



ASSOCIATED COMPLIANCE

FOR A COMMON PURPOSE

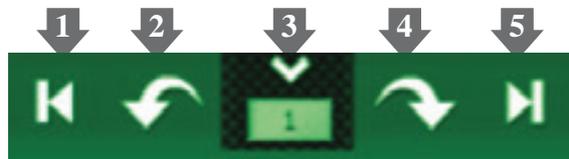
# Instructions

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From AC

## **Was your financial year end 29 February 2016?**

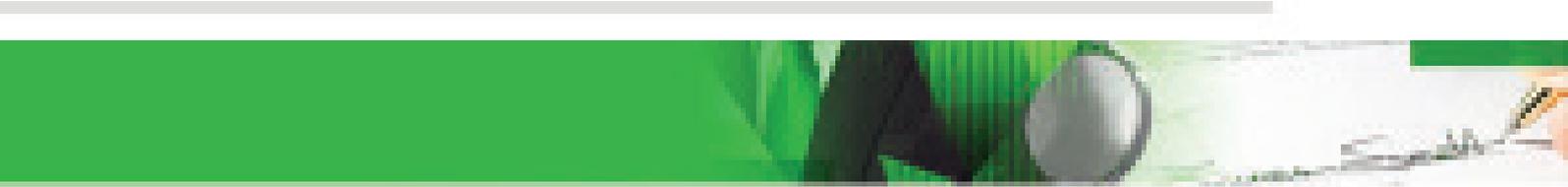
If so, the deadline for the submission of signed annual financial statements to the FSB is 30 June 2016. These financial statements need to confirm the status of your solvency. If you see this may be an issue, please talk to us because managing an enquiry from the Regulator in a defensive manner is never the best option.



Also remember that all submissions made where no audit has been undertaken need to be supported by Annexure A ([click here to download a copy](#)). This document verifies that your FSP meets the criteria for non-audited financial statements. It will be needed every year from now on and should become an integral part of your financial management process, as should the solvency declaration tool we have supplied.

## **Is the offer of “Free Insurance” an inducement to enter into an insurance contract?**

This has long been an issue of debate and no definitive directive has ever been issued by the FSB. One of our clients recently issued an advert that offered “Free Insurance” when buying a new car. The FSB picked up on this advert and have challenged the FSP to provide their motivation as to why such an offer is not a ‘valuable consideration as an inducement to a person to enter into ... a short-term policy’ (as detailed in Section 44 of the Short Term Insurance Act). We have yet to finalise the matter with the FSB, but the question whether this “free insurance”, which would actually be a payment by the FSP to their client’s insurer of choice rather than “forcing’ the client to take a specific insurance product (which may well be a defining aspect of this debate), is an inducement to enter into an insurance contract or an inducement to buy a car is going to be interesting. We’ll keep you posted.



## **When is credit life not credit life? When it is a FAIS licence sub-category?**

Various motor groups offer a credit life product under the Short-term Personal Lines sub-category, whereas others offer this benefit under the Long-term B1 sub-category. These products are basically the same; the only difference is that the risk carrier is either a Long-term Insurer or a Short-term Insurer.

As a result, the motor industry often finds itself in a predicament when employing a representative previously employed and licensed at an FSP who sold credit life under a Short-term insurer licence and now joins an FSP selling essentially the same product but under a Long-term insurer licence.

*So, why is this a problem?*

Board Notice 106 of 2008 is very clear with regards to the qualification and experience requirements for Category I representatives. It states that should a representative be added to the register for an additional sub-category for which the representative has never been previously loaded, that representative needs to:

1. Obtain the required practical experience in the additional sub-category/ies; and
2. Obtain the qualification relating to the new sub-category and recorded as such in the representative's profile.

This results in the new representative being registered under supervision while they gain the required experience – at least 12 months. Should this representative have relied upon credits rather than a qualification to be compliant in the short-term market, they may also have to obtain a full qualification – which may well involve a further few years of supervision. With many dealerships having only one representative, the practicalities of supervision start to become problematic.

