



ASSOCIATED COMPLIANCE

FOR A COMMON PURPOSE



ASSOCIATED COMPLIANCE



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## From AC

### **Staff changes**

We are thrilled to let you know that Juanette Richardson has been appointed as a director of Associated Compliance. Juanette has been heading up our motor division for a number of years now and has become an integral part of the management team and thoroughly deserves her new and expanded role within the company. She will also start venturing outside the motor arena and will begin to build relationships with all segments of our client base.



**ASSOCIATED COMPLIANCE**

On the subject of promotions, Natalie van Heerden has now taken full responsibility for all support functions. This primarily involves the management of licence profile changes, maintenance of your representative registers, submission of financial statements and exit reports. In addition, the team will do the preparation of monitoring reports and visits for non-motor clients (motor clients demand a separate more involved process that has its own dedicated team).

Lindiwe Nkolonzi now forms part of that dedicated motor team and has submitted her application for approval as a compliance officer under supervision.

Claire Mitchell, our new compliance officer, joined AC on 1 March. She is two years into her three-year supervision period so already has enough experience to advise clients, although she will be undertaking an orientation process with us for a period of time. She has seven years' experience in the insurance broking industry, three in the UMA sector and most recently was acting as the internal compliance officer for a broker utilising direct marketing as its primary means of sales. This means that Claire is well-versed in call centre operations from both the sales perspective as well as the compliance considerations.



## 2016 discussion groups

We have now completed our first two discussion groups for the New Year as noted in last month's Newsletter. These discussion groups were aimed at our UMA clients and we talked about how the proposed regulation changes will impact on their businesses as well as how TCF needs to be incorporated into their day-to-day operations. We would like to thank Cornea Matthee of Centriq who gave of her time and experience in this regard for the benefit of all our clients.

Both the AC and Centriq TCF presentations can be downloaded from the following links:

AC presentation - [Click here](#) to download.

Centriq TCF presentation - [Click here](#) to download.

We will be holding our next discussion group for our broker and retail motor clients during April, details of which will be supplied shortly.

## Proposed Changes to Regulations (will they ever happen?)

The reaction to the various draft proposals released in December and detailed in our January Newsletter have actually met with a very subdued reaction from a large proportion of our clients. It seems that many have become punch drunk on all the proposed changes and the disclosure of even more is having little effect. What they are seeking now is some conclusion to the changes so that they can get on with running their business in a framework that is not in constant flux.

## Free RE exam study material

An article from Insurance Gateway providing details of free study material. [Click here](#) to view.

For those that would prefer one-on-one study sessions, we are able to facilitate this –

mainly for the greater Johannesburg area – so if you need help let us know and we will do what we can to assist.

## From AC HAS

By law, you must protect the health and safety of your employees. According to the Occupational Health and Safety Act No. 85 of 1993 (the “OHSA”), an employer is obliged to provide and maintain a safe working environment that is without risk to the health of its employees. If you’re thinking that it doesn’t relate to you because you don’t have heavy equipment or specialised machinery in your workplace or you don’t operate in an



### AC HUMAN ASSETS SERVICES

environment where toxins and/or fumes are present, you’re wrong. Even if you don’t have any of that, your Health and Safety obligations still exist.

According to Section 17 of the OHSA, an employer who employs more than 20 employees must appoint a Health and Safety representative. The duties of the representative will be to monitor, investigate and report on health and safety matters, manage inspections and attend health and safety meetings.

Take a look at a few of the following obligations under “General Health and Safety Regulations”.

- An employer cannot or shall not permit any person who is or appears to be under the influence of intoxicating liquor or drugs to enter or remain at a workplace.
- Any employee who is taking medicine, that in the opinion of a medical practitioner or pharmacist may impair the employee’s judgement or abilities, is obligated to inform the employer.
- An employer must take all reasonable steps to prevent the transmission of HIV, Hepatitis B and all other blood-borne diseases and ensure that staff have been

trained in the use of standard precautions to prevent transmission (for example providing surgical gloves in the workplace, adequate cleaning of accident scene).

