Associated Compliance

FOR A COMMON PURPOSE

July 2015 Edition

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From AC

2015 Annual Reports

By the time you read this article we will be close to the submission deadline date of 15 August. If you happen to be one of the few still to provide us with the required documents to enable us to submit your report, please ensure that we get these as a matter of urgency. While we have never seen the FSB issue a fine for late submission, we would not like any of our clients to be the first.

Do we have a TCF ruling on its way?

The National Credit Regulator (NCR) has announced that it has referred Lewis Stores Ltd (Lewis Stores) and Monarch Insurance Company Ltd (Monarch) to the National Consumer Tribunal (Tribunal). The following is the actual announcement issued by the NCR. In addition to any administrative fine requested by the NCR we wonder if there may well be FAIS issues in the matter that warrant attention and the apparent lack of assessment of business practices by both parties in light of TCF standards may also generate significant (negative) interest from the TCF team at the FSB.

"The referral follows an investigation by the NCR which revealed that Lewis Stores and Monarch have:

- Sold loss of employment cover as part of credit insurance to pensioners and self-employed consumers. The loss of employment cover sold is meant to settle the pensioners' and self-employed consumers' outstanding balances under their credit agreements with Lewis Stores in the event of their retrenchment or redundancy from employment; and
- Sold disability cover as part of credit insurance to pensioners. The disability cover sold is meant to settle the pensioners' outstanding balances under their credit agreements with Lewis Stores in the event they become unable to continue

with their occupation.

- The basis of the NCR's referral is that the sale of loss of employment cover to pensioners and self-employed consumers is unreasonable and imposes an unreasonable cost to such consumers because they are not employed and cannot claim benefits under this cover. The same applies to the sale of occupational disability cover to pensioners where they no longer have an occupation.
- "Pensioners and self-employed consumers are not employed and cannot be retrenched or become redundant from employment. They should not be offered loss of employment cover as part of credit insurance", says Lesiba Mashapa, Company Secretary at the National Credit Regulator. "This is the first case of mis-selling of credit insurance in South Africa which the NCR has referred to the Tribunal to obtain redress for the pensioners", Mashapa says.

The NCR has requested the Tribunal to:

- order refunds to the pensioners and self-employed consumers;
- order an audit to be conducted; and
- impose an administrative fine on Lewis Stores."

Role of "FAIS" compliance officer going forward.

This topic was the subject of a recent discussion at the Compliance Institute's FAIS forum. We quote from the minutes of that meeting:

"(it was) reported that it is clear the role of the FAIS compliance officer will change/ broaden with the introduction of the Financial Sector Regulation (FSR) Bill. This should (still to be finalised) result in an increased role for the compliance officer with a broader scope of responsibility but clearer responsibilities for the FSP. This should enable (require) a higher level of fee to be charged by the external officer although it was acknowledged that this would potentially be in an environment where the FSP client is under reduced income stress due to the implementation of RDR proposals.

The FSR Act may well have different educational/designation requirements for compliance officers for different levels/types of FSP e.g. the head of a control function (key person) of a large financial services group could be required to hold a higher qualifi-

cation or professional designation. It is envisaged that such changes will likely have a transition period. These were all matters currently under discussion at the FSB but may change considerably between now and the promulgation of the FSR Act. Julie undertook to provide feedback to the meeting as and when she had more clarity on the matter.

The compulsory nature of the appointment of a compliance officer seems likely to remain."

The Financial Sector Regulation (FSR) Bill is expected to be promulgated early in 2016.

Being aware of these possible changes, we were happy to see the Institute of Directors turning some of their expertise to governance issues in the SME sector – where the majority of FSPs reside. To quote from a recent newsletter of theirs:

"In light of some uncertainty surrounding the applicability and application of the corporate governance principles found in King III in Small and Medium Enterprises (SMEs), the IoDSA has prepared a Governance in SMEs guide to assist SMEs with the application of corporate governance in their organisations. The Governance in SMEs guide aims to provide general guidance surrounding the importance, benefits as well as some practical implementation of corporate governance in the context of SMEs.

