



The Guardrisk Update

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Incorporating Life Update

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THE number of people entering the auditing profession, or remaining in it, is declining, because damage claims from alleged professional negligence are increasing and amounts claimed are rising to “staggering” levels (*Business Day*, 17 Mar).

AFRICA'S insurance sector grew between 15% and 20% over the past five years but the market was stymied by traditional ideas, limiting access to many people on the continent (*Business Report*, 4 Mar). Excluding SA, only 5-6% of African people (mostly urban dwellers) have insurance.

INCREASING market interconnectedness and rapid information dissemination have brought about new challenges to good financial risk management (*Business Day*, 12 Mar). Risk management for the future requires more extensive analyses to explore financial organisations' risk appetites, profiles, vulnerability and mitigation processes.

COMPANIES will be urged to integrate sustainability into financial reports, establish a framework for executive pay and incorporate risk management into a beefed-up internal audit system if King 3 is adopted as it stands (*Business Report*, 25 Feb).

DESPITE the global market turmoil, the financial services sector is still regarded as the most popular sector to work in by SA's professionals (*Business Day*, 11 Feb). The highest earners are chartered accountants and banking, finance and insurance risk management graduates

KING 3 is likely to run into criticism: it says directors can still be considered independent if they've been on the board for decades (*Financial Mail*, 23 Feb). The UK combined code says a director can't be considered independent after he has been on the board for more than nine years.

New consumer legislation will have far reaching impact

Over the past few years South African legislators have introduced several pieces of legislation with the specific aim of protecting consumer rights.

Setting the ball rolling with the National Credit Act, introduced in 2007, the legislature has taken its determination to bring local consumer protection legislation in line with international best practice a step further with the recent enactment of the Consumer Protection Bill. In essence, the bill aims to create a business environment that supports and strengthens a culture of consumer rights.

In terms of the bill, suppliers of goods could be held liable for any damage caused by the goods, regardless of fault on the part of the supplier – no negligence needs to be proved, only a causal link between harm, as defined by the bill, and the 'defective' product. This introduces the possibility of an increase in product recalls – which are notoriously costly – not to mention the resulting reputational damage, which could even put the company out of business.

In the UK, where similar regulations are in effect, overall product recall increased 125% from 2004 to 2007; and for nonfood consumer goods this rose to a staggering 894%.

The bill applies to every transaction taking place in SA, subject to certain exemptions. A transaction is defined as “the supply of any goods or services in exchange for consideration”. In respect of insurers, the definition of services, expressly excludes “the undertaking, underwriting or assumption of any risk by one person on behalf of another”, to the extent “that any such service is regulated under the Long-Term Insurance Act of 1998 or the Short-Term Insurance Act of 1998”.

According to Simone Monty, a director at Routledge Modise in association with Eversheds, the policyholder protection rules (published in 2001) in respect of both the Long-term and Short-term Insurance Acts, aim to ensure that consumers are provided with sufficient information to make informed choices about products and to put effective consumer protection measures in place to ensure fair business practices and effective disclosure.



The scope and nature of the policy holder protection rules renders many provisions of the bill redundant in the context of insurance services. But, although there are already effective consumer redress mechanisms in place for insurance consumers via the insurance ombudsmen, Monty says that insurers have not been let off the hook.

“Parliament has granted the insurance industry a reprieve from the bill on the understanding that the National treasury will be given 18 months from the date the Consumer Protection Act becomes effective to bring the long- and short-term insurance acts fully in line with the act.”

It remains to be seen how the legislature will go about bringing the insurance acts in line with the Consumer Protection Act and whether 18 months will be sufficient time for insurance companies to adjust their documentation and procedures accordingly, she says. “While the insurance industry may not be directly subject to the provisions of the bill, the proposed legislation will affect the industry in respect of insurable risk.”

Risk Barometer

CHALLENGES confronting captive owners have changed dramatically over the past 12 months, the latest research reveals (*Insurance Day, 11 Mar*). Nearly a quarter of respondents cited collateral as their top concern for 2009, with 18% pointing to expanded utilisation issues, 14% highlighted fronting and service; 12% had tax as their number one concern and 8% cited reinsurance.

GROWING debate about how to regulate systemic risk in the financial system is certain to affect the insurance industry as well (*Business Insurance, 9 Feb*). The implications could be positive or negative, depending on how the regulation of systemic riskthe possibility that the failure of a financial institution, market or system will harm the economy as a whole is structured. Some observers say it could be overlaid atop the existing state regulatory system; others say it must lead to federal insurance regulation.