*Is there a solution?*

Technically, no. However, during a recent meeting with the FSB, one of our large motor

groups asked the FSB to consider granting exemption to representatives that meet the minimum qualification requirements from trading under supervision and obtaining a full industry-related qualification and who were loaded for Short-term personal lines in the transition period. This request was supported by the fact that the representative will now be offering the nearly identical credit life product under the Long-term B1 sub-category.

The FSB confirmed that they will take this into consideration, but specifically limited in scope to the credit life product sold by representatives and not all products available under the Long-term B1 sub-category.

Hopefully this request will have a positive outcome. We'll keep you posted.

### **Beware of your FICA status and that of your clients**

We have seen recent examples of bank accounts being closed because of the failure to update FICA information. This will cause hassles with debit order payments and various other issues. Wordings on bank statements or premium collection company statements say something along the lines of "FICA non-compliant." Even worse would be your own bank account being closed as has just been threatened with one of our UMA clients.

### **From AC HAS**

The **quality** of recruitment is one of the single most important and valuable aspects of a happy and successful working environment. The question to ask then is, do you spend enough time on your recruitment processes? Do you follow the same process for every candidate or if the candidate is a referral from your best friend, do you skip a few of the processes and employ the candidate based on the fact that you trust and know your friend?



Many employers will agree that one of the great debates when hiring staff is skill-set versus culture fit. Skill set often wins, however an employee with an ideal skill set but an incompatible cultural fit can be detrimental to your business.

The attractive part about hiring an employee with a perfect skill set is the assumption that the person “will hit the ground running” especially where there is little time for training. However, in actual fact, every new employee coming into any business requires an element of training. While you can often train someone to develop new skills, it is rarely possible to alter someone’s attitude or cultural fit.



In an article from Spark Hire, Skill Set vs. Cultural Fit: Which One Wins? the author says that they seem to have had more success when they hired candidates that had great potential to fit in with the company and the team that they were being employed in rather than a high skill set. The key to success in following this approach would be to ensure that the individual had the potential, drive and ability to learn should their skill set be slightly lacking. It is also noted that training a person in your company’s specific way of doing business is beneficial and eliminates old habits and the uncomfortable “but previously we used to do things that way” comments that we so often encounter.

So how would you go about identifying a culture fit or not? Spark Hire identified some examples of questions that can be asked:

1. “If I walk by your desk at 5:30 p.m., what will I see?”
2. “What are you most passionate about?”
3. “Describe your ideal work environment.”
4. “If we, as colleagues, were stuck at an airport for an unexpected 12-hour layover, what would you do?”

## 5. “Walk me through your perfect work day.”

While going through the interview, it’s important not to give away too much information to the candidate. You’re interviewing the candidate, not the candidate interviewing you, right? Often employers start off the interview by explaining the role, the culture of the company and what qualities they are looking for in the candidate. Then you start asking the candidate questions and they know exactly which answers you are looking for! You would therefore refrain from sharing any information about the role and the company right until the end – and by that point, if you have a well-structured process and interview questionnaire, you will know straight away if the person is the right one for your company!

As you all know, the HR Health Check has been rolled out and three Health Checks have already been done. We’re now rolling out the service to our clients in KZN, the Western Cape and the Eastern Cape. To do this effectively we use “Skype for Business” and clients will need to have the same package to make the process effective.

Send an e-mail to [HAS@associatedcompliance.co.za](mailto:HAS@associatedcompliance.co.za) should you be interested in completing the HR Health Check.

## From AC Proofed

### **Business Buzzwords to BANISH from your Vocabulary**

*[buhz-wurd] noun*

*A word or phrase, often sounding authoritative or technical, that is a vogue term in a particular profession, field of study, popular culture, etc.*



**AC-PROOFED**

Have you ever been in a meeting where it sounds like everyone is speaking in some kind of code? Office lingo often forgets about English language rules in favour of expressions

that make absolutely no sense, but sound impressive.

A lot of people think that popular Buzzwords make them appear in the loop and well-read, but these terms can become overused, outdated or clichéd. The next time you feel

the need to reach out, shift a paradigm or leverage a best practice think about how you could say it in a different way that actually makes sense!

Many of these words are correct terms, but are being applied in ways other than intended by their meanings. For example, it seems trendy these days to make nouns into verbs, as though they're describing some new activity that's never been tried before in the business world.