As the focus of the guide is on the desired outcomes to be achieved by adopting sound corporate governance, the general guidance provided can be easily adapted and implemented to best suit any size organisation. We trust that this guidance document will provide SMEs with a good starting point to implementing corporate governance into their businesses."

This guide will be officially launched at a function hosted by the IoD and SACCI on 3 August. We will be there and will provide further feedback in future newsletters.

We found an interesting article on Insurance Gateway written by Cornea Matthee, the Group Compliance and Risk Officer for Centriq relating to compliance monitoring for TCF outcomes, ethics and business integrity risks. Will this kind of work, currently optional in our service offerings, be the kind of thing the FSB has in mind with the planned changes? Click here to view the article.

Recognition of Prior Learning – changes ahead?

The aim of Recognition of Prior Learning (RPL) is to make it possible to obtain formal recognition for knowledge gained throughout life, such as in workplaces and own reading or experiences. The RPL process also entails providing support to a candidate to ensure that knowledge is discovered and displayed in terms of a relevant qualification registered on the National Qualifications Framework (NQF).

RPL is defined as:

"The Recognition of Prior Learning (RPL) is a process through which formal, non-formal and informal learning are measured, mediated for recognition across different contexts and certified against the requirements for credit, access, inclusion or advancement in the formal education and training system or workplace."

(Source: National Policy for the Implementation of RPL: par 30).

SAQA published its RPL policy implementation guidelines in 2004 (SAQA 2004). However, the focus on formal education and training institutions at the expense of the workplace has been (and still is) the subject of some critique as most of the Sector Education and Training Authorities (SETAs) developed their own policies, procedures and guidelines for their RPL Programmes. In the insurance sector alone we have experienced RPL mechanisms sometimes as complex as the study itself, with little or no reference to practical work or evidence of competence.

Following the promulgation of the NQF Act (No. 67 of 2008), RPL was moved to a more central space in public policy dialogue and planning. The Department of Higher

Education & Training's Revised Strategic Plan for 2011-2015 indicated a strategic vision for RPL as a fully integrated, universally accepted mechanism. At the beginning of 2013, a Ministerial Task Team published their "Final report incorporating a proposal for the national implementation strategy" which formed part of the foundation for the release of a recently published draft Recognition of Prior Learning (RPL) proposal that seeks to amend the manner and structure of obtaining a qualification via the RPL route.

It would appear that the proposed changes seek to move the process closer to what we believe was originally envisaged with lots more on-site sessions and less "homework" via the portfolios of evidence. Many of our clients have used and continue to use this method as an effective and speedy way to achieve a full qualification.

Whether there are enough experienced people out there to manage what would still be a very useful option for many, is the question.

If you would like to see the full proposal click here and here for the 2013 national implementation strategy.

Annual levies

Don't forget that the end of this month the FSB will issue invoices for the 2015 annual levies. These are based on your representative registers as at 31 August so please ensure that you advise us timeously of any changes needed so your invoice is accurate. Remember the FSB see intentionally holding back changes to avoid fee payments as a serious offence.

RE Exams

Click the below links to download the latest Moonstone schedules for first level exams around the country: English examinations 2015 | Afrikaanse eksamens 2015.

From HAS

It is important that we keep up to date with everything that is happening in and around our industries, whether related to regulation, competition, market movements, and trends. If we don't keep up, we will very likely miss out on some really important information.

Similarly, we follow trends and/or updates with regards to Human Resources, specifically Labour updates and current and/or future regulatory changes. On some of these sites, employers are invited to ask questions which are very interesting as the questions relate to daily challenges that employers face. Some of these questions may sound trivial and/or ignorant, but if an employer does not know how to deal with such a query correctly, the consequences for the employer can be dire. Here are some examples:

Q: We own a shop and we have one employee working for us at the shop. We stipulated in her employment contract that she has to work over weekends and must take her leave at one time and not one or two days every now and then. The reason for this is that if she is not at the shop, then we have to close the shop which is very bad for business. However, she now seems to take at least one day off every month and also seems to be sick quite often. Can we give her a warning?

