



Dear Subscriber

Welcome to Compli-Serve's Knowledge Service!

COMPLIANCE REPORTS; FSB to extend deadline for submission of online compliance reports...refer to section 4

Coming in October- High level MLRO training. Details to follow...

The Compli-Serve Knowledge service is the only news-breaking source in SA that exclusively covers compliance news and information serving South Africa's financial services industry, as well as regulations and enforcement actions from home and abroad.

A successful compliance professional is one who is proactive, and becoming a Knowledge Service subscriber is key to finding out the very latest news and information- over 30,000 articles on compliance have already been posted..

"It's hoped that the Generally Accepted Compliance Practice Framework will assist both compliance professionals and the regulators and contribute towards promoting high standards of corporate governance and ethical behaviour in the financial services industry." Julie Methven, CEO of the Compliance Institute speaking at the Institute's 10th Annual Conference

"The role of the compliance officer in South Africa has grown into one of significant importance, as financial service providers are increasingly relying on their compliance officers to guide them through their regulatory responsibilities." Gerry Anderson; deputy executive officer of the Financial Services Board speaking at the Institute's 10th Annual Conference

"Independence is a key issue as the compliance function needs to be sufficiently independent of business activities to discharge its responsibilities effectively while not impairing the working relationship between the compliance function and the business," Julie Methven, CEO of the Compliance Institute speaking at the Institute's 10th Annual Conference

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[OTHER](#)

1. RECENT REGULATORY AND OTHER DOCUMENTS ADDED TO KNOWLEDGE SERVICE

	<ul style="list-style-type: none">• <i>Determination of criteria and guidelines for approval of Compliance Officers</i>
	<ul style="list-style-type: none">• <i>Exemption in respect of services under supervision rendered by compliance officers</i>
	<ul style="list-style-type: none">• <i>FAIS - Amendment of compliance officer regulations 2009</i>
	<ul style="list-style-type: none">• <i>Qualifications and experience of compliance officers</i>

- Financial Advisory and Intermediary Services Act: Application by financial services providers for authorisation by Financial Services Board, G 32227, BN 60, 15 May 2009
- Financial Services Board Act: Levies on financial institutions, G 32329, BN 74, 18 June 2009
- Pension Funds Act: Voluntary dissolution or partial dissolution of fund, G 32328, BN 75, 18 June 2009
- Press Release : Cooperative Banks Rules and Regulations- 9 July 2009
- For Public Comments : Draft Co-operative Banks Combined Rules- 9 July 2009
- Co-operative Banks Act Regulations- 9 July 2009
- 14 July 2009: Protection of Constitutional Democracy against Terrorist and Related Activities Act: Entities identified by United Nations Security Council, G 32384, P 47, 8 July 2009
- 24 July 2009: Financial Action Task Force (FATF) has published its Annual Report for 2008-9 (view S Africa references)
- 3 August 2009: Securities Services Act: Amendments: Rules of JSE Limited, G 32443, BN 89, 31 July 2009 [3-Aug-2009]
- Resources - 29 July 2009: Pension Funds Act: Cancellation of approval to act as administrator, G 32442, BN 85, 24 July 2009
- Resources - 29 July 2009: Pension Funds Act: Cancellation of registration: Pension funds and participating employers, G 32442, BN 87, 24 July 2009
- Resources - 29 July 2009: Pension Funds Act: Cancellation of registration, G 32442, BN 86, 24 July 2009

NEW FSB INSURANCE INFORMATION LETTERS added to the Knowledge Service on 11 August 2009

Issued Information Letters - 2009

FSB Insurance Information Letter 4/2009 Short Term Insurance Act-
Request for information on indemnity cover for registered health
practitioners (short term insurers)

FSB Insurance Information Letter- ST/LT; Request for information on cell
arrangements and similar arrangements; characteristics of cell
arrangements- comments by 31 August 2009

New documents posted onto FSB website; Document for Comments: Interpretation Note (Reserve Accounts)-comments by 20 August 2009

Documents For Comments - FSB

● Interpretation Note (Reserve Accounts)

- Closing date for comments - Kindly forward any comment on the abovementioned document to Christiaan Ahlers (christiaana@fsb.co.za) before 20 August 2009

● Draft Directive: Report by a valuator in relation to a statutory actuarial valuation

- Closing date for comments - Kindly forward any comment on the abovementioned document to Christiaan Ahlers (christiaana@fsb.co.za) before 20 August 2009

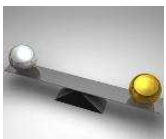
● Interpretation Note (minimum pension increase)

- Closing date for comments - Kindly forward any comment on the abovementioned document to Christiaan Ahlers (christiaana@fsb.co.za) before 20 August 2009

2. LATEST COMPLIANCE INDUSTRY NEWS: Generally Accepted Compliance Practice Framework launched

2.1 Compliance Institute: Generally Accepted Compliance Practice Framework launched today

Source: Compliance Institute



Three years ago the Compliance Institute of South Africa embarked on an ambitious project to develop a blueprint for compliance practice – the first of its kind in the world. Today, the completed framework, the Generally Accepted Compliance Practice Framework, was launched in Johannesburg at the Institute's 10th Annual Conference.

