



SAIA - ☎ (011) 726 5381

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1 LATEST NEWS

GUEST ARTICLE: New standards for armed security guards

New standards and laws have been introduced into the security industry by South African Qualifications Authority (SAQA) and the South African Police Service Central Firearms Registrar (SAPS CFR).

What are the main changes?

- Armed security officers' training has become far more structured and specific. The exact number of rounds required to be fired as well as the size of the targets is now clearly specified and no longer left to security companies' discretion.
- Once the training has been successfully completed, the security officer must apply for a competency certificate. The application must be sent to SAPS CFR and once issued is only valid for a period of five years, after which one is required to reapply. SAPS CFR will run the security officer's fingerprints to ensure that the applicant is not a "disqualified person" before issuing the certificate.
- In addition to the initial training and the competency certificate, every armed security officer is required to undergo "one proper practical training session every 12 months at the cost of the security company" and "one briefing session at the cost of the security company every 12 months or sooner as may be reasonably necessary in the circumstances". It is also the security company's responsibility to "actively monitor whether security officers, who are issued with firearms and ammunition, are trained, instructed and guided in respect of the possession, handling and use of firearms and ammunition". (Quotations extracted from Regulation 21 of the Firearm Control Act 60/2000).
- No security officer may perform a security function with his privately owned firearm. The firearm used, must be licensed in the name of the security company.

International comparability

When unit standards are approved by SAQA, they are required to measure up against similar standards found in other countries. The firearm standards were measured against 26 other countries and as a result a comprehensive set of 16 standards are now in place. These cover basic to advanced training and new standards for firearm instructors and range officers.

A security officer carrying a handgun is required to complete three unit standards, covering subjects such as the Firearms Control Act 60/2000, Section 49 (when to shoot and when you may not) and a very strict practical portion. These standards are pitched at levels 3 and 4 on the National Qualifications Framework, making them equivalent to the level found at Grade 11 and 12 at high school.

The security officer must also undergo a rigorous practical assessment, which includes a 25 shot qualifying shoot, which should be passed with a minimum of 80%. Failure to pass the qualifying shoot means the guard may not be issued with a firearm. The officers' ability to pass must be tested every year in accordance with regulation 21. Evidence of the shoots and written tests must be kept on file for 6 years. Only training providers who are accredited with the Safety and Security Sector Education and Training Authority (SASSETA) as well as the South African Police Services (SAPS) may provide firearm training and assessments of the new standards.

Initial testing of the standard showed that less than 20% of the security industry was able to pass the shoot before going through the new training. The reason for this appears to be that there are not enough practical shooting opportunities consistently provided to security guards due to the high cost of ammunition. There are no exceptions to this new legislation and companies found to be non-compliant are likely to face criminal prosecution.

For detailed information on any part of the new laws or standards, please contact Andre Pretorius, Chairman of the Standards Generating Body (Firearm Working Group), at 011 955 6775.

The views expressed in this article are those of the author and do not necessarily express the views of SAIA

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SAIA appoints new manager to address the sustainability of motor insurance

Vivienne Pearson was appointed as the new South African Insurance Association (SAIA) Manager: Motor, from 1 April 2010. This position was created as a result of a SAIA Board decision to address the sustainability of motor insurance through an approved SAIA strategy.

The sustainability of motor insurance is an important issue for the industry, for South Africans who own motor vehicles as well as for the country at large. It is for this reason that the SAIA Board approved motor insurance as another key priority area to be addressed by the SAIA.

It was important to appoint the right person to manage this new priority area as a matter of urgency as the issues that we face are huge. Vivienne Pearson, previously SAIA's Image and Reputation Manager, was appointed into this new position after a thorough high level interview process. Vivienne has achieved various important objectives for the SAIA during the six years she has been with SAIA, and I have no doubt that she will be equal to the enormous task ahead.

The SAIA Board has approved a strategy developed to enable the SAIA to achieve sustainable and affordable comprehensive vehicle insurance and to contribute to safe road practice. In order to achieve this objective, the SAIA will be embarking on a proactive role in facilitating collaboration across stakeholders that will positively impact affordable comprehensive motor insurance as well as contribute to safe road practice. In addition, the SAIA will need to embed solutions in various focus areas to ensure sustainability of these solutions.

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National Enterprise Development Strategy (NEDS) for black Motor Body Repairers (MBR)

Project background

The National Enterprise Development Strategy Motor Body Repairers (NEDS MBR) project framework report was presented to the SAIA Board Committee: Transformation on 13 October 2009 and was approved for presentation to the SAIA Board.

The report was subsequently presented to the SAIA Board on 18 November 2009 and the conclusions and recommendations of the report, as tabled to the SAIA Board, were accepted without modification.

The following recommendations were approved in relation to the future interaction of the SAIA members with the project:

The SAIA's future role in the development of an Enterprise Development Framework as part of the Department of Trade and Industry (DTI) Motor Industry Transformation Forum (MITF) process

The participants of the DTI MITF agreed, at a meeting of the forum in 2008, that the Enterprise Development (ED) portion of the MITF process would be administered by the SAIA, who would be tasked with developing an enterprise development framework for the MBR industry.

Members of the SAIA had agreed to finance phases 1 and 2 of the MBR NEDS project in the absence of available funding from other sources.

Although the initial approach to the DTI by SAARSA concerned issues solely in the short-term insurance industry, it has become apparent that an effective Enterprise Development initiative will have to encompass the whole MBR industry and not just the 30% of MBR procurement controlled by short-term insurers and their intermediaries.

It was agreed that a new long term management structure would be required for the ED project under phase 3 (implementation) and that SAIA would relinquish this project management task upon the completion of phase 2 of the NEDS project.