The Basic Conditions of Employment Act ("BCEA") provides that annual leave must be taken in accordance with an agreement between the employer and the employee, and in the absence of an agreement, at a time suitable to both the employer and the employee. Even though an employee has an entitlement to a number of annual leave days, the employer must approve the taking of the annual leave. If the employee is taking leave without permission, this amounts to misconduct and you can take disciplinary action against her.

If the employee has been off sick for more than two days or on more than two occasions in an eight week period, she needs to produce a medical certificate. If she is unable to produce a medical certificate, you don't have to pay her for those days.

Q: Must I pay out a bonus to an employee that has resigned?

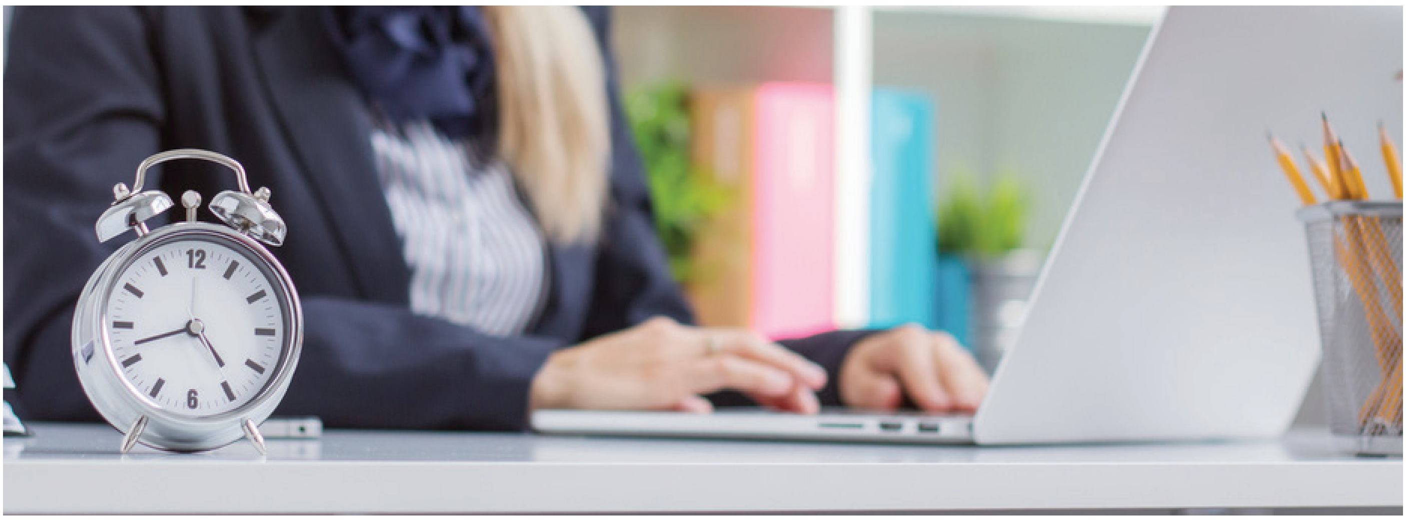
It depends on what your remuneration or incentive policy stipulates. Your policy and/or employment contract as well as the process that needs to be followed in the case of a resignation must be specific about this. If there is no agreement or mention on how this process is dealt with, and the employee can argue that the incentive forms part of an agreed remuneration package, the non-payment of the bonus may be challenged.

Q: Do we have to provide transport for our employees?

Some of our security officers are requesting that they be transported from home to work and back and is quoting the BCEA section 17 (2)(b). How do we treat this matter?

BCEA Section 17 (2)(b) states that transport must be available, not that you have to provide it. This means that you have to make sure that there are taxis or buses available in that area of work at the time that they clock on and off.

Q: I have an employee that is employed as an Electrical Technician. I am having trouble with the employee's working hours – he earns above the annual earnings threshold (R205,433.30) per annum. We have a morning shift, day shift and an afternoon shift and he has to work one weekend in three. We make sure that their work hours are not increased and will give them time off on the weekday shifts if the weekend work exceeded the normal hours. My employee claims that we can't do this. We believe this is a fair way, how do we deal with this?



