awards evening was held at The Venue in Melrose Arch on the 25th November 2016, with the prestige of these Awards being reflected in the excellent turnout.

The success of the office in sharing best practice has meant that choosing a winner in each category is becoming more difficult each year. Nedbank pipped Standard Bank, FNB and ABSA to the best-performing bank award in Category A.

In Category B, Ubank edged out Capitec Bank, Mercantile Bank, African Bank and Investec.

The winning banks all demonstrated their commitment to providing high quality and timeous responses to complainants, as well as their adherence to the 'Treating Customers Fairly' principles.

Bank officials were assessed on their knowledge of their bank's products, services and processes; the promptness and efficiency of their responses and their contribution to enhancing or improving their bank's internal complaints handling procedures.

The winning bank officials were Les Barrett of Standard Bank (Category A) and Colett Claassens of Capitec Bank (Category B). Again, it was pleasing to note that standards continue to rise across the board.



Advocate John Myburgh SC (third from left), Chairman of the OBS, with (from left): Charmaine Johnstone, Brandon Allison, Charmaine May, Doug Hardie, Brenda Hannay and Justice Sambo from Nedbank Limited, the winning bank in Category A.



Advocate John Myburgh SC (L), Chairman of the OBS, presenting the Individual Winner Award in Category A to Les Barrett (R), of Standard Bank.



Advocate John Myburgh SC (L), Chairman of the OBS, presenting the Individual Winner Award in Category B to Colett Claassens (R), of Capitec Bank.

OUTREACH AND ADVOCACY

SHARING BEST PRACTICE NEAR AND FAR

The OBS strives to be a leading member of the Ombud community in terms of best practice and technological innovation.

The office's commitment to embracing change and its openness to sharing best practice through outreach programmes and stakeholder management is very gratifying. Today, the OBS increasingly sees itself as a facilitator in the rapidly expanding Ombud universe.

As we grow and achieve together as a team, we are enabled to share our learnings both locally and further afield. The changing regulatory landscape presents Ombuds and consumers alike

with navigational challenges, and reinforces the need for road maps to satisfactory outcomes.

As part of our initiative to actively encourage and assist fledgling Ombud schemes in other African nations, the office was delighted to host a delegation of Ombuds people from Uganda and Namibia.

Supporting our domestic Ombud community is just as vital, and our pioneering work in using new technology to save time and money has not gone unnoticed. A local Ombud colleague visited our offices to gain insight into our paperless system – a further example of best practices being instigated by the OBS.



Clive hosted Darren Beyers, Executive Head: Market Conduct, Kirsten Kelynack, Credit Risk Officer and Doug Hardie, Head: Client Experience & Business Risk, on 10th March 2016 during a discussion on unauthorised overdrafts.



On 11th March 2016 at the offices of the OBS, Clive assisted Aneesha Mayet, Specialist Research Manager for JET Education Services, with information on the Role of an Ombudsman.



On 14th March 2016, Clive furnished Lerato Maledi, Sales Executive and Wayne Dube, Client Services Manager of Imali Matters, a consumer-focused magazine, with detailed information for publication on the Role of the OBS.



Nadette Rappard, Elaine Mortimer and Busisiwe Nyatumba from the National Credit Regulator provided training to OBS staff on 19th August 2016, on the Amendments to the National Credit Act and Regulations.



Hannes Bester and Azeht du Plessis from the Ombudsman for Short-Term Insurance visited the offices of the OBS on 19th September 2016 to gain insight into the OBS' paperless system. Ronel van der Merwe, Neroshia Maseti and Edrich Buytendorp assisted them.



Clive pictured at the OBS offices on 22nd July 2016 with members of a delegation from Uganda and Namibia. They visited the OBS to learn more about its processes, procedures and systems.



Clive with Professor Tanya Woker, Chairperson of the Financial Services Board, at the National Credit Regulator conference held on 23 February 2016.



Clive with Deanne Wood, the newly appointed Ombudsman for Short-Term Insurance, at a function held on 25 February 2016 to bid farewell to the outgoing Ombudsman, Dennis Jooste and to welcome Deanne.

Clive with Rakesh Ranchod, the Head Card Customer Management, Charmaine Johnstone, the Head of Ombudsman Liaison and Doug Hardie, the Head of Client Experience & Business Risk of Nedbank at the offices of the OBS on 25th May 2016 to discuss credit card fraud.



STAFF ACHIEVEMENTS

STUDIES

South Africa was blessed to have Nelson Mandela at the helm in its hour of greatest need, and it is telling that this great man of peace regarded education as a weapon.

Recognising the profound wisdom of his assertion, the OBS encourages its staff members to enhance their skills and knowledge through further studies, and funds staff member study programmes to make this feasible for all.

With technology, consumer awareness and financial legislation evolving at unprecedented speeds, it is imperative that our staff remain at the cutting edge of the relevant skills and understanding.

In this way, the office can offer peace of mind to both banks and the public. In addition to the independence and impartiality for which the office

“ Education is the most powerful weapon which you can use to change the world ”
Nelson Mandela

is renowned, the certainty that all cases will be dealt with by experienced and knowledgeable adjudicators strengthens faith in the process and the outcomes.

Banking law is particularly fluid, and it is only through continual self-improvement that our staff can keep abreast of the latest developments, and give of their best.

SOCIAL MEDIA ACTIVITY

Our Facebook and Twitter pages have proved an invaluable extension to our service for those seeking assistance, redress, updates on their cases or just advice.

During 2016, our presence on social platforms continued to gain momentum, as more individuals came to appreciate the ease and immediacy of the interaction when they need to act against their banks.

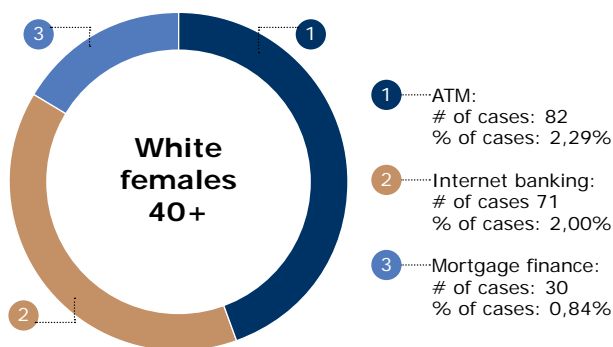
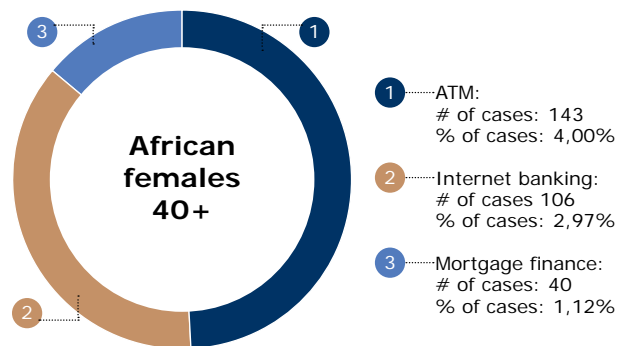
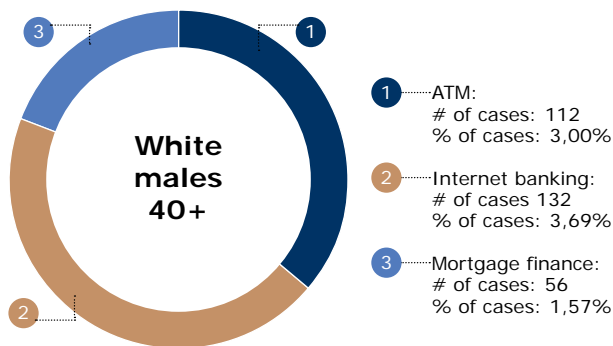
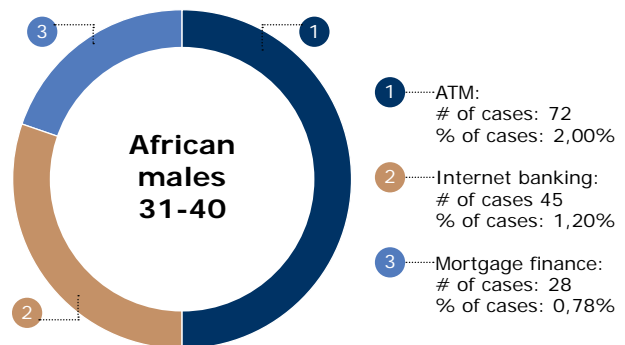
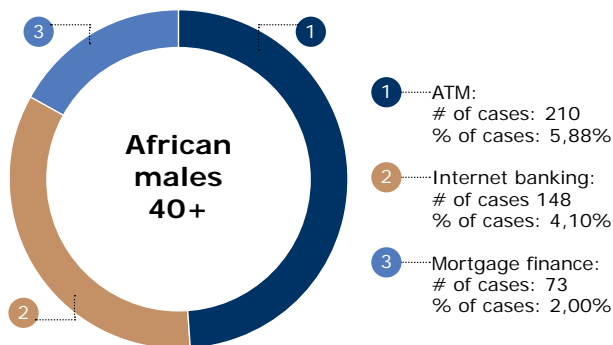
During the year, we published 90 posts on issues ranging from scam warnings and banking security tips to OBS cases and statistics. This takes the number of posts published since our March 2014 Facebook debut to 246.

The issues were mirrored in 53 items on Twitter, which attracted more than 30 likes and were retweeted more than 70 times, including by prominent consumer journalists Megan Power and Georgina Crouth. The year's tweets took the total since inception to 244.

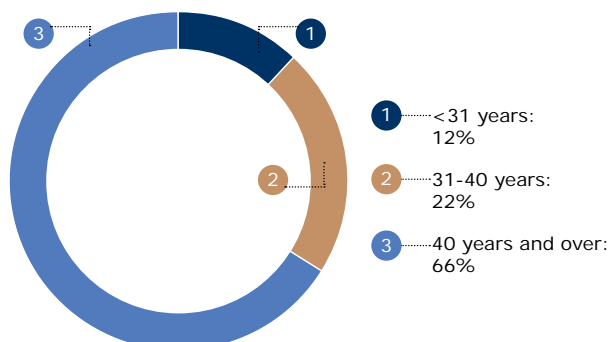
Interest in the Facebook page was reflected in an estimated 24% increase in the number of likes, from 500 to more than 660. Similar growth was experienced on the Twitter forum, with follower numbers increasing from around 170 at the end of 2015 to 270.

The channels will continue to be an integral part of our communications drive through 2017 and beyond.