- An employer shall take all reasonable steps to ensure that a person at work receives prompt first aid treatment in the case of an emergency or injury.

- An employer who employs five or more employees, must provide a first aid box/boxes which will be readily available and accessible. Only first aid equipment as prescribed in the Act is to be kept in the first aid box (see **Guidance Note on Health and Safety**).



- According to the Medicines and Related Substances Control Act 101 of 1965, no person/employer is allowed to dispense a medicine (i.e.: headache tablets, cough mixture, any other oral medicine) unless authorised to do so under the Pharmacy Act.
- An employer who employs more than 10 employees must have at least one person in possession of a valid certificate in first aid training on the premises.
- An employer must take note of the criteria of storing flammable liquids and employees working in confined spaces, elevated positions and the stacking of articles.

It is also imperative that employers are fully aware of the reporting procedures should an injury or accident happen in the workplace.

Please take note that your Workplace Skills Plan and your Annual Training Report is due for submission **on or before 30 April**.

E-mail all your HR related queries to [HAS@associatedcompliance.co.za](mailto:HAS@associatedcompliance.co.za).

## From AC Proofed

### Some tips from AC-Proofed on filing

Have you ever kept someone waiting on the phone while you've searched the piles of papers on your desk? If your boss asked you for a particular report, could you hand it to him while he's standing over your desk, or would you have to tell him you'll bring it to him later?

You owe it to yourself to file effectively, however boring this may seem. Imagine how much more impressive it would have been if – when asked – you'd smiled, accessed a well-organised filing system, immediately found the document, and quickly given the answer!

Even in the digital age, there's still a need for paper documents. We all have so many things that we're working on which we're going to need to retrieve later and we should be able to lay our hands on the information we need – at the right moment – when we need it.

All too often, though, we waste time looking for something that's actually sitting somewhere on our desk or in a filing cabinet. This adds to our stress, and makes our job more difficult than it should be. So we need to get more organised and efficient with our file management if we're going to get our work done properly.

You can spend hours searching for documents that you've filed away somewhere, or even forget that you have the document in the first place. The question is this: How can you go about simplifying your work? The answer is simple - get better at managing files.



**AC-PROOFED**

## Managing Information Efficiently

When you receive a document from someone else, it's tempting to put it in a pile on your desk for the time being (and for "when I've got some time..."). It doesn't take long for the pile to grow which makes your desk/office look untidy and cluttered. It's highly unlikely that you'll ever find time to go back and get all of that information organised, especially considering that you're usually under pressure with other things.



Here are some tips to help manage your files:

- Come up with a filing system that's easy to use and makes sense to you (and also to make it easier for someone else to find a document if you're on leave or off sick). You don't want it to be more stressful than the stress it's supposed to alleviate.
- Don't save everything. Take a few seconds to glance through the content, and keep it only if it's relevant to your work activity. Having too many unnecessary documents adds to clutter and makes it harder to find things in the future. Be selective about what you keep!
- Follow a consistent method for naming your files and folders.
- Store related documents together, whatever their type.
- Separate current work from completed work. To make things easier, it may be best to keep current or ongoing work on your desk until it is done. Then make some time (Friday is usually a good day) to go through those documents and file things which you're no longer working on.
- Keep trays on your desk: **To Do, To Pay, To File, and To Read.** Again, make the time to go through them accordingly. This task really shouldn't take long — 15 or 20 minutes should do it.
- Avoid overfilling folders. This makes it difficult to find something at a later stage.



For any system to be useful and effective, it must be convenient for you. So, although there's no “one size fits all” solution, it would be beneficial for you to customise these file management tips in a way that best serves your own needs.

We know this is boring, but you know you need to do it! Clear an hour in your schedule somewhere in the next week, and set your filing system up!

And if you need help getting started, remember that A-Proofed can assist.