Recent scandals in local and global financial markets have highlighted the need for additional focus on the fair treatment of clients and the protection of their interests. This has led to increased regulation and more emphasis on the compliance function.

Julie Methven, CEO of the Compliance Institute says that organisations with mature compliance cultures consider the compliance function a vital element of business operations and no decisions, for example on new business ventures or services, are taken in such organisations without the involvement of the compliance function.

Writing in the foreword to the Framework Gerry Anderson, deputy executive officer of the Financial Services Board says: "The role of the compliance officer in South Africa has grown into one of significant importance, as financial service providers are increasingly relying on their compliance officers to guide them through their regulatory responsibilities." Anderson says the Framework is a contribution to good governance which, in turn, enhances consumer protection in the SA financial services industry.

Methven says, "It's hoped that the Generally Accepted Compliance Practice Framework will assist both compliance professionals and the regulators and contribute towards promoting high standards of corporate governance and ethical behaviour in the financial services industry."

The Framework provides a set of standards and norms that act as a benchmark of compliance best practice. It consists, firstly, of a set of principles considered critical for establishing and maintaining an effective compliance risk management framework. These include issues such as governance, the responsibility of management in respect of compliance, independence, and fit and proper requirements for compliance officers.

"Independence is a key issue as the compliance function needs to be sufficiently independent of business activities to discharge its responsibilities effectively while not impairing the working relationship between the compliance function and the business," says Methven.

The principles are then expanded into individual standards and codes that provide detailed criteria for effectiveness in 15 areas. The Institute outsourced the development of the standards to a project team comprising eComply Consultants (Pty) Ltd and Ernst & Young. Global developments and regulatory requirements were researched to ensure that all relevant considerations were included.

"The approach has been to consult with members of the Institute and to obtain input at all stages. Comment has also been obtained from the relevant regulatory bodies," says Methven.

The Framework further provides a code of ethics and professional conduct for compliance officers that provides a benchmark of behaviour and conduct and is ultimately aimed at promoting confidence in the compliance profession.

Finally, the Framework provides a set of guidelines that further expands on the principles and standards by providing suggestions on the practical implementation of the Framework in individual organisations. On independence, for example, the guidelines frame it in the context of managing conflicts of interest.

It states that compliance staff, and particularly the Head of Compliance, should never be put in a position where they need to achieve business targets, such as profitability levels or sales targets on the one hand, while being responsible for embedding ethical standards and a culture of compliance on the other hand.

2.2 New rules to shield clients' investments...CISA releases NEW framework to assist both compliance professionals and regulators in achieving high standards of corporate governance and ethical conduct in the financial services sector

Source: Business Day, Sanchia Temkin

[A NEW framework to assist both compliance professionals and regulators in achieving high standards of corporate governance and ethical conduct in the financial services sector was released by the Compliance Institute of South Africa yesterday.](#)

Recent corporate scandals in SA and international financial markets had highlighted the need for additional focus on the fair treatment of clients and the protection of their interests. This led to increased regulation and more emphasis on the compliance function.

Three years ago the Compliance Institute of SA embarked on a project to develop a blueprint for compliance – the first of its kind in the world.

Gerry Anderson, deputy executive officer of the Financial Services Board, said the completed framework, the Generally Accepted Compliance Practice Framework, was a contribution to good governance which, in turn, would enhance consumer protection in the South African financial services industry.

The new framework provides a set of standards and norms that act as a benchmark of compliance best practice. It consists of a set of principles considered critical for establishing and maintaining an effective compliance risk management framework. These include a number of issues such as governance, the responsibility of management in respect of compliance, independence, and fit and proper requirements for compliance officers.

Julie Methven, CEO of the Compliance Institute, said that companies with mature compliance cultures considered the compliance function a vital element of business operations and no decisions, for instance on new business ventures or services, were taken in such organisations without the involvement of the compliance function.

Writing in the foreword to the new framework, Anderson said: *"The role of the compliance officer in SA has grown into one of significance importance, as financial service providers are increasingly relying on their compliance officers to guide them through their regulatory responsibilities."*

The principles contained in the framework were expanded into individual standards and codes that provide detailed criteria for effectiveness in 15 areas.

Further, the framework provides a code of ethics and professional conduct for compliance officers that provides a benchmark of behaviour and conduct that is ultimately aimed at promoting confidence in the profession.