DEMOGRAPHIC DATA



Of all the complaints received where complainants were willing to complete the demographic information section, the percentages per age group are:



These statistics suggest that the younger persons are more *au fait* with technology and less prone to falling victim to scams, whilst the 31–40 age group appears to be less so but managing. The most vulnerable group appears to be those of 40 years and over.

INVESTIGATIONS STAFF



Nerosha Maseti
Manager



Ayanda Baepi
Adjudicator



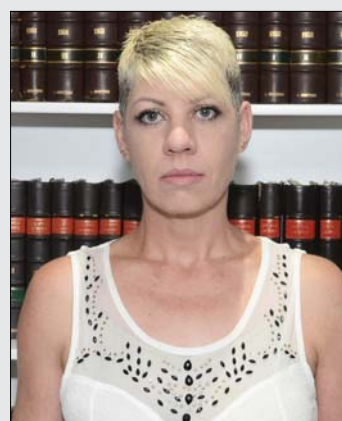
Kwanda Vabaza
Adjudicator



Lucia Baloyi
Adjudicator



Johan Brouwer
Adjudicator



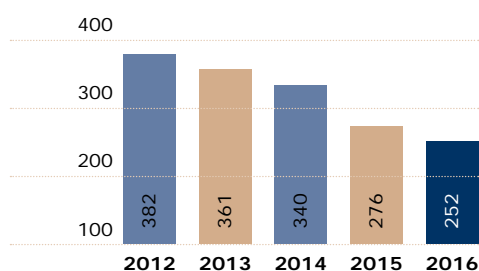
Lize-Ann Noortman
Administrator

CASE STATISTICS

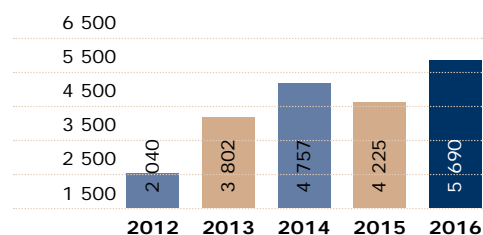
CASE FLOW COMPARISON

ENQUIRIES:

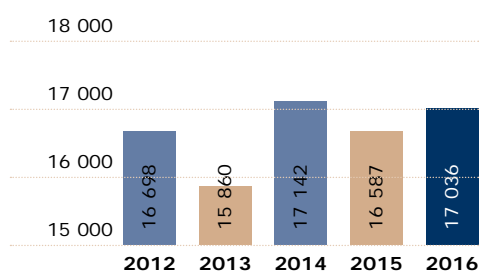
Walk in:



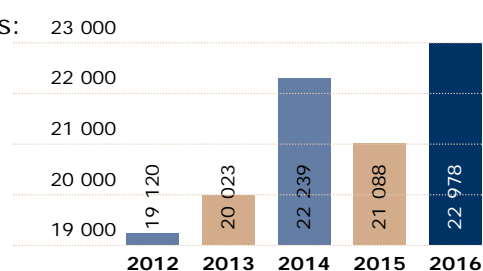
Referrals:



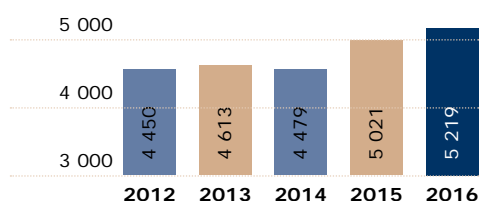
Call centre:



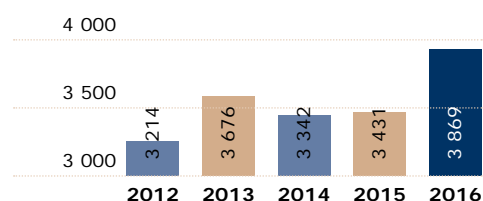
Total enquiries:



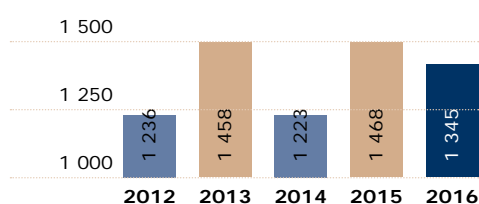
FILES OPENED:



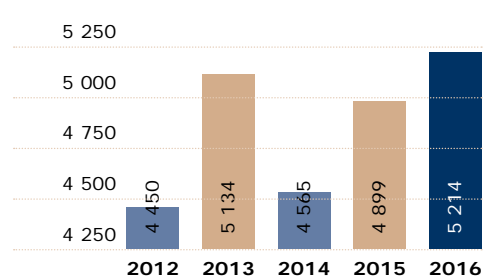
How closed:
Matter solved
at bank/
assessment:



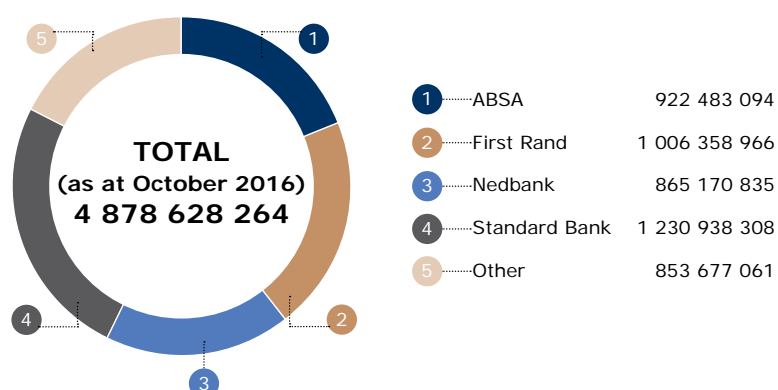
Ombudsman
investigates:



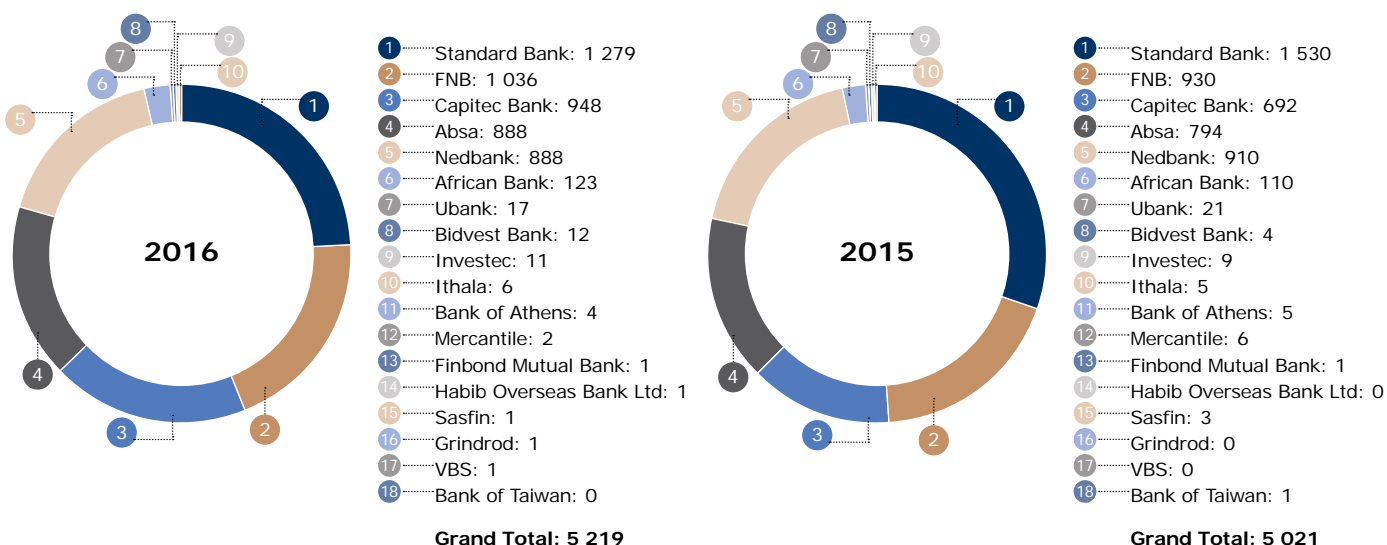
Total closed:



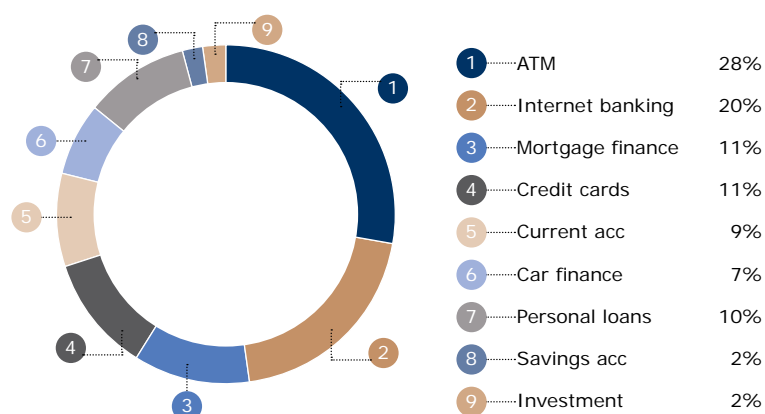
TOTAL ASSETS PER BANK



CASES OPENED PER BANK



CASES OPENED PER CATEGORY



In 2016 we received 205 more internet banking complaints than in 2015. Interestingly, the majority of the internet banking complaints were cellphone banking complaints, which increased by 7%. This suggests increased cellphone banking activity, but also a need for greater security.

There was a 3% increase in credit card complaints. A staggering 36% of all credit card disputes were charge back disputes, where some element of fraud was alleged. This equates to a 16% increase year on year for this subcategory.

It has been suggested that this is a way that debt-stressed consumers are managing their cash flow when finances are tight.

