

SAICB UPDATE

IN BRIEF....

- The Commercial information submission template has been sent to the industry and the first member company has already submitted their data.
- The SAICB has reviewed the personal lines template and has streamlined the information requirements to simplify the process for the submission of data.
- The Life information template has been finalized and is ready to be distributed to the industry.

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The SAICB 2009/2010 budget has been approved by the EXCO and the Board and invoicing for the new financial year will be sent out by end August 2009.

A strategic planning workshop is being arranged for September to review the past year and to plan the focus areas for the SAICB for the new financial year.

The SAICB staff has increased by one new member with the appointment of another data capturer, the staff complement now stands at 10. The SAICB does not plan any further staff appointments for the new financial year, as the SAICB is planning on having seconded investigators from the member companies based at the SAICB for short periods of time, to assist with the investigations and to get a better idea of how the SAICB and Memex works.

The SAICB Fraud Committee has been disbanded following the last meeting that took place on 22 July 2009. The decision was unanimously taken at this meeting as the majority of the regular attendees were SAICB members and the same issues were discussed at the Special Points of Contact (SPOC) meetings, which is a members only meeting. Membership options have been extensively discussed with non SAICB members and any company wishing to join is encouraged to contact the SAICB to discuss the options available.

A very successful joint meeting was held with the Tracking industry about the sharing of information on stolen and recovered vehicles. The Memorandum of Understanding (MOU) and template have been sent to the companies and the SAICB is arranging individual follow up meetings with the individual companies to finalise their participation and the signing of the MOU before the sharing of information can begin.

The SAICB has taken over the Blood Alcohol results issue and a task team has been formed to address this issue. The task team has already began its interactions with the relevant stakeholders and progress will be reported in future issues.

The SAICB application for a direct portal to the E-NATIS system will be reviewed in September. We are in negotiation to allow member companies to do the following via the portal:


FRAUDLINE

In July 2009, **139** reports were received of which 18 reports were for the short term insurance industry, 1 report on Brokers and 1 report for the Life industry.

Since 2002, **25178** reports have been received of which

759 reports were for the short term industry **119** reports for the brokers and **316** reports were for the life industry.

For the full report with all the statistics, please contact Melanie Pillay on melaniep@saicb.co.za

registration, deregistration, dealer stocking etc. of stolen and accident damaged or written off vehicles. 



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GUEST ARTICLE—SAPS

"HIJACKING MADE EASY - Repentant Car Hijacker Explains How it is Done"

MEMBERS

SANTAM
 MUTUAL & FEDERAL
 HOLLARD
 ZURICH
 LION OF AFRICA
 REGENT
 TELESURE
 ABSA INSURANCE
 STANDARD BANK
 INSURANCE
 OUTSURANCE
 MIWAY

PARTNERS

SOUTH AFRICAN
 INSURANCE
 ASSOCIATION
 (SAIA)
 TRANSUNION
 FRAUDLINE
 MEMEX
 SAFPS
 UNICODE
 BACSA

Q. 1: Are most cars hijacked on order by syndicates?

Answer: Yes, I would get a phone call to deliver a certain type of car by a certain deadline, and then we 'd go out and search for one. If they needed it quickly, I would hijack. If I had a bit more time I 'd steal a parked car, as it was safer.

Q. 2: Which types of vehicles are the most popular amongst hijackers?

Answer: We would get orders to steal just about anything. Double-cab bakkies, any make, were in very high demand. Also, "G-strings" (BMW 3-series), Polo 's, Mercedes and Toyotas. I 'd get paid a lot more for a double-cab, around R16 000, but only about R500 to R6 000 for a car. If it was an expensive car like the "Anaconda" (BMW 7-series) I could get about 15 grand, though.

Q. 3: Which cars have the lowest hijack risk?

Answer: There 's no such thing. There 's a demand for all sorts of cars, old and new. If the vehicle isn't sold then it 's stripped for spares. The only thing there isn't really an interest in is expensive exotics. I once stole a Ferrari from a garage just for fun, drove it around for a while and then left it back at the garage.

Q. 4: Do most of the cars that aren't stripped end up beyond our borders?

Answer: No, a lot stay in the country. They are given new identities, re-registered and sold here .

