

SEPTEMBER 2010

LISTS UPDATE

Dräger

Hits : 246
Records: 526
Number of lists: 5

SAPS 13

Hits : 105
Records: 342
Number of lists: 24

Tracker

Hits : 87
Records: 272
Number of lists: 11

DATA Dot

Hits : 19
Records: 18
Number of lists: 1

Enquiries

Enquiries: 44
Replies: 159

**TO DATE R9,6 MILLION
HAS BEEN SAVED BY
THE INDUSTRY**

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SAICB UPDATE

SAICB UPDATE

The SAICB Board meeting took place on 28 September 2010 and the new budget was reviewed and approved. The focus for the new financial year, apart from our core functions, will be directed to the initiatives in South Africa and the SADC countries with regards to the training in the pounds and borders and the cleanup and repatriation of the industry's vehicles from the pounds in South Africa and the SADC countries.

The SAICB has appointed Mr Ronnie Napier to the position of Chairman of the SAICB Board, and Mr Noor Osman will remain as the Deputy Chair. This follows the resignation of Mr Servaas du Plessis as the Chairman recently. The SAICB Board has decided that the position of the Chairman will be a more active role than previously, with Mr Napier involved in relationship building within the financial industry and government and assisting the SAICB's COO, Mr Hugo van Zyl with the latest membership drive.

The SAICB offices will also be expanded slightly to accommodate additional personnel and the renovations are almost complete. With the current workload increasing considerably, the need for additional space had become critical.

The SAICB also identified the need for at least two additional staff members in the next financial year, with an additional investigator already appointed as of the beginning of September 2010, and an IT person being sought at the moment. The appointment of the investigator was identified because of the pounds clean up and cloned vehicles initiatives. The SAICB needed a vehicle specialist to work predominantly on these two initiatives and our latest appointee has extensive experience in dealing with all motor related issues.

The additional IT person needed will be working with the data sources and additional information coming into the SAICB. At present the SAICB receives data from approximately 131 data sources and we need a specific person to deal with this input into the Memex system and to manage the assimilation of the information.

The Job Description for this position is as follows: Program Analyst

FRAUDLINE

In August 2010, **121** reports were received of which 12 reports were for the short term insurance industry, 1 report was received for Brokers and 1 reports for the life industry.

Since 2002, **26849** reports have been received of which **886** reports were for the short term industry **134** reports for the brokers and **361** reports were for the life industry.

For further information on the statistics, please contact

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MEMBERS

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 FRAUDLINE
 MEMEX
 SAFPS
 UNICODE
 BACSA
 NEWORDER
 DATADOT
 CGC
 SAVRALA

SAICB UPDATE *CONT...*

Job Purpose:

Analysing, developing and designing data conversion processes and applications, producing reports and analysis on said processes, as well as assist with maintaining databases and data streams.

Duties:

- Manage data flows from clients; develop and monitor data conversion scripts; ensure data entered into Intelligence system timeously.
- Troubleshooting system loading errors; escalating application problems to vendor/in house.
- Completing back-ups; maintaining documentation.
- Ensure systems up to date by conferring with vendors and service providers; developing, testing, evaluating, and installing enhancements and new software.
- Update job knowledge by participating in educational opportunities; reading professional publications; maintaining personal networks; participating in professional organizations.
- Protect organization's value by keeping information confidential.
- Accomplishes organization goals by accepting ownership for accomplishing new and different requests; exploring opportunities to add value to the organization.
- Liaise with clients IT on data related issues.
- Analyze and report on findings associated with data integrity.

Skills/Qualifications:

Data Administration (XML, SQL), Developing conversion processes, Scripting/Programming Experience (C#, PERL, UNIX), Multi-tasking.

The position will be a permanent position and salary based on experience. Please contact melaniep@saicb.co.za for further information or to send your CV. Only shortlisted candidates will be contacted.

The Memex system is also currently being revamped to give the SAICB more flexibility and functionality with regards to the running of the business rules. This was one of the issues identified and addressed with Memex and they have been working closely with the SAICB to increase our efficiency in using the system to run the rules.

The new financial year has already seen the SAICB being involved in many new initiatives and pilot projects - some in the planning stages and others already being implemented. Our future Newsletters will update the industry on these initiatives and once the pilot projects are completed, full reports will be sent to our members and will be available on our website for review.

