



ASSOCIATED COMPLIANCE

FOR A COMMON PURPOSE

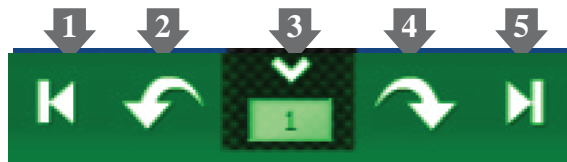
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FROM AC

AC Corporate Profile

We have updated and refreshed our Corporate Profile.

[Click here](#) to download a copy.



ASSOCIATED COMPLIANCE

Insurer Conduct of Business Reports (CBR)

We recently had sight of an insurer's draft return document supplied to their UMAs for completion – some 15 separate tabs in an Excel workbook. We are not at liberty to supply a copy but it is highly detailed. As a UMA, if you have yet to receive any input from your insurer, we recommend that you request their requirements and provide this to your system provider to ensure that they will be able to deliver the required data and/or identify where enhancements will be needed to ensure you can.


Binder holders will be next in line so we recommend you start the necessary developments.

Risk Management Standards for Smaller FSPs

The General Code of Conduct requires FSPs to have standards for adhering to “all applicable legislation.” No specific definition is given as to exactly how this should be applied in practice across differing FSPs. The compliance industry recently received some feedback from the FSB in this respect. It offered no definitive criteria, but it did reinforce the move towards the risk-based approach. This approach uses the terms ‘proportionality’ which can be defined as:

The Financial Services Board follows a risk-based supervisory approach, which includes inter alia the principle of proportionality. In this context proportionality is deemed to mean²:

Proportionality is general principle in law which covers several special (although related) concepts. The concept of proportionality is used as a criterion of fairness and justice in statutory interpretation processes, especially in constitutional law, as a logical



method intended to assist in discerning the correct balance between the restriction imposed by a corrective measure and the severity of the nature of the prohibited act.

In the context of supervision of FSPs, the application of proportionality thus means that FSPs would be expected to develop and adopt a risk management plan that is proportionate to the nature and size of their business.

This means that the structures you have in place are appropriate to the size and complexity of your FSP. To many this makes perfect sense – as long as you can justify, both to ourselves and the FSB, that your controls are appropriate. To many others, who prefer a clear set of rules to follow, this lack of distinction is a worry.

Irregularity reports

The FSB recently gave feedback on the most frequent reports received:

Mid-year reports on solvency breaches: This is clearly seen as a major issue and we need to make sure that clients are providing either the latest management accounts or the Key Individual solvency declarations at each audit so we can assess all aspects of the solvency standards. Expect us to be even more demanding in this regard.

Key Individual responsibility issues: for example, not attending meetings or not taking responsibility for aspects of compliance management. These issues centre on the FSB expecting an FSP and its KIs to take ownership of compliance issues generally and FAIS specifically. As the regulations move into a general governance and risk-based compliance environment this role will become more important. If we feel that this approach is not part of your company culture and practice, we will be forced to address the matter in ever-increasing levels of stringency.



King IV

In our March Newsletter we provided details of the new King IV standards. We attended a seminar at the Institute of Directors on the new code.

The aspect we were keen to see was the detail pertaining to different industry sectors, specifically the SME version, given that many of our clients would fall into this sector. Unfortunately, this was not available at the seminar but has been promised for release within the next few weeks; we will keep you posted.

A couple of points that reminded us of FAIS compliance that the IoD hope will be addressed by King IV are:

- Adherence will cease being a “tick box” approach with much more emphasis on qualitative detail being provided to all stakeholders,
- Trying to get companies to see the value that can be created by having good governance standards, and
- Governance not being seen only as a “grudge compliance” matter.

Do any of these sound familiar?

If you have read our review on the 2017 Conduct of Business return (March 2016 Newsletter) and previous articles on the move from rules-based regulation to risk-based regulation, you will see why we are keen to see the SME version of King IV as it ties in with where your current FAIS compliance structure is moving.

For some more background reading on this topic, read this article by Yaniv Kleitman, Director, Corporate and Commercial practice, Cliffe Dekker Hofmeyr (courtesy of Insurance Gateway).

[Click here](#) to read more.

FROM HAS

Additional HAS Services available!

