

If you are reading this newsletter, please remember to pass it around your office.

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EDUCATION

Peter Veal's Article's on..

The silence is deafening

We're at the end of May and the only news we have heard or seen regarding the regulatory examinations is a Board Notice in which Dube Phieas Tshidi, the Registrar of Financial Services Providers, shifts the goalpost once again.

License category 1.3 (more commonly known as Cat B life) has been split into two parts being, 1.3.1 (B1) addressing risk only benefits and 1.3.2 (B2) addressing the balance. This will provide considerable relief for those practitioners whose only involvement in the life sector is credit life insurance, such as F&I's working in motor dealerships, and the amendment is long overdue. Until now, practitioners in this sector would have had to face a second level regulatory examination which embraced a wide range of long term risk and investment packages, including retail pensions.

The perceptive person would have noticed that this is the only subject (RE7) where no date was provided by INSETA for the publishing of the learning material – so now we know the reason why.

Whilst this is good news, nevertheless the amendment brings with it further challenges.

The silence is deafening CONT...

The Board Notice authorises examining bodies to combine the first and second level regulatory examinations for representatives that transact this type of business. If examining bodies do take up this opportunity the training material presently provided by INSETA will no longer be appropriate. If they do not, they will have to develop a 'stand alone' B1 second level examination and more specific training material will have to be developed accordingly.

Either way, there will be further delays, so where to from here?

With the examining bodies and the Financial Services Board presently adopting a "silent" approach to these examinations, our recommendation is that we continue as though the amendment did not take place. Practitioners should therefore study for the regulatory exams at level 1 and deal with the second level exams next year when there is more clarity.

The board Notice did bring some relief. The titles that the FSB previously gave to each examination (RE1 to RE14) caused considerable confusion. For example, the representative's first level examination was called RE4, whereas most practitioners regarded it as RE1 (regulatory exam at level 1). The Board Notice changes this so that we can now safely use the term RE1 as the first level exam and RE2 the product specific exams.

The Board Notice also:

- added some definitions to the 'Fit and Proper' regulations and directives;
- gave new definitions to the license categories 1.1, 1.3 and 1.4;
- included the new 1.3 subcategories in the experience requirement charts for both Category 1 and Category 11 license holders;
- clarified the requirements in respect of license 1.1 and 1.19 (assistance and friendly societies);
- included second level regulatory examinations in respect of 1.17 and 1.18 (deposits);
- amended the CPD requirement chart by including the new sub-categories B1 and B2;
- amended the transitional qualification requirements by including the new sub-categories B1 and B2 and by clarifying the requirements in respect of license 1.1 and 1.19 (assistance and friendly societies), 1.8-1.13 (securities), 1.15 (forex), and Category 111 license holders;
- provided deadlines for FSP's to amend their sub-category 1.3 (B) licenses to show 1.3.1 (B1)or 1.3.2 (B2)or both;
- amended the level of supervision requirement chart by including the new sub-categories B1 and B2;

If any practitioner would like a copy of the Board Notice, just call us 0114311183.

We have previously mentioned that we have developed a 'learning tool' which our clients can use to monitor their key individuals and representatives examination process which will help both the corporate manager and individual learner to determine the best possible educational route in respect of their regulatory examination learning needs.

However, we have not been able to offer it at this stage simply because it has to be linked to the availability of examinations, dates for which have not yet been released. The last week of June has been intimated by examining bodies, but nothing concrete has been announced.

We'll keep you informed.

FROM PRETIUM

FICA Training

One area we battle with our Accountable Institution clients is that of ongoing training. Many insurers, the providers in the early days, seem to have stopped their offerings this leaving the broker with a need but no effective providers.

Compliserve have lauched an online service to fill this gap. They now have a tool where all FSP's can download training material and complete an online FICA test. After completing the test the main user will receive an automatically generated report detailing the results taken by the main user.

The main user may draw an overall report at any given period. Compliserve will provide the main user with a user name and password to access the testing site. It is the responsibility of the "main user" to load users within their organisations to give them (users) access to the testing site.

For further information please contact Jason@compliserve.co.za for more details.

Underwriting Managers – Advertising Standards

We wrote last month on the need to ensure that ALL your advertising, which includes your website, clearly demonstrates that you are not the insurer. Just a reminder to ensure that you have made this clear in all your advertising. Whilst we will assess this as we get around to all FSPs you cannot afford to wait until then!

Treating customers fairly

We have made mention of this a number of times over recent months. Well the first discussion paper has been released in May.

The FSB have released their discussion paper with the intention of obtaining views from you, the FSP's. The aim of the FSB is to stimulate comment and debate. The FSB would like written submissions to be made on the TCF discussion paper. A workshop will then take place to discuss the comments made.

This process will lead to another document being set out whereby the FSB will set out the next steps on the road to treating customers fairly.

For a copy of this discussion paper, please contact Pranisha at our offices.

Conflict of Interest Regulations

We reported last month that the new regulations had been Gazetted. Since then we have been studying the changes, required changes and assessing the practical implications of the changes.

The regulations were workshopped by a group of compliance offices under the auspices of the FAIS Forum as recently as Tuesday 25 May. As a result of which a number of aspects need clarity from the FSB, details of which have been submitted.

Our plan is to provide an overview of the regulations for you and perhaps drafts of key documents and procedures that may be needed. This will be followed by individual meetings with you to assess the implications for your company.

The regulations have 3 distinct implementation dates:

- 1. Disclosures (20 July 2010)
- 2. Prohibitions (20 October 2010)
- 3. A documented protocol (20 April 2011)

As you can see the first one is slap bang in the middle of the reporting season but the plan is to discuss this particular aspect with you when we discuss your annual report. The balance will be developed and implemented to fall in line the required implementation dates.