The SAICB is looking forward to another exciting and productive year in the fight against insurance fraud and crime for the industry. 🇿🇦

ARTICLE—BUS A ANTI-CORRUPTION WORKSHOPS

BUS A ANTI-CORRUPTION WORKSHOPS: JULY 2010—MARCH 2011

The SAICB has been invited to attend the Business Unity South Africa (BUS A) Anti-Corruption Workshops, which has been arranged in partnership with the Department of Public Service and Administration (DPSA) and the Danish Embassy. Two of our staff members attended the workshop on 19 August 2010 and SAICB staff members will be attending the next workshop in Johannesburg in February 2011 as well.

The SAICB believes that these workshops are of particular relevance to the industry and that the industry should support the initiative and attend and contribute to these workshops.

The workshops provide an important framework to help business in identifying and addressing corruption within your company and in your business dealings. It is for this reason that the SAICB will be doing a series of articles based on the workshop content that we have been graciously allowed to use by Dr Janette Minnaar-van Veijeren, the author and presenter of these workshops.

This month's article provides the background to workshops and the basic definitions of corruption and related crimes. The next article in the series will deal with the legislation governing addressing corruption internationally and in South Africa, and the final article on how corruption is being dealt with locally and internationally and what safeguards businesses should be incorporating in their corporate structures and governance to address corruption.

Introduction to the Workshops:

The project entails developing and implementing a comprehensive national anti-corruption training, communication and awareness campaign for the South African business sector. The aim of these workshops is to promote good governance, transparency and accountability in the business sector.

Background:

In the UN Global Compact Booklet of 2006, Section 1C, John Sullivan states that:

"Widespread and persistent corruption remains one of the leading problems for business, Governments and citizens worldwide.

Increasingly, efforts to combat corruption are no longer just a prerogative of NGOs and civil society organisations, businesses are also mounting sustained efforts to address both the supply and the demand sides of corruption. The increasing costs of corruption for business in countries worldwide are driving the private sector involvement in anti-corruption initiatives. For example, CIPE's partner INDEM has estimated that businesses in Russia pay over US\$300 billion in bribes each year. A recent survey of the Iraqi business community, conducted by CIPE and Zogby International, revealed that corruption adds more than 40 percent to the costs of doing business for 38 percent of companies.

"The addition of an anti-corruption principle to the United Nations Global Compact illustrates the increasing importance of the private sector in the global fight against corruption. Companies are waking up to the need to fight corruption", said Transparency International Chairman Peter Eigen, when the addition of the new principle was announced in June 2004. "The event signified that sustainability, business leadership and good governance are becoming the defining elements of the private sectors internal safeguards against corruption."

The preamble of the Prevention and Combating of Corrupt Activities Act 12 of 2004 states:

"Corruption and related corrupt activities undermine the rights contained in the Bill of Rights, endanger the stability and secu-

BUSA ANTI-CORRUPTION WORKSHOPS *CONT...*

city of societies, undermine the institutions and values of democracy, ethical values and morality, jeopardise sustainable development, the rule of law and the credibility of governments, and provide a breeding ground for organised crime.

Definition: Corruption

The legal definition according to Snyman is:

Anybody who

(a) accepts any gratification from anybody else, or

(b) gives any gratification to anybody else in order to influence the receiver, to conduct herself or himself or itself in a way which amounts to the unlawful exercise of any duties, commits corruption.

Note that legal entities are included in this definition.

Source: CR Snyman, Criminal Law, page 411

Corruption thus occurs when:

One person (A) gives (or offers to give) someone in a position of power (B) something (called a "gratification" in the Act), to use that power, illegally and unfairly, to the advantage of A (or a third person).

Transparency International defines corruption as: The abuse of entrusted power for private gain.

Examples of corruption

Corruption is not only restricted to or initiated by government officers. Business people in the private sector have also been known to encourage corrupt practices when they deal with government.

Corrupt practices may take the following form:

- Business people bribe decision makers in the public sector to award contracts to them.
- Business people form front companies with public servants in order to be awarded government contracts.
- Some public officers expect to be paid for services that are actually part of their normal duties, such as issuing passports, identity documents, permits or licences. If persons pay a bribe, they receive immediate attention; if they do not pay a bribe, the service may be delayed or denied.
- Some public officers accept money in order to influence decisions regarding promotions or appointments.
- Some officers receive free meals, services, holidays or trips abroad for themselves and sometimes their families – from unscrupulous business people in exchange for special attention or to influence decisions on, for example, granting licences or permits to them.
- Prisoners sometimes offer money to prison officers to allow them to escape. Similarly, sometimes police officers are offered money by criminals to lose their criminal files or clear their criminal records.

Types of corruption

Nepotism

Nepotism is a form of corruption. It occurs when a person or company in the public or private sector shows unfair favour towards relatives, instead of applying an objective evaluation of the ability or suitability of the person or company. This may involve a public servant ensuring that family members are appointed to public-service positions or that family members receive contracts from State resources. It also implies that the decision-maker has a conflict of interest.