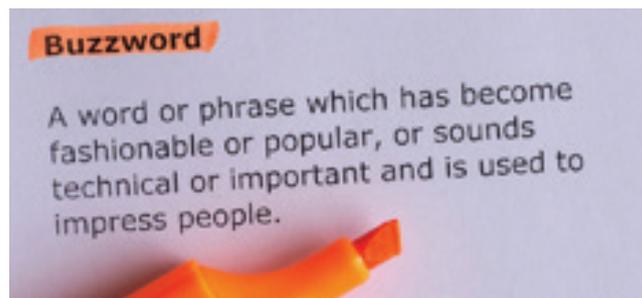
Buzzwords are easy and simple ways to impress those who are easily impressed. As long as a Buzzword is fresh and popular, it is powerful. Eventually, though, many buzzwords become overused and lose their original power. Buzzwords are popular in areas in which flair and rhetoric matter more than truth and substance. For this reason, it is important to be aware of when someone is using Buzzwords rather than logic in an argument or advertisement in order to be a knowledgeable listener and consumer.

I'm not sure if those who use this cryptic dialect actually think they sound smarter or are just trying to solidify their membership in some sort of exclusive corporate tribe, but I beg you—stop using this jargon; rather, leverage your education to empower more of your grey matter, stretch the envelope, and come up with intelligent ways of expressing yourself!

## **Some Business Buzzwords to avoid...**

### **Bleeding Edge**

Someone decided that his product or service was so cutting-edge that a new term needed





to be created. It did not. Unless you are inventing a revolutionary bladed weapon, leave this one alone.

### **Core Competency**

This expression refers to a company's fundamental strength - even though that's not what the word 'competent' means. Being competent is not the standard we're seeking.

### **Game Changer**

When something is a game changer, it usually means it's something that can significantly change an industry or business. But it's another overused Buzzword that doesn't have the same impact if used too often.

### **Giving 110%**

The nice thing about effort, in terms of measuring it, is that the most you can give is everything, and everything equals 100%. You can't give more than that, unless you can make two or more of yourself, in which case you have a very interesting talent indeed. To tell someone to give more than 100% is to also tell them that you failed maths!

### **Going Forward**

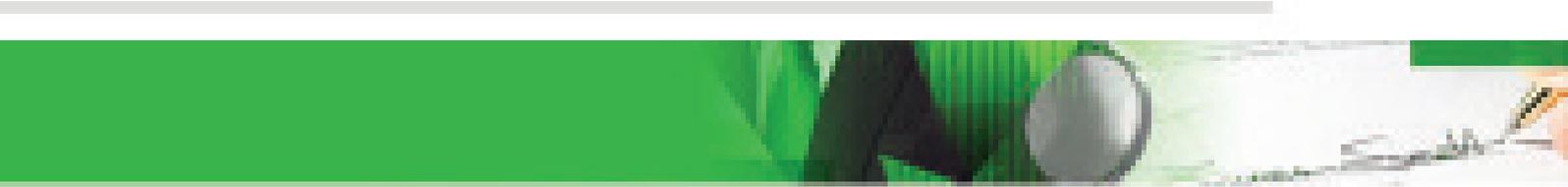
This is a term you should stop using simply because it should be a given. When talking about your business, everything you discuss should have an impact on the future so it's not necessary to specify that.

### **Moving Forward**

This phrase is used when we want to end one part of a conversation and go to the next. It might also be used when we want to say that the business needs to begin the next phase of a development plan. But in that case, it's better to skip this empty phrase and just say what moving forward actually entails.

### **Next Level**

What exactly is the next level? What are the requirements for getting there? And why



should we bother? These things are usually known only by the person uttering the phrase. So it should be avoided in business writing. Instead, when talking about change, try to describe the goal, the methods and means of achieving it, and the reasons it's needed.

### **Results-oriented**

This phrase is often used in a very specific kind of business writing—job applications. Résumés and CVs alike often list results-oriented as a personal trait, and that's not good. It means that either you are prepared to do whatever it takes to achieve specific results, or you expect to do things just to get results. It might be better to say that you're hardworking and dedicated to achieving great results.