It was further understood that the funding requirements for the project under phase 3 (for capital and developmental support purposes) were beyond the reasonable means of the short-term insurance industry alone.

A proposal was made to the Board of the Retail Motor Industry (RMI) association in February 2010 and it has been agreed that the RMI would assume the lead management role for phase 3 of the project. As part of this agreement it has been agreed that the ED project structures would be extended to other RMI member industries where applicable.

Anticipated future role of the SAIA and SAIA members

SAIA has performed a leading role in the management and development of the NEDS project through phases 1 and 2.

The continued participation of the SAIA and its members in the project has been cited by the prospective funders as being an important consideration in their decision on the provision of financing to the project.

It is envisaged that the SAIA and its members would continue to play a role in the following areas of the project:

- Representation on the Governing Board of Trustees or the Board of the proposed Section 21 company;
- Provision of commercial and grant funding in accordance with the short-term insurance industry's continued commitment to black economic empowerment;
- Implementation of preferential procurement structures for participants of the MBR NEDS project in accordance with the design principles as agreed to by the short-term insurance industry as part of the DTI MITF process;
- Participation in the development of procedures to improve the transparency and equity regarding the allocation of work to motor body repairers; and
- Participation in the development of procedures to improve the transparency regarding the costing of motor body repairs and assessment services.

Update

Establishment of a new management structure for phase 3

The Retail Motor Industry (RMI) association has agreed to assume the lead management role for Phase 3 (implementation) of the project.

Formation of a Section 21 project management company

It has been recommended that the most appropriate structure to control the implementation phase of the Motor Body Repairers (MBR) project would be a Section 21 (not for gain) company.

A Section 21 company requires seven members or subscribers. It is proposed that the major project players, be invited to become members of the Section 21 company. This would include: the SAIA, the RMI, the DTI, MBR associations, and NAAMSA/OEMs.

Steps will be taken shortly to register the Section 21 company and to establish the management Board once financing structures have been finalised.

Discussions with potential project financiers

Ongoing discussions have been conducted with several potential project financiers. The discussions with Khula Finance and the French Development Agency are the most advanced and both organisations have invited detailed project proposals for individual beneficiaries for their consideration.

a.) Khula Finance

Khula Finance provides financial assistance either through direct loan financing or through the provision of financial guarantees.

The NEDS project documentation has been submitted to Khula for their consideration and they have requested a formal application for specific MBR shops. The number of shops to be catered for in the initial application will be between five and twenty five, depending upon the availability of the required information and forecast data.

Detailed applications will be submitted once the list of selected beneficiaries for the South African Auto Repairer and Salvage Association (SAARSA) / the National African Association of Automobile Service Providers (NAASP) and Volkswagen (VW) projects have been finalised.

b.) French Development Agency

The French Development Agency (FDA) provides financial assistance either through direct loan financing or through the provision of financial guarantees product in partnership with a local commercial bank.

The NEDS project documentation has been submitted to the FDA for their consideration. Discussions have indicated that the indicative level of initial assistance of R100 million is too small for the application of the FDA direct loan facility.

The FDA does however have a guarantee product for smaller projects for which the NEDS MBR project would qualify and they have requested a formal application for specific MBR shops. The initial application will be similar to the Khula application and comprise between five and twenty five, depending upon the availability of the required information and forecast data.

Development of funding proposals

Two projects have been identified as being suitable for presentation to Khula and FDA for consideration and detailed project financing proposals are currently being developed for each project:

a.) SAARSA Western Cape

This proposal will be based on the original the South African Auto Repairer and Salvage Association (SAARSA) NEDS project and will be based on between five and twenty five MBR shops subject to the viability of the individual projects. SAARSA are currently working on the selection criteria for beneficiaries from its member base.

b.) NAASP Motor City project

This proposal will be based on the National African Association of Automobile Service (NAASP) Motor City concept, based on between 3 and 5 Motor City locations subject to the viability of the individual projects.

A business plan is currently being developed for presentation to Khula Finance and the Umsobomvu Youth Development fund for financing.

Partnership with Volkswagen SA

Discussions with Volkswagen SA have taken place with a view to partnering with their MBR development project. It has been agreed with the Volkswagen SA marketing executive to establish a project for the development of five MBR shops per annum (up to a maximum of 20 shops) to become approved VW MBR operations.

Tyre Dealer and Fitment project

A project proposal is being developed to promote BBBEE Enterprise Development within the tyre dealer and fitment industry.

Discussions with service providers

Discussions continue with a range of service providers concerning the provision of:

- Management and administration systems
- Mentorship and incubation services

Future action

Once the new management structure, as referred to above, has been concluded the following key project structures will be implemented:

a.) Project management during implementation phase

The project implementation phase requires a Management Steering Committee. The composition of this committee is expected to be as follows:

- Committee Chairman
- Executive Manager – this person would have complete oversight responsibility for the project to ensure that long term strategic development and day-to-day operational targets are met
- Project Manager – responsible for the day to day project operational delivery
- Fund Manager – fund and investment management and reporting requirements
- Programme Manager – responsible for the development and implementation or monitoring of project management and deliverables

b.) Support services

Formal MOUs will be developed with key partners to provide the requisite support services for the incubation of selected project beneficiaries. The support services required include:

- Business services
- Training
- Mentorship
- Fund management
- Finance
- Procurement
- Project management
- Beneficiary assessment
- Grading and standards policies

-Written by Gary M Benton on 27 April 2010

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2 IMAGE & REPUTATION

SAIA Code of Conduct

The SAIA Code has been effective from 16 March 2010. The Code will be revisited after the approved one year period, in order to refine it according to practical experience, and subsequent input received.