3. COMPLIANCE REPORTS; FSB to extend deadline for submission of online compliance reports for category I and II FSP's-no extensions for hard copy submissions

Source: Compli-Serve SA

The FSB will grant extension for submission of online (electronic) compliance reports until 15 September 2009.

A formal communication will be sent out to all compliance officers on the 13th August.

There is also an extension on the category II FSPs for electronic submission until 30 November.

The FSB intend publishing the notice in the Gazette by Friday this week.

Charene Nortier (FSB): - *This is an advance notice that we will publish an exemption for the submission of online (electronic) Cat I with compliance officer compliance reports – the additional time for this submission will give you until 15 September 2009. The notice is in the process of being published. This does not apply to the submission of paper copies; the date thereof remains 15 August 2009.*

4. LATEST COMPLIANCE NEWS 14 August 2009

FAIS OMBUD

The Knowledge Service Financial Services FAIS Case Study Index

The FAIS Case Study Index, which the Compli-Serve Knowledge Service unveiled last year, has proved to be of great use to our subscribers. We're sure even more of you could benefit from it.

Until 2008 there was no foolproof way of instantly finding cases you may be interested in as the FAIS Ombud does not provide a cumulative index of Case Studies.
















The Knowledge Service therefore created an index of the Ombud Case Studies which have appeared from October 2004 to the present. We update this Index whenever new determinations are published, so you can be sure that the Index is always up to date.

The contents of each section are categorised by the product or service the complaint was about and then further split by the reason for the complaint.

Where can I find the FAIS Ombud Index?

You can locate the Index under the Enforcement section of the website- [Go to the Knowledge Service Library page 2009](#) (bottom left of the Knowledge Service landing page)-then choose 'ENFORCEMENT' and [South Africa](#)






LATEST NEWS

-  14 August 2009: Large money laundering schemes often go undetected; Identifying and then unraveling money laundering schemes in a global financial network where as much as one trillion dollars is circulating each day amounts to "finding a needle in a ...
-  14 August 2009: Accounting needs convergence on global standards — summit
-  14 August 2009: Hedge funds: AIMA creates AIFM draft directive information resource on its web site
-  14 August 2009: Compliance recruitment on a rollercoaster, say recruiters
-  14 August 2009: 308 banks ordered to disclose offshore accounts to HMRC
-  14 August 2009: Financial Regulator Issues Warning on Investment Firms (CD Equities Global Equities Partnership and Green Care Investments)
-  14 August 2009: UK: FSCS declares 22 investment firms in default
-  14 August 2009: UAE tightens money-laundering rules
-  14 August 2009: Norwegian towns sue Citi for \$200m; "egregious fraud" for allegedly enticing them to invest in complex financial products without being warned of their true risk
-  14 August 2009: Madoff-Linked Funds Sue Insurers Over Liability Costs
-  14 August 2009: CIPRO acts against company counterfeiting-Registrar imposes new controls on the registration of duplicate companies; imposition of new controls on CIPRO's name reservation process
-  14 August 2009: Hackers with New Phishing Technique | PDF Form | FINANCE AWARD9
-  14 August 2009: SEC Charges Ohio-Based Investment Advisers for Fraudulently Overstating Assets
-  14 August 2009: The High Cost of Regulation: How the SEC Plans to Untangle Your Assets
-  14 August 2009: What's Wrong With Bonuses? As the furor over the Merrill Lynch bonuses brings into focus what many see as the greatest evil of the banking industry...






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5. LATEST FEATURED ITEMS/LATEST NEWS/ COMPREHENSIVE WEEKLY NEWS LISTING

CURRENT FEATURED ITEMS

-  13 August 2009: Compliance Institute: Generally Accepted Compliance Practice Framework launched today [13-Aug-2009]
-  13 August 2009: FSB to extend deadline for submission of online compliance reports for category I and II FSP's-no extensions for hard copy submissions [13-Aug-2009]
-  13 August 2009: New rules to shield clients' investments...CISA releases NEW framework to assist both compliance professionals and regulators in achieving high standards of corporate governance and ethical conduct in the financial services sector [13-Aug-2009]
-  12 August 2009: Enforcing King 3: In the interests of stakeholders; "The Companies Act proscribes the 'must'; directors do not have a choice but to comply. King 3 provides the 'should...'" [12-Aug-2009]
-  11 August 2009: DMA vs. StratCorp Limited- FSB Latest Enforcement Committee Determinations and Findings [10-Aug-2009]

PREVIOUSLY...