Q. 5: How effective are modern anti-theft and tracking systems?

Answer: When I was stealing cars three years ago, most of them were a joke. I could break into almost any car and drive it away within minutes. Some cars were very advanced and a lot of work to steal though, like Volvos. With tracking systems, it was usually very easy to find where the device was hidden. While one guy drove the car, his accomplices would strip the interior looking for the tracker 's hiding place. Then sometimes we 'd place the tracking unit into a taxi and trick the police and the helicopters into following the taxi. Nowadays the tracking systems are getting a lot better though, with quicker response times, and towards the end I nearly got caught a couple of times.

Q. 6: How did you learn how to override these high-tech systems?

Answer: Experience, and learning from other car thieves. We all shared information. If I was having difficulty with a particular car, sometimes I 'd dress up nicely and go to a dealer posing as a customer. I 'd ask the salesman how good the anti-theft system was on that car and he would give me all the details.

GUEST ARTICLE—SAPS *cont....*

Q. 7: What was your hijacking modus operandi?

Answer: We would get people in their driveways, on the way to work or on their way home. Rainy weather is the best time to steal cars. When it ' s raining it makes it more difficult for the tracking helicopters to find you.

Q. 8: In a hijacking did you normally go for soft targets like women?

Answer: No, I could take on anyone. I was a professional. Some people wore guns but never got a chance to use them as I was too fast. I ' d stick my gun right in their faces and they wouldn't give me any trouble. That ' s why I never shot or hurt anyone; I was against that. A friend of mine sometimes shot people he hijacked and he used to wake up with nightmares.

Q. 9: Which area s did you target?

Answer: **Any white suburb**, it didn't matter. I never stole in the townships because people were poor there. I also didn ' t rob black people.

Q 10: Is that because you don ' t like whites?

Answer: No, it ' s because darkies are dangerous. If you rob them, they go to a sangoma who would "take care" of you.

Q. 11: How much money did you make?

Answer: A lot, but I wasted it all. It was easy come, easy go. Some money would go to police and judges and prison officials in bribes. I got caught a few times but was never convicted. Bribing a police officer to lose a docket cost about R2 000 to R5 000. The only time I spent in jail was awaiting trial. Then I ' d bribe the prison guard to help me escape.

Q. 12: Is this the norm, or were you lucky?

Answer: I knew how to find the loopholes and beat the system. Some of my friends were caught and convicted to 8 or 12 years or more.

Q. 13: What made you stop crime?

Answer: I saw I had nothing to show for all those years . I felt guilty for what I ' d done and wanted to achieve something in my life. That ' s why I do community work persuading other people not to do crime, and I ' m also a fashion designer. I ' m struggling with money now. My sewing machine broke and I can ' t afford to fix it, but I won ' t go back to crime. That life is a stupid life.

Q. 14: What is your advice to motorists to avoid hijacking?

Answer: Look out for people following you. Some hijackers spot a car they want and follow the person home. Be aware. If you ' re suspicious, make a few false turns and see if that car is still behind you. If it is, drive to a police station. 📍

THANK YOU TO CAPT. COLETTE WEILBACK FROM THE BROOKLYN SAPS FOR PERMISSION TO USE THIS ARTICLE.

MEMBER ARTICLE

CLOSE COLLABORATION BETWEEN INSURERS ESSENTIAL TO MEANINGFULLY TACKLE FRAUD SAYS TELESURE


With greater transparency and improved information sharing at its core, the South African Insurance Crime Bureau (SAICB) is a powerful resource for gathering and analysing information that can be turned into actionable, crime-fighting intelligence to stamp out organised crime and fraud in the insurance industry.

It creates a platform for closer collaboration between short-term insurers and with the police to address a problem that costs the industry millions every year and to protect the majority of ethical and honest consumers prejudiced by a minority of fraudsters who abuse insurance for their own financial gain.

More can be achieved in the fight against these fraudsters if we unite at industry level and we are pleased to be aligned with like-minded partners who share our view. This is a firm and decisive move by the industry to tackle fraud.

As one of the founding members of the SAICB, we have put our full weight behind its future endeavours," says Leon Vermaak, Chief Executive Officer of the Telesure Group – holding company for leading short-term insurance brands such as Auto & General Insurance; Budget Insurance Brokers; 1st for Women Insurance Brokers and sister company, Dial Direct Insurance.

Vermaak explains that the companies within the Telesure Group apply stringent measures, particularly in terms of their claims assessment procedures, in an effort to identify and prevent fraudulent claims. The Group has also established a specialist fraud division which analyses Group data to identify fraudulent activity and trends.

