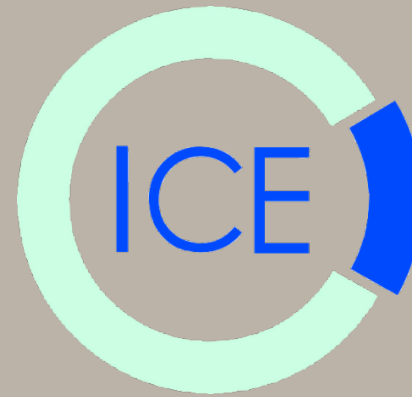


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**COMPLIANCE**

**THE FOGGY ROAD AHEAD**



# DOES THE FSB MEAN BUSINESS?



# FINES IMPOSED BY THE FSB IN TERMS OF THE SHORT TERM INSURANCE ACT AND THE FINANCIAL ADVISORY SERVICES ACT

- 2006 – 2008 – 0
- 2009 – 1
- 2010 – 1
- 2011 – 26
- 2012 (JAN – MAR) – 10



# WHAT DID THEY DO WRONG?

- 2009

Mi way fined R300 000 for giving the perception that the company was an insurer.

- 2010

L C Buchner was fined R40 000 for offering financial services for which he was not licensed.

- 2011

## DEALING WITH ANOTHER FSP THAT WAS NOT PROPERLY LICENSED

• Standard Bank Insurance Brokers	R50 000
• Sanlam Developing Markets	R100 000
• Safrican Insurance Company	R60 000
• Sport Solutions	R100 000
• PJD Financial Capital	R50 000
• Collective Insurance Brokers	R20 000
• Smartcall Insurance Administrators	R50 000
• African Unity Insurance	R100 000
• Nestlife Assurance Corporation	R100 000
• Ditiro Group Funeral Administrators	R40 000

## MARKETING FINANCIAL PRODUCTS WITHOUT THE CORRECT CATEGORY OF LICENSE

- EMQ Training Solutions R25 000
- Mrs Zimkhita Jamjam R25 000
- Trading Point Academy R25 000
- Multi Brokers R45 000
- Eagle Watch Financial Services Providers R50 000
- Nothemba Funeral Services R20 000
- Sipiwo Financial and Management Consultants R10 000
- Clientèle General Insurance Company R100 000

- **BREACHING THE GENERAL CODE OF CONDUCT**

- Discovery Consulting Services Limpopo R80 000
- Friedrich Lombard R50 000
- Premier Growth Group R10 000

- **ALLOWING INTERMEDIARIES TO OPERATE WITHOUT AN IGF**

- The Hollard Insurance Company R70 000

- **INAPPROPRIATE ADVERTISING**

- CIB Insurance Solutions R150 000
- African Eagle Financial Services R25 000



- **2012**

- **DEALING WITH ANOTHER FSP THAT WAS NOT PROPERLY LICENSED**

- Capital Alliance Life Limited R10 000

- **MARKETING FINANCIAL PRODUCTS WITHOUT THE CORRECT CATEGORY OF LICENSE**

- Lombard Life R100 000
- Financial Management International R75 000
- No Doubt Trading R25 000
- Autumn Equities R25 000
- So Where To Fashion And Projects R25 000
- Paul Venter R50 000
- Robert McLaren Behrens R50 000