-  3 August 2009: Securities Services Act: Amendments: Rules of JSE Limited, G 32443, BN 89, 31 July 2009 [3-Aug-2009]
-  30 July 2009: CISA- New standards of professionalism for compliance industry [30-Jul-2009]
-  30 July 2009: Interview from prison: Madoff surprised his Ponzi scheme lasted so long [30-Jul-2009]
-  30 July 2009: To Catch a Goldman Sachs Compliance Officer? New York state prosecutors have filed criminal charges against a Goldman Sachs compliance officer after he allegedly solicited an undercover investigator... [30-Jul-2009]
-  28 July 2009: AIMA Warns of Global Impact of EU AIFM Directive (S Africa will be affected)/ AIMA Singapore: Draft European Directive could significantly impact growth of Singapore's alternative investment fund management industry [28-Jul-2009]


SELECTION OF POSTINGS FOR THE WEEK! -[LOGIN](#) to the KS to view all articles— including selected commentary


TIP- ON KS LANDING PAGE USE THE [SEARCH FUNCTION](#) IN THE [TOP-RIGHT HAND CORNER](#) TO [SEARCH ARTICLE BY DATE AS IT APPEARS HERE](#) (E.g. 14 August 2009)

-  **Resources - 13 August 2009: Cheaper ETF could hit SA-Deutsche Bank is hopeful that the FSB will implement rules similar to those in Europe. This will allow the bank to introduce exchange-traded funds (ETF) with lower fees than the ones that currently exist in SA**
-  **Resources - 13 August 2009: INSETA communiqué to stakeholders re forensic investigation**
-  **Resources - 13 August 2009: Insurance industry conferences boost PROFIDA; FSP's turning increasingly to technology to help deal with changes in the financial services sector**
-  **Resources - 13 August 2009: SAICB and SAFPS enter into a partnership to share fraud data; SAICB currently has 11 member companies**

 **Resources - 13 August 2009: Medical schemes announce plans to amalgamate**

 Resources - 13 August 2009: SEC suspends brokerage Chief of compliance over unregistered activity by non-US affiliate

 Resources - 13 August 2009: SEC to bring Pequot Capital action; U.S. Securities and Exchange Commission has told Arthur Samberg, a once powerful hedge fund manager, it plans to file civil insider trading charges against him and his firm, Pequot Capital Management

 **Resources - 13 August 2009: The Compliance Institute of SA's 10th annual conference; King report 'shifts focus from compliance to best practice'...**

 **Resources - 13 August 2009: Compliance Institute: Generally Accepted Compliance Practice Framework launched today**


 **Resources - 13 August 2009: New rules to shield clients' investments...CISA releases NEW framework to assist both compliance professionals and regulators in achieving high standards of corporate governance and ethical conduct in the financial services sector**


 **Resources - 13 August 2009: New documents posted onto FSB website; Document for Comments: Interpretation Note (Reserve Accounts)-comments by 20 August 2009**

 **Resources - 13 August 2009: FSB to extend deadline for submission of online compliance reports for category I and II FSP's-no extensions for hard copy submissions**

 **Resources - 13 August 2009: Bankers Association- Coordinated action by the world's financial regulators will be the only effective way to reform pay structures in the financial sector, Report**

 Resources - 13 August 2009: Eighty per cent of compliance staff in favour of retaining the FSA

 Resources - 13 August 2009: FSA confirms introduction of remuneration code of practice; new code that will require large banks, building societies and broker dealers in the UK to establish, implement and maintain remuneration policies consistent with effective risk..


 **Resources - 12 August 2009: Adviser commissions could change; Changes to the commissions that financial advisers and intermediaries earn on the sale of risk products are high on the regulators' list of priorities**


 **Resources - 12 August 2009: Metropolitan Employee Benefits scoops inaugural award by Principal Officers Association**

 **Resources - 12 August 2009: Issues of trust-the errant financial broker...**

 **Resources - 12 August 2009: Cipro gets stuck into probe of cloning**

 Resources - 12 August 2009: Ex-golfer jailed over £3.5m money laundering scam


 Resources - 12 August 2009: Aussie enforcement news: Securities broker banned for seven years/orders to wind up Western Australian funds Management Company/ Victorian agribusiness adviser banned for five years

 Resources - 12 August 2009: FINRA Bars AGSI Broker for Misappropriating \$90,000 Inheritance from Two Sisters

 Resources - 12 August 2009: FINRA fines Credit Suisse for failing to comply with terms of global settlement

 Resources - 12 August 2009: SEC Charges Key Madoff Lieutenant for Operating and Concealing Fraud through Bogus Trades and Documents


 Resources - 12 August 2009: SocGen execs face insider trading probe

 Resources - 12 August 2009: Market for compliance and regulatory staff in the U.K. is starting to show signs of life

 **Resources - 12 August 2009: Enforcing King 3: In the interests of stakeholders; "The Companies Act proscribes the 'must'; directors do not have a choice but to comply. King 3 provides the 'should...'**