Five new services are being made available to all our HAS clients. Please find a brief description on each service below:

HAS Services: LEAVE

Did you know that in South Africa we have 13 Public Holidays in 2016? Add 15 working annual leave days on average per person per annum, 3 days family responsibility leave and, let's say, 10 days' sick leave per year. This amounts to approximately 41 days out of the possible 260 days of available working days per year that your employee is on paid leave. If you aren't managing your leave correctly, your employees could potentially be taking even more paid leave that you are not even aware of!

[Click here](#) to view what HAS can do for you in terms of your leave management.

HAS Services: RECRUITMENT

Do you know that job applicants have legal rights even before they become employees? Have you fully agreed all the terms and conditions of employment prior to signing a Contract of Employment? Your recruitment candidate could have grounds to take you to the CCMA from the day that the contract of employment is signed.

[Click here](#) to take a look at what HAS can do for you in terms of your recruitment processes.



AC HUMAN ASSETS SERVICES





HAS Services: DISCIPLINARY PROCESSES

You need to issue a warning, but are you 100% sure which process to follow? Do you know how long the warning must be valid for? When do you suspend an employee? How long before you react on a situation? What is a sanction?

Let HAS assist you in streamlining your disciplinary requirements.

[Click here](#) to read more.

HAS Services: SKILLS DEVELOPMENT

The shortage of skills in South Africa is highlighted regularly, and it's a reality that most employers deal with on a daily basis. The Skills Development Act serves to assist employers in funding skills development in this country and encourages employers to have a planned and structured approach towards learning. If all the paperwork and jargon looks daunting, let HAS assist you to get these processes up and running.

[Click here](#) to read more.

HAS Services: EMPLOYMENT EQUITY

The Department of Labour has appointed a large number of additional EE Labour Inspectors who seem to be making more frequent unexpected visits to check on Employment Equity compliance. If you are a designated employer, will your company pass the EE Labour Inspection today?

[Click here](#) to read more.

We will be in touch shortly – unless you call us first!

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

FROM AC-PROOFED

As you know, AC-Proofed can provide the perfect solution for those of you who don't have the time (or the capacity) to ensure that all of your FAIS and all other company documents are correct and up-to-date.



AC-PROOFED

This service is managed by Kim Hatchuel who is an experienced document formatter and proofreader. Kim was responsible for FAIS compliance matters for eight of the 20 years she worked in the insurance industry. This extensive experience means that she is well versed in the types of documents that are typically needed by FSPs.

You're probably thinking "Why do I need that service? Surely, I can do it myself. I went to High School (maybe even Varsity) and learned English." But think of it this way...

You've read your document so many times—and you're so familiar with it—that you don't see the mistakes. You aren't good with grammar. Document set-up isn't your forté! You don't have the time to check your document carefully. You'd rather be doing something else!

AC-Proofed can provide quality proofreading and editing services, and improve the readability of all written media, including:

- Board Reports
- Company Reports
- Policy Wordings
- All FAIS-related documents
- Print and online marketing
- PowerPoint presentations
- Correspondence
- General office documents
- Website copy

You may not be au fait with Microsoft Word and all its complexities. If you need any assistance with document set-up and formatting (including things like difficult Word documents, tables and mail merges, etc.), AC-Proofed is ready to help.

It's not going to cost you the earth! Every job is different, but this is a rough idea of the costs:

R25 per page for document formatting

25 cents per word for proofreading



If you're still not convinced, here is what one of her clients had to say about her services:

“If you feel your document is worth reading, it's worth being proof-read by Kim. It is clear that Kim Hatchuel is passionate about her work. She is a perfectionist and a pleasure to work with. She has helped us on numerous projects and always gives great advice on how to improve language, readability and layout. Her wide knowledge of language, grammar and punctuation makes her invaluable to any project.”

JENNY VAN DEN BERG

Rhymes with Orange

AC-Proofed will be calling some of you in May to chat to you about the services they offer, so please be prepared. If you want to get hold of Kim before she finds you, her details are:

083 657 3377

ac-proofed@associatedcompliance.co.za

www.associatedcompliance.co.za (then click on Services)



FROM THE FSB

Phase I RDR implementation

The FSB confirmed, via a letter to the FIA dated 21 April, that the proposed implementation dates of much of the Phase 1 RDR would be moved into 2017. We know that this is typical of the FSB, but they do have a valid reason: much of the Phase 1 RDR is dependent on the passing into law of the new Insurance Bill before effective changes under the Short- and Long-term Regulations as well as Policyholder Protection Rules can be made. As the Insurance Bill is likely to be passed later than expected, there is a need to move most of Phase I of RDR.