Reinsurers and the SAIA Code of Conduct

Some SAIA reinsurer members requested further discussion on the current exclusion of reinsurance business from the new Code of Conduct. This issue is dealt with in the Board Committee Report of the SAIA Board Committee: Reinsurers, which has requested the SAIA and the Code of Conduct Task Team to come up with a proposal regarding this issue, to be considered by the SAIA Board Committees: Reinsurance and Image and Reputation as well as the SAIA Board, when appropriate .

The SAIA will monitor any input regarding the Code, to be considered when the Code is revisited after the first year of implementation.

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Public launch of the new SAIA Code of Conduct

The new SAIA Code of Conduct (available on www.saia.co.za) was formally introduced to the public through a media conference that took place on 29 April 2010. Below follows the media release that was distributed after the event.

Short-term insurance association launches new Code of Conduct

Today marks the public launch of the new South African Insurance Association (SAIA) Code of Conduct which was recently drafted and approved by the SAIA Board, as a mechanism through which self-regulation could effectively be implemented.

“The purpose of the new Code is aiming to pursue the highest possible standards of fair treatment and good service to consumers, to ultimately also ensure a sustainable and dynamic short-term insurance industry for the benefit of all involved,” said Ronnie Napier, Chair of the SAIA Board.

The new Code sets detailed and comprehensive guidelines to ensure transparent and ethical business practices, not only for each of about 56 SAIA member companies who publicly signed the code on 16 March 2010, but also for their contracted associates.

“The onus will be on SAIA members to strive for compliance with the Code by achieving the self-imposed guidelines, and to monitor their compliance. SAIA will facilitate this process,” says Mr. Napier.

If a SAIA member fails to comply with this Code, a complaint could be lodged to be investigated by an independent Code Complaints Committee. This committee may impose sanctions on such a member.

The SAIA Code of Conduct is the culmination of a long and thorough process followed by the short-term insurance industry, coordinated by the SAIA. “We believe that we found the right balance between a Code that inspires the achievement of great heights, in terms of the relationship between insurer and its customers and consumers in general, while at the same time being practical,” says Mr. Napier.

"I am very proud of an industry who was prepared to take a long hard look at how things are done, how things have been done, and how things should be done and in the end agreeing to commit to the new SAIA Code of Conduct," he concluded.

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Sustainability of insurance / Systemic risk issues

The first meeting of the SAIA Sustainability Forum will take place on 7 May 2010. This first forum meeting will take the form of a facilitated session that will include relevant presentations from Government, research and science and the insurance industry, followed by a discussion session on the way forward in this new key strategic area.

In addition, the SAIA has met with the Department of Environmental Affairs (DEA), on the policy framework for climate change. This was an exploratory meeting which will be followed up by discussions around Government's expectations regarding the role of the industry, and the industry's take on its role going forward. The DEA will be presenting their national strategy to the industry at the first Forum meeting.

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Micro-insurance

Micro-insurance as a general topic has become increasingly relevant outside of the Transformation key priority area. As this important topic is not only about access products in terms of the Financial Sector Charter, nor only about the proposed legislation being considered by National Treasury, but more about the international quest for appropriate insurance for low income markets, the SAIA suggested at a Micro-Insurance Forum meeting that took place on 21 April 2010, at the request of several SAIA members, that micro-insurance should in future be included under the social leg of Sustainability.

The Micro-Insurance Forum agreed that this is appropriate, and also agreed that a new Micro-Insurance Committee should be established at the SAIA to address relevant issues. The SAIA will invite all members to nominate representatives to this new committee. The first meeting has been arranged for 19 May 2010.

In addition, the inclusion of micro-insurance as a topic to be considered under the Sustainability key priority area was approved by the SAIA Board Committee: Image and Reputation when it considered the objectives set for the six months from April to September 2010 at its meeting on 20 April 2010.

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2010 SAIA Foundation Consumer Education Initiative member contributions

SAIA SG Circular 2010/031, distributed on Monday 12 April 2010, and SG Circular 2010/036, distributed on Wednesday 28 April 2010, requested and reminded SAIA members to indicate their selection of financial participation in the 2010 SAIA Consumer Education Initiative by completing the questionnaire that was attached with the circulars and sending it to adele@saia.co.za.

We would like to thank those members who have already sent their completed questionnaires to SAIA and reiterate that the final deadline for SAIA to receive the completed questionnaires is Wednesday, 5 May 2010.

The SAIA will supply debit notes as soon as the completed questionnaires are received. Members are requested to pay their contributions upon receipt of their debit notes, and before Wednesday 19 May 2010.

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Functions planned for 2010

Below are the dates for SAIA functions that will take place in 2010. This is a standard section in the SAIA Bulletin. Please note that the dates are subject to change as unforeseen things can happen. Changes will be marked in colour.

- SAIA cheque handover to Business Against Crime South Africa (BACSA) media conference at the Wanderers Club in Illovo – 11 May 2010
- The SAIA, IISA and FIA Insurance Conference 2010 at Sun City, Pilanesberg – Sunday, 23 May to Wednesday, 26 May 2010
- FIA Industry Awards 2010 at Emperor's Palace – 3 June 2010
- SAIA AGM/Cocktail Function – 29 July 2010
- SAIA Consumer Education Report Back Function – August 2010
- SAIA Assistants Lunch – 17 September 2010
- SAIA Committee Lunch – 2 November 2010
- Cape Town Media Lunch – 19 November 2010
- JHB Media Lunch – 22 November 2010

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3 LEGISLATION & REGULATION

Consumer Protection Act

There have been many debates as to whether the Consumer Protection Act will apply to the insurance industry or not. Industry experts do not share the same views with regards to this piece of legislation. However, the SAIA has taken the view that while the industry awaits clarity from the Financial Services Board (FSB) regarding insurance sector's compliance to the Act, members are advised to support the intention and purpose of the Act by complying with applicable sections.