 **Resources - 12 August 2009: King 3 'rests on shareholders'; 'because the guidelines contained in the King report are recommendations on corporate governance principles...**


 **Resources - 12 August 2009: First compliance report deadline approaches**


 Resources - 12 August 2009: German banker sees credit crunch risk


 Resources - 12 August 2009: Lehman Legal, Compliance Officers Leave Barclays


 Resources - 12 August 2009: SEC Gives Nod to Foreign Fund Investments


 Resources - 12 August 2009: PEPalert: Obiang laundering case sounds warning to banks, says human rights group


 Resources - 12 August 2009: How Madoff concealed the \$65bn fraud- **SEE SECTION 7**

 Resources - 11 August 2009: CIPRO at epicentre of SA's fraud pandemic; Corrupt officials are facilitating hundreds, if not thousands, of scams


 Resources - 11 August 2009: FSB warning on Platinum Investments: Beware of someone named Rishan Singh who calls himself Nick...

 Resources - 11 August 2009: PF: Laid-off workers thrown retirement benefit parachute; reworking the draft Taxation Laws Amendment Bill; plans to allow you to withdraw up to R300 000 of your retirement fund savings tax-free if you are retrenched...


 Resources - 11 August 2009: Reputable brokers- just because a broker has been awarded his financial service provider (FSB) licence, it does not mean that he or she is automatically trustworthy; But due to the shenanigans of the likes of Mike Hale...


 Resources - 11 August 2009: Australia: ASIC raids top advisory firm; wide-ranging insider trading investigation into share trading activity around major corporate transactions


 Resources - 11 August 2009: Colombian Pyramid Fraudster convicted of Money Laundering


 Resources - 11 August 2009: Corporate Governance- Role of directors gets ever more difficult; CHANGES to SA's laws have made the role of directors burdensome

 Resources - 11 August 2009: FSB Insurance Information Letter 4/2009 Short Term Insurance Act- Request for information on indemnity cover for registered health practitioners (short term insurers)

 Resources - 11 August 2009: FSB Insurance Information Letter- ST/LT; Request for information on cell arrangements and similar arrangements; characteristics of cell arrangements- comments by 31 August 2009

 Resources - 11 August 2009: ASIC to improve disclosure for investors; Protections for retail investors trading derivative products such as contracts-for-difference (CFDs)...


 Resources - 11 August 2009: Deutsche Bank Securities Invests in Compliance Tools to Prepare for Fiduciary Standard; Obama regulatory overhaul could give brokers the same fiduciary standard as investment advisers, and firms such as Deutsche Bank Securities are ...


 Resources - 11 August 2009: Liechtenstein, UK Sign Tax Pact to Ensure Client Compliance

 Resources - 11 August 2009: Financial sector sees more firms seeking authorisation in UK

 Resources - 11 August 2009: FSA To Set Code On British Banks' Pay Policy: Report

 Resources - 11 August 2009: China cracks billion-dollar money laundering gang

 Resources - 11 August 2009: IFA firms struggle with financial costs of forthcoming regulation, RDR; however almost half of IFA firms are currently investing between one and five hours each week into their transition

 Resources - 11 August 2009: International Podcast: Podcast: Information management targets e-discovery, compliance, legal risks

 Resources - 11 August 2009: **DMA vs. StratCorp Limited- FSB Latest Enforcement Committee Determinations and Findings**

 Resources - 11 August 2009: **FSB Latest Enforcement Committee Determinations and Findings: DMA vs De Jager, George Douglas**

 Resources - 11 August 2009: Potential Witness in Madoff Scandal to Plead Guilty

6. How Madoff concealed the \$65bn fraud

Source: Greg Farrell and Brooke Masters; Financial Times

The fraudulent scheme that allowed Bernard Madoff to misappropriate \$65bn in investor funds combined 1980s computer technology with a Rube Goldberg-like system of hiding the truth from regulatory authorities, according to a complaint filed yesterday by the Securities and Exchange Commission.

The SEC complaint, filed against Mr Madoff's right-hand man, Frank DiPascali, outlined a series of rudimentary - almost comical - ploys designed to fool investors and SEC attorneys, who reviewed Mr Madoff's operation between 2004 and 2006.

In the early days of the fraud, the SEC complaint says, Mr Madoff had a limited number of investors, including family, friends and several feeder accounts. Mr DiPascali, in league with several other employees of Mr Madoff's investment business, fabricated backdated and fictitious trades in order to create the appearance of successful investments.

The game changed in 1992, when the SEC accused one of Mr Madoff's feeder funds, Avellino & Bienes, of unlawfully selling promissory notes in unregistered transactions. As a result of the SEC action, a receiver was appointed to unwind the transactions.