### **Rock Star**

To some people, rock stars are guys who sing on stage. To others, they are people from the past who have lived a wild party lifestyle. It's not really a good idea to hire either in a business environment. So a job post which says "Looking for a ROCKSTAR Communications Manager" might not attract the right person with the appropriate experience and skills.

### **Synergy**

This word is often used to convey elements that work together to create a total effect. However, it's been so overused in the business world that it has lost much of its meaning and just comes across as filler.

### **Think Outside the Box**

We know what the goal of thinking outside the box is—to come up with original ideas or solutions. But when you're in a meeting and someone says we need to think outside the box on this one, and you sit in the room and feel all the brainpower being used, it's not being used for thinking outside the box. It's actually being used to try to figure out what the person who said you need to think outside the box actually wants. This phrase should be replaced with more detailed explanations about the goal of the thinking process.

For a longer list of Buzzwords to avoid (and how to say it better), get in touch with AC-Proofed, your aligned, homogeneous knowledge provider.

Kim Hatchuel

[ac-proofed@associatedcompliance.co.za](mailto:ac-proofed@associatedcompliance.co.za)

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In case you are wondering, this article was written by a centralised global workforce utilising a function-based, clear-thinking projection that produced a re-purposed human-resource framework.

## A new feature on education matters

This new feature will deal with all FAIS-related and Insurance-related education. We've been working with Gordon Dewar of Ascension Business Academy (Pty) Limited in recent months, especially around RE exam training, and felt there was room for him to join the editorial team and offer input on this most important of areas. The first series of articles will start in our April Newsletter.

## From the FSB

### **2016 FAIS Conference**

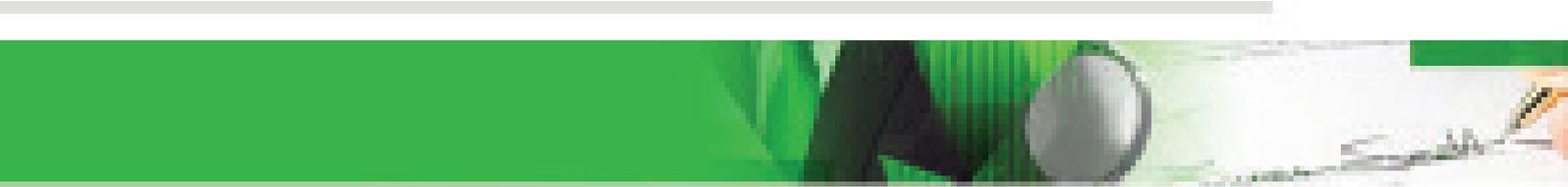
This year's conference has just been held in both Pretoria and Cape Town. The various presentations can be accessed via the following links:

FAIS Conference 2016 Presentations Part 1 ([click here](#))

FAIS Conference 2016 Presentations Part 2 ([click here](#))

FAIS Conference 2016 Presentations Part 3 ([click here](#))

To an extent this conference is aimed at the FSP rather than the compliance officer but nevertheless we did pick up a few snippets that will demand our attention over the coming months. These included:

- 
- The inevitable removal of the current exemption for insurers having to be registered for intermediary services is almost upon us. The affected insurer clients need to start applying their minds as to the impact of this and who in their company needs to be representatives and their current qualifications.
  - The new Conduct of Business Reports planned for 2017 and onwards. See separate article on this below.
  - Representatives not being allowed to be appointed on more than one licence for the same categories of licence. We do have clients who would be affected by this change so we need to work with them on planning accordingly.
  - Key Individuals and operational ability standards. This was primarily aimed at the “rent a KI” situation, but in our view flows into the wider issue of KIs not “being involved” in the operations of an FSP where we often see compliance management being left to junior staff or even worse people who aren’t even appointed as representatives. Taking into account the new FSB focus (see article below) on the issue of the sole member or shareholder of an FSP not being appointed as a KI on that licence, this needs to be looked at by those affected.

## **2016 annual compliance reports**

It has been confirmed that this year’s report will be basically the same format as in previous years, despite the original plan that it would move onto a new format known as the Conduct of Business Report (CBR). This of course means that it is more of the same this year, notwithstanding that certain questions have been updated as demanded by legislation changes. It is a pity that so much effort will have to be put into the process when, at the FSB’s own admission at the FAIS conference, the process is no longer providing any meaningful data for them.