Since the employee earns above the earnings threshold, the section in the BCEA that regulates working hours doesn't apply to the above working relationship. Therefore you and your employee can agree on working hours as needed by your company. If the contract of employment does not stipulate how the hours are to be worked, then you can determine the hours. If the contract stipulates a fixed amount of hours, you cannot force him to work different hours to what you have agreed.

Annual Earnings Threshold

The annual earnings threshold in terms of the Basic Conditions of Employment Act ("BCEA") is R205,433.30 per annum, or R17,119.44 per month. Employees earning above this threshold are excluded from certain sections of the BCEA, which address: ordinary hours of work; overtime; compressed working week; averaging of hours of work; meal intervals; daily and weekly rest periods; and compensation for work performed on Sundays, at night or on public holidays.

The earnings threshold is typically increased annually on 1 July; however the Department of Labour has advised that the earnings threshold will **not be increased** in 2015. The earnings threshold therefore remains at R205,433.30 per annum.

Employers need to ensure that their employment contracts, benefit polices and remuneration practices of employees who earn below the threshold are in accordance with the rights afforded to employees in the BCEA and the amendments to the LRA.

Employment Equity reporting deadline is approaching

If you are a Designated Employer, your Employment Equity (EE) Reports are due on 1 October each year if you submit your documents manually and 14 January if you submit electronically.

You have to submit your EE reports annually if:

- You employ 50 or more employees.
- You employ fewer than 50 employees but are designated in terms of the turnover threshold applicable to designated employers (please take note that the annual turnover threshold has been amended).

Industrial Sector	Old Total Annual Turnover	New Total Annual Turnover
Finance and Business Services	R10,00m	R30,00m

- If you wish to comply voluntarily in terms of section 14 of the EE Act.
- Employers who have become newly designated on or after the first working day of April, but before the first working day of October, must only submit their first report on the first working day of October in the following year.

Remember to e-mail all your HR related queries to HAS@associatedcompliance.co.za

New documents uploaded into the HAS Manual on the website:

Guidance note on Employment Equity Reporting

From AC-Proofed

Imagine this situation

You've spent months working on a document; the report is now finalised, and the cover email written. Client and boss are copied in along with the whole team. You press send and it's out there. Done.

AC-PROOFED

Feeling relieved and rather satisfied you pick up a hard copy and have a final flick through, admiring your handiwork. But wait… It can't be... Tell me it's not true! There's a typo on page 2. Another on page 3… and the numbering's gone funny on page 13. No!

It's happened to all of us. So what can we do about it? Is there a guaranteed way to spot those pesky typos and muddled sentences? It is nearly impossible for someone to accurately proofread their own work and be consistently successful. The real key to avoiding typos is to have someone else proof read your copy! What should you do?

Hire a proofreader!

When proofreaders get something to work on, they need to follow some hard and fast rules to ensure that there are absolutely no errors in the final product.

- Read through the document a few times – once for spelling, another for missing/additional spaces, a third for consistency of word usages, then font sizes, and so on.
- Create a style sheet (a little piece of magic in a proofreader's toolbox). This is similar to a "To Do List" and is used to track spelling and style choices that are specific to that particular document. It will also list recurring details, spelling of names and places, which conventions are being followed if there's more than one acceptable option (e.g. OK vs. okay), and more.
- The first bit of proofing is done on the actual text, and then the headings are inspected (these are always prone to errors because they are usually the last thing that is checked).
- Proofreaders scrutinise spelling and grammar. They will always make sure that the Language is set to the correct country, for example English (South Africa) and not English (United States)! However the spelling and grammar checker is not always full-proof and shouldn't be solely relied on.
- Some things that aren't caught by the spell checker are homonyms (say that word fast). These are words that share the same spelling or pronunciation, but have different meanings. Switching accept with except or complement with compliment could be disastrous, so it's important to pay attention to them.
- Proofreaders review punctuation because, while focusing on the words is good,

punctuation cannot be neglected. Special attention is paid to apostrophes (people often mix their and they're, it's and its, your and you're and so on), missing or extra commas, full stops used incorrectly, etc. It's surprising how often a simple thing like incorrect punctuation can change the meaning of a piece of writing.

