

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..

RE exams update

At last the Regulatory Exams are up and running and we can start planning.

There is still no word about a possible extension of time, so at this stage we have to advise all our clients to ensure that they book early for the exams to avoid the inevitable rush later in 2011.

For our part, we can now place some firm dates for the delivery of workshops and would advise the first quarter workshop dates as follows:

Key Individuals (2 day workshop) R2600 plus VAT:

Johannesburg	Durban	East London	Port Elizabeth	Cape Town
26-27 January 16-17 February 15-16 March	9-10 February	16-17 February	23-24 February	9-10 March

RE exams update

Representatives (1 day workshop) R1300 plus VAT:

Johannesburg	Durban	East London	Port Elizabeth	Cape Town
17 January 14 February 28 February 14 March 28 March	11 February 12 February	15 February 18 February	22 February 25 February	7 March 11 March

The workshop will include manuals which can be used as a reference and guide long after the exams are passed.

For those that have decided to 'self-study' there is a word of warning. The learning material made available to the industry by INSETA has been changed once again (sometime during November) and we urge those that previously downloaded the material to do so once again, or alternatively carefully study the differences.

In a number of circulars, the Financial Services Board has warned that the exams are more difficult than most practitioners expect, and have advised learners to study the Acts as well as the subordinate legislation. The amended FAIS Act can be obtained from the website www.acts.co.za, although this will not include all the subordinate legislation which is best obtained from the Financial Services Board's website www.fsb.co.za

The duration of the representative's examination will be 2 hours and the key individual's 2½ hours.

Until sometime towards the end of the first quarter next year, we have been told that only 'paper' examinations can be taken and it is suggested that each candidate takes along an HB pencil and an eraser because the answer sheets need to be filled in with a pencil. Please also ensure that you have adequate identification with you.

KI Qualifications update

In our August update, we mentioned that the problem still remains in respect of representatives in the short term sector that are to be promoted to key individuals after January this year. A full qualification is required but at NQF 4 the only qualification which satisfies the requirements for a key individual is FETC: Long Term Insurance, which very few short term practitioners hold. There are a number of qualifications that meet the requirements at NQF 5 but the only one specific to short term insurance is the Higher Certificate in Short Term Insurance. Obviously there are many at NQF 6 but these are difficult to obtain and can take years to complete.

We also mentioned that we designed an 'add-on' management skills programme which could attach to and form part of the qualifications FETC: Retail Insurance and FETC: Short Term Insurance which we submitted to the FSB for approval. Although we have not received a direct refusal from the FSB, nevertheless they have informed us that the FETC: Retail Qualification is now being accepted as a KI qualification. As this makes little sense to us, we are waiting for the promised Board Notice (we were told it would be published during November) updating the acceptable qualification list. Perhaps it is beyond hope to expect the same consideration applied to the FETC: Short Term Qualification, but who knows?

Let's hope that next year will bring some relief to our woes.

Season's greetings to all,

Peter Veal

RE TRAINING MATERIAL - INSETA

Inseta have updated their online training material for regulatory exams.

We advise that all those who have downloaded their material already, revisit the website and download the latest versions.

RE PREPARATION MATERIAL - FSB

The FSB have launched their own preparation guide for first level regulatory examinations.

This can be downloaded from the FSB website.

Visit www.fsb.co.za and click on the FAIS tab on the upper right hand side. The preparation document can be found as item 1 here.

FROM PRETIUM

Office year end closing

Our offices will be closed on the 17th December 2010 and will shut down for the year from 23rd December 2010 until 10th January 2011. The week either side of this we will be running on skeleton staff – not that Craig could ever be considered a skeleton - but you know what we mean. Full staff compliment and monitoring programs will be in place from the 17 January.

On behalf of Pretium we would like to wish each and every one of you a very Merry Christmas and a prosperous 2011.

Website

We at Pretium are proud to announce that our website is up and running. You can visit us on www.pretium.co.za

We have plans to upload our new Plug in Manual onto the site in the near future. For details on this, watch this space.

Views and comments regarding the website are most welcome and should be sent to Pranisha@pretium.co.za

Conflict of Interest

We have now completed our initial series of workshops in Gauteng and Cape Town and had specific sessions in the Free State. We will be holding workshops in Durban for those clients who have not yet had an opportunity to attend during January. If demand exists additional open workshops can be held over and above these.

Irrespective of whether you attended our workshops you have all now received the latest Guidance Note on the subject. You are aware that two of the three deadlines have passed by (July and October) and that by the time 2011 gets into full swing there will be two and a half months until the final deadline (19 April 2011). Where you have asked us to assist you with the development of your policy you will achieve the deadlines, where you are working on these yourselves we would like to know where you are with your plans and with this in mind will be sending a specific request for details in mid January so we can track the development of your policy against your planned time lines.