HOW THE CASES WERE CLOSED IN 2016

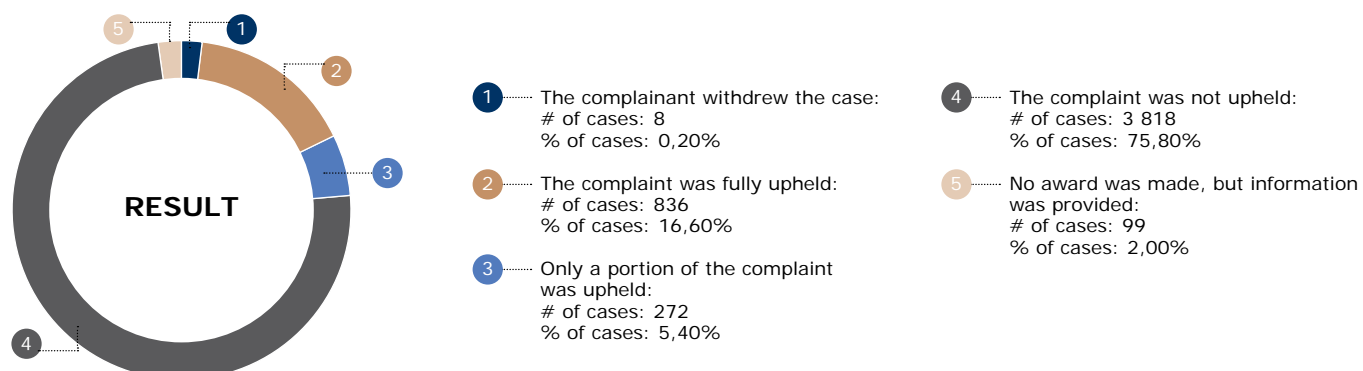
Case category	For bank	%	For public	%	Cases	Total %
ATM	1 164	84%	216	16%	1 380	100%
Internet banking	736	78%	204	22%	940	100%
Mortgage finance	379	75%	124	25%	503	100%
Credit cards	334	68%	155	32%	489	100%
Current acc	294	64%	168	36%	462	100%
Car finance	227	78%	65	22%	292	100%
Personal loan	304	68%	143	32%	447	100%
Savings acc	107	73%	40	27%	147	100%
Investment	80	81%	19	19%	99	100%
Estates & trust	32	76%	10	24%	42	100%
Insurance	21	62%	13	38%	34	100%
Other	22	71%	9	29%	31	100%
Debit orders	18	60%	12	40%	30	100%
Overdraft	19	86%	3	14%	22	100%
Credit bureau	12	60%	8	40%	20	100%
Cheques	15	79%	4	21%	19	100%
Teller deposit dispute	16	84%	3	16%	19	100%
Cash/cheque scam	15	83%	3	17%	18	100%
Business finance	11	65%	6	35%	17	100%
Foreign exchange	10	83%	2	17%	12	100%
Suretyship	6	100%	0	0%	6	100%
Safety deposit	5	100%	0	0%	5	100%
Grand total	3 825	76%	1 208	24%	5 033	100%
2015		73%		27%		

There was a slight drop in the number of cases found in favour of complainants for the year under review.

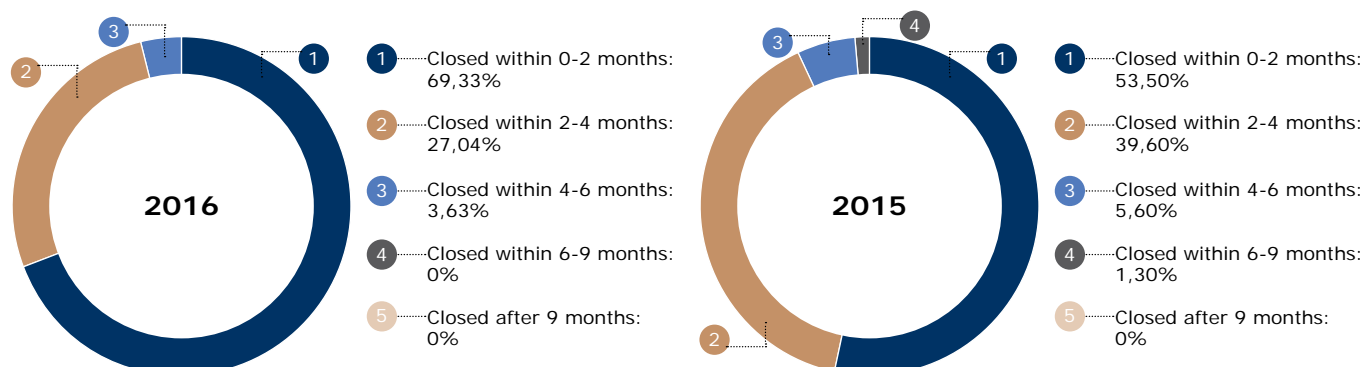
Over 50% of our cases were fraud-related complaints. In these complaints, the complainant is overwhelmingly the victim of a scam. There is no maladministration on the part of the bank.

Similarly, with debt-stressed complainants, there is also no maladministration on the part of the bank, and complainants are simply looking to their banks to ameliorate their debt repayment obligations.

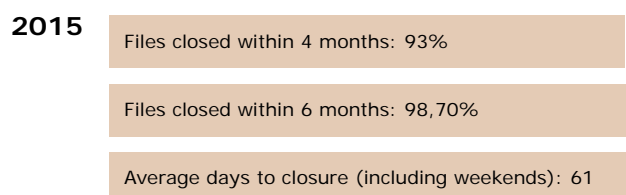
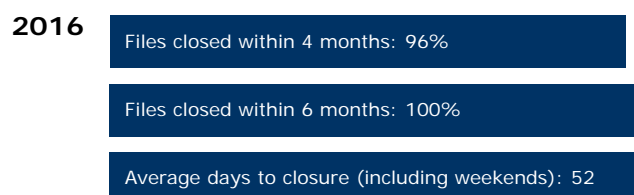
HOW THE 5 033 CASES WERE RESOLVED IN 2016



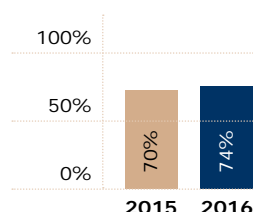
PERIOD FROM OPENING TO CLOSING OF FILES IN 2016



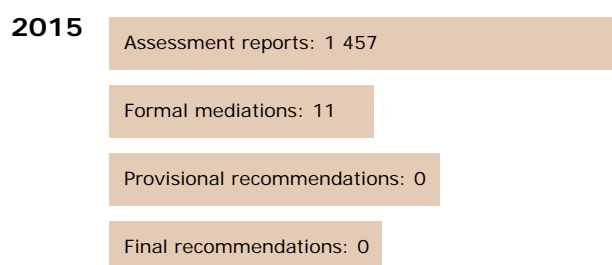
SERVICE STANDARD TARGETS



CASES CLOSED AT ASSESSMENT

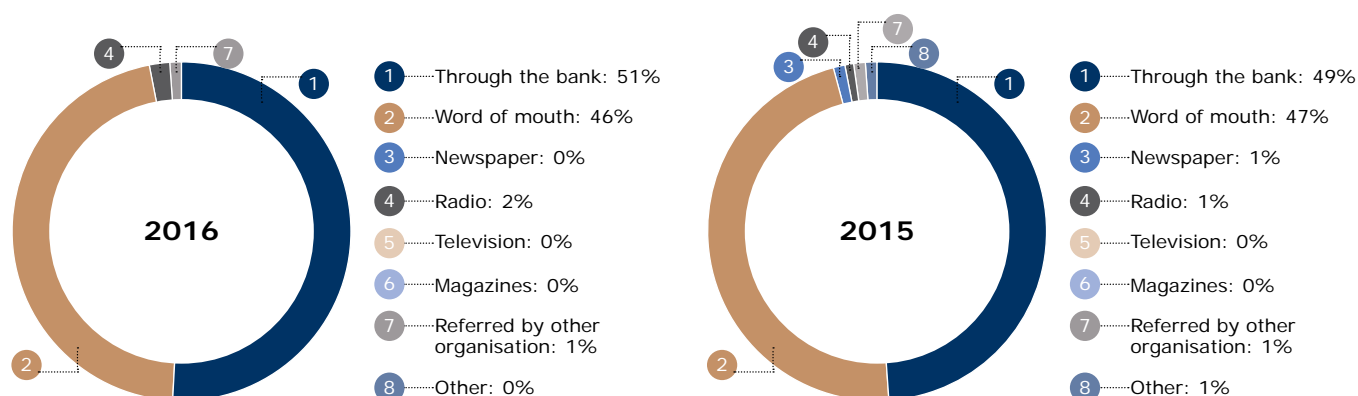


1 345 CASES FOR FURTHER INVESTIGATION FINALISED



The provisional recommendation related to an investment. The complainant had instructed the bank to reinvest the amount at the prevailing interest rate upon maturity. The bank failed to carry out the complainant's instructions, but instead paid the investment sum into the complainant's husband's account. After investigation the OBS found that the bank had failed to comply with the complainant's instructions. The bank accepted our recommendation and refunded and reinvested the funds at the prevailing interest rate, in the name of the complainant.

HOW COMPLAINANTS LEARNED OF THE OBS



There continues to be a slow but steady increase in the number of referrals by the banks. This is indicative of the fact that banks, where they are not able to resolve complaints themselves, readily refer those to the OBS. The TCF initiative is slowly but surely becoming part of the culture of the banking industry and the OBS expects that this number will further increase. The number of referrals to the OBS as a result of radio programmes has also slightly increased. This increase can probably be attributed to an increase in the number of radio interviews done by the office.

ENSURING FAIR TREATMENT

Although not yet law, the OBS continues its proactive practice of assigning a Treating Customers Fairly (TCF) outcome to each case concluded. As a result of the workshop with the banks where approaches to TCF were discussed, there is consensus between the OBS and the banks on how cases should be categorised in terms of TCF outcomes. Banks and the Ombud still differ considerably when it comes to assigning a TCF outcome to a fraud-related complaint. The OBS envisages ongoing discussions with the banks as TCF increasingly becomes a part of the culture of banks.

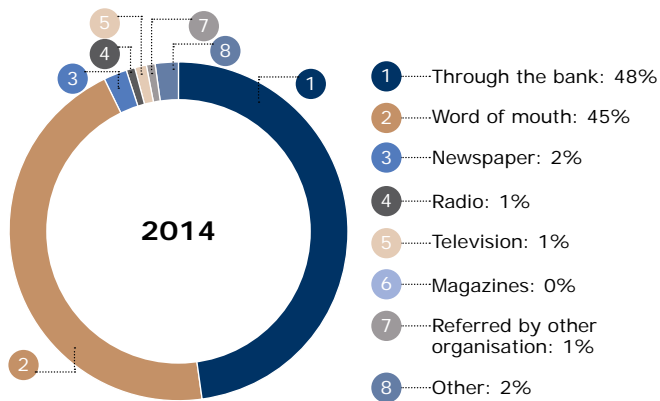
TCF comprises six fairness outcomes:

- Customers know they are dealing with firms with a culture of fair treatment
- Products and services meet the needs of customers
- Customers have clear information and are kept informed
- Advice is suitable and takes account of customer circumstances
- Products perform as promised and service meets expectations
- There are no unreasonable barriers when changing a product, switching a provider, submitting a claim or making a complaint.