"The SAICB takes our efforts to a whole new level," he concludes. 

ARTICLE SUBMITTED BY WARREN MCALPINE ON BEHALF OF TELESURE

INFORMATION SHARING UPDATE

The following information was received and shared with the industry in August:

25 general enquiries were received and sent to the industry, with 58 responses received from the industry to the enquiries.

14 SAPS 13 lists were received with 189 records that resulted in 48 hits on Memex .

20 Tracker lists were received with 425 records that resulted in 76 hits in Memex.

7 Dräger lists were received with 382 records that resulted in 116 hits in Memex.

16 Fraudline reports were received and sent to the industry resulting in 42 responses from the industry.

Information sharing has resulted in approximately R650 000 savings for the industry.

CONTACT

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GUEST ARTICLE—NPA

NATIONAL PROSECUTING AUTHORITY (NPA)

Crime has become increasingly complex and dynamic and has grown into a global concern for government. Organised crime has evolved into a sophisticated, global operation with a high level of discipline. Organised crime syndicates may also be involved in legitimate enterprises in order to launder the funds that have been acquired through criminal activity. Ultimately organised crime activities erode the structure of the economy because Organised crime criminals aim to control the economy through their criminal activities. The pillars of these organised crime syndicates are profit and power.

A. INVESTIGATION OF MONEY LAUNDERING OFFENCES IN TERM OF THE PREVENTION OF ORGANISED CRIME ACT 121 OF 1998

The core structure of South Africa's statutory framework to combat money laundering is formed by two Acts, the Prevention of Organized Crime Act 121 of 1998(POCA) and the Financial Intelligence Centre Act 38 of 2001 (FICA)

1. What is money laundering

Money laundering can be described as the manipulation of money or property in order to misrepresent its true source or nature. This includes all activities aimed at disguising or concealing the nature, source, location, disposition or movement of, or entitlement to money or property derived from criminal activity. Money laundering acquires a criminal character when it is used in the justification of money or property derived from criminal activity in order to derail criminal law enforcement.

2. The process of money laundering

Placement Stage – the illegitimate proceeds are placed/infiltrated into the financial system/legitimate commerce

Layering Stage – numerous transactions are carried out with the proceeds to distance proceeds from criminal and unlawful activity

Integration stage – where the recycled proceeds are integrated into the legitimate economic and financial system and is placed at the disposal of the criminal

POCA is implemented by the South African government to address organized crime and can be considered as South Africa's response to the Forty Recommendations compiled by the Financial Action Task Force (FATF). The Forty Recommendations set out the basic framework for anti-money laundering efforts in order to:

- criminalize money laundering and related activities
- make provision for the confiscation of the proceeds of crime or instrumentalities in the commission of crime
- limit secrecy within financial and other institutions which can be utilized for money laundering
- place reporting obligations on such institutions
- create an international frame work wherein mutual co-operation between jurisdictions will inhibit international money laundering and organized crime.

POCA has created some powerful tools for use in the fight against crime with measures to combat money laundering. These include comprehensive legislation to counter racketeering; money laundering and criminal gang activities, as well as

GUEST ARTICLE—NPA *cont...*

legislation that makes provision for asset forfeiture.

B. ASSET FORFEITURE UNIT:

1. Introduction:

The Asset Forfeiture Unit was established in May 1999 within the office of the National Director of Public Prosecution and is a major component of the Government's war against organised crime in South Africa. The Asset Forfeiture Unit was created to ensure that the powers in POCA to seize criminal assets would be used to their maximum effect in the fight against crime and in particular organised crime. The unit does not prosecute but work closely with the prosecution and the South African Police Service.

2. The AFU team:

The AFU has offices Nationally and consist of:

- Lawyers who have experience in civil and criminal legal work
- Financial investigators who trace assets and do financial analysis. Members from the South African Police Service are seconded to the AFU to assist with financial investigations
- Enforcement staff who have a good financial background and ensure frozen assets are properly looked after and money is collected speedily once a case is won
- Administrative staff

3. Purpose of Asset Forfeiture:

The Unit focuses on restraining and forfeiting the proceeds of crime or the property used to commit crime. Forfeited money is paid to identified victims of the crimes or into the criminal Asset Recovery Account. Asset forfeiture proceedings are civil in nature and the standard of proof is therefore on a balance of probability and not beyond a reasonable doubt. Applications in terms of POCA are mostly conducted in the High Court.