Another example of the changes being brought about by these new regulations: at the recent Insurance Institute of Gauteng dinner one leading insurer, who usually provided a gift to its broker clients invited to attend with them opted to take the money usually spent on the gifts and donate this to a charity – chosen by their clients – so maybe the dark cloud of conflicts of interest does have a silver lining?

Sanlam have also started to charge a fee - fair value of course – for some of the content of their software application, S-Net, which they supplied to brokers. Interestingly only some components have a price tag. Surely then all similar packages will be reviewed over the coming months. More additional costs for the broker!

We are aware that SAIA have raised a number of issues with the FSB on the regulations. It will be interesting to see if these concerns will be discussed in a practical manner and solutions sought, or is it too late? One wonders what happened during the “extensive consultation” phase that questions remain from a body representing such a large sector of the financial services market?

Conflict of Interest cont...

To focus your mind a couple of quotes on the subject:

From Hjalmar Bekker of Moonstone: “We should have called this legislation Policy of Ethics, because the only way to manage conflicts is through ethical behaviour”

From Wendy Hattingh of the FSB: “Conflict of interest is a principal based regulation that must be applied every day – it cannot be implemented by ticking boxes!”

Have these comments in mind when working through the development of your policy and how you will look to apply it in your own business.

FAIS & FICA orientation training

We are starting to plan our workshops aimed at new entrants to the industry and/or those recently promoted, or about to be moved into a Representative position. We have been advising you of this as part of our meetings over the past quarter and it is now time to see what the interest levels are.

The intention is to provide an overview of the legislative framework that these people are moving into so that they can better understand the need for FAIS and FICA, the structure of a compliant FSP they can expect, the terminology they will encounter, the expectations on them as individuals within that structure and the consequences of breaching or failing to deliver on those expectations. This better understanding will enable you to get quicker and more effective buy-in from those staff on your procedures and standards.

Some of the specifics we believe it should include are:

- The history and background to the legislation;
- The structure of the legislation i.e. The Acts and their Code of Conduct;
- The role players i.e. The FSB, The Ombud, The FSP, The Compliance Officer, The Key Individual, The Representative;
- How a licence is obtained and maintained;
- Basic requirements demanded i.e. operational ability, solvency, fit & proper, standards and procedures within the FSP;
- Disclosures, records of advice and suitability analysis;
- Complaints – what is a complaint and how should they be managed?
- Monitoring and reporting - what is done, by who and when?

Is there anything that you battle with when it comes to “getting the message across”?

This will not be an intense workshop. It is intended to provide awareness around the basics and promote a better understanding of the FAIS and FICA world.

Longer term plans on the workshop concept may include a second level of awareness and understanding, if demand warrants it, on some of these subjects and provide more intense discussion on some areas e.g. Suitability analysis, but for now let's just set the scene.

FROM THE FSB

Results from On-site visits

At a recent committee meeting of the Compliance Institute's FAIS Executive Committee, where Craig attends as a committee member, Wendy Hattingh of the FSB, another committee member, gave some statistics from the FSB's on-site visits that are scary if you consider we have had FAIS regulation for 6 years now.

Of those FSPs seen:

- 93% had less than satisfactory Section 7 disclosures (these centre around information on the financial product itself, the premiums and the related fees),
- 77% do not have a suitability analysis process that is of a suitable standard,
- 60% had unsatisfactory risk management plans, in part due to the use of template documents that had not been adapted by the FSP. Interestingly this result was seen as an improvement!

Category IV FSP workshop

We attended this workshop last month, although the number of delegates was disappointingly low. We discussed a couple of issues that have specific relevance to Cat IV (administration on behalf of an insurer in the funeral business arena), namely:

- The financial solvency requirements are high with a requirement of the need for liquid assets of at least 8/52 weeks of annual expenditure over and above solvency. This is required even if no client funds are handled, which we believe is harsh and has been taken up with the FSB even before this workshop, but they are adamant that this category is seen as high risk. Even the basic solvency requirement mirrors that of a Cat I provider who handles client funds i.e. assets must exceed liabilities and current assets must at least meet current liabilities.
- The interest earned on client funds handled belongs to the insurer. This differs from other client funds handling scenarios where the interest belongs to the client.
- The need for Professional Indemnity and Fidelity Guarantee applies to a Cat IV even though they may not be handling client funds.
- The impact of the planned Micro Insurance regulations linked with the Binder Regulations may well mean that Cat IV FAIS licensing may well not be needed, at least in the format that currently exists, within 2 to 3 years.

Fees

Board Notice R1049 of 2010 brought with it the new schedule of fees payable to the FSB for a variety of procedures. Too many to list all but the key ones that will affect you on a day to day basis where application is made directly to the FSB. Remember these do not include VAT.