## From the FSB

### **Fees under the Short-term insurance Act**

Insurance (ST) Notice 1 of 2016 provided details of the new fees from 1 April 2016 for a variety of applications that can be made. Amongst the usual administrative aspects there were a couple of significant costs that caught our eye:

- Registration as an insurer: Ranging from R73,200 – R84,000.
- Name change: R62,800 (this one doesn't make too much sense based on the cost of a new licence – we clearly don't understand what is involved).

### **Enforcement committee action**

Defensive Legal Protection CC, trading as Legal Exec, provided legal advice and assistance to their clients for a monthly fee, but did not consider that their services would be seen as an insurance product and had apparently been advised as such, although the detail of who provided this advice is not known from the enforcement order. The FSB disagreed and Defensive Legal Protection were forced to transfer all clients into an insurance structure – in this case Genric. The fine for the illegal trading was R100,000.

This case once again highlights that the line between what is insurance and not insurance is very fine indeed and as there are many more examples out there, especially in some of the product offerings in the motor sector the FSB would do well to apply the standards consistently.



## FAIS Newsletter

The latest edition of this Newsletter has just been released. [Click here](#) to download a copy.

## From the Financial Intelligence Centre

The FIC issued a communication early in February inviting accountable and reporting institutions to participate in testing their new reporting system that will go live from April this year. The communication read as follows:

*“The Financial Intelligence Centre (the FIC) invites your organisation to participate in the testing of the new registration and reporting system called goAML. goAML will enhance the security and quality of reporting to the FIC and will enable the FIC to better realise its objectives in terms of the Financial Intelligence Centre Act, 2001 (the FIC Act).*

*The goAML system will go live late April 2016 and the FIC urges all accountable and reporting institutions and businesses to begin testing the new system immediately. Ongoing live in late April 2016, all users will be required to thoroughly understand and use the system to fulfill their registration and reporting compliance obligations in terms of the FIC Act.*

*On 04 December 2015 the FIC issued an invitation to all reporters to test the new system.*

You can access the testing environment using the following URL link:

[https://goStage.fic.gov.za/goAMLWeb\\_UAT](https://goStage.fic.gov.za/goAMLWeb_UAT).

*Please follow the steps on how to register or obtain user credentials as set out in the goAML Test Environment Information Pack [\(click here\)](#).*

*For any questions or concerns kindly send these in writing to the FIC using the link on the FIC website - [Click here](#) to go to the website.*

*Please note that we will be sending further communication relating to registration on goAML as we get closer to the go live date. Accordingly, we urge you to consult the FIC website ([www.fic.gov.za](http://www.fic.gov.za)) regularly for further information on the new system.*

*We look forward to your co-operation and support.*

*Issued*

**FINANCIAL INTELLIGENCE CENTRE**

**2 FEBRUARY 2016”**

## **Treasury heeds FICA criticism**

[Click here](#) to view article.

## **From the FAIS Ombud**

Van Breda v Mogentale/Introvest 2000 CC. This involves a failed investment in a scam that became known as Bondcare. This particular case was “only” R455,000 but the company that was used had a shortfall of some R23m plus tax liabilities. We expect that there may well be other rulings but if the responsible people don't



have any money left, given that SARS come first when debt is being chased, what must the complainant do? Alan Holten of Moonstone provided a useful review of what options are available:

***“The Complainant can get the determination treated as a civil judgement and ask the court to issue a warrant of execution against the Respondent’s assets.***



*The Financial Sector Regulation Bill takes the matter a little further, and provides at S 268 (Compensation for contraventions of financial sector laws) that a person, including a financial sector regulator, who suffers loss because of a contravention of a financial sector law by another person, may recover the amount of the loss by action in a court of competent jurisdiction against the other person and any person who was knowingly involved in the contravention. This will include directors of a company FSP”.*

[Click here](#) to download the full ruling.