Whilst all of you will need to do something to achieve compliance with these new standards those of you operating within a "group" structure, taking advantage of distribution channels, remunerating staff on commission only will need to do the most.

We would encourage you all to read up on the subject as much as possible in the meantime. All financial services publications are carrying articles on the subject and you need to soak up this commentary – like studying for an exam.

One practical case we have come across whilst raising awareness with clients in recent weeks was a certain life insurer, who we are not at liberty to disclose, offered a client of ours a trip to Vic Falls for achieving certain levels of production. When advised that he did not wish to take himself and his wife there as they had been on a number of occasions he was readily offered a trip anywhere else to the same value – R12,000. The only proviso was they had to utilise the offer before the end of May 2010 – the new regulations were Gazetted on 20 April 2010. Coincidence? We think not. Spend the budget or lose the budget!

CIPRO

No returns and you will find yourself deregistered. We talked of this in the February Newsletter and have used this as part of the "selling" of the need to understand all applicable legislation on your business as part of your risk management plans. Many believe their auditors/book keepers manage this particular issue only to have checked and found this is not the case. A colleague in compliance told us just this week that when vetting new clients he checks the CIPRO website and finds up to 50% of them are on the potential deregister list. The FANews letter from Tuesday 25 May also highlights this problem: do not assume all is well, go and check. Then ensure, by implementing effective controls, that you comply with your requirements.

FROM THE FSB

2010 annual compliance reports

The reporting date that drives your 2010 annual report is 31 May – so your status as at that date is what drives your report.

We will start preparing the reports from 1 June. Our plan is to submit a draft report to you for approval as we complete them. This will be followed by a meeting with you to review the drafts, collect any additional paperwork we may need to enable submission and obtain your signature. The reports will then be submitted to the FSB.

All this before the deadline of 15th August 2010

We ask for your understanding over the coming weeks as our attention and energies will be focussed on this project and meetings with you will be curtailed until we are ready to review your reports at which point we will set the agenda for the coming reporting year (June 2010 to May 2011) and set up specific appointments for the period September – November 2010.

[Peter dealt with the issue of the reclassification of the previous Long Term B licence category into B1 and B2. We need to assess for all clients whether they need B1 B2 or both. The deadline to apply for an amendment to a licence is 30 November 2010. This gives us plenty of time and we plan on attending to the matter once we have completed the 2010 FSB annual report exercise. If you have any queries in the meantime please let us know.]

The FSB also issued a circular in May that clarified the situation on living annuities – where they Licence Category Long Term C or Retail Pension Benefits? Well depending on the actual scenario at client level it could be both. The deadline to apply for any one of these categories as a result of this definition is the end of July 2010. We will write separately to any of our clients that may need to consider such an application.

FROM THE FINANCIAL INTELLIGENCE CENTRE

The Financial Intelligence Centre has also been busy in May. They have issued various amended procedures, reporting formats and finally introduced the long awaited registration process for Accountable Institutions as mentioned on last month's Newsletter. In brief these changes are:

- Cash Threshold reporting The prescribed limit for cash threshold reporting is R25000. The Financial Intelligence Centre has now designed a secure log-in process where cash threshold reports can now be filed.
- Amended suspicious & unusual transaction reporting These reports can be accessed via the
 <u>www.fic.gov.za</u> website. Click on the tab "Reports and Requests" you will find all the forms here.
 No registration is needed in order to use these forms.
- Amended terror reporting These reports can also be accessed off the Financial Intelligence Centre via the www.fic.gov.za website. Click on the tab "Reports and Requests" – you will find all the forms here. No registration is needed in order to use these forms.
- Registration process FSP's whom are accountable institutions or reporting institutions can now
 register via the FICA website. Go to www.fic.gov.za and click on the Reports and Requests Tab
 on the left hand side this will take you directly to the registration page;

We are busy testing the online registration process to assess whether we have enough data to complete this process for you, although this will be upon payment of a once off fee. We will communicate separately with those affected shortly.

The latest list of suspended and withdrawn licences is available. If you would like a copy please contact Pranisha at our offices.

FROM THE FAIS OMBUD

Our clients' actual experiences

- 1. A case of a client who had sold his vehicle over 10 years ago omitted to tell the broker, alleges the broker had not been in touch during this entire period and continued to be debited with the premium. The client is now looking for refund for this entire period! We are still busy with the FSP establishing exactly what they had done, or not done, over this period. We have had similar cases of "back dated" cancellation requests and in each case the Ombud's office found the broker to be at fault and forced a refund by the broker of all premiums, even though the insurers involved refused to refund beyond the current financial year. But 10 years? When does broker inefficieny become client stupidity or vice versa? We will watch this one closely.
- 2. The second case involved a protracted negotiation process on a life portfolio with a client. After many months and many meetings the client eventually took out one policy. Which was cancelled very quickly thereafter and an alternative product taken elsewhere. The broker was somewhat aggrieved that all their work had led to no income and decided to bill the client for services rendered. The problem was, as the Ombud's office pointed out, was that the issue of a fee had not been agreed upfront with the client. Had this been the case then the invoice submitted would have been payable. It had not been the case so the broker, seeing the "error" agreed to reverse the invoice. The lesson to be learned is that the basis of your interactions with clients needs to be set up and agreed to upfront.

GENERAL

The Council for Medical Schemes

The Council of Medical Schemes have released a Newsletter in the last week dealing with the legal position on appointment of Brokers, collection and payment of unlawful professional fees to Brokers and unlawful collection of first month contributions by Brokers. If you are serious about health care business you need to read this one. Go to http://www.medicalschemes.com.

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