Mr Madoff "scrambled" to come up with the money to redeem the phantom investments, the SEC said, and Mr DiPascali fabricated the paperwork to support the \$300m redemption.

As a result of the redemption, Avellino & Bienes investors who were cashed out returned to Mr Madoff on their own and invested with him directly, creating hundreds of new accounts and creating a logistical challenge for Mr Madoff.

According to the SEC, Mr Madoff needed a new "investment strategy that could credibly explain how he supposedly achieved specific target rates of return". Mr Madoff also needed a more efficient method of generating phony account statements, the complaint says.

Mr DiPascali helped Mr Madoff with the implementation of a "split strike" strategy that purportedly traced a basket of stocks in the S&P 100 index. To generate the phony returns, Mr DiPascali put investor accounts on an IBM AS/400 computer, a machine introduced to the market in 1988. With the help of the computer and hundreds of hours of staff labour, Mr Madoff generated millions of pages of phony paperwork each year, the SEC says.

"Every trade, every order ticket, every account statement, every confirmation and all other relevant records were fictitious," the SEC complaint said.

Mr Madoff, who was famously scrupulous about details, kept the old letterhead from the early days of his fraud in case old trading records needed to be produced.

Another problem Mr DiPascali faced was the question of counterparties. Since Mr Madoff did not actually trade with his funds, auditors could conceivably have found out about the fraud by calling counterparties.

To throw investigators off the scent, Mr DiPascali created "trade blotters" that included counterparty names. When US regulators sought information about counterparties, Mr DiPascali provided the names of European financial institutions. When auditors for European investors sought similar information, the SEC says, Mr DiPascali provided the names of US counterparties.

Mr Madoff was also wary of investors who worked for sophisticated financial institutions, ordering Mr DiPascali to close the accounts of those individuals, in case the compliance department of their employers demanded an account statement.

In March 2007, Mr DiPascali said, he and Mr Madoff tried to fool the SEC by calculating how much the investment advisory business would have earned in commissions, had it been trading as it claimed. Mr DiPascali told Mr Madoff's London business to wire the resulting amount of \$14m to the New York business.

At his hearing yesterday, Mr DiPascali expressed remorse. "Bernie Madoff was a mentor to me and I was loyal to him. I ended up being loyal to a huge, huge fault."

7. Adviser commissions could change; Changes to the commissions that financial advisers and intermediaries earn on the sale of risk products are high on the regulators' list of priorities

Source: Adri van Zyl

Changes to the commissions that financial advisers and intermediaries earn on the sale of risk products are high on the regulators' list of priorities.

The Financial Services Board, National Treasury and the Association for Savings & Investment (Asisa) have put together a working group to look at changes in the commission structure of risk products.

The regulations on commission on savings products have already been adjusted and intermediaries now get 50% of the commission in advance, and the rest over a period of five years as long as the policy is active.

On risk policies, which include life assurance, disability cover, trauma insurance and income protection, the intermediary still earns the full commission within the first two years of the policy's purchase.

The difference in the commission structure for different products is leading to an increase in conversions of risk products, which are not always in the client's interest.

The three large assurers, Liberty, Sanlam and Old Mutual, report a definite increase in risk-product conversions. Naturally, the assurers do not like the practice because conversions are expensive for them.

Liberty chief executive Bruce Hemphill says the increase in conversions of risk products is an unintended outcome of changes to commission regulations.

Brett Cameron, an actuary at Old Mutual, explains that current economic conditions also play a role in the increase in conversions.

Intermediaries' income is negatively affected by the change to the commission for savings products and they augment their incomes by selling more risk products.

Cameron points out that it is also easier for intermediaries to convert risk products because their clients lose less with these policies than with savings policies.

Liberty life assurance head Steven Braudo says the conversions are not always done intentionally to get more commission. There are instances where clients get better policies.

This is brought about by, among other things, new entrants and the new generation of products.

Cameron believes new competitors set their sights on existing policyholders and many policies are then converted.

Policyholders should however pose a few questions before converting risk policies willy-nilly. He says the first question that policyholders should ask relates to the costs incurred by the conversion, and the commission that the intermediary will earn on it.

"Policyholders must also get clarity on the motive for the conversion. If there's any doubt whatsoever that the new policy is a better one, it's better not to do it."

Policyholders must also make sure that the new policy is in effect before the previous one is cancelled.

A Sanlam spokesperson says policyholders should also get clarity about the future premium to be paid. If the policy is converted, the policyholder will be older and the policy may not be converted on the same conditions as previously. If any ill-health has developed, the premium will also be higher.

On many new policies premiums increase every year, which was not the case with earlier policies. Policyholders that are considering conversion should therefore not be blinded by an initially lower premium. In the longer run the policyholder could thus pay more for the same cover, Sanlam points out.

