



The Guardrisk Update

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Incorporating Life Update

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THERE have been calls for a more standardised approach for reporting to investors and regulators by insurance companies and an end to divergent accounting practices (*Business Day, 25 May*). Due to a lack of comparability and transparency in financial reporting, many believe investors impose a cost-of-capital penalty on insurers.

A new code of ethics for auditors would strengthen reporting requirements and increase investor confidence (*Business Day, 15 May*). The new code, expected to be issued next year, would be “values and principle-based” with additional guidance to ensure enforceability as opposed to being “rules-based”, which might provide opportunities for loopholes.

EMPLOYERS who made loans to employees would face penalties if they did not comply with the National Credit Act (*Business Report, 9 May*). Employers who signed credit agreements with 100 or more employees or lent staff more than R500 000 would face a fine or imprisonment if they did not register as credit providers to satisfy the criteria of the new act.

ALTHOUGH the majority of SA companies (86%) consider tax risk management to be important to their organisations, only 19% have a formal tax risk strategy in place (*Business Day, 16 May*). This contrasts with the UK, where 66% of the FTSE's 350 companies disclosed last year that they had documented their policies.

THE use of information technology to fight corporate fraud is indispensable thanks to advanced detection methods that analyse data to identify “footprints” that fraudsters leave behind (*Business Day, 29 May*). Company data contains an enormous amount of information which, if looked at in the right way, can reveal a great deal about whether or not fraud is taking place.

Sexual harassment disputes expected to increase

It's not clear whether sexual harassment in the South African workplace is actually on the increase or whether it's just that victims are more willing to come forward and report such transgressions. However, what is undisputable is that sexual harassment is prevalent in South Africa and employers are at risk if they don't take heed of this problem.

“Considering the frequency of sexual harassment taking place in the workplace, employers' exposure to sexual-harassment disputes and their risk could be far greater than they are willing to admit or realise,” says Pierre Marais of the Labour Law Group. “Companies should not underestimate the existence and extent of sexual harassment taking place in their own organisations and should remember their vicarious liability, where they will have to pay damages awards, in addition to compensation awards.”

Marais points out that The Employment Equity Act's Code of Good Practice places onerous requirements on employers to deal with complaints and protect complainants and that this will only add to employees' willingness to come forward. A point that is clearly substantiated by the growing number of sexual harassment disputes appearing in the media.

The code defines sexual harassment as unwelcome conduct of a sexual nature that violates the rights of an employee. While sexual harassment may be physical, verbal or non-verbal, the definition also extends to sexual innuendo, teasing, jokes and approaches made electronically, either by sms messages or email. It could also include victimisation and sexual favouritism.

The code obligates employers to protect employees from being sexually harassed and, should it occur, to provide the complainant with assistance, guidance and counselling. This includes protecting the complainant, who has lodged a complaint in good faith, against victimisation or retaliation.

Claims of sexual harassment always provide a challenge for the employer because of the “he said, she said” element that inevitably occurs, so it's important that employers formulate a detailed, unambiguous sexual harassment policy and ensure that all employees, at all levels, are familiar with it.



For employers, one of the biggest challenges of dealing with sexual harassment is that it comes in so many different forms – it's not simply a single, cut and dried definition of a specific type of behaviour or treatment. Therefore the criteria that will be used to investigate complaints need to be set out as clearly as possible to make interpretation as easy and consistent as possible.

According to the Employment Equity Act's Code on sexual harassment the employers' policy should include:

- How sexual harassment should be reported
- The employers' obligations once such a report is made
- The advice and assistance the employer must give the complainant
- The “informal” and “formal” procedures available in order to deal with the complaint, as well as the complainant's right to determine the process
- The range of disciplinary sanctions that could be imposed on the perpetrator.

Risk Barometer

THE US Supreme Court recently gave businesses new protection from patent suits in two rulings and extending a trend towards limits on patent owners' rights (*Business Day, 2 May*). The judges made it harder for those applying for patents, as well as patent holders seeking to win infringement suits, to show that they have developed a genuine innovation.

RISK managers, brokers and insurers face a rapidly evolving business environment that presents numerous challenges, most notably appropriate broker compensation arrangements and timely insurance policy issuance, according to a panel of industry executives (*Business Insurance, 14 May*).

RISK carriers on both sides of the Atlantic are stepping up the battle against insurance fraud (*Insurance Day, 11 May*). The Association of British Insurers estimates the annual cost of insurance fraud in the UK at £1.6bn. Meanwhile, a review of the situation in the US property/casualty (p/c) sector put the annual cost at \$30bn.