A short-term case:

De Hoop Steenwerwe Pty Ltd V Finmar Makelaars brings together some interesting aspects because it involves the sum insured not being increased on business interruption cover and the broker stating that the client did not take their advice to take up the increase.

But, you guessed it, there was no record of such advice and no documented warning to the client as demanded by section 8(4)b of the FAIS General Code of Conduct (an aspect we see too often not being followed) but this is the first Ombud case where we have seen this as the root cause of a determination. The case is worthy of a read and application of the issues that arose with your own work flows to assess how you would have dealt with a similar scenario and learn from another FSP’s error.

[Click here](#) to download the full determination.

## From the FIA

The FIA have issued a formal response to the Status Update: Retail Distribution Review Phase 1 document (see our special Newsletter on the subject from November 2015).

They submitted three separate documents;

### 1. Covering letter

[Click here](#) to download a copy FIA RDR Phase 1 covering letter

## 2. Long term response

[Click here](#) to download a copy FIA LT response to Status Update RDR Phase 1

## 3. Short term response

[Click here](#) to download a copy FIA ST response to Status Update RDR Phase 1

The covering e-mail is also an informative document in itself – it stated:

*“The Financial Intermediaries Association of Southern Africa (FIA) has submitted its formal response to the Financial Services Board (FSB) with regards the Status Update: Retail Distribution Review Phase 1 document.*

*Our submission, made on the 15th February 2016, was informed by our diverse membership which includes short-term brokers (including small, SME / SMME and domestic, national broking firms and firms with global parentage); professional financial advisers (including IFAs, certified financial planners and tied agents); and advice-givers, brokers and consultants in the employee benefits and healthcare space.*

*We can confidently say that our views and opinions reflect the views of individuals and firms that are actively engaged in the business of giving financial advice to consumers. That we understand the intermediated distribution environment is beyond question.*

### **Why two responses?**

*We have submitted two responses to the Status Update document - one for the Short-term insurance discipline and the other for the Long-term (life and investment) disciplines - in support of the FIA view that these disciplines are too different to be lumped together in a single RDR process.*

*It should be noted that Short-term insurance was not ‘in scope’ in the RDR processes undertaken by regulators in other country markets such as Australia and the United Kingdom. It is also evident that commercial insurance aspects of the Short-term insurance sector are introducing unnecessary complexities to the current RDR debate.*



*These documents include limited comment re the RDR impact on intermediaries in the employee benefits and healthcare disciplines where necessary, though we do not believe that the RDR adequately addresses the unique aspects of these markets. It is our opinion that considerably more thought needs to be given to these disciplines.*

### ***What is in the covering letter?***

*The FIA Board has acknowledged that many of the changes proposed in RDR could have serious consequences for our members' businesses - and therefore also their clients the consumer. We have taken a serious look at the proposals and responded to the FSB accordingly – indicating where we agree and where we disagree – by way of the two submissions already mentioned.*

*But the impact of this regulation is so far-reaching that we felt it necessary to go further by communicating a number of additional concerns to the regulator. These concerns go to the overarching processes that the FSB applies in creating new regulation.*

*The covering letter (in reaction to the regulator's invitation to questions in the closing paragraphs of the Phase 1 document) therefore includes a number of carefully considered comments before posing a number of tough questions to the regulator re RDR. You can read the full letter at your leisure; but we share some of the major points in the following paragraphs.*

*We have alerted the regulator to market sentiment – informed by our members' views – with regards the volume and speed of regulatory change. We have strongly suggested that the regulator pauses for thought at this critical juncture because to forge ahead at full pace with so many unanswered questions would be unwise and dangerous.*

*We have questioned the apparent 'scope creep' in the RDR proposals and have again sought clarity on the definition of "consumer" and "retail", the interpretation of which have major consequences for the regulation.*

*We have questioned how the regulatory direction can be informed by unsubstantiated*



*claims of “poor conduct” and “miss-selling” and have again asked the regulator to support these claims. It is only fair that new regulation is informed by empirical and independently obtained data and not perceptions based on informal interactions with a small sub-set of the industry.*