It is unlikely for the Department of Trade and Industry (DTI) to exempt industries entirely from compliance with the Act and therefore a show of support will have far reaching benefits for the insurance sector.

In order to obtain a list of sections most likely to have a direct impact on the insurance industry, please contact Karen Naidoo at karen@saia.co.za

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<p>Previous reference: Articles on regulation featured in the November 2006, December 2006, January – November 2007, January – November 2008, January – November 2009 and January and March 2010 issues of the Bulletin.</p>

The Road Accident Fund

On 9 April 2010, the insurance industry was invited to have a discussion with the Department of Transport (DOT) regarding the new Road Accident Benefit Scheme (RABS). The new scheme, which will run in conjunction with the Road Accident Fund (RAF) until all claims falling under the old fund is run off, is developed under the auspices of Government's Comprehensive Social Security System (CSSS) and is meant to make medical expenses cover and limited loss of income cover available to victims of road accidents.

The office of the DOT, which is responsible for this piece of legislation, has a long way to go before implementing the new system. Following a discussion with the DOT, the SAIA provided comments and the DOT will also engage further with other stakeholders before releasing the second draft of the 'No Fault' policy RABS scheme.

The latest on the old RAF is that the Gauteng High Court ruled in favour thereof and it was found that the RAF Amendment Act of 2008 was not unconstitutional. It is believed that the Law Society of South Africa is planning to lodge an application for appeal. Should the decision be upheld during the appeal process, it will mean that the consumer cannot claim for delictual losses, except for 'emotional suffering'.

Should the decision be overturned, it might be possible to have the cover re-instated in which case insurers are likely to receive a flurry of liability claims.

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Competition Law

In a recent decision taken, following an investigation by the Competition Law Commissioner, it was found that three vehicle tracking companies together with the Vehicle Security Association of South Africa (VESA) acted in contravention of the Competition Law.

No penalty was handed down to either of the companies because it was a first time offence. The Competition Commissioner based his ruling on the basis that a significantly high barrier to entry was created by the large vehicle tracking companies and VESA which prevented any new entrant into the market.

The SAIA issued the media release below in response to the ruling which was published in the media. The SAIA will be monitoring closely the developments with regards to this matter.

Media release: Short-term insurance association supports healthy competition in the vehicle security market

"The South African Insurance Association (SAIA) supports healthy competition, across all industries," said SAIA Chief Executive Barry Scott.

This remark was made after the SAIA had taken note of the recent findings of the Competition Tribunal which reportedly had found that Netstar, Matrix Vehicle Tracking, and Tracker Network - representing over 90 percent of the industry - and the Vehicle Security Association of SA (VESA) contravened the Competition Act by setting standards which created barriers to entry, resulting in anti-competitive behaviour.

Although the SAIA cannot comment on the specific recent finding regarding some companies in the tracking industry, as it has not been privy to the detailed findings and was not approached by the Competitions Commission regarding this issue, the SAIA supports both healthy competition and quality products that will protect consumers and their assets.

“The SAIA is a representative body, and always attempt to act in good faith. Accordingly, we do not encourage our members to contravene any laws of our country, including the Competitions Act. We will however continue to support the development and enforcement of minimum standards as both a consumer protection and risk management mechanism, provided that this is done within the confines of competition policy,” Scott added.

“The requirement for suppliers to apply standards to their products is good for the consumer. This is why the SABS exists - imagine an environment where unsafe household electrical appliances were sold. Similarly, all vehicles sold have to comply with minimum standards, to ensure the safety of motorists.

“The application of minimum standards therefore ensures that products are effective and achieve the purpose for which they were developed, and ensures that the products are safe.

“When the electronic vehicle security market first opened up, there was an immediate plethora of products developed, most of which were totally ineffective, and many of which were unsafe. Motorists were often left stranded on the roadside due to the failure of the security product. We can all remember car alarms going off all night, mostly caused by false alarms. Many of these products also failed to prevent vehicle theft. For these reasons, the SAIA supported the formation of VESA, not as a deterrent to the development and distribution of effective products, but in order to protect the consumer against the fitment of ineffective and unsafe products,” Scott emphasized.

“The SAIA would like to see an environment where competition is encouraged, and at the same time consumers are protected and insurers’ risk is minimized. The risk that the insurance company accepts directly affects the premium the consumer pays - the higher the risk, the higher the premium. Managing risk is therefore also in the interest of the consumer where it matters most – the consumer’s pocket,” added Scott.

In addition, the insurance industry plays a prominent role in the fight against crime. At the time when the insurance industry first became involved in requiring vehicle security devices to be fitted, vehicle crime was escalating out of control. Since the SAIA involvement together with Business Against Crime and the relevant authorities as well as other relevant role players such as NAAMSA and VESA, vehicle crime has reduced on average by approximately 50%, and is now no longer the biggest challenge facing motor insurance.

“The SAIA does not have any role to play with regards to the commercial practises and/or business decisions of our members. SAIA members are individual companies that make their own underwriting decisions and any decisions companies make regarding the encouragement to use specific service providers are made by the different companies themselves on an individual basis. Many factors will influence such decisions, including their own claims experience. It is, of course, the right of all companies to contract any service provider should this be deemed prudent,” Scott added.