Cameron says intermediaries converting clients' policies must complete a form declaring that the policyholder has received proper advice before a policy is replaced.

If the intermediary is at all reluctant to complete the form the policyholder must question his actions.

8. Large money laundering schemes often go undetected; Identifying and then unraveling money laundering schemes in a global financial network where as much as one trillion dollars is circulating each day amounts to "finding a needle in a haystack of needles..."

Source: Accounting Web

Identifying and then unraveling money laundering schemes in a global financial network where as much as one trillion dollars is circulating each day amounts to "finding a needle in a haystack of needles," says Michael Zeldin, global leader, anti-money laundering/trade sanctions services for Deloitte Financial Advisory Services. Adding to the difficulty of tracking illegal asset transfers, he says, is the sophistication of the people for whom money laundering is a business, who charge as much as 20 percent in payment for their services. "They are very clever people who are paid a lot of money to make sure that the source of money

goes undetected. As soon as the government or banks identify one activity as suspicious, they stop using it and come up with something else.”

Still, prosecutions for this complex crime are initiated daily by authorities around the world, Zeldin says. Data collected from mandatory financial institution reports combined with law enforcement stings and undercover operations bring money laundering activities to trial. A conviction in the felony crime of money laundering brings a sentence of 20 years in prison.

Financial companies are required by the Bank Secrecy Act (BSA), to file Currency Transaction Reports (CTRs) for transactions in currency that exceed \$10,000, and Suspicious Activity Reports (SARs) for suspicious transactions that in aggregate exceed \$5,000. The money laundering schemes uncovered in New Jersey recently with the help of an FBI informant involved small sums of money paid to charities by check with sponsors of the charities receiving a percentage of the proceeds, which was then returned in cash.

Financial companies that must submit the CTR and SAR reports now include brokers and dealers in securities, under the USA Patriot Act, and under recent Treasury Department rulings, casinos and money services businesses (MSBs), including money exchangers, sellers of traveler's checks and money transmitters.

These reports, which are filed with the Treasury Department, are “the backbone of money laundering prosecutions,” Zeldin says. Data gathered from numerous reports can point to criminal activity. Foreign Bank Account Reporting (FBAR), also required by the BSA, and currently a focus of the Internal Revenue Service primarily as a source of revenue, can provide important information in money laundering cases.

Most financial institutions have systems that automatically generate CTRs, but SARs are based on observation or red flags. Institutions need to develop Know Your Client (KYC) profiles and risk/rank their clients, Zeldin says. They should have systems that monitor transactional activity. They should be able to investigate any red flag that the system generates, and perform appropriate due diligence to determine whether the activity is true and reportable or false.

Banks and other money service businesses need to audit and test their CTR and SAR systems and train their employees in BSA compliance and reporting. Deloitte Financial Advisory Services Group provides support for financial services clients that are developing or refining their BSA reporting capability.

But not all money laundering schemes are designed by professionals. Some of the problems would-be money launderers face when trying to hide their cash are almost the stuff of comedy. Ex-representative William Jefferson of Louisiana, convicted last week of 11 counts of bribery, racketeering, and money laundering, famously hid \$90,000 in cash in his freezer. The informant in the recent case in New Jersey agreed to cooperate with the FBI when he was charged with bank fraud in May 2006. He was arrested when he deposited two \$25 million checks, one of them at the drive-up window of a PNC bank, and immediately withdrew \$22 million. One check bounced, and the bank refused to accept the second deposit.

9. AIMA creates AIFM draft directive information resource on its web site

Source: AIMA

The Alternative Investment Management Association has created a Directive Centre on the AIMA website as part of its campaign to have the European Commission's draft directive on Alternative Investment Fund Managers revised.

AIMA says the centre is intended as a resource for journalists and members of the public, and contains everything relevant for the campaign, including press releases, guidance notes, FAQs and other resource materials issued by AIMA; speeches and articles on the directive and links to relevant documents, including the European Commission's directive and details of its legislative process; and a quotations section featuring a host of different figures expressing their concern about the directive.

Those quoted expressing concern or reported as doing so include pension funds and pension fund industry groups, European institutional investors, global banks, international law firms, commercial real estate groups, private equity, Swedish and UK ministers, Irish officials, the chair of the European Parliament's ECON committee, the US Treasury, the UK Conservative party, the Mayor of London, the German Funds association, the Financial Times and the Economist, and even Robert Peston, Jacques de Larosi re and Charles McCreedy.

