

CREDIT OMBUDSMAN

The Need for the Governing Rules

The Credit Ombud's mantra is: "Enforcing fairness in Credit and Credit Bureau matters."

The mission of the Credit Ombud is to effectively resolve disputes between consumers and credit providers in the credit industry, comprising:

- Non-bank credit matters including, but not limited to credit transactions from the furniture and clothing retailers, micro-lenders, non-bank motor and home financiers.
- Credit Information matters.
- Disputes relating to Credit Providers.
- Provide consumer education to the public in respect of the role and functions of the Credit Ombud Office as well as on matters of a general financial nature.

The values of the Credit Ombud are:

Fairness – The Credit Ombud will act in the best interests of all the parties, taking both sides into consideration and considering the merits of each case carefully.

Independent – The Credit Ombud will not take sides and will always remain impartial. No individual or organization will be able to unduly influence the Ombudsman or the staff of the Credit Ombud in relation to any matter.

Honesty – The Credit Ombud will openly deal with any issues brought before it, asking the relevant questions and communicating clearly and transparently. In resolving disputes, the CO shall:

- act independently and objectively; and
- have regard to the law, fairness, justice, equity and fundamental human rights and values as prescribed by the principles of 'UBUNTU'.

The Credit Ombud must balance the rights of consumers on the one hand and the rights of the members on the other hand.

The Credit Ombud provides a cost-effective service that is free of charge to the consumer and there is no requirement for consumer to engage expensive legal advice to access the services of the Credit Ombud. The Credit Ombud improved accessibility to its services, by providing multiple access points. Consumers can contact the Credit Ombud through various channels if they have a complaint against a subscribing member. Through their website, the consumer can complete an online form detailing the complaint.

The value proposition of the Credit Ombud for the credit industry is that it makes a major contribution to building confidence in the financial sector. Customers know that in the event of a dispute with their credit provider, they have access to cost-effective, independent, and free service of the Credit Ombud. The Credit Ombud through its work also relieves the pressure on the regulators and court system.

Intended Operation of the Scheme

The work of the Credit Ombud contributes to achieve the objectives of the FSRA (2017) in the following ways. The Credit Ombud:

- Contribute to building confidence in the financial sector.
- Ensure fairness by providing cost-effective, independent, and impartial services to consumers to resolve disputes.
- Contributes to combat crime especially in respect of fraud matters that the scheme deals with.
- Plays an active role in creating consumer awareness and education with respect to the financial sector. In addition, the Credit Ombud make credit providers aware of their rights and obligations in the financial sector.

All these activities contribute to build financial inclusion, a well-balanced and healthy financial sector.

Complaint handling process:

The Credit Ombud is committed to the principles of 'treating customers fairly' and will treat each consumer with dignity when they approach our office. The Preamble to the Universal Declaration of Human Rights provides that the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom and justice and peace in the world". Correspondingly, Section 10 of the South African Constitution sets out that: "Everyone has inherent dignity and the right to have their dignity respected and protected". The Credit Ombud appreciates the precepts set out in our Constitution by humbly providing consumers with the comfort that they may uphold their dignity when engaging with the office and this is especially so when engaging with financially vulnerable consumers.

The Credit Ombud established a user-friendly call centre and case management teams to assist consumers to lodge a complaint against a credit provider and to resolve the dispute between the parties. Their call centre agents will assist the consumer when they have a complaint to take down the details. The call centre agents are able to address any consumer in their language of preference. The call centre agents will ensure that the pre-ombud process was followed and that the dispute falls within the jurisdiction of the Credit Ombud. If a dispute is outside their jurisdiction the consumer is advised as to an appropriate action to follow. They have an arrangement with various other ombuds and the NCR to seamlessly transfer calls to their offices. Once a dispute is logged on the case management system, it is automatically allocated to a case manager who will conduct the investigation and find an amicable resolution for the dispute. For the period 2020, the call centre received 30 120 calls. Approximately 16 338 general enquiries and 3 143 disputes were opened. In the same period, they closed 3 111 disputes. The Credit Ombud through its activities saved consumers about R3.4 million in 2020. The Credit Ombud is striving to create a paperless environment. In 2021 the security of all their IT systems were improved to ensure that the Credit Ombud is compliant with POPIA.

Consumers consistently provide feedback on the value of the Credit Ombud., as follows:

- *'I would once again like to thank you for the efficient way and quick service I received from Credit Ombud';*
- *'Thank you very much, my complaint was solved - you are a helper to South Africa.'*

Subscribing members of the Credit Ombud have also shown their commitment and purpose of the office by stating that:

- ‘The Credit Ombud office, which we deal with in the main, is very impartial and unbiased and clients receive value from the office, in that their complaints will be dealt with fairly and objectively.’
- ‘The Credit Ombud’s office offers good quality service, for free, which benefits the consumers.’
- ‘...I have no issues or concerns with the Ombudsman, we have a good working relationship’.