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Previous reference: Articles on regulation featured in the November 2006, December 2006, January – November 2007, January – November 2008, January – November 2009 and January and March 2010 issues of the Bulletin.

FAIS Workshop

On 22 April 2010, the SAIA Legal and Compliance Team hosted a Financial Advisory and Intermediary Services (FAIS) Workshop. The agenda items focused on all issues relating to FAIS from Fit and Proper to Compliance Reporting and requirements.

Members who attended the workshop have requested that regular workshops be held to discuss FAIS-related issues which are pertinent for the understanding of the Financial Services Board (FSB) expectations in terms of reporting and compliance management.

For details of the next workshop, please contact Karen Naidoo (details below).

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<p>Previous reference: Articles on regulation featured in the November 2006, December 2006, January – November 2007, January – November 2008, January – November 2009 and January and March 2010 issues of the Bulletin.</p>

Media release: Fit and Proper competency requirements and failure to comply

- *Distributed to SAIA industry press on 7 April 2010*

The South African Insurance Association (SAIA) supports the information published in recent Financial Services Board (FSB) circulars regarding the Financial Advisory and Intermediary Services Act (FAIS) Fit and Proper competency requirements and the debarment when sole proprietors (FSPs), key individuals and representatives fail to comply.

SAIA urges all financial services providers to comply with the necessary requirements and expectations as paraphrased below to protect policy holders.

Background

When reading the Fit and Proper requirements together with the provisions in the FAIS Act, Section 13(2)(a)(b) of the FAIS Act states that an authorised financial services provider must at all times be satisfied that the provider's representatives, and key individuals of such representatives, are, when rendering a financial service on behalf of the provider, be competent to act, and comply with the requirements contemplated in paragraphs (a) and (b) of section 8(1) and subsection (1)(b)(ii) of this section, where applicable; and take such steps as may be reasonable in the circumstances to ensure that representatives comply with any applicable code of conduct as well as with other applicable laws regarding conduct of business.

In the determination of competency requirements, Section 2 of part III of the FAIS Act, states that subject to paragraphs (3) to (7), an FSP of any category and, where applicable, any key individual and/or representative of such FSP must comply with the applicable minimum experience requirements; have the relevant qualification; have successfully passed the relevant first and/or second level Regulatory Examination(s), as may from time to time be set by the Registrar and comply with the CPD requirements.

Date of first appointment: 2004 to 2007

In terms of the FAIS Act, people appointed between 2004 (when the Act went into effect) and 31 December 2007, must have met the relevant qualification requirements by 31 December 2009.

Date of first appointment: 2008 – 2009

The competence requirements for representatives, who were appointed for the first time in respect of a specific product category in 2008 or 2009, are provided for in Part 10 of the Determination of Fit and Proper Requirements for Financial Services Providers.

Representatives with a date of first appointment in 2008, have a choice of either completing an appropriate skills programme by 31 December 2011 or a qualification by 31 December 2013.

Failure by a representative to meet the competency requirements by the relevant date could result in penalties imposed by the FSB.

Failure to comply with the qualification requirements

The outcome of the failure to comply with the qualification requirements suggests that the representative is no longer fit and proper in terms of section 8(1) of the FAIS Act.

In terms of section 14(1) of the FAIS Act, an authorised financial services provider must ensure that any representative of the provider who no longer complies with the requirements referred to in section 13(2)(a) or who has contravened or failed to comply with any provision of this Act in a material manner are dealt with in the correct way and immediately take steps to ensure that the debarment does not prejudice the interest of clients of the representative, and that any uncompleted business of the representative is properly concluded.

Debarment in terms of the Act means that such representatives are prohibited from rendering any new financial service by the financial services provider withdrawing any authority for the representatives to act on behalf of that provider. The provider should also ensure that the representative's name and the names of the relevant key individuals are removed from the register referred to in section 13(3).

Section 3 of the FAIS Act states that, subject to the provisions of this Act, any notice given, approval or exemption granted, determination made, requirement or condition determined or imposed, or any other decision taken by the Registrar under an enabling provision of this Act, is valid only if it is reduced to a durable written or printed form or, where communicated electronically, has been correctly transmitted in a legible form.

Appropriate action by the FSP

The Registrar of Financial Services Providers has deemed it proper that if the FSP (sole proprietor) or key individual does not meet the required qualifications or appropriate skills programme as specified in Table E, Part 10 of the Determination of Fit and Proper Requirements for Financial Services Providers, the FSP may do as follows:

In respect of a FSP:

- Request a profile change to remove the product/s for which the FSP is not qualified for; or
- If the FSP does not meet any of the qualification requirements, request the Registrar to lapse the license.

In respect of a key individual:

- Request a profile change to amend the approval of the key individual to remove the product/s for which the key individual is not qualified for; or
- If the key individual does not meet any of the qualification requirements, request the Registrar to amend the approval of the key individual in its entirety to reflect the fact that the key individual does not meet any of the requirements.

If a representative does not meet the required qualifications or appropriate skills programme, the FSPs may do as follows:

- Debar the representative and request the Registrar to list the latter on the list of debarred persons; or

- Request a profile change to remove the product/s for which the representative is not qualified for; or
- Remove the said representative from the register of the particular FSP and subsequently request the Registrar to remove that representative from the central register.

In terms of condition 1 of the licensing conditions imposed on FSPs, an FSP is required to inform the Registrar within 15 days of any change to its licensing conditions. This means that the FSP is required to inform the Registrar of the failure to meet the qualification requirements by a FSP (sole proprietor) or key individual within 15 days after the due date for meeting the relevant qualification requirements.