Having seen the first draft of the CBR, it is clear why this could never have been introduced this year. This process does not allow FSPs to ignore any current areas of attention as significant shortfalls will still be identified and will need to be reported as such.

The new report, which has been supplied to the Compliance Institute of Southern Africa’s



(CISA) members for comment, looks far better and will provide far more meaningful information and insight into the operations of FSPs. We are currently reviewing the draft document to provide feedback, via CISA, before the end of March. We have been promised that there will be other opportunities to provide feedback as the process matures over the next year but this first one is all important so that the basic structure is right. We will of course have to ensure our reporting structures to you follow, and even exceed, these new standards, which thankfully we have already started working on while developing our new monitoring tool.

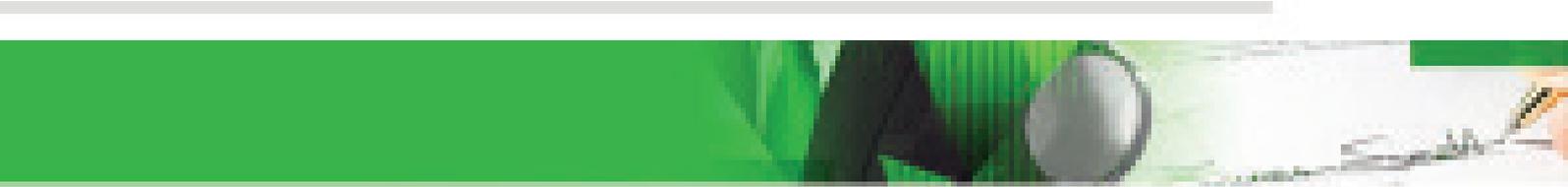
A few of areas that are significant are:

1. TCF standards
2. Governance structures
3. A specific report, not included in the draft we have seen, for FSPs that provide advice, and
4. A specific set of questions for FSPs handling so called “non-financial products” and a request for full details of these.

This is clearly moving towards the promised broad-based compliance structures for FSPs rather than the FAIS focussed structures presently in place. The impact on the required compliance functions as a result of this move have still to be clarified by the FSB, although there have been many hints around this, not least of which was at the recent FAIS conference.

We’ll keep you posted in the reports development but in the meantime here are the focus areas for the new CBR:

- Business structure, governance and control functions
- Value proposition (service providers and customers)
- Promotions, advertising and marketing
- Client take-on process

- 
- Remuneration model
  - Recruitment, training and performance management
  - Complaints
  - Binders and outsourcing
  - Handling insurance premiums
  - Handling client assets, and
  - FICA

as well as focussed sections for Category II, III & IV FSPs.

## **Are you the owner and/or only director of an FSP and not appointed as a Key Individual?**

The FSB has embarked on a project to identify all FSPs that fall into this profile, and have instructed all such FSPs to ensure that the affected owners/directors are appointed as KIs by no later than October 2016. They quite correctly refer to the definition of a KI that states, insofar as it relates to this profile:

*“a corporate body or trust consisting of only one natural person as member, director, shareholder or trustee means any such natural person”.*

This is an aspect that has not been strictly enforced in the past but is now to be so. We have seen evidence of this on licence applications where the owner is not the KI and such applications have been questioned and ultimately rejected if the situation is not corrected. We will be undertaking a proactive approach with all our clients where the interpretation of this rule clearly creates a problem.

## **FROM THE FAIS OMBUD**

Another Short-term case - Du Toit v Barrington Insurance Brokers: The case involves a change of insurer and policy where terms were not adequately explained to the insured. The claim for the theft of the vehicle, some three years after the policy was moved, was rejected due to the incorrect kind of immobiliser being fitted. The broker was found to

be at fault as they made no attempt to ensure that the client understood the new terms, even after two renewals and relied on having supplied the client with the policy wording and asking them to read it.