BUSA ANTI-CORRUPTION WORKSHOPS *CONT...*

For example, employment is offered to a relative, despite the fact that there are others who are better qualified and willing to perform the job.

Favouritism

Favouritism is similar to nepotism but occurs when a person or company in the public or private sector shows unfair favour towards persons or companies according to personal affiliations (for example ethnic, religious, party-political affiliations, etc.).

Abuse of power

Abuse of power involves a person or company in the public or private sector using his or her or its vested authority improperly to benefit another person or entity (or using the vested authority improperly to discriminate against another person or entity).

Conflict of interest

Transparency International defines a conflict of interest as follows:

A situation in which an individual or the entity for which he/she work, whether a government, business, or civil society organisation, is confronted with choosing between the duties and demands of his/her position and his/her own private interests.

A conflict of interest involves a person putting his/her personal interest before the organisational best interest. A conflict of interest can lead to poor judgment and to actions that are not honest and open, ultimately leading damage to the company or the broader stakeholders.

The Public Finance Management Act (PFMA), as well as the Companies Act of 2008, requires a declaration of interest.

Facilitation payments

Facilitation – speed or grease payments are small unofficial payments made to secure or expedite the performance of a routine or necessary action to which the payer of the facilitation payment has legal or other entitlement.

In other words, a facilitation payment is a small payment made for the purpose of expediting an administrative process when a decision is not involved.

Government employees whose duties are essentially administrative or clerical in nature often demand small "facilitating" payments for performing or expediting routine functions that they are in any event required to perform such as granting a licence or a visa.

Note that facilitation payments are prohibited by the South African corruption law. Companies should therefore refrain from making facilitation payments.

Use of agents and intermediaries

In many instances the appointment of an intermediary or agent is a necessary and normal business practice. However, companies who appoint an agent or intermediary to act as a middleman in giving or receiving a bribe (the agent receives a cut of the bribe) is guilty of participating in corrupting.

Various convoluted mechanisms maybe setup to make the transaction (bribe/payment) look legitimate, such as a contract for "services", whereby the agent acts as a consultant hired to resolve some problems with a government minister or other public official. Sometimes, the public official will suggest (or even demand) that the negotiations happen only if the consultant/

BUSA ANTI-CORRUPTION WORKSHOPS *CONT...*

agent is used.

The true intent behind the use of the agent, however, is that the fees paid to the agent are merely being channelled back to the public official.

All of the above crimes are dimensions of corruption. There are however other crimes in the South African Criminal Law that are closely related to corruption. These specific crimes are:

Embezzlement

Embezzlement involves the theft of resources by persons entrusted with the authority over and control of such resources.

Fraud

Fraud is the unlawful, intentional making of a misrepresentation that causes actual or potential damage or harm to another. This may include actions, inaction or behaviour by any person or entity that deceives others into providing a benefit that would not normally accrue to the person or entity.

Examples of fraud

- Business people falsify quality or standards certificates knowing that they would not otherwise be awarded a government contract for their low-quality goods.
- Business people submit claims for services that they have not rendered.
- Officers draw up specifications for a tender to favour particular suppliers, from whom they receive a kickback.
- Employees stay away from work falsely claiming that they were sick.
- Employees change figures to claim more overtime or allowances than to which they are entitled.
- Employees inflate their qualifications on their resumes to earn a higher salary.

Fronting

Fronting is a form of corruption, committed to win government business, or to obtain a higher price for goods and services.

It may be described as:

- Tokenism: superficial inclusion of historically disadvantaged individuals.
- Falsely claiming to be a majority black-owned company,
- Having black economic-empowerment ownership in your company, or having black staff occupying top management positions.

Fronting entails a deliberate circumvention or attempted circumvention of the B-BBEE (Broad Based Black Economic Empowerment) Act and the Codes. Fronting commonly involves reliance on data or claims of compliance based on a misrepresentation of facts.

Extortion

Extortion involves placing illegitimate pressure on another in the form of a threat of harm to provide a benefit, material or immaterial to a public servant, another person or an entity in exchange for acting (or failing to act) in a particular manner.

- The threat may even be that some third party will suffer injury.
- The accused (X) must intend his words in order for them to operate as a threat while also intending that (Y) will see the threat as such.

BUSA ANTI-CORRUPTION WORKSHOPS *CONT...*

- Extortion is thus the process of forcing someone to do something by threatening them with negative repercussions if they were not to comply.
- Another example of extortion is when a person has been intimidated into paying a monetary benefit to a border official in order to enter a country.