Where FSPs have failed to inform the Registrar of any instances as described above by 15 January 2010, in respect of the 31 December 2009 deadline, the Registrar will accept such notification up to and including 30 April 2010. Any omissions in this regard will be regarded as a failure to comply with Section 8 of the Act, and the Registrar will take regulatory action.

✉ **Further information : Adèle Joubert**
 ✉ **adele@saia.co.za**

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Media release: Termination of binder agreements and related unilateral cancellation of short-term insurance policies

- *Distributed to SAIA industry press on 7 April 2010*

SAIA supports the directive and information letter paraphrased below that was distributed on 31 March 2010 by the Financial Services Board (FSB) to enhance the reporting requirements for all short-term insurers and collate information from them in the event that they terminate binder agreements. This includes those cases where the binder termination results in a unilateral cancellation of a book of policies in terms of Rule 7.3 of the Short-term Insurance Policyholder Protection Rules (PPR) made under section 55 of the Short-term Insurance Act, 1998 (Act No. 53 of 1998) (STI Act).

Binder agreements are agreements whereby a registered short-term insurer allows a third party to do one or more of the following on behalf of that short-term insurer:

- Enter into, vary or renew a short-term policy, other than a short-term re-insurance policy;
- Determine the wording of a short-term policy;
- Determine premiums under a short-term policy;
- Determine the value of policy benefits under a short-term policy;
- Settle claims under a short-term policy.

It has come to the attention of the Registrar of Short-term Insurance (Registrar) that, on occasion, the termination of binder agreements by short-term insurers has led to a situation whereby an intermediary continues to collect premiums for its own account and settle claims, thereby rendering insurance business without being registered as a short-term insurer in contravention of section 7 of the STI Act, placing policyholders at risk.

Termination of the binder agreement by the short-term insurer is also commonly accompanied by a unilateral cancellation of the book of policies administered by the binder holder. In these instances it has also been found to be the case that the requirements of Rule 7.3 of the PPR are not properly complied with.

Reporting requirements

The enhanced reporting requirements outlined in the directive, that is available on the FSB website, are designed to improve the effectiveness of enforcement of compliance with Rule 7.3 of the PPR and to prevent the risk of unregistered insurance business following the termination of a binder agreement.

Short-term insurers are directed under section 4(2) of the STI Act to furnish the Registrar with information from the effective date of 1 April 2010:

- By completing a form prior to the termination of a binder agreement

This form is to be completed and submitted by the Public Officer of the registered short-term insurer to the Registrar's office:

- If terminated by the insurer, 40 days in advance of the actual date of termination of the binder agreement'
 - If terminated by the binder holder, within 2 days after receiving the notice from the binder holder.
- By completing a form prior to the unilateral cancellation of policies related to the termination of a binder agreement

This form is to be completed and submitted by the Public Officer of the registered short-term insurer to the Registrar's office 30 days in advance of the issuing/publication of the notice referred to in Rule 7.3 of the Short-term Insurance Policyholder Protection Rules (PPR).

The forms are available on the FSB website. Completed forms must be addressed to the Insurance Compliance Department in the Registrar's Office as follows: insurance@fsb.co.za or Financial Services Board, PO Box 35655, Menlo Park, Pretoria, 0102.

Additional information

The additional information called for in an information letter, that is also available on the FSB website, will assist the Registrar's Office in monitoring compliance with Rule 7.3 of the PPR and to deal with unregistered insurance business that followed the termination of a binder agreement and related unilateral cancellation of policies.

Short-term insurers are hereby required under section 4 (2) of the STI Act to furnish the Registrar with information on binder agreements and related unilateral cancellation of policies that were terminated or cancelled during the two years immediately preceding 1 April 2010.

Separate forms should be completed for each binder agreement and for each book of policies that were terminated. The forms are available on the FSB website. The Public Officer must submit the information to the Registrar's Office as follows by 1 June 2010: insurance@fsb.co.za or Financial Services Board, PO Box 35655, Menlo Park, Pretoria, 0102.

Compliance

The failure to provide the specified information by or within the timeframes specified constitutes an offence under section 65 of the STI Act and a contravention of the Act that may be referred to the enforcement committee in accordance with the Financial Institutions (Protection of Funds) Act No. 28 of 2001.

SAIA urges all short-term insurers to bring this information to the attention of their appointed auditors.

 **Further information : Adèle Joubert**
 **adele@saia.co.za**

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4 MOTOR

SAIA Motor update: Implementation of motor strategy

The current committee structure in this area at the SAIA will be revisited, and a new structure will be put into place according to the approved motor strategy shortly. Priorities are currently being identified, and the first committees will be established as soon as possible. SAIA members will be invited to nominate representatives to the new committees shortly.

☞ **Further information : Vivienne Pearson**
✉ **viviene@saia.co.za**

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5 OTHER ARTICLES

INSETA: Businesses in distress given time to breathe

Insurance businesses in distress are being encouraged to apply to participate in Government's recently launched Training Layoff Scheme by the Insurance Sector Education and Training Authority (INSETA).

The scheme was announced by President Jacob Zuma last year as a means to assist businesses that are struggling with the effects of the recent economic downturn and came into effect in September.

Companies in the insurance sector are now being encouraged by INSETA to participate.

"The effects of the global economic crisis were first felt in South Africa from October 2008. Any material reduction in turnover after this date serves to link the distress to the global economic crisis. A reduction of turnover in excess of 10% qualifies a business as being in distress," explained INSETA Chief Executive Officer, Sandra Dunn.

"Companies that participate in the scheme will experience a reduction in labour expenses for the period of participation," she said of the benefits of signing up.

For the scheme to be effective, the business expense for labour costs must contribute 25% or more of its total operating expenses.