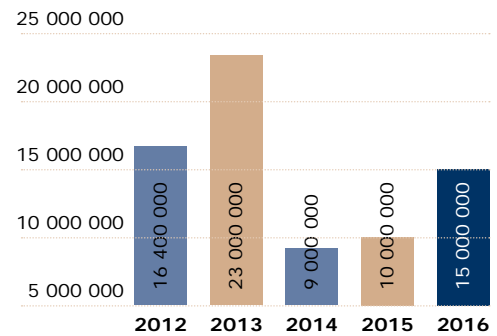
The most common complaint by bank customers is the lack of clear information, followed by complaints that banks do not deliver on expectations and decent service.

Clearly banks need to embrace TCF outcomes and ensure that the outcomes become embedded in their culture.

Category	Grand totals on all TCF categories	
	# of cases	% of cases
ATM	1 332	27,6%
Business finance	15	0,3%
Car finance	274	5,7%
Cash/cheque scam	18	0,4%
Cheques	18	0,4%
Credit bureau	20	0,4%
Credit cards	462	9,6%
Current acc	434	9,0%
Debit orders	29	0,6%
Estates & trust	39	0,8%
Foreign exchange	11	0,2%
Insurance	31	0,6%
Internet banking	910	18,9%
Investment	95	2,0%
Mortgage finance	488	10,1%
Other	30	0,6%
Overdraft	22	0,5%
Personal loan	425	8,8%
Safety deposit	5	0,1%
Savings acc	135	2,8%
Suretyship	6	0,1%
Teller deposit dispute	19	0,4%
Grand total	4 818	100,0%



TOTAL RECOVERED FROM BANKS



Clear information		Culture and governance		Delivering on expectations and decent service		No unreasonable barriers to claiming, switching or complaining		Suitable advice		Suitably designed products and services	
# of cases	% of cases	# of cases	% of cases	# of cases	% of cases	# of cases	% of cases	# of cases	% of cases	# of cases	% of cases
1 045	21,7%	1	0,0%	186	3,9%	1	0,0%	80	1,7%	19	0,4%
11	0,2%			4	0,1%						
215	4,5%	1	0,0%	28	0,6%	5	0,1%	7	0,1%	18	0,4%
8	0,2%			6	0,1%			1	0,0%	3	0,1%
15	0,3%	1	0,0%	2	0,0%						
18	0,4%			2	0,0%						
358	7,4%	3	0,1%	57	1,2%	13	0,3%	5	0,1%	26	0,5%
347	7,2%	2	0,0%	55	1,1%	7	0,1%	8	0,2%	15	0,3%
26	0,5%			1	0,0%			1	0,0%	1	0,0%
30	0,6%	1	0,0%	8	0,2%						
6	0,1%			4	0,1%			1	0,0%		
24	0,5%			4	0,1%			1	0,0%	2	0,0%
580	12,0%	1	0,0%	297	6,2%	5	0,1%	3	0,1%	24	0,5%
76	1,6%	1	0,0%	13	0,3%			2	0,0%	3	0,1%
369	7,7%	3	0,1%	71	1,5%	9	0,2%	13	0,3%	23	0,5%
18	0,4%			9	0,2%	2	0,0%			1	0,0%
14	0,3%			5	0,1%	1	0,0%	1	0,0%	1	0,0%
339	7,0%	2	0,0%	56	1,2%	5	0,1%	3	0,1%	20	0,4%
4	0,1%			1	0,0%						
110	2,3%	1	0,0%	15	0,3%	4	0,1%	2	0,0%	3	0,1%
6	0,1%										
13	0,3%			6	0,1%						
3 632	75,4%	17	0,4%	830	17,2%	52	1,1%	128	2,6%	159	3,3%

ASSESSMENT STAFF



Edrich Buytendorp
Manager



Ronel van der Merwe
Deputy Manager



Ismail Surtee
Adjudicator



Tamaren ten Oever
Adjudicator



Audrey Tau
Adjudicator



Lindiwe Mngomezulu
Intern: Adjudicator

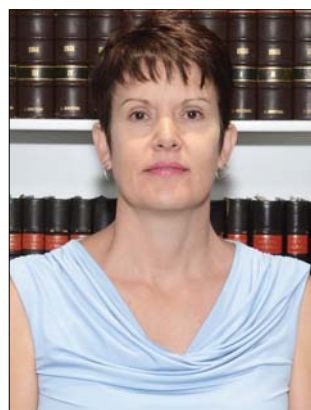


Annicee Emmanuel
Administrator

FINANCE / EXECUTIVE ASSISTANT



Louise Hall
*Manager: Finance and
Human Resources*



Karin van Rooyen
*Executive Personal Assistant
to the Ombudsman*

CASE PROCESSING STAFF



Edrich Buytendorp
Manager



Ronel van der Merwe
Deputy Manager



Maggie Machethe
Administrator



Cylvia Rapodile
Administrator



Tumelo Babusi
Administrator



Nqobile Ngwenya
Call Centre



Charne Willemse
Call Centre



Lisbeth Mokhachane
Switchboard / Reception

SUPPORT STAFF



Irene Moloi
General / Administrator



Mpho Sejabeng
Housekeeping

CASE SUMMARIES

CASE SUMMARY 1

Always keep your banking affairs private

The complaint related to the conduct of a bank staff member. The staff member had previously been romantically involved with the complainant's husband. The staff member accessed the complainant's contact details as the complainant's account was held at the bank where the former was employed.

Using the personal information so gained, the staff member then called the complainant and harassed her. The complainant complained to her bank, who undertook to take disciplinary steps against the staff member. The staff member was apparently not deterred and once again called the complainant and harassed her.

The complainant wanted the bank to dismiss the staff member.

The bank's investigation confirmed that the staff member had indeed accessed the complainant's account without the necessary authority, on two occasions. Notwithstanding the bank's findings, our office could not force the bank to dismiss the staff member. A bank cannot be held vicariously liable for unlawful acts committed by staff members outside the course and scope of their employment.

The bank undertook to take the necessary disciplinary steps against the staff member and also apologised to the complainant for any distress and inconvenience caused.

PRINCIPLE: A bank cannot be held liable if a staff member acts outside the course and scope of his/her employment.

CASE SUMMARY 2

Tata Ma Chance, Tata Ma Millions

The complainant purchased two Lotto tickets through the bank's online electronic banking services.

The complainant claimed the winnings in a draw worth R5,4 million had been won by him as he alone had picked all 6 numbers correctly.

The complainant lodged a complaint against his bank, claiming from the bank payment of that amount. After the complainant was advised of the limit of our monetary jurisdiction, he agreed to reduce his claim to R2 million.

The bank provided proof that two tickets had been purchased by the complainant at 07:03 and 07:14 respectively on 26th May 2016, the day after the draw

referred to by the complainant had already taken place. The bank conceded that it was aware that the tickets reflected the incorrect draw date, but advised that the error was committed by Ithuba, the operator of the National Lottery. The validation of Powerball or Lotto tickets rests solely with Ithuba.

A bank can only pay the winnings on instruction of Ithuba and may not pay out any winnings in excess of R50 000.00. Any claims or complaints that the complainant may have had in this regard must therefore be referred to Ithuba.

PRINCIPLE: Don't chance your arm with your bank.

CASE SUMMARY 3

Too late to try for a discount

This complaint relates to a settlement quotation which the complainant obtained from the bank in respect of two loan accounts. The accounts were about to be handed over for collection. The bank advised the complainant to wait for a week, after which the debt collecting agency would contact him with settlement quotations.

The complainant insisted that he wanted to settle the amounts immediately and furthermore insisted that the bank provide him with the settlement quotation immediately, which the bank then did. The complainant settled the debts in full and the accounts were closed.

A week later the debt collecting agency, unaware that the debts had already been settled by the complainant, contacted the latter and offered a discount of 20% to him if he settled the debt.

The complainant wanted the bank to refund him the

difference between the sum paid to the bank and the sum offered to him by the debt collecting agency.

The bank rejected his claim as he was advised to wait but insisted that he wanted to settle the debt immediately.

Our office could not find any legal basis on which to force the bank to refund the discounted amount to the complainant. The complainant paid the full outstanding balances owing to the bank and the bank was entitled to retain payment.

The bank is under no obligation to offer a discount or to refund the difference between the settlement amount and the amount which the debt collecting agency was prepared to accept.

PRINCIPLE: Once an amount is paid in full and final settlement, it cannot be revisited.

CASE SUMMARY 4

What's in a name?

The complainant invested a total sum of R250 000.00 with her bank in her maiden name. This investment was later moved to a new investment number in her married name.

Prior to maturity of the investment, her bank contacted her and requested her instructions on how to deal with the investment. The bank pointed out that should no instruction to the contrary be received from her, the funds would automatically be reinvested for a further period at the prevailing interest rate.

As she did not respond to the letters received from the bank, she expected the bank to reinvest the

funds at the prevailing interest rate. However, upon maturity the bank paid the funds to her husband's account, held under his name. The husband passed away shortly thereafter and the funds formed part of his deceased estate.

The complainant wanted the bank to reinstate the investment in her name as at the maturity date at the prevailing interest rate.

The bank indicated that the "Application for Investment" document signed by the complainant provided for the capital be paid to the account held at the bank in the name of her husband, and further-

more that interest accrued should be paid to her account held with another bank.

The bank rejected the complainant's claim on the basis that it had followed her instructions.

Since the sum of R250 000.00 invested was paid from her late husband's account and bore that account number on the "Application for Investment" document, on maturity the bank paid the funds into the late husband's account.

However, the "Application for Investment" document provided that the complainant could select the account into which the capital should be paid upon maturity. She did not instruct the bank to pay the

funds into her husband's account. It was further found that the complainant was entitled to expect that the funds would be reinvested on the same terms at the prevailing interest rate, as she had not given the bank any instructions to the contrary.

The bank accepted our findings and transferred the sum invested to the complainant's account and reinvested it at the prevailing interest rate. In addition, the bank paid the sum of R5 000.00 as compensation for the distress and inconvenience that its actions caused the complainant.

PRINCIPLE: The bank has a contractual duty to comply with the instructions of its client.

CASE SUMMARY 5

No fun for a hit and run

The complainant's son was involved in a hit and run accident whilst driving the complainant's motor vehicle. The complainant duly reported the matter to the police and lodged an insurance claim with his insurer, being his bank. The bank repudiated the complainant's claim on the basis that the complainant's son was not listed on the policy as a regular driver.