*We have therefore suggested to the regulator that its proposed ‘extensive remodel’ of the intermediated distribution environment should be informed by thorough studies not only into the value added by advisers and brokers in the current environment, but also into the impact of regulatory changes on remuneration, jobs and ‘big picture’ economic outcomes. These studies should inform the regulatory direction and could be used as benchmarks to assess post-reform outcomes.*

### ***What happens next?***

*We have communicated our concerns to the regulator and have asked the difficult questions – as our members expect us to do. We have requested that the FSB responds both to our unanswered questions following the FIA’s first submission on RDR and to our new questions as communicated in our latest response.*

*While we wait for the FSB’s response to these questions we will continue our work on RDR-related matters through the three FIA RDR committees established for this purpose. We will continue to participate actively in all RDR-related engagements with both the regulator and the industry with the aim to ensure that these interactions become more detailed, constructive and outcomes-based. This, in our view, is the best way to properly inform the RDR process.*

*To this end our cover letter to the FIA advocates for the appointment of an industry task team to address activity definitions, activity delineations and activity-based remuneration. We also encourage the FSB to consider a permanent industry advisory council under the auspices of the FSB.*

*Regards,*

*FIA”*



## From ASISA

ASISA has introduced new cost comparison standards for most savings and investment products which they will start to introduce from 2017. The intention is to allow both client and advisor to make meaningful comparisons on charges and the impact on the investment returns on unit trusts, living annuities, retirement annuity or endowment policy.

[Click here](#) to download the full media release.

## From the IISA

**CPD:** A recent communication from the IISA dealt with the cost of CPD:

### **CPD for the period 01 July 2015 – 30 June 2016**

CPD need not come at massive expense. Free recognised activities are as follows:

- **Subscription** to the digital copy of the RiskAfrica Magazine, and Professional Reading articles that qualify for CPD hours.
- **Camargue E-learning** activities on Director's and Officer's Liability, Commercial Crime and Employment Practice Liability are available on [www.camargue.co.za](http://www.camargue.co.za).
- Members who have **dual membership** with the IISA and FPI or CII can submit their activities done with these professional bodies for CPD recognition.
- Other activities relevant for CPD that are not pre-approved by the IISA can be submitted and recorded free of charge for IISA professional members.

But remember the CPD being referred to is that required to maintain your professional designation with the IISA and **NOT** FAIS-based CPD which has yet to be introduced. The FAIS-based standards are still being discussed at the FSB as part of the overall RDR proposals that aim to have different broker categories have their own CPD requirements. As with many things right now too much speculation and too little definition.

The latest events calendar for IISA CPD events has been published. [Click here](#) to download a copy.

## Change in IISA qualifications via UNISA

There have been some changes in the Introductory Programme and Programme in Short-term insurance qualifications offered via UNISA. If you are currently studying these or plan to do so, please download the official release to get the necessary details of the changes. [Click here](#) to read more.

## Interesting things we have read

We are not sure whether to call these interesting things we have read or disappointing ones. The recent “revelations” in the Sunday Times and City Press ([click here](#) to read the article) on R9bn of missing pension funds and the related article in the Financial Mail of 18 February entitled “Do as I say, not as I do” do nothing to make our job easy. While we are out there preaching



the gospel according to the FSB, this kind of incident simply undermines our efforts and the attitude of even the most willing of FSPs (yes they do exist).

We accept that people and/or processes can go wrong but your Regulator should not be tainted with the brush of corruption and ineptitude that it has in recent times. As the Financial Mail article seeks to highlight – when it does go wrong, act as you would with a transgressing FSP and not seek to hide away and avoid the issues. They need to be bold not timid at this time.

The FSB has responded to these articles:

[Click here](#) to view the press release - FSB Response to City Press/Sunday Times Article.



However, at the time of releasing this Newsletter not the FM article, FA News ran an article on the issue as well. [Click here](#) to read the full article which continues on their website.