What is a training layoff?

- A training layoff is a temporary suspension of work of a worker or group of workers that is used for training purposes.
- Workers remain employed during the training layoff period but forego their normal wage for a training allowance.
- Participation in the Training Layoff Scheme is voluntary and it is an alternative to retrenchment.
- Training is flexible but linked to the skills needs of the employer.
- The envisaged training period is three months or less.
- The training layoff may be combined with short-time work arrangements during the period of the training.
- The scheme is aimed at positioning workers and employers to take advantage of the next economic upturn.

Who qualifies for a training layoff?

- Businesses that are in distress due to the economic crisis and that may benefit from the short-term relief and re-absorb the affected workers at the conclusion of the training layoff.

- In businesses that are in distress, only workers earning up to R180 000 per year and who face possible retrenchment qualify to participate in the training layoff scheme.

How is the Training Layoff Scheme funded?

- Employers pay full contributions towards a basic social security package.
- Workers will be paid a training allowance up to a maximum of 50% of their basic wage or salary up to a maximum of R6 239 per month.
- SETAs will pay for the cost of training and allowance from their discretionary grants, Workplace Skills Plan Grants and NSF/UIF allocations.
- The Department of Labour's R2.4 billion from the National Skills Fund (NSF)/Unemployment Insurance Fund (UIF) will provide top-up funding to SETAs to pay for training allowances and training costs where necessary.

How do I access the Training Layoff Scheme?

- Complete a "Request to Participate in the Training Layoff Scheme" form and submit it to the Commission for Conciliation, Mediation and Arbitration (CCMA). If you and the other party have reached a written agreement on a training layoff, include it with the request.
- The Training Layoff Scheme may become an option during the facilitation or conciliation process, whereby the facilitator will assist the parties to reach an agreement on participation in the scheme.

What is the process involved in the Training Layoff Scheme?

- The CCMA, SETAs and the Department of Labour are the implementing partners of the scheme.
- All requests to participate in the Training Layoff Scheme must be made via the CCMA.
- The CCMA recommends participation in the scheme and facilitates the conclusion of a Training Layoff Agreement.
- The relevant SETA will interact with the affected employer and workers on type, cost, duration and provision of training and submit an application to the Department of Labour.
- The Department of Labour's adjudication committee will process the application for funding, conclude an agreement with a SETA and transfer funding to the SETA.
- SETAs will in turn conclude an agreement with the relevant company, facilitate the provision of training and transfer funding to employers on agreed dates.

For more information, contact: layoff@ccma.org.za or 0861 16 16 16 (CCMA call centre).

☎ Further information : Sharon Snell
✉ sharons@inseta.org.za

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6 PRESS CLIPPINGS

Publication	DM	Subject
Cover March 2010	# 79392 # 79393 # 79394 # 79395 # 79396 # 79397 # 79398	The Landscape of Micro-insurance in Africa Vehicle tracking industry: Securing your vehicle Value -Added Tax (VAT) Implications of insurance Insurance Laws Amendment Act: Statutory actuary on the cards for Short-Term insurers? Alternative Risk Transfer (ART): Solvency Assessment and Management (SAM) will keep capital and risk management in the spotlight Financial Intermediaries Association of Southern Africa (FIA): Rising to the challenge SAIA Code of Conduct

	# 79399	The year of the consumer
Enterprise Risk March '2010	# 78484 # 78485	<u>Policyholder Protection Rules (PPR)</u> to Change or not to change? <u>Code of Governance:</u> Implementing King III: Aligned to the issues and principles
Insurance Times & Investments March 2010	# 79009	Motor insurance: Warning against driving without a valid <u>driver's license</u>
FAnews February 2010	# 78696	SAIA <u>Code of Conduct</u> – a new commitment to self-regulate
Business Report 1/3/2010	# 78200	<u>Companies Act</u> threatens to split boards into two tiers
Sowetan 1/3/2010	# 78201	<u>National Health Insurance (NHI)</u> might hit a snag
Business Day 2/3/2010	# 78241	<u>Pebble Bed Modular Reactor (PBMR)</u> seems to be on the rocks
Sowetan 4/3/2010	# 78369	Court action puts <u>Road Accident Fund (RAF)</u> at risk of collapse
Business Day 4/3/2010	# 78370	<u>Santam</u> boosted by stronger second half
FAnews 5/3/2010	# 78363	<u>Consumer Protection</u> bill rides roughshod over insurance legislation
Hi-tech Security Solutions 8/3/2010	# 78393	<u>Insurance fraud</u> ... who is to blame?
FAnews 8/3/2010	# 78421	<u>State of the market:</u> A look at insurance trends through 2010
FAnews 9/3/2010	# 78405	<u>State of the market:</u> Top short-term insurer makes steady progress
Business Day 9/3/2010	# 78407	SA nuclear falters as <u>Pebble Bed Modular Reactor (PBMR)</u> chief quits
SA Insurance Guide 9/3/2010	# 78420	<u>Floods & storms:</u> Flood damage affects Short-Term Insurance
IT Web Security 10/3/2010	# 78435	<u>Vehicle security industry:</u> Factory-fitted security devices may not meet insurance approval
Financial Mail 12/3/2010	# 78489	<u>State of the market:</u> Short-term Insurance was always a two-horse race between Santam and Mutual & Federal
Star 16/3/2010	# 78673	<u>Drunk drivers:</u> Talks to decide whether all provinces will drop Drager cases
FAnews 16/3/2010	# 78672	Sustainability of SA short-term <u>motor industry</u> under threat
Business Day 18/3/2010	# 78722	<u>Pebble Bed Modular Reactor (PBMR):</u> SA cannot afford to abandon climb up nuclear mountain
Insurance Gateway 21/3/2010	# 78839	Placement of short-term insurance business with entities not registered in South Africa to conduct insurance business – Sec 8 (2)(d) of <u>the Short-term Insurance Act (STIA)</u>
Insurance Gateway 21/3/2010	# 78840 # 78841 # 78844 # 78845 # 78846	Insurer Solvency Assessment and Management (<u>SAM</u>) SAIA Members commit to <u>New Code of Conduct</u> SAIA urges members to conduct own <u>Consumer Protection Act</u> alignment review SAIA delegates <u>sustainability</u> and systemic risk factors as a key strategic area Transformation - <u>The Financial Sector Charter (FSC)</u>
Business Day 24/3/2010	# 78848	Government strategic input 'vital for <u>Pebble Bed Modular Reactor (PBMR)</u> '