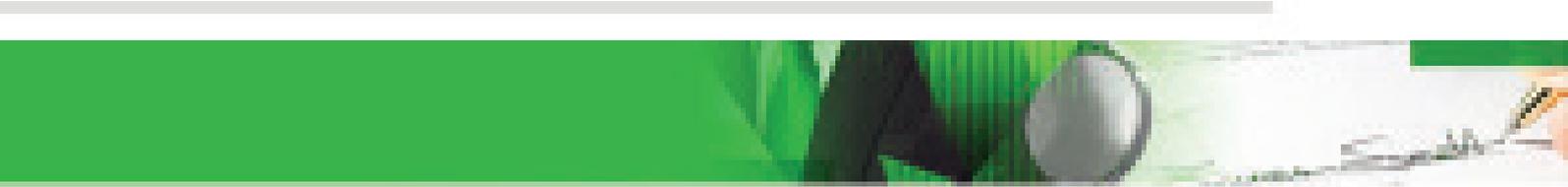


It is vital that where requirements for policy terms need to be complied with by clients', brokers must ensure that clients understand and comply with the requirements. It has been shown via other determinations over and over again that simply sending out a policy and asking the client to read it is not sufficient and the broker will be found wanting when problems arise.

This case is the first we've had where we were involved as the broker was a client at the time of the incident. The initial Ombud letter was received in May 2013 and the final submission to the Ombud from the broker was in September 2013. Determination was only provided in early 2016! We're not sure what the client's circumstances are but it doesn't seem reasonable for a client to lose a R250,000 car and wait three years for an "insurance" claim to be paid.

The client base of the brokerage was subsequently sold and the owners of the "book" successfully defended, upon approach from the Ombud, their position that they cannot be held liable (the benefit of buying the actual client base rather than the juristic entity it seems, although no actual details were provided which is a pity as the potential for similar matters arising in the future is very real and have a definitive "case law" on the matter would have been ideal). Despite the FSP having been deregistered by the time of the determination, the Ombud sought to order both the FSP and the business owner to settle the matter with the client. We have to assume the PI insurers who were involved from the beginning will be picking up the tab!

FANews did a useful summary [Click here to read the full article.](#)



The full determination can be [downloaded here](#).

Another short term case: Bhengu v Outsurance. The claim amount here was low, only R11,000, but it significantly highlights a number of key issues, especially for direct marketers. The case involved specific terms and conditions relevant to laptops not being disclosed to the client before the policy was concluded. The issues that are highlighted are:

- This was the first time the client had purchased household insurance and thus there was a greater onus on the insurer to deal with the client as such. To quote the Ombud: “Bearing in mind the complainant’s circumstances, the respondent’s conduct amounts to a dereliction of duty.
- The insurer should be asking leading questions on what goods the client had rather than reliance on disclosure by the client. In this case a discussion on the need for all risk cover was around watches and no questions were asked on what other property the client had that may have been affected by the restrictions in accidental damage cover.

We don’t know if the script used in this case was followed to the letter but it’s clear that all direct marketers need to review their own scripts to ensure that a similar complaint could be defended well or even better not arise at all.

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

## From the Financial Intelligence Centre

### **FIC re-registration as an Accountable Institution (AI) and/or Reporting Institution (RI)**

The FIC have embarked on a process to have all AIs and RIs re-register on the new FIC “goAML” platform. (See AC February Newsletter for details on the invite to test the new system).

This is provided in the recently released Directive 4.

We have attached the following to provide the necessary background:

- FIC media brief. [Click here to download](#)
- Directive 4. [Click here to download](#)
- A presentation undertaken by the FIC on the process. [Click here to download](#)
- An urgent notice issued on the 24 March with further instructions and guidance on the process. [Click here to download](#)

The presentation referred to above is due to be put on the FIC website ([www.fic.gov.za](http://www.fic.gov.za)) that may further assist in the understanding of this process but at the time of publication this had not been done.

Please remember AC are not your appointed compliance/money laundering officer and as such cannot undertake this process on your behalf.