- **Application to apply as a Key Individual will now cost R 935**
- **Change in auditors will now cost R250**
- **Change in Compliance Officers will set you back R580**
- **Name changes are now R R480**
- **Applications to recognise a generic qualification is now R1700**
- **Applications to recognise a transitional specific qualification will cost R12000**
- **Applications to recognise a post transitional specific qualification will cost R24000**

The ones that worry us the most are the applications for approval of qualifications – especially for approval as ‘Specific’. Till now the FSB has been reviewing these for free and usually as a result of submissions by individuals who had a qualification not on the approved list. Going forward this will attract a fee – some R1700 for a ‘Generic’, which has been the only type of submission via ourselves to date. The question will arise as to who should be paying this – the individual or the institution that delivered the qualification? We would expect that applications for specific qualifications will be restricted to new qualifications rather than existing ones and as such the educational institution will be picking up the considerable R24000 cost.

Where we have outstanding changes that require the payment of a fee that has not yet been paid we are in the process of chasing you for the proof of payment at the current rates. If we cannot get this to the FSB prior to the deadline for increases the required change will attract the new fees.

Other useful bits and pieces from the FSB

- The policy statement on Micro insurance has been promised (again) before the year end. The proposed limitations on what would constitute micro insurance are a maximum policy period of 12 months (implications on credit life usually issued for fixed periods in excess of a year is an obvious problem here) and a maximum limit of R 50,000. It is intended that there will be an alignment to FAIS regulations – although a special code of conduct would seem more appropriate.
- Whilst not from this meeting another result of on-site visits was that where the FSB find that Representative numbers were incorrect i.e. lower than they should have been, the numbers are being corrected and levies backdated
- Binder Regulations – the question as to whether the issuing of policies on behalf of an insurer where this is the only function performed would be seen as a binder function is under discussion within the FSB. Our view here, for what it is worth, is that it has to be otherwise there will be disparity on the ability to charge fees by brokers who only issue policies and those that have a full binder. Inclusion would level the playing fields and force the cost back to the insurer in all cases and not just where binders exist.

Other useful bits and pieces from the FSB

- A document exists that the FSB released that sets out the “roadmap” for the Solvency Assessment and Management initiative (SAM) that will have an impact on all players in the not too distant future. Insurers will specifically be affected as this will set the bar for the industry on solvency issues. A fair sized document, some 45 pages, so if anyone would like a copy just let us know.

FROM THE FINANCIAL INTELLIGENCE CENTRE

We attended a workshop last month that centred on the latest upgraded obligations within the FIC Act. Throughout the presentations reference was made to the recently released updated/new guidance notes that have been issued. These cover:

- Who are Accountable Institutions?
- What legal obligations are imposed by FICA upon Accountable Institutions?
- How to identify a client?
- Money Laundering and Terrorist Financing control obligations
- Cash Threshold Reporting
- Verification of Documentation
- Requirements that a Money Laundering Officer must meet

These will form part of the upgraded version of our draft administration manual but for anyone who would like them now just call Pranisha or send her a mail pranisha@pretium.co.za.

From the various issues discussed the most relevant aspects were:

- Lack of understanding by internal staff at FSPs around suspicious and unusual transactions.
- Provision of templates dealing the FICA matters by compliance officers not supported by adequate training.
- FICA registration – 1: Whilst we have completed registration for our clients who asked for our assistance there are others who have yet to confirm to us that this process has been completed. The good news for those is that the 01/12/2010 sees a new official start date for registration with a deadline for completion of 28/02/2011.
- FICA registration – 2: Once registered any changes to details need to be updated with the FIC within 90 days.
- Cash threshold reporting: Based on reports to date 79% of all reports have come from casinos, 20% from car dealers and 1% from attorneys.
- On-site visits: Where possible all on-site visits will be done in conjunction with the FSB FAIS visits to limit disruption of business activities at FSPs.

INTERESTING ARTICLES WE HAVE READ

- Plain Language policy wordings: What does it mean to the industry? An article by Graham Wood in the October FA New magazine. Whilst we think everyone is getting ahead of themselves with the CPA requirement as financial service is meant to have an 18 month window we believe it will happen. The spin-off is that your analysis and record of advice tools will also have to get plain as well. Maybe you should have this in mind now?
- Buying or selling a practice - risks abound: an article in the October edition of FA News magazine by Esme Davies. As many of our clients are looking to set up future buy and sell agreements as part of their risk management plans some of the issues raised in this article will be relevant. One aspect, due diligence, is a service we can offer, by assessing any potential partner by conducting on-site audits, with a focus on FAIS and FICA compliance standards, so you know what you are getting into.
- Gifts with strings attached: an article in the October edition of RiskSA by Michelle Naidoo of Denys Reitz. It deals with a disciplinary case where an employee breached the company's code on accepting gifts and was dismissed. Interesting in itself but with FSPs now meant to have policies on such issues where policies may well never have existed it illustrates the importance of ensuring all staff are well aware of your new policies, their monitoring and the consequences of breaches.
- The Financial Services Board and the consumer: An article written by Patrick Bracher of Denys Reitz. From the commentary we have seen there seems to be widespread consensus with the views expressed. We have reproduced the article in full.