Some aspects may still happen this year as the current FAIS Act will be used as the vehicle. As such, we expect that the definition of complaints amongst others may well come this year as planned.

[Click here](#) to download the FSB letter.

FSP risk rating: When we attended the recent FSB conference one of the presentations referred to the “risk rating” of different FSPs and how this would influence the new conduct of business reports (see AC Newsletter March 2016). We followed up on this aspect in the hope of obtaining a better understanding of how the FSB apply their risk rating. This was the question:

“...we want to do an exercise on our client base and start preparing for what seem inevitable changes to compliance officer standards and requirements. To do so we need to understand how you rate FSP’s into the low/medium/high risk. Is it possible to get this detail so we can align our clients with your ratings?”

The reply:

“The criteria is influenced and takes a lot of factors into account including inter alia:

- *Business models*
- *The nature and complexity of financial products sold to clients*
- *The risks underlying the various financial products*
- *The exposure of clients to financial products/financial services rendered in jurisdictions other than South Africa*
- *The categories of clients*
- *Internal and financial controls (verified by an independent party like auditor/ compliance officer)*
- *Governance structures of entities (of course depending on the business model)*
- *Handling of premiums*
- *Direct control of funds meant for different investments.*


It’s very important to always keep in mind that the risk rating will always be influenced by sector and institutional developments and can never be static.”

We are not sure how we will apply this in our client base, but it does allow us to start aligning our thinking to that of the FSB.

Extensions for Deadlines to Submit Annual Financial Statements – a Formality or a Test?

The process followed for this is often seen as a formality – provided you pay the fee and get the application in within the required 15 days prior to the required deadline. A recent case illustrated that it is not always that easy.





This particular FSP had a “history” and “profile” that caused the application to be rejected:

- In its three-year history annual financial statements had never been submitted on time,
- They handled client funds – an escalation on the risk rating, and
- They had changed auditors three times in three years – and reasons for this were now being asked.

We have to see it from the FSB’s perspective: on the face of it, the FSP was not managing this aspect of its business at all well, therefore they were being asked to pass the test before any extension was to be granted.

Lapsing of a FAIS License


An interesting case from the Appeal Board of the FSB following the withdrawal of a licence. [Click here](#) to read the summary by Moonstone courtesy of Insurance Gateway.

Penalty for Unregistered Provider of Funeral Benefits

A penalty of R2 million has been imposed on Abangcwabi Myendeki Funeral Parlour CC for contravening sections 7(1) and 8(3) of the Long-term Insurance Act, No. 52 of 1998 (the Act). The company, based in the Eastern Cape, also traded under a number of other names, Myendeki Funeral Directors, Masande Burial Scheme, Zuko Burial Scheme, Myendeki Burial Scheme and had been doing so for a long period of time.

Compliance Officers to write RE1 exam

The compliance officer has been waiting for a number of years to see what regulatory exam they would have to write. The project set up by the FSB did include a test exam a number of years ago but this process did not lead to a satisfactory conclusion leaving the FSB with a problem of how to test the compliance officers knowledge on compliance theory and practice as well as FAIS legislation. The decision has now been made to have the compliance officer write the RE1 exam, which they will need to do within 6 months of the Gazetting of the Board Notice introducing this standard, which will likely



be with the next month or so. This does not address the compliance skills aspect so it is expected that there will be further fine tuning of the required educational standards for the compliance industry in the not too distant future.

Interesting that no mention has been made of whether FSB staff need to write the same exam?

FROM THE FINANCIAL INTELLIGENCE CENTRE

Re-registration process

Despite lots of early reminders on the need for Accountable Institutions to do their re-registration on the new system it seems the FIC were a little late in issuing the required passwords, with many arriving the day before or even on the deadline date. Then many of our clients had issues actually accessing the site and completing the process. There is a guide on the FIC site that provides guidance on the process if anyone is still experiencing problems.

As we release this Newsletter there are still some FSPs that have problems and there has been no input from the FIC regarding an extension. If and when there are any announcements we will keep affected clients up to date.

FROM THE FAIS OMBUD

Cornelissen v PSG Konsult

A case involving a dispute on the charging of fees to a client on his investments. A little detailed to provide an effective summary here but well worth a read – especially as the Ombud made no ruling and suggested that the matter be resolved in a court! [Click here](#) to download a copy of the full determination.

[And here](#) to read a summary from FANews.