The complainant advised that he had emailed the insurance consultant who had sold him the policy, instructing him to amend the policy to include his son as a "regular driver". The consultant clearly did not follow his instruction. The complainant was unable to provide a copy of that email. There was a clear dispute of fact as the complainant's version differed from the bank's version.

The bank advised that it is important that the regular driver of the motor vehicle is listed correctly on the policy, as they base the insurance premium on the regular driver's risk profile. The bank considers various aspects, which include the driver's age, driving history and driving ability. The bank stated

that as it did not have the correct information, the complainant was paying the incorrect premium.

The total claim for the damages amounted to R8 508.11 and the premium prejudice that was suffered by the bank was R7 084.34, hence the bank only offered an amount of R1 423.77 for the repairs. The complainant wanted the bank to pay the full amount.

As the bank in this instance was charging a premium based on the complainant's profile and not his son's profile, the bank rejected the claim due to premium prejudice.

The office could not find in favour of the complainant, as there was a duty on him to ensure that all information noted on the policy was true and correct. Even if he had sent an email instruction to the consultant, he had a duty to ensure that his instruction to amend the policy was adhered to.

PRINCIPLE: Always ensure that the information noted on an insurance policy is complete and correct.

CASE SUMMARY 6

Phishing for fraudulent gains

The complainant's emails were intercepted by a fraudster. The fraudster contacted the complainant, purporting to be one of the complainant's customers. The fraudster informed the complainant that there had been a change in his banking details and instructed the complainant to pay the funds into the new bank account as stipulated.

The complainant duly paid the sum of R283 516.14 into the new account as instructed by the fraudster. Subsequently the complainant realised that he had been deceived and contacted his bank as well as the beneficiary bank to report the fraud.

The complainant advised that he was informed by the bank consultant who assisted him that when the latter contacted the beneficiary bank, the funds were still in that account and that the account was then placed on hold. The beneficiary bank denied having advised the bank consultant that the funds were still in the account.

The beneficiary bank stated that by the time the fraud had been reported to them, the funds had already been withdrawn by the fraudster.

We requested a copy of the beneficiary bank's statements, which confirmed that all the funds had in fact been withdrawn from the account prior to the bank becoming aware of the fraud. We found that even if the bank consultant misled the complainant into believing that the funds were still available at the beneficiary bank, that did not cause or contribute to the loss suffered by the complainant, as the funds had been withdrawn in full before the beneficiary bank was informed of the fraud.

The office found that the complainant's claim was against the beneficiary account holder and not the bank.

PRINCIPLE: To avoid becoming a victim of fraud, one must exercise reasonable care and diligence when evaluating any request for a change in banking details received.

CASE SUMMARY 7

The thing just keeps on going

The complainant was informed by the bank that his vehicle finance debt had prescribed. The complainant lodged a complaint with our office because the bank refused to release the Natis documents.

The bank's position was that although its claim for the amount owed on the motor vehicle in terms of the finance agreement that was concluded had prescribed, it still had a claim to the motor vehicle.

Our office investigated the matter and studied the case of Absa Bank v Keet (817/13) 2015 ZASCA 81.

The SCA found that a vindicatory claim, which is

a claim based on ownership of a thing, cannot be described as debt as envisaged by the Prescription Act. Therefore, even though the monetary debt had prescribed, the bank still had a claim over the thing, being the vehicle.

In light of the judgement, it was concluded by our office that the bank was under no obligation to release the Natis documents as its claim to the motor vehicle had not prescribed.

PRINCIPLE: A bank's right to claim on a debt may prescribe, but its right of ownership to the thing does not prescribe.

CASE SUMMARY 8

Unilaterally unreasonable interest

Whilst the complainant was a staff member of the bank, he qualified for an overdraft facility at a staff interest rate. Subsequently, after the complainant left the employ of the bank, he applied for an overdraft limit increase. His application was approved by the bank at a staff interest rate.

The bank then noticed that it had made an error in granting the complainant an overdraft limit increase at a staff interest rate and unilaterally increased the interest. The bank justified its actions in this regard by referring to the original agreement that was concluded between the complainant and the bank whilst he was still employed at the bank.

The complainant was aggrieved by the bank's actions as he was of the view that the bank was bound by

the terms and conditions of the new agreement that was concluded when he applied for the limit increase.

The office found that the bank's actions of unilaterally changing the terms and conditions of the agreement were unreasonable. The bank could not rely on the agreement that was concluded whilst the complainant was in the employ of the bank as a new agreement was concluded when the complainant applied for the limit increase and the bank was bound by the terms and conditions that were agreed upon.

The bank accepted our findings in this regard and adjusted the interest rate accordingly.

PRINCIPLE: Banks cannot unilaterally change the terms and conditions of an agreement.

CASE SUMMARY 9

Earning interest on time

The bank was the executor of the complainant's deceased brother's estate. The complainant was dissatisfied with the delay on the part of the bank in winding up the estate. The complainant stated that as a result of the delay on the part of the bank, interest was accruing on the home loan account, which in turn increased the outstanding balance.

The complainant was of the view that the bank had failed in its responsibility of administering the estate as expeditiously as possible.

The complainant wanted the bank to transfer the property into the name of the heir without delay and to write off the outstanding balance on the home loan account.

The bank offered R5 000.00 as a gesture of goodwill for any distress and inconvenience caused by the delay. The complainant rejected this offer.

We found that there was merit in the complainant's claim. It was found that there were indeed delays, although not solely attributable to the bank. A lack of communication on the part of the bank, coupled with the actions of the transferring attorneys, contributed to the delay. It was therefore recommended that the bank compensate the complainant in the sum of R10 000.00 for the distress and inconvenience caused by the delay. The bank accepted our recommendation.

There was no legal basis for a finding that the bank write off the outstanding amount owed on the home loan.

PRINCIPLE: Whilst delays often occur when dealing with a matter, banks should always conclude matters as expeditiously as possible.

CASE SUMMARY 10

One bad debt does not justify another

The complainant fell into arrears with a home loan held at his bank. His family members helped him to settle the account, which was then closed.

The complainant subsequently obtained three credit facilities with the same bank. He once again experienced financial difficulties. His family assisted in settling the outstanding balances and the accounts were closed.

The complainant lodged a dispute against his bank, alleging that his bank granted the second credit facility recklessly, being well aware of his past poor payment history. The complainant wanted his bank to repay the money which was paid by his family members to settle the debt.

The bank advised that, prior to extending the credit facilities to the complainant, it had conducted an

affordability assessment as required by the National Credit Act. The office considered the information provided by the bank and concluded that there was no evidence supporting a finding that the credit facilities had been granted recklessly by the bank.

The remedy provided by the National Credit Act in instances of reckless lending is that a court or tribunal may set aside all or part of the consumer's rights and obligations under the agreement. This remedy did not apply in this instance, as the finding was that the credit had not been granted recklessly, and in any event, as the accounts were settled and closed, there was no legal basis for recommending that the bank reimburse the complainant.

PRINCIPLE: Reckless lending should not be used as a way of resiling from your financial obligations.

CASE SUMMARY 11

If it sounds too good to be true ...

The complainant applied for a home loan, which was granted in the amount of R335 000.00. Subsequently an amount of R41 175.00 was credited to the account, of which the complainant used in terms of the Access Bond facility.

The bank later erroneously credited the account with a second sum of R41 175.00. The complainant utilised these funds from his bond account. The bank, realising its error, reversed the erroneous payment, causing the bond amount to increase to more than it had initially been registered for.

The complainant wanted the bank to write off the amount that was credited to the bond account in error.

Whilst it was acknowledged that the bank could not

simply debit the bond account without the account holder's permission, we could not ignore the fact that the complainant received and used the funds that were credited to the bond account in error. Had the bank not reversed the credit, the complainant would have been unjustly enriched. If the bank was to re-credit the complainant's account, he would also be unjustly enriched and the bank would have a legal claim against him for return of the funds.

The following options were proposed by our office to the complainant:

1. The bank could reverse the debit, to re-credit the bond account with the amount; however, the consequences of this would be that the bank would institute legal action against him to claim

- the amount back through a court of law or through attorneys, based on unjust enrichment; or
2. The debt could be transferred to a separate account and be paid off separately, interest free, over a period of a year. This would result in larger instalments, but he would not incur any interest; or
 3. He could pay off the amount via his bond account, which was currently the status quo.

It was found that although the bank had made the error, it had taken steps to amicably resolve the error. The bank was willing to negotiate a resolution. The complainant on the other hand did not respond to

any of the options that were proposed.

We could not find any basis on which to instruct the bank to write off the amount. If the bank refunded the amount debited, it could then institute legal action to claim the amount from the complainant, based on unjust enrichment which would result in legal costs and a judgment against the complainant.

Whilst we were of the view that the parties should resolve the matter amicably, we were unable to assist, as the complainant refused to co-operate.

PRINCIPLE: Bank customers cannot be unjustifiably enriched by a bona fide error made by the bank.

CASE SUMMARY 12

Real compensation for “technical arrears”

The complainant concluded a bond agreement with the bank and in terms of that agreement, she requested that the debit order go off her account on the 25th of the month instead of the 1st of the month as stipulated in the bond agreement. The bond was registered and the bank subsequently received payments on the 25th of every month.

A few years later, she called her personal banker and requested that the debit order date be changed to the 1st of every month as she had changed jobs. Effectively, the debit order date was moved forward by 7 days. This request was given effect to by the bank. Subsequently, she received an SMS from the bank informing her that her account was in arrears.

She took the matter up with her bank when it came to light that, as a result of the change of the debit order date from the 1st of the month to the 25th of the month at the time of signature, her account had always been in “technical arrears”.

The complainant was aggrieved at the bank’s actions.

The bank could not show that it had informed her about the technical arrears on her account. The bank

confirmed that the account statements did not indicate that the account was in technical arrears, therefore in the absence of the customer being informed at the time of the signing of the contract, a customer would not know that an account was technically in arrears and the consequences thereof. There is indeed a duty on the bank to inform the customer of the consequences of changing the debit order date in the agreement to the 25th of the month.

The adjudicator found that there was merit in the complainant’s submissions, especially insofar as her stated concerns regarding transparency and the fair treatment of a customer were concerned.

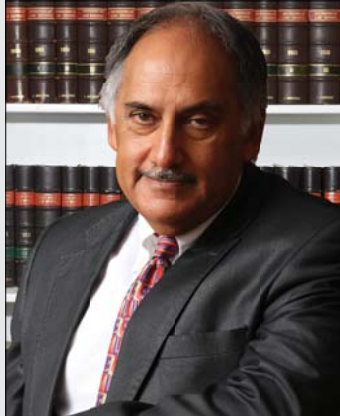
The amount in arrears could not simply be written off, as the complainant was contractually liable for the payment. The office, however, recommended that the bank compensate the complainant in the amount of R5 000.00 for any distress and inconvenience its actions caused her. The bank accepted our recommendation in this regard.