- **BREACHING THE GENERAL CODE OF CONDUCT**

- Allcover R10 000

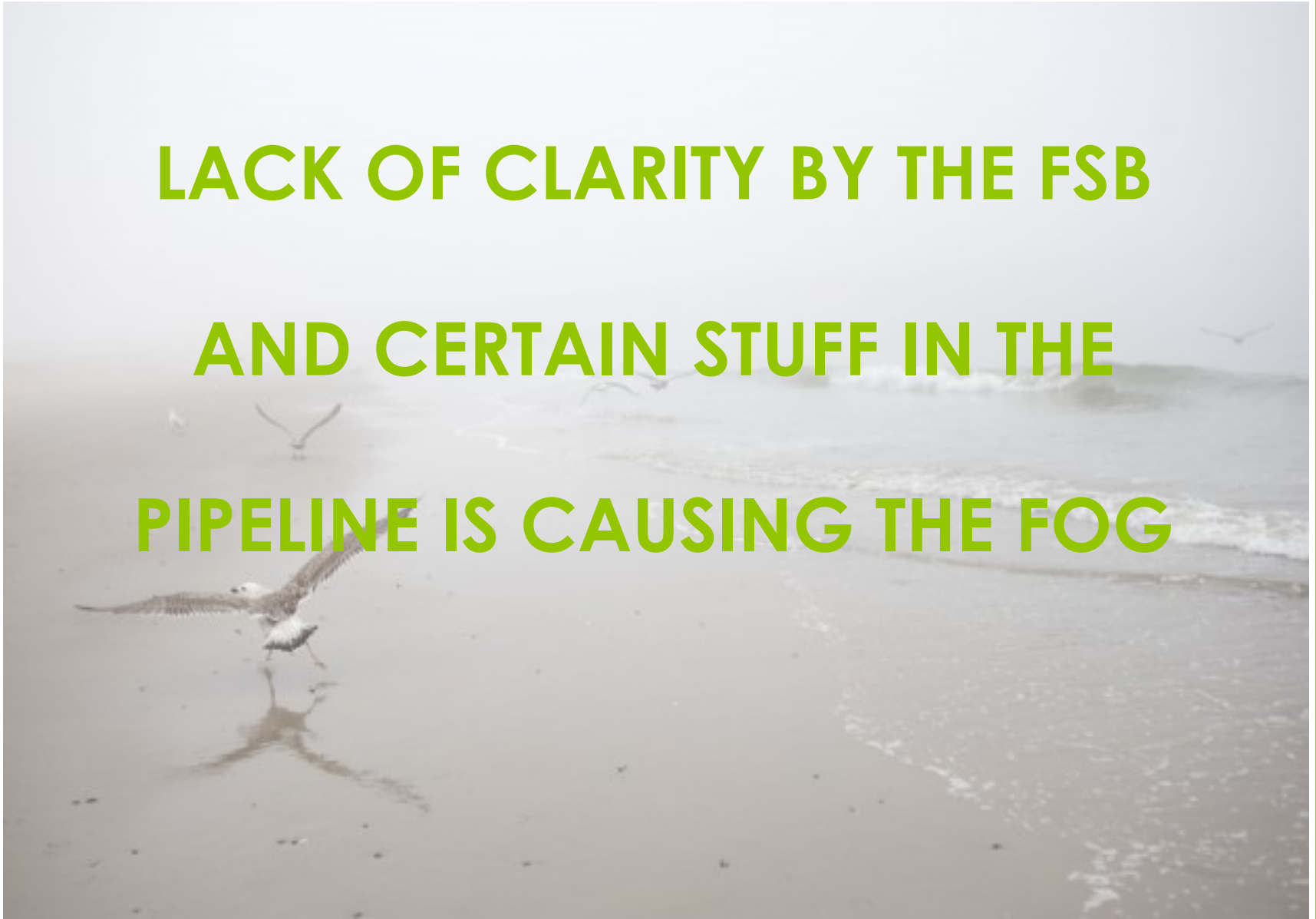
- **NOT ADHERING TO SOLVENCY REQUIREMENTS**

- ABSA Investment Management Services R100 000

# SO WHAT'S CAUSING THE FOG?



**LACK OF CLARITY BY THE FSB  
AND CERTAIN STUFF IN THE  
PIPELINE IS CAUSING THE FOG**



# LACK OF CLARITY

## 1. First level regulatory exams

- 1.1 Extension for certain intermediaries
- 1.2 Debarment for non-compliance?

## 2. Second level regulatory exams

- 2.1 Effect of postponement on supervision services
- 2.2 How this will apply for specialist and limited product practitioners

## 3. Approved qualifications

- 3.1 S and SP qualifications
- 3.2 Not updated for 2 years
- 3.3 Qualifications for KI' s?

## 4. Transition overlap

- 4.1 Once in the transition, always in the transition?
- 4.2 2008/9 entrants qualification deadlines?

## 5. Status of category 5 license

# STUFF IN THE PIPELINE?

## 1. Place rules and limitations on services and activities that are outsourced by an insurer.

**1.1** The insurer must have an outsourcing policy approved by its board of directors which provides for the regular review of all outsourcing.