Note the difference between corruption and extortion: Extortion – a benefit is handed over as a result of illegitimate pressure. Corruption – a benefit is handed over voluntarily and there is no undue pressure on the corruptee to perform the act.

Intimidation

Section 1 of the Intimidation Act of 1982, as amended applies:

The purpose of the Intimidation Act is “to render punishable conduct whereby a person assaults, injures or damages another or threatens to kill, assault, injure or cause damage to another unless that person does or abstains from doing any act or assumes or abandons a particular viewpoint.”

The crime may overlap with certain other crimes, such as extortion and assault. The Intimidation Act also acknowledges as a crime a situation in which a person threatens the general public, or a particular section of the public. The Intimidation Act originated from the offence of terrorism.

The aim of intimidation is to influence a person with some threat of violence, whereas extortion involves receipt of a benefit as a result of illegitimate pressure. The distinction between intimidation and extortion is often subtle.

Insider trading

Insider trading involves the use, for personal gain, of privileged information and knowledge that a person possesses as a result of his or her position. The person (or a third party) obtains or accrues an unfair benefit through use of the privileged knowledge.

Price fixing

Price fixing or anti-competitive practices occur when competitors enter into an agreement to keep prices at a specific level (normally resulting in a higher cost to the consumer). Such practices are unlawful in terms of the Prevention of Corrupt Activities Act of 2004 and have also been specifically criminalised in the Competition Act of 1998.

In addition, the Competition Act makes it an offence to agree not to approach each other’s markets or to collude during tendering processes, for example competitors agreeing that all parties will win a part of a contractor some tenders at higher prices. 🐞

FOR THE DATES, BOOKINGS AND FURTHER INFORMATION ON THE WORKSHOPS PLEASE CONTACT TERRANCE MUTAVHATSHINDI ON:

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THANK YOU TO DR JANETTE MINNAAR-VAN VEIJEREN FOR PERMISSION TO USE THIS INFORMATION IN OUR ARTICLE. FOR FURTHER INFORMATION PLEASE CONTACT HER ON Janette@ethicsa.org

CONTACT

For further information or if you wish to reproduce any of the articles in this Newsletter, please contact : Hugo van Zyl on hugovz@saicb.co.za or Melanie Pillay on melaniep@saicb.co.za

ARTICLE: SAIA CODE OF CONDUCT

SAIA CODE OF CONDUCT

The SAICB has developed the database to accommodate the requirements of the SAIA Code of Conduct, and the first requests from our member companies to vet new associates have already been received and processed. The initial vetting requests have already proven the worth of the process and the SAICB anticipates that this will become a valuable tool for insurers to ensure that the associates being appointed have a reliable reputation in the industry.

The following clause on page 16 of the SAIA Code of Conduct refers:

11. Fraud and improper conduct

Members of the SAIA are unequivocally opposed to fraud and improper conduct, and will do everything in their power to identify, verify, investigate and prevent such behaviour. SAIA members will follow the following standards in this regard:

11.1 Insurers

All insurers are expected to participate in combating fraud and improper conduct.

Should an insurer cancel a contract with an associate due to the fact that that associate was found to have acted fraudulently or in an improper manner, the following procedure will be followed by the insurer:

The insurer will inform the customers of the associate about the cancellation of the contract between the insurer and the associate, as well of the options available to the customers including retaining their current policies with the insurer directly or through another associate, or moving their business with the Associate;

Inform the South African Insurance Crime Bureau (SAICB) of the cancellation of the contract with the associate and the reason for it;

11.1.3 Should an insurer be approached by an associate with a book of business, the insurer will establish with the SAICB whether another insurer has notified it about the cancellation of a contract with that particular associate due to the fact that that associate was found to have acted fraudulently or in an improper manner. Should the insurer find out that that associate had in fact been referred to the SAICB, the insurer should not accept business through that particular associate.

11.2 Insurers' employees and associates

11.2.1 In dealing with policyholders, there should be a presumption of innocence until the facts indicate otherwise.

11.2.2 Investigators, loss adjusters and assessors will treat policyholders with respect at all times and will not harass, intimidate or threaten policyholders at any time during an investigation. Insurers will include this provision in their third party supplier agreements.

11.2.3 Insurers will request access to relevant information only when investigating potential insurance fraud, and will treat any personal information in terms of the relevant privacy laws.

11.2.4 When sharing information regarding insurance fraud, such information will only be shared for the purpose of combating crime as it is highly prejudicial. 📧

FOR MORE INFORMATION ON THE SAICB PROCESS PLEASE CONTACT MELANIE PILLAY ON:

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