Sake 24 24/3/2010	# 78850	<u>Pebble Bed Modular Reactor (PBMR)</u> vra toestemming om nog meer te privatiseer
Citizen 24/3/2010	# 78852	<u>Motor insurance industry:</u> New registration laws will “cut vehicle theft”
FANews 26/3/2010	# 78981	The <u>Ombudsman for Short-term Insurance</u> launches his Annual Report for 2009
ITWeb 26/3/2010	# 78944	No refunds available on annual premiums, says <u>Short-Term Insurance Ombud</u>
Business Report 29/3/2010	# 78946	<u>Ombudsman for Short-term Insurance:</u> Insurance clients complain less
Business Report 30/3/2010	# 79004	SA ‘must decide in a year’ on <u>nuclear</u> to keep up with rest
Sowetan 30/3/2010	# 79005	<u>Pebble bed Modular Reactor (PBMR)</u> to benefit from US nuke contract
ITInews 30/3/2010	79010	<u>Centrig Insurance:</u> Solvency Assessment and Management (SAM) – The ‘Basel II’ of SA’s insurance sector
Business Day 31/3/2010	# 79006	<u>Lion Of Africa:</u> New generation insurer is 100% black owned
Star 31/3/2010	# 79187 # 79188 # 79189 # 79190 # 79191	<u>Short-term insurance:</u> Ease the car insurance pain Lion of Africa: World Cup stadia insured for R19,2 billion World Cup could pose problem Understanding business insurance Intermediaries play advisory role

☞ **Further information on all of the above-mentioned press clippings : Sonja Etsebeth**
 ✉ **sonja@saia.co.za**

7 CIRCULARS

The following circulars were issued during the month of March 2010: (Number of circular, title, date issued and contact person)

SAIA

- SG 2010/018 Regulation 4, Section 45 of the Short-term Insurance (Act 53 of 1998) Register of the Status of Credit Intermediaries (1/3/2010)
Contact: Naomi Engelbrecht
- SG 2010/019 An invitation to nominate representatives to the SAIA Forum on the Sustainability of Insurance (3/3/2010)
Contact: Vivienne Pearson
- SG 2010/020 Commencement date for Insurance Laws Amendment Act, 2008 (4/3/2010)
Contact: Sonja Etsebeth
- SG 2010/021 Changes to the Credit Providers Association Constitution (4/3/2010)
Contact: Charles Hitchcock
- SG 2010/022 Update on the Solvency Assessment & Management (SAM) Project (9/3/2010)
Contact: Barry Scott
- SG 2010/023 Oakhurst Insurance Company Limited – new member (9/3/2010)
Contact: Sonja Etsebeth

SG 2010/024 Natsure Limited – new member (9/3/2010)
Contact: Sonja Etsebeth

SG 2010/025 Oakhurst Insurance Company - SA Knock-for-Knock Market Agreement (18/3/2010)
Contact: Sonja Etsebeth

SG 2010/026 New SAIA Manager: Motor (31/3/2010)
Contact: Refilwe Moletsane

AMUSA

AM 2010/010 South Africa to host International Union of Marine Insurance (IUMI) 2018
Conference in Cape Town (16/3/2010)
Contact: Elsebe Vetten

AM 2010/011 Piracy/ Casualty Report: “UBT OCEAN” (16/3/2010)
Contact: Elsebe Vetten

AM 2010/012 Latest IUMI Statistics available (16/3/2010)
Contact: Elsebe Vetten

AM 2010/013 Movement of Oversized Cargo over the road in South Africa between 9 June and 6
July 2010 (17/3/2010)
Contact: Elsebe Vetten

AM 2010/014 Casualty Advice: “TEAM SPIRIT” (23/3/2010)
Contact: Elsebe Vetten

AM 2010/015 Casualty Advice: “THOEDORE JR” (23/3/2010)
Contact: Elsebe Vetten

AM 2010/016 Piracy Advice: “FRIGIA” (26/3/2010)
Contact: Elsebe Vetten

AM 2010/017 Piracy Advice: “ICEBERG 1” (30/3/2010)
Contact: Elsebe Vetten

SAMIA

SM 2010/002 Request for Annual IMIA statistics for 2009 (4/3/2010)
Contact: Charles Hitchcock

SAIA MD (Managing Directors)

MD 2010/008 SAIA Payments Forum (10/3/2010)
Contact: Charles Hitchcock

 **Further information on all of the above-mentioned circulars : Sonja Etsebeth**
 **sonja@saia.co.za**

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IMPORTANT NOTICE

Should you know someone, who is not a SAIA member, who might be interested to receive the SAIA Bulletin, and other interesting short-term insurance related SAIA communication, let them contact Adèle Joubert at SAIA to become a SAIA communiqué member.

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