Khoza v Bensure Management Services/Bensure Insurance Underwriters

A case involving changes to the terms and conditions of a personal accident policy communicated to the client via a letter in the post. The Ombud found Bensure had failed to comply with the terms of its own policy in that it could not prove that material changes to the cover, which resulted in a claim being repudiated, were provided to the client. In addition, the FAIS standard of ensuring the client understood and accepted the changes was not provided. This once again highlights the need to ensure effective communication to clients and ensure they understand changes – especially negative material changes. Lastly to ensure you have adequate records of what you did as the FSP and/or Insurer.

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

IISA INSURANCE FORUM

Motor Insurance – Global Best Practices Forum

2 CPD HOURS

Date: Wednesday 25 May 2016

Time: 09h00 to 12h05

Venue: Indaba Hotel, William Nicol Drive, Fourways

Please join us at the “Motor Insurance - Global Best Practices Forum” during which our presenters will explore the complexities of the dramatic processes and experiences with regard to fighting organised crime in the motor insurance industry. Effective underwriting practices and philosophies will highlight cost and expenditure issues.

You will be exposed to Corporate South Africa’s role in effecting changes in the Insurance Chain of clients, Member Companies, and Government Agencies.



Presenters

Macro and Micro factors affecting the Insurance eco-system and customer experience, aligned to global trends

Heidi Dias, Head of Claims Transformation at Mutual & Federal, SAICB Board Member, SAIA Motor Committee Chairperson, International Keynote Presenter with 20 years' experience, will enlighten us on the Macro and Micro factors affecting the Insurance eco-system and customer experience, aligned to global trends, and their adoption in the SA environment with cost and savings implications, with strategic guidance for sustaining broker/customer relationships.

The role of the SAICB, the significance and power of extensive and accurate data

Garth De Klerk, with twenty years' insurance experience, formerly MD of an Underwriting Manager with shareholders, CGU, M&F, Santam and Hannover Re. In 2005 he established a full Insurance Licence in SA for COFACE, second largest Credit Insurance Co globally, in which company he held the position of CEO/MD for nine years. He is presently CEO of the SA Insurance Crime Bureau. Garth will discuss the role of the SAICB, the significance and power of extensive and accurate data, and the types of crimes and syndicates, with sequential impact on costs - including case studies.

Client Care and Retention, Responsible Business Practice and Cost Containment

Gerhard Genis, head of Quality Management and Training with Santam. Holds numerous formal qualifications, including an MBA from Henley Business School (London) and with international experience with Santam's presence in UK and Europe. Serves on various industry bodies, including the Board of Directors of the Ombudsman for Short-term Insurance. In addition, Head of Claims Administration Services, Client Care and Retention, Responsible Business Practice and Cost Containment, in respect of all of which he will share his extensive practical knowledge and experience.

Fees

Corporate Member

Ex. VAT

Incl. VAT

R307.02

R350.00

Non Member

R491.23

R560.00

Paid up IISA Professional Member

R263.16

R300.00

Retired IISA Member

Complimentary

INTERESTING THINGS WE HAVE READ

Insurance Gateway

South Africa's insurers are having to break away from 'business as usual': An article arising from the PWC Insurance report. [Click here](#) to read more.



Have your say on Financial Services Code:


Details of the amended code which has to be of relevance to all in the sector, even if currently exempt. [Click here](#) to read more.

FAIS: Reinstatement of Debarred Representatives: A follow-up article on debarment matters from Moonstone. [Click here](#) to read more.

FANews

The fine line between the law and becoming Big Brother: An article by Patrick Bracher of Norton Rose Fulbright on the soon-to-be-gazetted Insurance Bill and Financial Sector Regulation Bill and their possible significant impact on insurers and reinsurers. Whilst the comments are based on draft legislation the commentary is worthy of a read.

[Click here](#) to read the full article which continues on their website.



Playing devil's advocate: An article providing feedback on the recent Moonstone seminar, a portion of which was devoted to the age-old question of who owns a client and the issue of restraints. Well worth some attention if any of you are looking to move employer and take your clients with you.

[Click here](#) to read the full article which continues on their website.

The ABCs of regulatory compliance: An article on a presentation made at the 2016 African Insurance Forum by Christine Rodrigues of Norton Rose Fulbright on the likely impacts of TCF.

[Click here](#) to read the full article which continues on their website.

Money Web

Lewis stores referred to the National Consumer Tribunal in issues relating to their “extended warranty” sales and club membership fees.

[Click here](#) to read more.



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[Click here to download the AC-Proofed brochure](#)

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