PRINCIPLE: Banks have a duty to inform customers about the consequences of changing a term in a contract.

DIRECTORS



Adv John Myburgh SC
Chairperson



Mr Cas Coovadia
Director



Mr Tefo Raditapole
Director



Mr Jason Taylor
Director



Ms Tanya Venter
Director



Mrs Marguerite Jacobs
Alternate Director



Ms Claudia Burgers
Director



Mrs Penelope Beck
Director



Ms Thembi Msibi
Director

DIRECTORS' RESPONSIBILITIES

FOR THE YEAR ENDED 31 DECEMBER 2016

The directors are required in terms of the South African Companies Act No. 71 of 2008 to maintain adequate accounting records to enable the company to satisfy all reporting requirements applicable to it and provide for the proper conduct of an audit. The accounting records required to be kept by the Act and this regulation must be kept in such a manner as to provide adequate precautions against theft, loss or intentional or accidental damage or destruction, falsification, to facilitate the discovery of any falsification and to comply with any other applicable law dealing with accounting records, access to information, or confidentiality. It is their responsibility to ensure that the annual financial statements satisfy the financial reporting standards as to form and content and present fairly the statement of financial position, results of operations and business of the company, and explain the transactions and financial position of the business of the company at the end of the financial year. The annual financial statements are based upon appropriate accounting policies consistently applied throughout the company and supported by reasonable and prudent judgements and estimates.

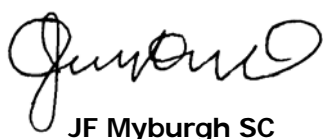
The directors acknowledge that they are ultimately responsible for the system of internal financial control established by the company and place considerable importance on maintaining a strong control environment. To enable the directors to meet these responsibilities, the board sets standards for internal control aimed at reducing the risk of error or loss in a cost effective manner. The standards include the proper delegation of responsibilities within a clearly defined framework, effective accounting procedures and adequate segregation of duties to ensure an acceptable level of risk. These controls are monitored throughout the company and all employees are required to maintain the highest ethical standards in ensuring the company's business is conducted in a manner that in all reasonable circumstances is above reproach.

The focus of risk management in the company is on identifying, assessing, managing and monitoring all known forms of risk across the company. While operating risk cannot be fully eliminated, the company endeavours to minimise it by ensuring that appropriate infrastructure, controls, systems and ethical behaviour are applied and managed within predetermined procedures and constraints.

The directors are of the opinion, based on the information and explanations given by management and the external auditors, that the system of internal control provides reasonable assurance that the financial records may be relied on for the preparation of the annual financial statements. However, any system of internal financial control can provide only reasonable, and not absolute, assurance against material misstatement or loss. The going-concern basis has been adopted in preparing the financial statements. Based on forecasts and available cash resources the directors have no reason to believe that the company will not be a going concern in the foreseeable future. The financial statements support the viability of the company.

The financial statements have been audited by the independent auditing firm, Nkonki Inc., which has been given unrestricted access to all financial records and related data, including minutes of all meetings of the board of directors and committees of the board. The directors believe that all representations made to the independent auditor during the audit were valid and appropriate. The external auditors' unqualified audit report is presented on pages 36.

The annual financial statements as set out on pages 38 to 53 were approved by the board on 8 March 2017 and were signed on its behalf by:



JF Myburgh SC



TN Raditapole

DIRECTORS' REPORT

FOR THE YEAR ENDED 31 DECEMBER 2016

The directors present their report for the year ended 31 December 2016.

1. Review of activities

Main business and operations

The principal activity of the company is banking dispute resolution and related services and operates principally in South Africa. There were no major changes herein during the year.

The operating results and statement of financial position of the company are fully set out in the attached financial statements and do not in our opinion require any further comment.

2. Going concern

The annual financial statements have been prepared on the basis of accounting policies applicable to a going concern. This basis presumes that funds will be available to finance future operations and that the realisation of assets and settlement of liabilities, contingent obligations and commitments will occur in the ordinary course of business.

3. Events after reporting date

All events subsequent to the date of the annual financial statements and for which the applicable financial reporting framework require adjustment or disclosure have been adjusted or disclosed.

The directors are not aware of any matter or circumstance arising since the end of the financial year to the date of this report that could have a material effect on the financial position of the company.

4. Directors' interest in contracts

To our knowledge none of the directors had any interest in contracts entered into during the year under review.

5. Directors

The directors of the company during the year and to the date of this report are as follows:

JF Myburgh	South African
TN Raditapole	South African
C Coovadia	South African
M Jacobs	South African
C Burgers	South African
T Venter	South African
J Taylor	South African
TN Msibi	South African
P Beck	South African

6. Secretary

The company's designated secretary is Corporate Law Services (Pty) Ltd. Its address is on page 37.

7. Auditors

Nkonki Inc. was the auditing firm for the year under review. The reappointment of the auditors will be done in accordance with section 90 of the South African Companies Act No. 71 of 2008 at the annual general meeting.

AUDITORS' REPORT

FOR THE YEAR ENDED 31 DECEMBER 2016

Report of Independent Auditors to the Members of Ombudsman for Banking Services

We have audited the annual financial statements of Ombudsman for Banking Services, which comprise the statement of financial position as at 31 December 2016, the statement of comprehensive income, the statement of changes in equity and the statement of cash flows for the year then ended, a summary of significant accounting policies and other explanatory notes, as set out on pages 38 to 53.

Directors' Responsibility for the Financial Statements

The company's directors are responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards, and in the manner required by the Companies Act of South Africa. This responsibility includes: designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditors consider internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements present fairly, in all material respects, the financial position of the company as at 31 December 2016, and its financial performance and its cash flows for the year then ended in accordance with International Financial Reporting Standards, and in the manner required by the Companies Act of South Africa.

Other matter

Without qualifying our opinion, we draw attention to the fact that supplementary information set out on page 54 does not form part of the financial statements and is presented as additional information. We have not audited this information and accordingly do not express an opinion thereon.

Other reports required by the Companies Act

As part of our audit of the financial statements for the year ended 31 December 2016, we have read the directors' report for the purpose of identifying whether there are material inconsistencies between this report and the audited financial statements. This report is the responsibility of the respective preparers. Based on reading these reports we have not identified material inconsistencies between this report and the audited financial statements. However, we have not audited these reports and accordingly do not express an opinion on these reports.

Nkonki Inc. Per: Nyarai Muzarewetu CA (SA)
Registered Auditors, Johannesburg
Date: 8 March 2017

COMPANY SECRETARY

FOR THE YEAR ENDED 31 DECEMBER 2016

In terms of section 88(2)(e) of the Companies Act, 71 of 2008, as amended, I certify that, to the best of my knowledge and belief, the company has lodged with the Companies and Intellectual Properties Commission (CIPC) for the financial year ended December 2016 all such returns and notices as are required of a public company in terms of the Act, and that all such returns and notices are true, correct and up to date.



Corporate Law Services (Pty) Ltd.
Company Secretary

Audited Financial Statements
in compliance with Companies Act 71 of 2008
Prepared: LD Hall
Position: Financial Manager
Audited: Nkonki Inc.
Position: Registered Auditors

The address of the Company Secretary is:

Corporate Law Services (Pty) Ltd

Business address
Central Office Park Unit 3
257 Jean Avenue
Centurion 0157

Postal address
PO Box 77550
Centurion 0046

The address of the Accounting Officer is:

Nkonki Inc
Nkonki House
1 Simba Rd,
cnr Nanyuki Rd
Sunninghill
2157

FINANCIAL POSITION

FOR THE YEAR ENDED 31 DECEMBER 2016

Figures in rands

Note(s)

Assets

Non-current assets

Property, plant and equipment

Intangible assets

5 800 488 558 021

6 246 031 421 171

1 046 519 979 192

Current assets

Trade and other receivables

Cash and cash equivalents

Lease adjustment

7 481 477 312 531

8 22 723 694 17 601 081

9 - 147 496

23 205 171 18 061 108

Total assets

24 251 690 19 040 300

Equity and liabilities

Equity

Retained earnings

2 413 255 2 553 912

Current liabilities

Trade and other payables

Lease adjustment

11 21 783 932 16 486 388

9 54 503 -

21 838 435 16 486 388

Total equity and liabilities

24 251 690 19 040 300

COMPREHENSIVE INCOME

FOR THE YEAR ENDED 31 DECEMBER 2016

Figures in rands	Note(s)	2016	2015
Subscriptions	12	24 095 845	23 583 499
Other income		13 250	47 119
Operating costs		(25 175 564)	(23 292 744)
Operating (deficit)/surplus	13	(1 066 469)	337 874
Finance income	14	925 813	908 298
(Deficit)/surplus for the year		(140 656)	1 246 172
Retained income at 1 January 2016		2 553 912	1 307 740
(Deficit)/surplus for the year		(140 656)	1 246 172
Retained income at 31 December 2016		2 413 256	2 553 912

CHANGES IN EQUITY

FOR THE YEAR ENDED 31 DECEMBER 2016

Figures in rands

Balance at 1 January 2015

Total comprehensive income for the year

Surplus for the year

Balance at 31 December 2015

Balance at 1 January 2016

Total comprehensive income for the year

Surplus for the year

Balance at 31 December 2016

Retained earnings	Total
1 307 740	1 307 740
1 246 172	1 246 172
2 553 912	2 553 912
2 553 912	2 553 912
(140 656)	(140 656)
2 413 256	2 413 256

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED 31 DECEMBER 2016

Figures in rands

Note(s)

		2016	2015
Cash flows from operating activities			
Surplus (deficit) for the year		(140 656)	1 246 172
Amortisation of intangible assets		389 419	469 809
Depreciation of tangible assets		479 813	610 628
Investment income		(925 813)	(908 298)
Profit on disposal of property, plant and equipment		(13 250)	(47 119)
Operating cash flow before working capital changes		(210 487)	1 371 192
Working capital changes			
Decrease/(increase) in trade and other receivables		(168 946)	(80 981)
(Decrease)/increase in trade and other payables		5 297 543	(6 297 493)
Cash (utilised in)/generated by operating activities		4 918 110	(5 007 282)
Interest received		925 813	908 298
Net cash from operating activities		5 843 923	(4 098 984)
Cash flows from investing activities			
Property, plant and equipment acquired	5	(722 279)	(466 396)
Intangible assets acquired	6	(214 280)	(490 110)
Proceeds on disposals of property, plant and equipment		13 250	47 119
Net cash utilised in investing activities		(923 309)	(909 387)
Cash flows from financing activities			
Loans (repaid)/raised - lease smoothing adjustment		201 999	(290 928)
Net cash (utilised in)/generated by financing activities		201 999	(290 928)
(Decrease)/increase in cash and cash equivalents		5 122 613	(5 299 299)
Cash and cash equivalents at beginning of the year		17 601 081	22 900 380
Cash and cash equivalents at end of the year	8	22 723 694	17 601 081

ACCOUNTING POLICIES

FOR THE YEAR ENDED 31 DECEMBER 2016

1. General information

Ombudsman for Banking Services is a Non-Profit Company incorporated in South Africa.