- When it comes to figures in tables and also any "small print", it is super-imperative to check, double check and triple check these. Stating that the value of PI/FG Cover is R100,000 instead of R1,000,000 is definitely not the same thing.
- Page numbers and other footer/header material must be checked for accuracy and correct order. Figures need to match their references in the text and numbers need to be sequential. If the text refers to item number 1.4.2, it's the proofreader's job to make sure that that item number is in fact correct.
- Details on the company letterhead must be checked. Just because it may have been professionally designed and has been used by the company for many years doesn't mean it's perfectly correct.

Proofreading isn't just about reviewing the text. When the final document is returned, the design will be correct in terms of established specifications. Page numbering, column alignment, relative fonts, sizes, and other features of standard elements such as headings, subheadings, captions, and footnotes are also checked.

Once all changes have been made, the proofreader will print the work out and read it out loud. People read differently on screen and on paper, so it's helpful to print out a copy of the document and if it's read out loud, the ears might catch errors that the eyes may have missed.

Documents are returned to the authors with changes marked up using Word's "track changes" option. This will allow the author and other reviewers to see what has been changed.

All of this illustrates that when it comes to presenting a report, or a brochure, or a company newsletter, you should always consider calling the aid of a proofreader to make sure that your finished work shows you and your organisation off in the best possible way. Sure, you have the confidence that your work is good, and no doubt it is, but there is always the possibility that you may miss an error.

Don't risk it; call AC Proofed to find out how we can make your work look great.

From the FSB

Notification of documents published on the FSB website

The FSB has introduced a new functionality on their website that allows users to subscribe to receive e-mail notifications when documents are published and updated on the site. We have obviously subscribed and will use the service to better track changes and developments which are published but often go unnoticed.

Should you wish to receive these notifications yourselves click on the link below and follow the simple instructions. You can choose from categories you deem appropriate to your organisation.

http://www.fsb.co.za/Pages/ManageSubscriptions.aspx

Short- or Long-term Insurers' need for Professional Indemnity insurance

Board Notice 50 of 2015 has finally provided this exemption to insurers. Since FAIS was promulgated insurers have argued that PI cover for PI cover's sake added no value to consumer protection at all, especially when many opted for the minimum of R1m limit. We are not sure what sparked this change of heart from the Regulator but it will be seen as a logical one by those affected.

Exemption from Audited Financial Statements – a change

FAIS Notice 82 was issued on 21 July 2015. It replaces the application for exemption from submitting audited statements as a once-off process with an automatic exemption subject to the following qualifying conditions:

- The applying Category I FSP cannot receive or hold premiums (Short-term or Long-term) or otherwise receive or hold clients' money or other assets.
- The FSP must otherwise be a Category I FSP authorised to render financial services in respect of financial products belonging to Long-term insurance Subcategory A (Funeral Benefits) and/or Friendly Society Benefits only and who receives or holds premiums or otherwise receives or hold clients' money or other assets.
- The FSP is not required to have an audit by any other law.
- The annual submission of a specific declaration annexure (referred to as Annexure A) as part of the annual financial review undertaken each year.

Whilst not detailed in the Notice, it is clear that the current practice of a once-off exemption does not cater for changes in the circumstances of the FSP over time, therefore an exemption granted this year may not be granted in subsequent years due to changed circumstances of the FSP. As such, exemption must be applied for each year that the prevailing criteria are met. However, it does mean that an FSP has to ensure that it meets these criteria before the year-end financial work is undertaken. If statements are submitted on the incorrect basis and the exemption is not granted for that year, the correct financial report will have to be completed and submitted.

We recommend that the full Notice be supplied to your auditor or accounting officer now so that they can accurately assess your eligibility for the exemption on a general basis. You can then decide if you wish to take advantage of the opportunity or not. Click here to obtain a full copy of the Notice.

This new methodology only applies to 2015 Annual Financial Statements due to be submitted to the FSB after 30 April 2015.