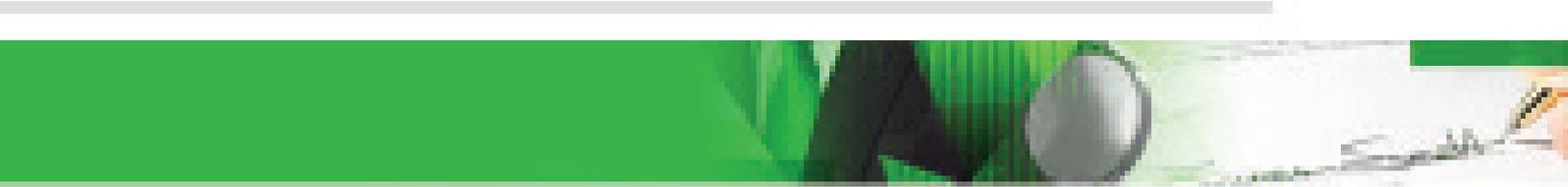
You also need to be aware that the process for reporting all transgressions in terms of the FIC Act are being amended as a result of the implementation of this new platform.

The process commenced on 30 March and has a deadline of 22 April 2016.

If you need any assistance in the process, please discuss with your appointed compliance officer.

## **FIC defines reporting duties for Motor Dealers**

The FIC has revised its public communication 07, originally issued in 2011, that sets out the requirements for what and how a motor dealer has to report in terms of the FIC Act, specifically around cash reporting requirements (i.e. transactions over R24,999). It clarifies that all motor vehicle related services provided by the motor dealer and the buying and selling of motor vehicle parts are subject to the reporting standards.



[Click here](#) to download the official communication, which in itself contains links to the actual Public Compliance Communication.

## FROM THE INSTITUTE OF DIRECTORS

### **King IV**

The Institute of Directors in Southern Africa (IoDSA) and the King Committee have made the draft version of the latest King Report, commonly known as King IV, available for public comment.

Some extracts from the press release:

- “King IV differs from King III in a number of ways. The Code is now integrated into the Report, with a clear differentiation between principles and practices, with the latter linked to outcomes - these and other innovations are designed to make it easier to use. Especially noteworthy, King III’s “apply or explain” has become “apply and explain”.
- The intention .... is to help organisations move beyond a compliance mind-set to describing how implemented practices advance progress towards giving effect to each principle - the application of which is assumed due to it being basic to good governance.
- Too many people see corporate governance as a compliance issue whereas it is actually a critical tool for strengthening all our public and private institutions, to the benefit of the whole economic system. The overriding message of King IV is that good corporate governance practices help any organisation improve its ability to sustain itself and the social and environmental context in which it operates.”

[Click here](#) to download a copy of the draft report.

## Governance issues for boards to be aware of in 2016

Boards of today have the difficult task of steering their organisations while maintaining proper governance through these complicated times. With growing unrest globally, fluctuating markets and the matters of internal organisational management, there is a lot to stay abreast of.

For this reason, the IoDSA, through its Corporate Governance Network, has published a guidance paper highlighting some of the dominant governance issues that boards should consider during 2016. While this is not an exhaustive list, the themes are prevailing in today's current times.

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

## FROM THE FIA

Moonstone recently issued an article setting out their views on broker fees, which basically said they are generally not justifiable. The FIA chose to respond to this view in a specific Newsletter. [Click here](#) to download a copy.

## Interesting things we have read

### Insurance Gateway

**Latest regulation might be a step too far for South Africa's financial and insurance advisers**

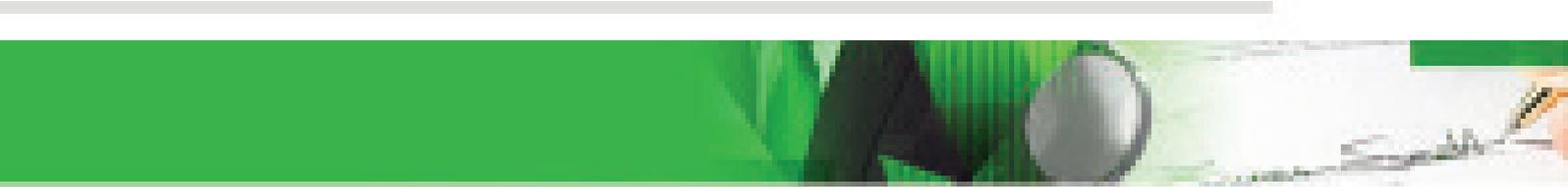
An article from the FIA

[Click here](#)

**Compliance is no longer about just ticking the box**

An article from Moonstone dealing with a recent FSB enforcement action against a





broker who did not have the correct records for clients.