2. Statement of compliance with International Financial Reporting Standards

The annual financial statements have been prepared in accordance with all applicable International Financial Reporting Standards (IFRS), which includes all applicable individual International Financial Reporting Standards, International Accounting Standards (IASs) and Interpretations issued by the IFRS Interpretations Committee, and the requirements of the Companies Act of South Africa. A summary of significant accounting policies is set out in note 3.

The preparation of financial statements in conformity with IFRS requires management to make judgements, estimates and assumptions that affect the application of policies and reported amounts of assets and liabilities, income and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances, the results of which form the basis of making the judgements about carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates.

3. Summary of significant accounting policies

3.1 Property, plant and equipment

Property, plant and equipment (PPE) are tangible non-current assets that are held for use in the production or supply of goods or services, rental to others, or for administrative purposes, and are expected to be used during more than one period.

The cost of an item of property, plant and equipment is recognised as an asset if it is probable that future economic benefits associated with the item will flow to the entity and the cost of the item can be measured reliably.

All property, plant and equipment is initially recorded at cost with subsequent measurement at cost less accumulated depreciation and any accumulated impairment losses.

The realised portion of the revaluation reserve is transferred to accumulated reserves. An annual transfer from the revaluation reserve to accumulated reserves is made for the difference between depreciation based on the revalued carrying amount of the asset and depreciation based on the asset's original cost. Additionally, accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the net amount is restated to the revalued amount of the asset. Upon disposal, any revaluation reserve relating to the particular asset being sold is transferred to accumulated reserves.

An item of property, plant and equipment is derecognised upon disposal or when no future economic benefits are expected from its use or disposal. Any gain or loss arising on derecognition of the asset (calculated as the difference between the net disposal proceeds and the carrying amount of the asset) is included in the statement of comprehensive income in the year the asset is derecognised.

Subsequent expenditure is capitalised only when it is probable that future economic benefits associated with the expenditure will flow to the company. All other expenditure and ongoing repairs and maintenance are expensed in the period in which they are incurred.

The assets' residual values, useful lives and methods of depreciation are reviewed, and adjusted if appropriate, at each financial year end.

Depreciation is provided on the straight-line basis, which is estimated and will reduce the carrying amount of the assets to their residual values at the end of their useful lives. Items of property, plant and equipment are depreciated from the date that they are installed and available for use. Where an item of property, plant and equipment comprises major components with different useful lives, the components are accounted for as separate items of property, plant and equipment.

The major categories of assets are depreciated at the following rates:

IT equipment	3 years
Furniture and fittings	5 years
Security equipment	5 years
Office equipment	5 years

The carrying amounts of the company's tangible and intangible assets are reviewed at each year end to determine whether there is any indication of impairment. If there is any indication that an asset may be impaired, its recoverable amount is estimated. The recoverable amount is the greater of its fair value less cost to sell and its value in use.

3.2 Intangible assets

An intangible asset is an identifiable, non-monetary asset without physical substance. Intangible assets are identifiable resources controlled by the entity from which the entity expects to derive future economic benefits.

An intangible asset is identifiable if it either is separable, ie is capable of being separated or divided from the entity and sold, transferred, licensed, rented or exchanged, either individually or together with a related contract, identifiable asset or liability, regardless of whether the entity intends to do so or arises from contractual or other legal rights, regardless of whether those rights are transferable or separable from the entity or from other rights and obligations.

An intangible asset is recognised if it is probable that the expected future economic benefits that are attributable to the asset will flow to the entity and the cost of the asset can be measured reliably.

The entity assesses the probability of expected future economic benefits using reasonable and supportable assumptions that represent management's best estimate of the set of economic conditions that will exist over the useful life of the asset.

Intangible assets that are acquired and have finite useful lives are initially recognised at cost with subsequent measurement at cost less any accumulated amortisation and any impairment losses.

Intangible assets are derecognised upon disposal or when no future economic benefits are expected from their use or disposal. Any gain or loss arising on derecognition of the asset (calculated as the difference between the net disposal proceeds and the carrying amount of the asset) is included in the statement of comprehensive income in the year the asset is derecognised.

An intangible asset is regarded as having an indefinite useful life when, based on all relevant factors, there is no foreseeable limit to the period over which the asset is expected to generate net cash inflows.

Amortisation is not provided for these intangible assets. For all other intangible assets amortisation is recognised in the statement of comprehensive income and is provided on the straight-line basis, which is estimated and will reduce the carrying amount of the assets to their residual values at the end of their useful lives.

Intangible assets are amortised at the following rates:

Computer software	2 years
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3.3 Amortisation

Except for goodwill, intangible assets are amortised on a straight-line basis in comprehensive income over their estimated useful lives, from the date that they are available for use.

Amortisation methods, useful lives and residual values are reviewed at each reporting date and adjusted if appropriate.

3.4 Financial instruments

The company initially recognises loans and receivables on the date that they are originated. All other financial assets (including assets designated as at fair value through comprehensive income) are recognised initially on the trade date, which is the date that the company becomes a party to the contractual provisions of the instrument.

The company derecognises a financial asset when the contractual rights to the cash flows from the asset expire, or it transfers the rights to receive the contractual cash flows in a transaction in which substantially all the risks and rewards of ownership of the financial assets are transferred. Any interest in such transferred financial assets that is created or retained by the company is recognised as a separate asset or liability.

Financial assets and liabilities are offset and the net amount presented in the statement of financial position when, and only when, the company has a legal right to offset the amounts and intends either to settle on a net basis or to realise the asset and settle the liability simultaneously.

The company classified non-derivative financial assets into the following categories: financial assets at fair value through comprehensive income, loans and receivables and available-for-sale financial assets.

Financial assets

3.4.1 Trade and other receivables

Trade and other receivables are initially measured at fair value and, after initial recognition, at amortised cost less impairment losses for bad and doubtful debts, if any, except for the following receivables:

- Interest-free loans made to related parties without any fixed repayment terms or the effect of discounting being immaterial, that are measured at cost less impairment losses for bad and doubtful debt, if any; and
- Short-term receivables with no stated interest rate and the effect of discounting being immaterial, that are measured at their original invoice amount less impairment losses for bad and doubtful debt, if any.

At each statement of financial position date, the company assesses whether there is any objective evidence that a receivable or group of receivables is impaired. Impairment losses on trade and other receivables are recognised in operating surplus or deficit when there is objective evidence that an impairment loss

has been incurred and are measured as the difference between the receivable's carrying amount and the present value of estimated future cash flows (excluding future credit losses that have not been incurred) discounted at its original effective interest rate, i.e. the effective interest rate computed at initial recognition. The impairment loss is reversed if, in a subsequent period, the amount of the impairment loss decreases and the decrease can be related objectively to an event occurring after the impairment was recognised.

3.4.2 Cash and cash equivalents

Cash comprises cash on hand and at bank and demand deposits with bank. Cash equivalents are short-term, highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value.

3.4.3 Available-for-sale financial assets

Available-for-sale financial assets are non-derivative financial assets that are designated as available for sale or are not classified in any of the above categories of financial assets. Available-for-sale financial assets are recognised initially at fair value plus any directly attributable transaction costs.

Subsequent to initial recognition, they are measured at fair value and changes therein, other than impairment losses and foreign currency differences on available-for-sale debt instruments, are recognised in other comprehensive income and presented in the fair value reserve. When an investment is derecognised, the gain or loss accumulated in reserves is reclassified to profit or loss.

Impairment losses on available-for-sale financial assets are recognised by reclassifying the losses accumulated in the fair value reserve to comprehensive income. The cumulative loss that is reclassified from reserves to comprehensive income is the difference between the acquisition cost, net of any principal repayment and amortisation, and the current fair value, less any impairment loss recognised previously in comprehensive income. Changes in the cumulative impairment losses attributable to the application of the effective interest method are reflected as a component of interest income. If, in a subsequent period, the fair value of an impaired available-for-sale debt security increases and the increase can be related objectively to an event occurring after the impairment loss was recognised, then the impairment loss is reversed, with the amount of the reversal recognised in comprehensive income. However, any subsequent recovery in the fair value of the impaired available-for-sale equity security is recognised in other comprehensive income.

3.4.4 Trade and other payables

Trade and other payables are initially measured at fair value and, after initial recognition, at amortised cost, except for short-term payables with no stated interest rate and the effect of discounting being immaterial, that are measured at their original invoice amount.

3.4.5 Provisions

A provision is recognised if, as a result of a past event, the company has present legal or constructive obligation that can be estimated reliably, and it is probable that an outflow of economic benefits will be required to settle the obligation. Provisions are determined by discounting the expected future cash flows at a pre-tax rate that reflects current market assessments of the time value of money and the risks specific to the liability. The unwinding of the discount is recognised as finance cost.

3.5 Employee benefits

a. Post-retirement obligations

The company provides benefits to employees through a defined benefit plan and a defined contribution plan in terms of the Pension Funds Act, 1956. The pension plans are funded by payments from employees and the company, taking account of the recommendations of independent actuaries.

Obligations arising from the defined contribution plan are recognised as an expense when they are due.

For the defined benefit plan, the pension accounting costs are assessed using the Projected Unit Credit Method. Under this method, the cost of providing pensions is charged to the statement of comprehensive income to spread the regular cost over the service period of employees in accordance with the advice of actuaries who carry out a full valuation of the fund every three years. The pension obligation is measured as the present value of the estimated future cash outflows using interest rates on government bonds that have terms to maturity approximating the terms of the related liability. When the calculation results in a benefit for the company, the recognised asset is limited to the net total of any unrecognised past service cost and the present value of any future refunds from the plan or reductions from future contributions to the plan.