REGULATORY overkill is the greatest risk facing the insurance industry (*Insurance Day, 29 May*). The second-biggest threat to the industry is natural catastrophes, followed by management quality and climate change. Respondents to a recent survey said that excessive regulation was costly, distracting and anti-competitive.

INSURANCE buyers will enjoy soft market conditions at least another year or more (*Business Insurance, 21 May*). While 6% of industry executives surveyed said it will last only through the end of this year, 94% predicted the soft market will continue through at least 2008. Despite that outlook, many insurers are optimistic about their financial results and expect earnings to be the same if not better.

THE reinsurance industry is facing new challenges as a result of the increased scrutiny by rating agencies, increased frequency and severity of catastrophes, and the changes to the catastrophe models, which have substantially increased loss projections (*Insurance Day, 9 May*).

Life Update

Life Barometer

LIFE insurance companies had uncovered 20 000 fraudulent claims worth R1 billion over the past four years (*Business Report, 4 May*). The LOA says the industry settled valid death and disability claims worth more than R19 billion last year. There were 1 369 cases of material non-disclosure valued at R143 million and 805 cases of misrepresentation to the value of R69 million last year. Only 2 844 fraudulent claims were recorded last year, the fewest since 2003.

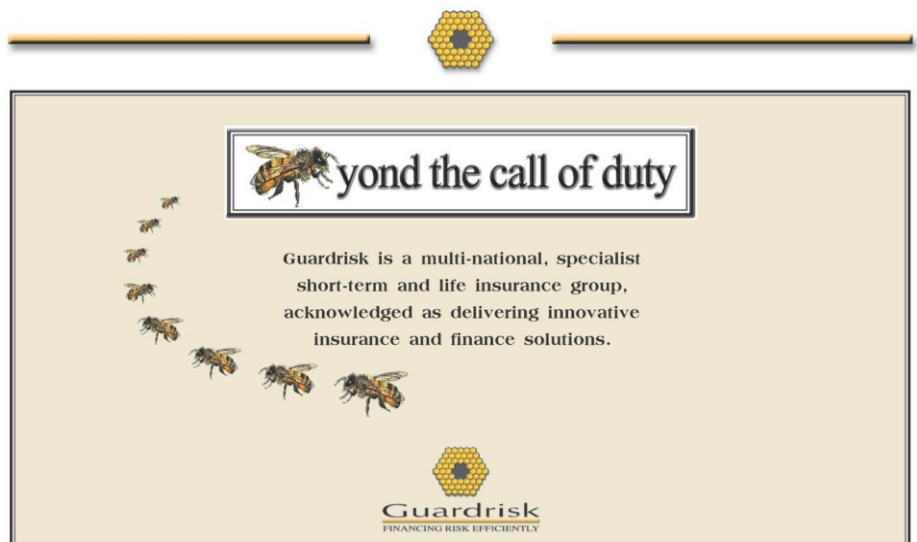
WHILE SA is at the difficult juncture of getting all the stakeholders on board in its social security reform process, and full phasing in will take several years, the huge challenge is the way things are administered - not just for the government agencies involved but also industry participants (*Business Report, 18 May*). The issues around costs and competition are important ones for the retirement industry to consider, as the underlying economic and savings benefits of the programme as a whole are not a problem.

THE life insurance confidence index fell nearly 20% during the first quarter of this year, hurt by sagging profit and flat investment income, an industry survey has shown (*Business Day 3 May*). The waning confidence defied strong gains made by life insurers in addressing high surrender rates and lowering lapse rates, which had "historically" sapped revenue flows and profits.

THE powers of the registrar of pension funds are to be significantly enhanced in terms of a draft law under discussion in Parliament (*Business Day, 30 May*). The powers of the registrar would be strengthened to enable him to intervene in the management of a pension fund if the fund members' interests were compromised, without first having to go through a lengthy court process. The registrar of pension funds would also be empowered in terms of the bill to remove the board of a fund where the fund was not in a sound financial position; where it had failed to act if the fund was not financially sound; where it had not managed the fund in terms of its rules; and if it was not properly constituted.

THE US's largest companies continue to move away from traditional and hybrid defined benefit pension plans in favour of 401(k) and other defined contribution plans (*Business Insurance, 14 May*). Last year, 58% of Fortune 100 companies offered a defined benefit plan to new salaried employees. That's down from 63% in 2005 and 74% in 2004.

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