



# The Guardrisk Update

Incorporating Life Update

October 2010

**TAX** risk management should be placed high on the radar screens of senior executives and company boards in the wake of the global recession (*Business Day, 21 Sep*). Many multinational companies expose their companies to potential risk as a result of overly aggressive tax policies. In the past 18 months more than 500 agreements had been signed allowing for an increased exchange of tax information between countries.

**AT** the heart of an effective risk management programme is the company's ability to identify and predict risks accurately (*Business Day, 27 Sep*). This is not an easy task. Businesses today face an ever growing spectrum of risks, many of which seemed inconceivable before they happened.

**SOUTH** Africa has released a draft code for responsible investing that aims to encourage investors to take environmental and social issues into account when deciding where to place their money (*Business Report, 7 Sep*).

**THE** global downturn had heightened the pressures for employees and executives to commit fraud (*Business Day, 17 Sep*). Assuming that South African private sector and quasi-private sector companies are losing just 5% of annual turnover (extrapolated from nominal estimated gross domestic product of SA), the total annual leakage is R100bn.

**THE** Financial Intelligence Centre referred 331 suspicious transactions – involving suspected proceeds of R66bn from crime, money laundering or terror financing – to law enforcement and investigating agencies last year; a 28% increase on the previous year. (*Business Day, 21 Sep*).

**THE** proposed National Health Insurance plan will shake up the medical schemes market, with 40% of members likely to opt out and rely solely on state services (*Business Day, 23 Sep*).

## Legislators declare war on gobbledygook!

**O**nce the Consumer Protection Act (CPA) comes into effect, companies – and particularly those in the financial services sector – will be required to communicate with clients in Plain Language. In other words (if you pardon the pun), in language that is easy to understand by a consumer with average literacy skills. This is just one aspect of the CPA, but it's an important one, and one that companies would be well advised to heed. The Act 'has teeth' and heavy fines will be levied for non-compliance.

The concept of communicating in Plain Language is not new. The UK's Plain English Campaign has been protesting against "gobbledygook, jargon and misleading public information" since 1979. Recently, law makers and regulators around the world have taken up the call for clear and concise consumer communication; introducing laws that force companies to think twice about what they say to customers and how they say it.

And it's not only companies that are being required to communicate more succinctly: many governments – including those in America, England, Canada, Sweden, Australia and South Africa – are now drafting legislation in Plain Language.

In addition to the CPA, several other Acts – including the Short-term Insurance Act, the Long-term Insurance Act, the Companies Act; and the National Credit Act – regulate the use of Plain Language in consumer communication in South Africa.

Insurance is one of the industries that will face radical changes when the CPA comes into effect. Policies will have to be rewritten, using terms that are easily understood, and without being unfair or unjust. For instance, the Act requires that exclusions that limit the insurer's liability be highlighted (clearly and simply, of course) so that clients understand their rights. No doubt companies will be smarting at the prospect of yet more compliance-related legislation, which will necessitate investing time and money to rewrite thousands of documents. But clever companies will recognise that communicating with customers in straightforward language can add value to the business. In fact, mastering the art of Plain Language could even become a competitive differentiator.



For starters: the use of Plain Language could prevent legal action from customers (and the resulting negative media exposure and reputational damage). What's more, there is little doubt that increasingly savvy consumers will give preference to companies whose communications are easy to read and understand.

Writing in Plain Language is a business skill well worth developing:

- Use mainly short sentences (experts agree that between 15 and 20 words are ideal).
- Write as if you were speaking directly to the reader.
- Say exactly what you mean, and using the simplest words that fit.
- Avoid jargon and legalistic words.
- Develop a punchy style.
- Use bulleted lists to make information easier to digest.

Guardrisk Update's snippets track trends and opinions reported in the media and do not necessarily reflect the opinions of Guardrisk's management, staff or shareholders.

## Risk Barometer

**UK** insurers could find themselves exposed to millions of pounds of compensation should the Financial Services Authority (FSA) push ahead with proposals to change complaint handling rules (*Insurance Day, 30 Sep*). The FSA intends to increase the maximum compensation awardable by the Financial Ombudsman Service to £150,000 from the current £100,000. Any award is binding should it be accepted by the complainant, and it is then enforceable by the courts.

**YOUNG** women face price hikes of up to 50% for their motor insurance if the European Court of Justice backs a proposal for the use of gender in risk assessment to be outlawed (*Insurance Day, 30 Sep*). Despite repeated calls from the industry that gender is a key factor in risk assessment for certain lines, the Court's opinion is that it is "legally inappropriate to link insurance risks to a person's sex".

**ORGANISATIONS** that embrace social media and cloud computing to increase efficiencies and boost their brand also are taking on a slew of new exposures (*Business Insurance, 26 Sep*). Aside from sensitive data, a company's image and brand also are vulnerable through the advancements of technology – mainly through social media such as Facebook, Twitter and YouTube.

**INSURER** financial strength and willingness to pay claims are the two most important factors when it comes to choosing and evaluating insurers (*Insurance Day, 27 Sep*).

**INSURED** losses from global weather-related catastrophes totalled \$18bn during the first nine months of 2010 (*Insurance Day, 27 Sep*). These insured losses were part of an overall \$65bn economic impact. Approximately 21,000 people were killed, included 1,760 in Pakistan as a result of the catastrophic flooding. These figures are all below the average for the last 10 years.

**THE** US Internal Revenue Service has published proposed regulations for the tax treatment of cell captives under which individual cells would be treated as individual corporations to determine premium deductibility and for IRS testing to establish whether a cell's business qualifies as insurance (*Business Insurance, 19 Sep*).

# Life Update

## Life Barometer

### Local

**ACCORDING** to the National Treasury, government is looking at more regulations for retirement funds in South Africa (*Business Report, 20 Sep*). And, it says, the Financial Services Board needs to publish data more often, regarding to what extent are they regulating and inspecting the industry.

**SOUTH** Africa's R1.3 trillion private pension fund industry should adopt a code of ethics that goes beyond usual governance guidelines, says the Institute of Retirement Funds (*Business Report, 20 Sep*). Pension industries around the world are having similar debates. Britain has adopted the so-called "Principal's Code", which obliges pension fund trustees to disclose which social, environmental and ethical considerations were taken into account in selecting investments.


**CONTINUED** improvements in health care have increased life expectancy in SA hugely, with most models showing that Aids treatment alone has added at least a decade to patients' lives (*Business Day, 23 Sep*).

### International

**EUROPEAN** consumers are €10trn underinsured in terms of mortality protection, according to a new study (*Insurance Day, 28 Sep*). This "protection gap" could potentially translate into a €25bn annual premium income opportunity for the life insurance industry. The €10trn figure corresponds to the difference between the amount of money available to dependents in the event of an untimely death and the amount actually needed to adequately meet their financial needs. The largest protection gaps were found in Germany, Sweden and the UK.



**IT** should be easier for employers to include annuities in their retirement plans because Americans are at risk of outliving their savings (*Business Insurance, 15 Sep*). The government should extend and clarify "safe harbour" protection, which exempts employers from liability. Some plan sponsors decline to consider offering guaranteed lifetime-income solutions because of a mistaken belief they'll have fiduciary liability if the insurer's financial strength deteriorates in the future.





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