The notice also provides for those statements due to be or have been submitted before 31 July 2015 (i.e. January, February and March year-ends) where only a review was done but no prior exemption had been obtained to submit Annexure A and receive the necessary exemption. If you have applied for and received an extension on the submission date for your financials then Annexure A can be used if required when submitting. If these scenarios apply to you please liaise with our office to ensure that this process is followed up.

Application for extension for submission of Audited Statements

Whilst on the subject of financial statements, at a recent meeting of the CISA FAIS forum the practical application of the new deadlines and fees payable for applying for an extension were discussed, an extract of the minutes are as follows:

> ***"A member highlighted the importance of prompt application for such an extension being vital. Submissions (Incl. payment) less than 15 days before the deadline will be rejected by the FSB (and fees not refunded it seems)***
>
> ***It is less clear if fines will be levied for late submission in such circumstances. These minutes will be used to seek clarity of this aspect"***

The FSB did indeed follow up on this matter when the minutes were issued and commented as follows:

"…..the application for extensions must be done timeously. It is a very difficult issue for the FSB as we receive a number of requests submitted in July when the financial statements were due on 30 June. In some instances it is indicated that the audit has not started yet. It would be very helpful if compliance officers could remind their clients of the following:

- *All financial statements are due within four months after financial year-end.*
- *As the bulk of FSPs have a 28 February year-end it means most financial statements are due by 30 June every year.*
- *It is the responsibility of the FSP to ensure that their auditor/ accountant, as the case may be, allocate resources to their audit and is able to provide the financials timeously, so that the FSP can submit by 30 June.*
- *We will not grant an extension if the FSP applies late.*
- *FSPs must remember that there is no automatic granting of an extension – we analyse the application and will only grant it where there is a valid reason for the granting thereof.*

- *I am unable to say whether there will be fines/penalties imposed for the late submission (however the option is clearly there).*
- *Please remember that the failure to submit can also lead to the suspension of authorisation."*

FAIS Newsletter: The latest edition of this letter was published on 30 June.

To download a copy click here.

From IISA

Their latest seminars

FREIGHT FOR THOUGHT

Date: 6 August 2015
Venue: MAN Truck & Bus Century Business Park,
Freight Road, Louwlardia Ext. 13, Centurion, South Africa
Time: 08h30 - 12h00
Cost: R395

CLICK HERE TO REGISTER

LIABILITY - THE REALITY

Date: Wednesday 19 August 2015

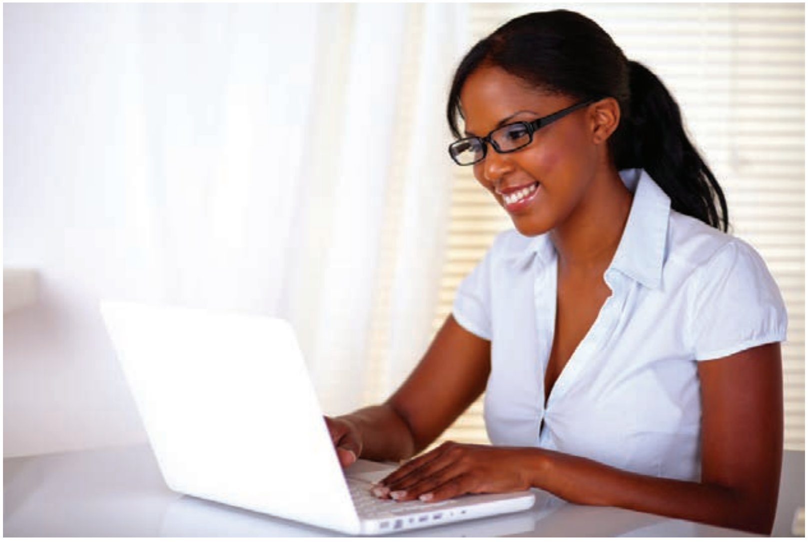
Time: 08:00 - 12:30

Venue: Villa Arcadia, Music Room, Hollard, Parktown

Address: 22 Oxford Road, Parktown, Johannesburg

Contact the IISA for registration details.