A key part of the AFU is to follow the money trail, to determine the source of funds and whether assets were purchased with the proceeds of crime.

The Asset forfeiture Unit is thus aimed at:

- * Recovery of the proceeds of crime to be used by law enforcement to combat crime
- * Depriving criminals from enjoying the proceeds of crime
- * Removing the instruments used for the commission of crime from public access
- * Reducing the economic power and influence of organised crime by securing forfeiture of the proceeds of crime
- * Discourage property owners from allowing their properties to be used for criminal purposes
- * Ensuring that property that may be subject to forfeiture is preserved and not dissipated, hidden or transferred.

GUEST ARTICLE—NPA *cont...*

3.1 Removing the fruits of crime:

The main incentive to commit crime is the substantial benefit associated with the crime. By forfeiting the assets obtained through illegal activities, the incentive for engaging in unlawful behaviour can be removed. Forfeited items can include cash, buildings, land, stock, motor vehicles, boats, horses, aeroplanes, etc.

3.2 Removing the instrumentality of offences:

Not only assets that are proceeds, but also the property utilised to commit the crime can be attached by the Asset Forfeiture unit. This means that no person should use or allow his property to be used to commit crime. As example, the house used for the manufacturing of drugs or the vehicle utilised to transport the drugs, etc can all form part of a forfeiture application.

The Asset forfeiture unit not only focuses on organised crime but also on individuals committing crime or assisting in the commission of a crime. To many criminals the risk of a fine or term of imprisonment is outweighed by the profits generated by their crimes. Now, irrespective of whatever sentences may be imposed at a criminal trial, the criminals run the risk of losing their profits and/or the property used in the commission of the offence.

The heads of syndicates are seldom directly involved in crime, and it is notoriously difficult to convict them of any offence. It is usually the foot soldiers who are arrested and convicted and they seldom own any assets. With civil forfeiture the state can seize the assets and at least hurt the syndicate heads financially, even if they cannot be convicted of an offence. It is equally important that the businesses, properties, cars, bank accounts and other assets used by the organisation do not remain behind for the use by a new leadership. Civil forfeiture has enabled the state to close down the infrastructure, such as drug houses, cars, clubs, etc used for criminal activities.

4. Financial investigation

Financial investigation is not that much different from a criminal investigation in its approach and method. Normal investigation techniques such as observations, surveillance, interviewing and evidence collection apply, but it is transposed to the financial arena. Financial investigations are usually very documentation-intensive as they involve records, such as bank account information, real estate files, motor vehicle records, and other documents that can point to the movement of money. Financial investigation seeks to identify the source of illegal proceeds in order to link the proceeds to an unlawful activity. The goal of a financial investigation is to gather financial intelligence to assist in the criminal investigation to unveil money laundering and finally to conduct asset forfeiture.

5. Confiscation and Forfeiture

The Prevention of Organised Crime Act contains two (2) separate procedures for depriving criminals of the proceeds of their activities: (i) The confiscation procedure and (ii) the civil procedure. In both cases, the state can obtain an order seizing or freezing the assets until the court finally decides whether the assets should be forfeited.

(i) Chapter 5: Criminal Forfeiture procedure (Confiscation and Restraint)

A Restraint order freezes assets until a confiscation order can be obtained and is applied for at the High court as a civil procedure. The defendant must also be an accused and a criminal prosecution must proceed. The confiscation procedure may only be instituted once a person is convicted of an offence. The procedure consists of an enquiry instituted by the trial court at the request of the public prosecutor. The purpose of the enquiry is to determine the benefit which the offender has derived from the offences of which he is convicted. This enables the court to order the confiscation of

GUEST ARTICLE—NPA *cont...*

property to the value of the benefit through the issuing of a confiscation order.

It is important to note that Chapter 5 of POCA also mentions “affected gifts”

(Sec. 12). The purpose of this being that even in cases where the defendant has distanced himself from ownership by donating property as “gifts” to family, friends or associates, the property is still subject to restraint and confiscation based on the assumption that such property is “affected gifts”.

For instance if a defendant’s wife has never been employed and there are no indications of a legal source of income, but she owns expensive property such as cars and houses, it is fairly safe to assume that they are affected gifts. If such property were included in an order she would have the opportunity to establish her right to it by applying to vary or rescind the order.