### **An article from Professor Robert Vivian**

[Click here](#) to view.

After reading this one of our compliance officers offered the following commentary:

*“Interesting indeed, ...*

*I don't have any information on the U.K. situation, but certainly discussions that I have had with local Brokers of late have indicated extremely negative views of the future. I am talking of small to medium sized Brokers who have gone the extra mile to abide by the regulations up to press. Perception is that advice fees on top of premium as a principle is a non-starter in the S/T sector and that with the proposed reduction in commission and Binder fees, the Brokers income will reduce by 30% to 50%, which no Small to Medium broker can withstand, even with advanced technology and staff culling. The large corporate brokers will probably be able to withstand a period of struggling to get Advice fees, and thus glean a lot of business initially.*

*They perceive the result to be more amalgamations/mergers/takeovers, with a major reduction in the number of small to medium brokers.*

*The comment relating to the “violation of the rule of law” is a reality with the FSB effectively answerable to no-one, with the disbandment of the advisory committees.”*

We'd be interested to hear your thoughts.



**Pi Financial Services Intelligence** produce statistics on the FAIS licence profiles and have just released some stats based on the overall licence numbers as at December 2015 as follows:

*“Overall, FSP numbers increased across the industry by 1.5% to 10,399 during Q4 ‘15, and Rep numbers increased by 3.5% to 138,410. The following table extract concerns FSPs with Short Term Insurance Commercial Lines authorisations, and may be useful for your own marketing segmentation purposes:*

*The number of FSPs with Short Term Insurance Commercial Lines authorisation increased slightly from 5436 to 5468 over Q4 ‘15, and corresponding Rep numbers (Reps with those authorisations) increased by 5% to 30,035 on 31 December ‘15. Here is a province breakdown showing where all the FSPs’ head offices were located as at 31 December ‘15, segmented according to FSP size (i.e. Rep headcount).”*

Exactly how they have access to this level of information is still not known but nevertheless could be useful to the marketing people at insurers and UMAs. The only problem is you need to subscribe to access the detail they would need. These are really “teasers”.

If you want to see the table on commercial lines licence split, [Click here](#) to read more.

## **Insurance Gateway**

FAIS and Sole Proprietors: Did You Know? A summary of a Guidance Note prepared by the FSB by Moonstone. [Click here](#) to read the article.

The actual guidance note can be downloaded [here](#).

**FAIS: Financial Advisers and Due Diligence.** A good article on the need for an FSP to conduct a due diligence on new providers being used. They do acknowledge that there is little by the way of guidance from the Regulator on this particular aspect although a lack of such an exercise has been used against FSPs in the past by the FAIS Ombud. [Click here](#) to read more.



## **The Good, the Bad and the Underwriters**

So, how can you tell if your insurance is any good before it is too late? There is no easy answer. Apparently the whole ‘try before you buy’ idea is greatly frowned on by insurers. Even the insurance ombudsman, who is an expert frowner, would redirect his frowning from insurers to customers if they were to try sneaking in a ‘test’ claim. An article from one of our clients - Camargue – interesting but not signed off by AC!

[Click here](#) to read more.

## **ASTUTE Acquires STRIDE Switch: Short Term Insurance Switch**

[Click here](#) to view the article.

Given the obvious unhappiness at the FSB on data transfer from binder holders to Insurers one hopes this move will enhance the efforts to achieve the required standards.

The Insurance Bill has been published. This is a short article from Patrick Bracher but it does have a link to download the full bill if you have plenty of reading time available.

[Click here](#) to download the Bill.

**Addressing the unintended consequences of new legislation.** An article from Moonstone relating to the recent media statement from The South African Chamber of Commerce and Industry (SACCI) on the standards they believe should always be followed before releasing new legislation i.e. a regulatory impact assessment. It goes on to talk of the issues that have arisen in the UK since their RDR implementation.

[Click here](#) to read more.

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