Interesting things we have read



Telling Fairy Tales to Parliament: An article by Professor Robert Vivian. One senior industry player flagged this as "What Professor Vivian writes about here is much more concerning than anything else on the go at present"

Click here to read.

Insurance Gateway

Get your small business ready for POPI: An article from Sage Pastel accounting.

Click here to read.

On a similar theme Camargue have launched a free e-book to help with POPI – click here to download more details and the book.

This is no simple guide – substantial and well put together – a good tool in your research/ planning around your POPI strategy.

One for those involved in funeral business – the incorporation of FAB into the FIA. Click here to read.

Moving clients to a new FSP

A Moonstone article on how not to move clients when you move employer – and how not to appeal when you get debarred for doing it illegally. Click here to download the article.

COVER Magazine June 2015

An article by Brian Martin of Renasa entitled "Is an FSP liable for the fraudulent conduct of its representatives?" - a useful summary of the law around this and the FAIS Ombud case and subsequent FSB appeal board's decision that this can be the case.

FANews

Magazine June 2015

This edition contained a supplement that dealt with The Insurance Apprentice 2015. While we never followed this event that closely we still believe it was an interesting approach to education within the financial services sector and we said as much to FANews when they approached us for our views on the event. We see that there will be a 2016 event as well, so clearly the sponsors felt that this first one was good enough to warrant a further investment. To enter you must

- Be younger than 35,
- Have been in the short-term insurance industry for more than four years,
- Preferably hold a COP qualification (this is not compulsory and just as well given that many youngsters will have done or be busy with what is currently the common qualification – the FETC short term insurance).

Go to www.TheInsuranceApprentice.co.za for more details on applications, which opened on 1 July.

There are a number of RDR based articles in this edition but one that FSPs should read is by Richard Rattue of Compliserve SA and deals with the switch to a fee-based remuneration model – something very possible with the RDR proposals. While the advice offered in the article is aimed at brokers the principles can be applied in many service-based industries – compliance included. We have added this as a link for you to download if you don't have the magazine handy.

Click here to download.

Regulation is Guiding Us

An article arising from the recent FPI conference. A worthwhile read even if you are from other sectors of the industry - the principles are the same.

A similar themed article on the impact of RDR from the FPI conference:

Click here to read the full article which continues on their website.

Whilst on RDR the Actuarial Society of SA (ASSA) have published their response to RDR. Click here to download a copy (courtesy of Moonstone) ASSA response

Fee for Action: another article stemming from the FPI conference themed around what is good advice and what is bad and the lines between the two – good read.

Click here to read the full article which continues on their website.

Institute of Directors:

we read various publications issued by the IoD the most recent of which is a new benefit of membership – access to The Corporate Report, issued three times a year. For those of you not members you may want to go have a look at the benefits. Click here to view benefits.

Is your website mobile friendly?

We received a random e-mail last month asking us this question. Thinking it may be a scam we asked our web/newsletter design team – Dungbeetle Creative Studio – to check it out. Turns out it was legitimate, and we did a test as well and passed this test as our site was designed to be mobile friendly.

This was the mail we received;

> ***"Did you know Google is now ranking mobile friendly responsive websites higher than non-mobile friendly? With more and more people using mobile devices like tablets to search the internet it is more important than ever to have a mobile friendly site.***
>
> ***Visibility of your business on the first Google search page is critical to generate sales and a Return On Investment.***

Here is an easy test that Google has developed to test if your website meets its mobile friendly criteria.

Click on the link below to test your website's mobile friendliness:

https://www.google.com/webmasters/tools/mobile-friendly/

If your website is not mobile friendly or you are looking to redo your current website then contact me today. We can either fix the mobile friendly issues on your current site, or assist in redeveloping a brand new website to take your business to the next level."

Maybe you want to check your own site?

SA Financial Services Intermediary Monitor and FSP Directory:

We were supplied with an overview of the latest publication under this heading. It covers insurance, wealth management and banking across South Africa and has some interesting statistics. Click here to download their marketing mail.

What amazes us is how they get this level of information when we, active participants in the local sector, often struggle to get the most basic of information about our own clients!

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