Any actuarial gain or loss is recognised in other comprehensive income when it occurs.

b. Short-term employee benefits

The cost of all short-term employee benefits is recognised during the period in which the employee renders the related service on an undiscounted basis.

Accruals for employee entitlement to annual leave represents the present obligation which the company has to pay as a result of employees' services provided to the balance sheet date. The accruals have been calculated at undiscounted amounts based on current salary rates.

A liability is recognised for the amount expected to be paid under short term bonuses in the company as the company has a present legal constructive obligation to pay the amount as a result of past service provided by the employee, and the obligation can be estimated reliably.

3.6 Subscription recognition

Subscriptions are recognised to the extent that it is probable that the economic benefits will flow to the company and the revenue can be reliably measured. Revenue is measured at fair value of the consideration received or receivable and represents amounts receivable or received for services provided and goods delivered, net of discounts and value-added taxation (VAT) and where there is reasonable expectation that the income will be received and all attaching conditions will be complied with.

In these financial statements, surplus is used instead of profit as the company is not profit driven, yet could generate surplus revenue over costs.

a. Rendering of services

Subscriptions are accounted for when services are rendered.

When the outcome of a transaction involving the rendering of services can be estimated reliably, subscriptions associated with the reference "to the stage of completion of the transaction" shall be recognised at the

Statement of Financial Position date. The outcome of a transaction can be estimated reliably when all the following conditions are satisfied:

- the amount of subscriptions can be measured reliably;
- it is probable that the economic benefits associated with the transaction will flow to the company;
- the stage of completion of the transaction at the Statement of Financial Position date can be measured reliably;
- the costs incurred for the transaction and the cost to complete the transaction can be measured reliably.

When the outcome of the transaction involving the rendering of services cannot be estimated reliably, subscriptions shall be recognised only to the extent of the expenses recognised that are recoverable.

3.7 Finance income

Finance income comprises interest income on funds invested, dividends received and gains on day one of recognition of an external interest-free loan.

Interest income is accrued on a time apportionment basis, by reference to the principal outstanding and at the effective interest rate applicable, which is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset to that asset's net carrying amount.

4. Leases

A lease is classified as a finance lease if it transfers substantially all the risks and rewards incidental to ownership. A lease is classified as an operating lease if it does not transfer substantially all the risks and rewards incidental to ownership.

4.1 Operating leases – lessee

Operating lease payments are recognised as an expense on a straight-line basis over the lease term. The difference between amounts recognised as an expense and the contractual payments is recognised as an operating lease asset. This liability is not discounted.

Any contingent rents are expensed in the period they are incurred.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 DECEMBER 2016

Figures in rands

5. Property, plant and equipment

	Cost	Accumulated depreciation	2016 carrying value	Cost	Accumulated depreciation	2015 carrying value
Owned assets						
Furniture and fittings	1 366 447	(762 091)	604 356	657 754	(628 703)	29 051
Other property, plant and equipment (security equipment)	21 600	(11 880)	9 720	21 600	(7 560)	14 040
Office equipment	41 864	(20 899)	20 965	41 864	(12 968)	28 896
IT equipment	1 631 382	(1 465 929)	165 454	1 617 797	(1 131 763)	486 034
	3 061 293	(2 260 799)	800 495	2 339 015	(1 780 994)	558 021

Figures in rands

The carrying amounts of property, plant and equipment can be reconciled as follows:

	Carrying value at beginning of year	Additions	Disposals	Depreciation	2016 Carrying value at end of year
Owned assets					
Furniture and fittings	29 051	708 693	-	(133 388)	604 356
Other property, plant equipment and (security equipment)	14 040	-	-	(4 320)	9 720
Office equipment	28 896	-	-	(7 934)	20 965
IT equipment	486 034	13 586	-	(334 171)	165 454
	558 021	722 279	-	(479 813)	800 495
	Carrying value at beginning of year	Additions	Disposals	Depreciation	2015 Carrying value at end of year
Owned assets					
Furniture and fittings	160 602	-	-	(131 551)	160 602
Other property, plant and equipment	18 360	-	-	(4 320)	14 040
Office equipment	25 062	15 544	-	(11 710)	28 896
IT equipment	498 228	450 852	-	(463 046)	486 034
	702 252	466 396	-	(610 627)	558 021

Figures in rands

6. Intangible assets

	Cost	Accumulated amortisation/ impairment	2016 carrying value	Cost	Accumulated amortisation/ impairment	2015 carrying value
Computer software	1 093 048	(847 015)	246 033	878 768	(457 597)	421 171
	1 093 048	(847 015)	246 033	878 768	(457 597)	421 171

The carrying amounts of intangible assets can be reconciled as follows:

	Carrying value at beginning of year	Additions	Amortisation /impairments	Reclassified held for sale /disposals	2016 Carrying value at end of year
Computer software	421 171	214 280	(847 015)	-	246 033
	421 171	214 280	(847 015)	-	246 033

	Carrying value at beginning of year	Additions	Amortisation /impairments	Reclassified held for sale /disposals	2015 Carrying value at end of year
Computer software	400 870	490 110	(469 809)	-	421 171

Figures in rands

7. Trade and other receivables

Trade debtors	114 143	135 090
Prepaid expenses	271 335	81 441
Deposits	96 000	96 000
	<u>481 477</u>	<u>312 531</u>

8. Cash and cash equivalents

Favourable cash balances		
Bank balances	<u>22 723 694</u>	<u>17 601 081</u>

9. Lease adjustments

Current portion of lease adjustments	201 999	(147 496)
	<u>201 999</u>	<u>(147 496)</u>

Repayable within one year	(201 999)	147 496
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10. Commitments under operating leases

The entity rents several offices under an operating lease. The lease is for an average period of five years, with fixed rentals over the same period. The lease expires on 31 March 2021.

Minimum lease payments under operating leases recognised as an expense during the year	2 114 289	2 288 598
--	-----------	-----------

At year end, the company has outstanding commitments under non-cancellable operating leases that fall due as follows:

Within one year	1 636 898	457 960
Later than one year but within five years	5 319 919	-
Later than five years	-	-
	<u>6 956 817</u>	<u>457 960</u>

Figures in rands

11. Trade and other payables

Provision for leave pay	34 062	112 691
Accrued employee costs	4 247	-
Subscriptions received in advance	18 814 004	14 710 425
Trade creditors	56 453	27 447
Value Added Tax	2 875 166	1 635 825
	<u>21 783 932</u>	<u>16 486 388</u>

Creditors and accruals principally comprise amounts outstanding for trade purchases and ongoing costs. The average credit period taken is less than 60 days. The carrying amounts approximate fair value. Employees' entitlement to annual leave is recognised when it accrues to employees. An accrual is made for the estimated liability for annual leave due as a result of services rendered by employees up to Statement of financial position date.

12. Subscriptions

An analysis of subscriptions shows the following:

Subscriptions received	<u>24 095 845</u>	<u>23 583 499</u>
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13. Operating surplus/(deficit)

Operating surplus is arrived at after taking into account the following items:

Income		
Profit on disposal of property, plant and equipment	<u>13 250</u>	<u>47 119</u>

Amortisation – owned assets

Depreciation – owned assets

Furniture and fittings	(133 388)	(131 551)
Other property, plant and equipment (security equipment)	(4 320)	(4 320)
Office equipment	(7 934)	(11 711)
IT equipment	(334 171)	(463 046)
	<u>(869 232)</u>	<u>(610 628)</u>

Auditors' remuneration

Audit fees

Current	138 295	138 698
Operating lease charges		
Premises	<u>2 114 289</u>	<u>2 288 598</u>

Figures in rands

14. Finance income

Interest income

Interest received

15. Directors' emoluments

JF Myburgh

TN Raditapole

T Venter

TN Msibi

P Beck

C Coovadia

M Jacobs

C Burgers

J Taylor

	2016	2015
	925 813	908 298
Fees paid to director for services		
	2016	2015
JF Myburgh	120 000	110 527
TN Raditapole	109 218	89 027
T Venter	83 757	78 277
TN Msibi	97 716	78 277
P Beck	97 716	91 323
C Coovadia	-	-
M Jacobs	-	-
C Burgers	-	-
J Taylor	-	-
	508 407	447 431

16. Risk management

Liquidity risk

The company's risk to liquidity is a result of the funds available to cover future commitments. The company manages liquidity risk through an ongoing review of future commitments. Cash flow forecasts are prepared and adequate utilised borrowing facilities are monitored.

Interest risk

The company has no borrowings that are either at fixed interest rates or market interest rates.

Investment risk

Credit risk consists mainly of cash deposits, cash equivalents, derivative financial instruments and trade debtors. The company deposits cash with only major banks with high quality credit standing and limits exposure to any one counterparty. The company deposits the bulk of its cash in a money market call account managed by Stanlib and transfers cash to an FNB current account as and when funds are required for operations.

INCOME STATEMENT

FOR THE YEAR ENDED 31 DECEMBER 2016

Figures in rands

Gross subscriptions

Subscriptions received

Other income

Finance income

Profit on sale of fixed assets

Expenditure

Amortisation - intangible assets

Auditors' remuneration

Bank charges

Board fees

Call centre

Consulting fees

Depreciation - tangible assets

Entertainment and travel

Equipment rental and maintenance

Relocation costs

Insurance

IT expenses

Lease rental on operating lease

Off-site storage

Postage and courier services

Printing and stationery

Promotions

Recruitment fees

Repairs and maintenance

Salaries

Staff welfare

Subscriptions and publications

Written off bad debts

Telephone and fax

Training and development

Surplus/(deficit) for the year

	2016	2015
	24 095 845	23 583 499
	24 095 845	23 583 499
	925 813	908 298
	13 250	47 119
	939 063	955 417
	25 034 908	24 538 916
	389 419	469 809
	138 295	138 698
	10 168	12 841
	508 407	447 431
	102 254	95 954
	144 992	183 206
	479 813	610 628
	173 084	44 715
	201 139	222 018
	1 922 609	-
	99 305	99 406
	1 186 389	1 084 900
	2 114 289	2 288 598
	17 455	15 656
	11 162	2 390
	54 422	56 198
	773 854	966 646
	383 720	75 590
	169 588	90 229
	15 734 717	15 867 553
	35 097	44 601
	79 507	60 141
	27 360	-
	240 212	171 691
	178 307	243 845
	25 175 564	23 292 744
	(140 656)	1 246 172

The supplementary information presented does not form part of the annual financial statements and is unaudited.

CONTACT DETAILS

Banking Ombudsman Call Centre

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011 712 1800

Fax

011 483 3212

Email

info@obssa.co.za

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www.obssa.co.za

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