[Click here](#)

**Insurance company Liberty Life's attempt to avoid interest charges on a delayed payment has been dashed by the Ombudsman for Long-term Insurance following a complaint received.**

[Click here](#)

## FANews

### **FSB 2014/15 annual report**

An article on the release of the report. [Click here](#) to read the full article which continues on our website. [Click here](#) to download the full report.

### **REGULATORY DEVELOPMENTS SIGNAL MAJOR CHANGES FOR INDUSTRY**

An article dealing with a recent KPMG report that highlights the changing regulations and the need to adapt to them. [Click here](#) to read the full article.

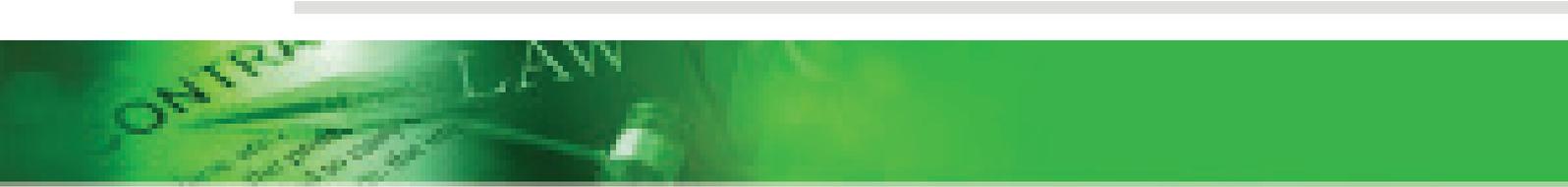
### **ENCOURAGING TRANSPARENCY: FULL STEAM AHEAD FOR PHASE I OF RDR**

Yet another look at the implementation of RDR - but you have to read all there is no chance you misunderstand or miss anything. [Click here](#) to read the full article.

### **Moonstone**

Some useful information on RE studies:

From enquiries addressed to our RE call centre, it appears that many candidates underestimate the importance of proper preparation for this professional exam.



There are two basic documents which candidates have to study in order to assure success:

- The FSB recently updated its **Level 1 RE Preparation Guide** for Key Individuals and Representatives. Without at least reading through this, candidates have no idea of what to expect.
- The Inseta study material for:
- **Key Individuals/Sole Proprietors** (RE 1) and/or **Representatives** (RE 5) contain all the information essential for proper preparation. It is free, and can be downloaded from our website.

## **DVD to Aid Preparation for Exams**

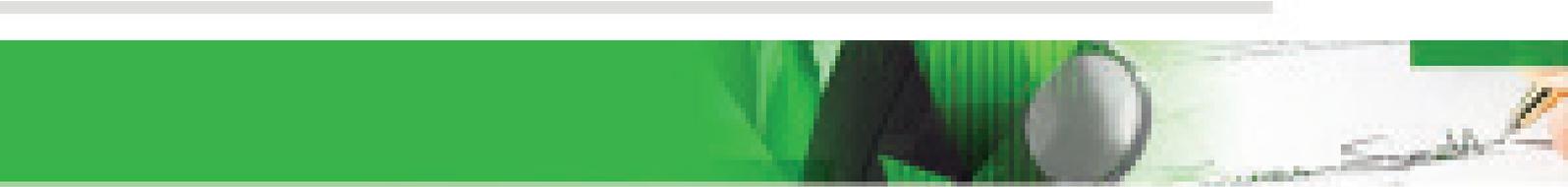
Many candidates have found the DVD of a FSB broadcast on the REs a very useful tool in preparing for the exams. It is not a training aid, but rather provides a broad background to what you can expect, and how to prepare.

Please [click here](#) to order a copy.

Our [website](#) also contains a vast amount of information to assist learners in preparing for the exams. Please spend some time to see, for instance, what the “bubble sheet” on which you have to mark your answers look like, as well as practical tips on how to approach the exams in the correct manner.

The exam timetable has just been updated. [Click here](#) to download a copy of English examinations 2016.

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