Clause 42 of the Constitution sets out the complaint handling process, which provides for assessment, facilitation, mediation, recommendation, and rulings. These are described further below:

Assessment – The Credit Ombud may, to settle a dispute speedily, assess its merits without undertaking an investigation and suggest to the parties how the matter should be settled.

Facilitation – The Credit Ombud may, in its sole discretion, facilitate any matter that it believes is appropriate for facilitation, taking into consideration the wishes of the parties and the nature of the complaint.

Mediation – The Credit Ombud may, as it deems it appropriate, at any time during the investigation of a complaint, invite the complainant and the member to participate in mediation proceedings, which mediation shall be conducted in an inquisitorial manner by the Ombudsman, or any other person or persons appointed for that purpose by the Credit Ombud. At the request of a party to the mediation proceeding, the Credit Ombud may allow legal representation. Each request shall be determined on its own merits at the sole and absolute discretion of the Credit Ombud.

Recommendation – The Credit Ombud may, in any case where a matter has not been settled, make a recommendation setting out how the matter should be resolved and the reasons for the recommendation. Neither a complainant nor a member shall be bound to accept a recommendation made by the Credit Ombud, but if a member does not accept a recommendation that has been accepted by the complainant, the Ombud may then proceed to issue a ruling. A complainant who does not accept a recommendation may institute legal proceedings at his or her own expense, if so advised, or request the Ombud, to make a ruling. All recommendations are to be made in writing and authorized by the Ombud.

Ruling – The Ombudsman personally may, in a case where a recommendation has not been accepted by all parties concerned, make a binding written ruling based on the law, any applicable Code, or fairness, provided that all the material facts are agreed, or the facts have been established on a balance of probabilities. A ruling is binding on the members but not on the complainant. A ruling may order that the member or complainant take such steps in relation to the complaint as the Ombudsman deems appropriate and just. The member must give effect to any order made in a ruling within the time stipulated by the Ombudsman. Should the member fail to give effect to any order made in a ruling within the time stipulated, that member will be reported to the Council.

Types of disputes:

The most common complaints the Credit ombud is dealing with are:

- Statement of Accounts, Reckless lending practices, In duplum, Fraud, Prescription, Credit insurance issues.
- Products are not explained adequately (consumers do not understand the interest or insurance added to accounts or other third-party payments), Garnishee orders – issues

with tracers not explaining what consumer signs, exorbitant fees, etc., Assisting consumers with requests for a reduction in instalments when consumers have problems/retrrenched etc., Paid up letters and closure letters.

Consumer Education and Awareness:

The Credit Ombud is mandated to promote consumer education and awareness. They conduct a comprehensive media campaign to inform consumers of the role of the Credit Ombud and to make consumers aware of their rights and obligations under the National Credit Act. In addition, they conduct regular education workshops in workplaces and various organisations. They also participate in mall activations, together with their partners – the NCR, Information Regulator, and the provincial Departments of Economic Development. The Credit Ombud also participates in the multilateral forums such as Money Smart Week and the National Consumer Financial Education Committee managed by National Treasury and FSCA.

The Credit Ombud developed training material, which is presented as the Double Impact workshops. These workshops are offered free of charge to subscribing members and their staff. The impact expected of these workshops is that employees in the credit industry are equipped to handle their own finances in a prudent manner. The second impact is they can impart this knowledge to the consumers they deal with on a day-to-day basis.

Expected Impact of the Governing Rules

The Credit Ombud was established in 2004 as a voluntary association governed by a constitution. In 2006 the Credit Ombud was recognized as an “ombud with jurisdiction” by the former FSOS Council to deal with consumer complaints related to credit information matters. The mandate of the Credit Ombud was expanded in 2009 to include consumers complaints related to non-bank credit matters. The Credit Ombud is a respected organization with a reputation for independent and impartial resolution of disputes in the credit industry. In 2020, the Credit Ombud received 30 120 calls from consumers with complaints against credit providers. This resulted in 16 338 general enquiries and 3 143 disputes were opened. In the same year, they closed 3 111 disputes and 62% of disputes closed were in favour of consumers.

It is expected that the membership of the Credit Ombud will continue to grow. In 2021 the Credit Ombud agreed with Micro Finance South Africa (MFSA) to encourage the membership of the MFSA to join the organization. The MFSA represent about 350 companies in the micro lending sector. A significant number of MFSA members have since joined the Credit Ombud.