The Financial Services Board has been admirably busy protecting the consumer. Recent regulations regarding disclosure and remuneration of intermediaries, the way insurers do business through intermediaries and the protection of policyholders from unexpected cancellation of their insurance cover coupled with a Treating Customers Fairly discussion paper will go a long way towards consumer protection. Like all regulators however they have to be sure that they do not make the bathwater too hot for the baby.

By the end of April 2011, insurance laws and practices have to be brought in line with the wide-ranging consumer protection provisions that are found in the Consumer Protection Act. There is therefore a lot of work to be done. But insurance has to be sold by people who are incentivised to sell it. The most financially successful brokers are usually the best of the breed. The recently published draft regulations on binder agreements are a good example of how to go about it. They are generally clear and understated and recognise the way people have been doing insurance business and intermediary business for generations. The role of brokers acting for policyholders and insurers, and the role of underwriting managers and administrators are all acknowledged in concise and workable regulations. Insurers are able to pay binder holders a reasonable fee with a reasonable rate of return and can share profits with expert underwriting managers. Control (and especially rejection) of claims is the preserve of the insurer and its representatives and the registrars of long-term and short-term insurance control the way in which relationships between insurers and intermediaries are terminated so that policyholders are not prejudiced. The performance of brokers, underwriting managers and administrators are likely to be improved by the approach adopted

Unfortunately the same cannot be said for the recent amendments to the code of conduct under the FAIS Act regarding incentives and disclosure. The regulations are overbroad, over-intrusive and sometimes beyond understanding. Subordinate legislation affecting people's livelihoods should be clear, rational and not go beyond the scope of the legislation under which it is published. The latest code amendments try to control the activities of insurers and their brokers (as well as other financial product suppliers and their intermediaries) in ways that are irrational and contrary to the interests of the industry. If there is one thing that a regulator should do it is to encourage intermediaries to be properly educated regarding the policies they sell. When insurers provide training, the new code amendment expects intermediaries to pay to get there, to pay to stay there and to pay to eat there. Whilst seminars at highly exotic venues that are intended to incentivise rather than teach may well create unacceptable conflicts of interest, the code now seeks to interfere with ordinary ways of doing business. The financial services industry will, if you take the regulations seriously, be the only industry where principals will be discouraged from getting to know their agents over a good dinner or in pleasant surroundings. An industry that is built on relationships in the public interest, will be made sterile. The full disclosure requirements and the necessity for intermediaries to sell appropriate products to their clients have always been enough. It is a mistake to try to punish normal business behaviour because of an inability to police abnormal behaviour. Is it a vain hope to expect the FSB to withdraw these overbroad regulations and publish something which works for everyone? The baby is getting cleaner all the time and, properly watched, will stay clean. Scrubbing him till he bleeds will not encourage him to get back in the bath.

- Here is a mail we received from a client:

Hi John,

Thought this might amuse you.

One of our clients had a home loan with FNB, he also had the insurance on the building with them.

His loan was recently paid off and he wanted to add the buildings cover to his domestic policy with us.

We told him to ring FNB to cancel their policy, their reply to him was that he should keep their policy as well "to be on the safe side".

Amuse us it did – but it worried us even more!

Authorised hack attempts eye opener for local businesses

- We have been asking in recent monitoring visits whether or not you have tested your IT backup systems to make sure all is well. We never thought to ask have you tested how reliable your IT protection is by having your system intentionally hacked. Well apparently you can employ a local company to do just that. Here is an extract of an article seen in the 11 November edition of Enterprise Risk.

"...the company offers a free penetration testing service to consenting organisations that want the truth about how effective their IT security is at keeping hackers and fraudsters out of their systems. The penetration test is primarily to determine if, and the ease with which, a company's systems can be accessed from the outside, and also includes in depth, hard core exploit testing. Companies are handed a full report on the weak points and errors that are found."

Insurer will settle carbon tax claims

Short-term insurer Mutual & Federal says it will include the new CO2 Emissions Tax (carbon tax) in the settlement of total loss claims on new motor vehicles, provided you have insured your vehicle for the appropriate value. Apparently the current vehicle value guides have not yet caught up with the inclusion of the CO2 tax in their values. Just take care until they do.

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