(ii) Chapter 6: Civil forfeiture procedure (Forfeiture and Preservation)

The order to freeze assets until a forfeiture order can be obtained is called a preservation order. Applications for both these orders are made to the High Court and are civil procedures. It is not necessary that the defendant be an accused in a criminal case or that he ever be prosecuted.

The main elements of a civil forfeiture is:

* **Identification** of property that is an instrumentality of such an offence, or is the “proceeds of unlawful activities”. Proceeds of a crime can be direct proceeds or property representing the proceeds. More ambitious cases can try to prove that everything owned by for example a drug dealer are the proceeds of crime.

* **Ownership** is not essential. The defendant need not even be a natural or juristic person. For instance an application may be brought against “R20 000”.

C. CARA

Money generated through the forfeiture of assets is deposited into a Criminal Asset Recovery Account (CARA). This money is used as financial assistance to law enforcement agencies involved in the combating of organised crime, money laundering, criminal gang activity and crime in general. Victims of crime are also taken into consideration. (Deloitte:2002) The distribution of funds is done by Cabinet on the recommendation of the Criminal Assets Recovery Committee. Between 2000 and 2006 approximately, R700 million’s worth of assets have been frozen in South Africa pending cases against alleged criminals, while R73.8 Million has been deposited into CARA. During October 2006, the South African Police Service, South African Revenue Services, the Department of Social Development and other received a number of assets such as motor vehicles, computer equipment, etc from CARA. In cases where a direct victim was identified, the proceeds of any forfeited asset involved were usually not paid into the account but directly to the victim through a court order. During the first disbursement from the account in 2006, more than R200 million derived from the proceeds of crime had already been paid to crime victims.

CARA funding was also allocated to centres for battered women and children, and various other initiatives. The AFU contributed to crime prevention by working with communities to identify unlawful social irritants. This process has resulted in the AFU obtaining restraint orders against nine illegal shebeens during 06/07 financial year across the country.

GUEST ARTICLE—NPA *cont...*

D. CASES:

In the GEMS case the AFU achieved a settlement that involved over R60 million in excess of interest charges being paid back to over 30 000 workers by a micro lender.

- Working with the Directorate of Special Operations, United Kingdom and Guernsey authorities, the AFU was able to freeze an estimated R1 to R1.5 billion of alleged proceeds of crime in the David King matter.
- The AFU has also seized property worth more than R10 million from Cape Town attorneys Mohammed and Chohan who had allegedly defrauded impoverished accident victims of their money.

E. ARINSA

The AFU currently performs the role of the Secretariat of ARINSA (an informal network called the “Asset Recovery Inter-Agency Network of Southern Africa”). This network established on 24 March 2009 during a meeting facilitated by the United Nations Office for Drugs and Crime (UNDOC) is based on the informal network of asset forfeiture units from the European Union, named CARIN (Camden Asset Recovery Inter-Agency Network). Countries present at the conference were: Botswana; Lesotho; Mauritius; Namibia; South Africa; Swaziland; Tanzania; Zambia; Zimbabwe

ARINSA will seek to improve co-operation between law enforcement and judicial authorities in the field of asset seizure in Southern Africa. ARINSA will assist prosecutors and investigators in the identification, tracing, freezing, seizure, confiscation and recovery of proceeds and instrumentalities of crime.

The key objectives of ARINSA are:

- to focus on the proceeds and instrumentalities of all crimes, within the scope of international obligations;
- establish a network of contact points
- establish a Centre of excellence on all aspects of tackling the instrumentalities and proceeds of crime
- promote the exchange of information and good practice
- act as an advisory group to other appropriate authorities
- to make recommendations to other bodies such as the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG) and SADC relating to all aspects dealing with e proceeds of crime
- to facilitate where possible, training in all aspects of tackling the proceeds of crime;
- to encourage members to establish national asset recovery offices.

Reference:

Asset Forfeiture Unit, Introduction to the tracing of assets, Deloitte Forensic & Dispute Services, Pretoria, April 2002

De Koker, L. (2002). Money Laundering in South Africa.

Hardaker, G. (2003). Training Document for Investigators regarding the application of portions of the Prevention of Organised Crime Act (Act 121 of 1998).
Prevention of Organised Crime Act 1998, Act 121 of 1998.

Stefan D. Cassella, THE MONEY LAUNDERING STATUTES :Anti-Money Laundering Seminar South Africa, February 13, 2007

The SAICB enjoys a close working relationship with the NPA on most of our current cases. Thank you to Coleen Brown from the NPA for this informative article.