THE current financial turmoil will lead to a reordering of the insurance industry, as it differentiates between prudent, long-term players and others (*Insurance Day, 2 Feb*). In a context that saw some of the most reputable names in the financial services companies post shocking results, "even the biggest, strongest companies are questionable." For buyers of insurance, this raised the question of counterparty risk and who they should partner with.

SOME smaller players in the D&O market may be forced to pull out of the market as reinsurers are feeling the squeeze from the financial crisis (*Insurance Day, 9 Mar*). Some new or smaller players are heavily reliant on reinsurance supply and have therefore been affected by recent capacity restrictions from some of the major reinsurance players.

THE top 100 property and casualty insurers in the US have witnessed the biggest drop in year-over-year income since 2001, when losses from the 9/11 attacks and multiple hurricanes occurred (*Insurance Day, 6 Mar*). Troubling signs for the insurance industry in 2009 include declines in surplus of 11% for property and casualty insurers and the fact that the combined ratio deteriorated to 102% in 2008, from 94% in 2007.

Life Update

Life Barometer

CLIENTS of retirement funds should derive greater value from their funds and better access to financial advice due to new regulations on commissions and early termination values that took effect from January 1 this year (*Business Day, 7 Feb*). Paradoxically, the weaker economic conditions often provide an opportunity to promote savings among members of the public, because they are more careful about spending.

MOST life insurers would report headline losses or declining earnings in 2009 as their investment income shrunk because of the drop in share prices of JSE-listed companies (*Business Report, 22 Feb*).

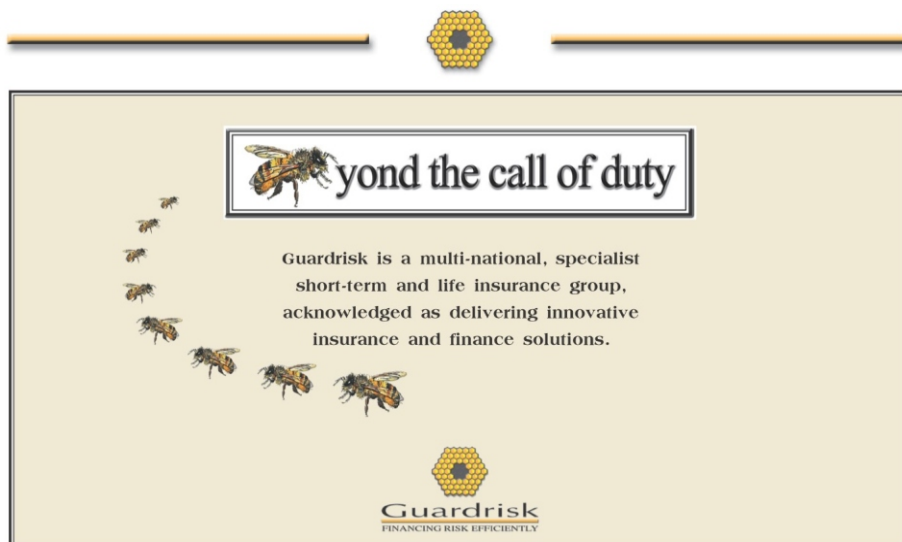
RETURN-to-work efforts are vital even when layoffs mean employers don't have jobs for workers compensation claimants to return to (*Business Insurance, 9 Feb*). Failure to help compensation claimants get healthy enough to work may result in claims remaining open longer than they would in more prosperous times, as some employees cling to workers compensation benefits that can be larger than weekly unemployment benefits

AS companies seek new ways to cut costs during the deepening recession, corporate interest in funding employee benefits through captive insurers will likely accelerate (*Business Insurance, 9 Mar*). Funding benefits through captives can cut benefit costs an average 5% to 10% a year compared with buying coverage in the commercial market.

REACTING to national crime statistics and marketplace demand, many US group life insurers and legal service plans are offering identity theft protection as a voluntary employee benefit (*Business Insurance, 16 Feb*). ID theft protection began turning up in voluntary benefits plans about five years ago. It's typically bundled with other types of coverage or offered as a rider, but it also may be sold as a stand-alone product.

MORE US employers are offering employer-paid and voluntary benefits as part of a total rewards package that meets a range of employee needs (*Business Insurance, 9 Feb*). Employers taking the total benefits approach are offering voluntary benefits such as wellness programmes and even homeowners' insurance with traditional employer-paid benefits such as medical insurance.

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