Aima.org

AIMA press releases

- 4 August - European Directive Could Cost European Pension Industry €25 Billion Annually
- 27 July - AIMA Warns of Global Impact of EU AIFM Directive
- 7 July - Draft Directive "Needs Major Surgery" - Paul Myners
- 24 June - AIMA Welcomes de Larosi re, Turner, Myners, Sassoon Comments on Draft Directive
- 26 May - AIMA Announces Plans to Mobilise Global Hedge Fund Industry on EC Directive
- 29 April - EC Directive Does Not Deliver Proportionate Response
- 23 April - AIMA statement on European Commission Directive

AIMA guidance notes and resources

AIMA FAQs on the AIFM Directive

AIFM proposal - draft timeline

Key Messages- accessible by registered users only

Guidance Note on the effects on third country fund managers- accessible by registered users only

Institutional Investor script – accessible by registered users only

AIMA newsletter sent to UK MPs and senior civil servants explaining the value of the industry - spring 2009

10. COMPLI-SERVE SA EVENTS: UCT LAW AT WORK PRESENTS A ONE DAY WORKSHOP on RECENT AMENDMENTS TO FAIS –THE FINANCIAL SERVICES LAWS GENERAL AMENDMENT ACT 22 OF 2008 IN ASSOCIATION WITH COMPLI-SERVE SA & EDWARD NATHAN SONNENBERG



In conjunction with Compli-Serve SA and Edward Nathan Sonnenbergs is pleased to present

**A ONE DAY WORKSHOP
On**

**RECENT AMENDMENTS TO FAIS –THE FINANCIAL SERVICES LAWS GENERAL AMENDMENT ACT 22
OF 2008
21 AUGUST 2009**

FAIS was recently amended by the Financial Services Laws General Amendment Act which came into effect on 1 November 2008. The Act has introduced, extended or improved the following:

- the conducting of inspections and on-site visits of financial services businesses
- The registrar may disclose details of on-site visits and inspections;
- The duties of providers and representatives who carry on business with unauthorised persons rendering financial services
- New fit and proper requirements for all directors, members, trustees and partners of providers
- The powers and duties of the registrar to suspend and withdraw licences
- The disclosure of details of suspension and withdrawals of licences
- The qualifications of representatives
- The maintenance of a central register of representatives
- The debarment of representatives and the maintenance of the register regarding disbarments
- The drafting of codes of conduct

- The provisions relating to compliance officers
- The submission of financial statements
- The institution of civil remedies by the registrar
- The specification of new offences

This workshop will deal with these amendments and is a must for all representatives in the Financial Services industry! The presenter will deal with the new fit and proper requirements, the amended definition of "financial person", what it means to be a representative and what a juristic representative is etc.

The workshop will be presented by Professor Angela Itzikowitz from attorney's firm Edward Nathan Sonnenbergs and Dr Des Leatt from Compliserve SA.

Professor Angela Itzikowitz specialises in the field of finance and regulatory reform. Her areas of practice include: • all aspects of banking and financial market regulation • Cheques • Derivatives, futures and options, ISDA agreements • Exchange control • Loan agreements, including multi-bank financing • Money laundering • Debt originations including securitisation . She is a professor in Banking and Financial Markets Law at the University of the Witwatersrand and a visiting professor at Queen Mary College, University of London where she teaches selected topics in Legal Aspects of International Finance. She is also a participating fellow at the London Institute of International Banking, Finance and Development Law. She practises in these areas with the law firm Edward Nathan Sonnenbergs.

Des Leatt has spent roughly 30 years in education, approximately 2/3 as a school or College Principal. He worked at the Old Mutual for 6 years before being called into teaching and has been more recently directly involved with the insurance sector since 2000. Des and his family had a wonderful 2 & 1/2 years in Oregon (USA) in the late eighties where he completed his P.HD in Leadership, Policy & Management. He joined Compli-Serve in 2005 as a Compliance Officer and FAIS credits/qualifications specialist.

Who should attend? All financial advisors, intermediaries and compliance officers.

Closing date for registration: Tuesday 18 August 2009

Price: R1500.00 per person which includes lunch and teas and course notes.

Registration and enquiries: Please contact Irèna Wasserfall (telephone 021 650 5621) or Shani Vavruch (telephone 021 650 5413). Fax 021 650 5662; e-mail irena.wasserfall@uct.ac.za / shani.vavruch@uct.ac.za OR see the Law Faculty Website <http://www.law.uct.ac.za>

REGISTRATION FORM:

Venue: Law Faculty, Middle Campus, UCT (Directions will be sent later.)

Date: 21 August 2009

Closing date for Registrations: Tuesday 18 August 2009

Contact Compli-Serve for registration details...

Have your say!

We want to encourage our readers to participate in the Knowledge Service online site. You could see your comment or analysis article published on the site and could win a bottle of champers.

If you are interested in submitting an article please email us for further information: james@compliserve.co.za

- **OTHER**

National Geographic best pictures of the year - Awesome!



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