**1.2** The insurer will always remain responsible for the services performed on its behalf.

**1.3** The insurer must regularly assess the outsourced company's governance, risk management, service capability, financial viability, internal controls (including fit and proper), and its ability to comply with applicable laws;

**1.4** Prior to entering into an outsourcing contract,

- notify the Registrar of the proposed outsourcing, the details of the company to whom the insurer will outsource that function, the key risks associated with the outsourcing and the risk mitigation strategies that will be put in place to address the risks.

# STUFF IN THE PIPELINE?

- assess the costs and benefits and potential risk inherent in the proposed outsourcing;
- assess how the insurer's risk profile will be affected by the outsourcing;
- assess whether the third party is fit and proper;
- assess the preferred third party's governance, risk management and internal controls and its ability to comply with applicable laws;
- assess the preferred third party' service capability and financial viability;
- develop appropriate management and monitoring procedures for the proposed outsourcing;
- develop appropriate contingency plans to ensure the continuous functioning of the Insurance business of the insurer in the event that the outsourcing arrangement is terminated or ineffective; and

- secure the necessary approvals for the outsourcing in accordance with the outsourcing policy.

**1.5** Remuneration must be reasonable and commensurate with the actual process, service or activity and cannot be linked to the monetary value of claims not paid or partially paid.

**1.6** Cannot overlap or be seen to overlap duties that would be done under a binder or result in any process, service or activity in respect of which commission or a binder fee is payable being remunerated again;

## **2. Review cell captives**

**2.1** Align the registration conditions of all cell captives.

**2.2** Prohibit ownership of cell captives by brokers and associates.

**2.3** Eliminate all conflicts of interest from affinity agreements

### **3. Remove reference to the advisory Committee and use of the Government Gazette**

**3.1** The Advisory Committee is a statutory committee appointed by the Minister of Finance to investigate and advise on matters relating to the short-term insurance industry and consists of a chairperson and a representative of the Council for Medical Schemes and persons representative of insurers, brokers and consumer groups.

**3.2** Use the FSB website in place of the Government Gazette.

### **4. Place conditions on appointment of an insurer's Board of Directors**

**4.1** Impose fit and proper requirements on directors

**4.2** The board of directors of a short-term insurer must –

- consist of a sufficient number of non-executive directors and independent directors to promote objectivity in decision making
- have an appropriate number and mix of individuals to ensure that there is an overall adequate spread and level of knowledge, skills and expertise at board level



- ensure that the chairperson of the board must at all times be an independent director and may not have been the chief executive officer or person in charge of the short-term insurer at any time during the preceding three years.

## 5. Regulate 'add-on fees' charged by Brokers

**5.1** Remove Section 8.5 of the Act which reads "An independent intermediary shall not charge, in addition to any remuneration contemplated in section 48, any fee which is payable by a policyholder, unless the amount thereof is disclosed expressly and separately to the policyholder by the intermediary."

**5.2** Redefine 'intermediary services' by listing all duties expected of the intermediary in return for the commission.

**5.3** The intermediary will only be able to charge the insurer or the policyholder in respect of services provided beyond what is listed as intermediary services

## **6. Regulate 'spotter fees' acting for brokers and insurers**

**6.1** Demand registration and impose fit and proper requirements

**6.2** Regulate commission payable

## **7. Increase current fines in the STIA and FAIS**

**7.1** The current R100,000 fine to R5m

**7.2** The current R1m fine to R10m

## 8. Treating customers fairly

**Outcome 1:** Customers are confident that they are dealing with firms where the fair treatment of customers is central to the firm culture

**Outcome 2:** Products and services marketed and sold in the retail market are designed to meet the needs of identified customer groups and are targeted accordingly.

**Outcome 3:** Customers are given clear information and are kept appropriately informed before, during and after the time of contracting.

**Outcome 4:** Where customers receive advice, the advice is suitable and takes account of their circumstances.

**Outcome 5:** Customers are provided with products that perform as firms have led them to expect, and the associated service is both of an acceptable standard and what they have been led to expect.

**Outcome 6:** Customers do not face unreasonable post-sale barriers to change a product, switch provider, submit a claim or make a complaint.

## Most Providers and Suppliers say that they are already treating customers fairly.

If so, why were there:

- 8,800 OSTI Complaints, with R131m awarded by the OSTI? (last published annual report)
- 1,900 FAIS Ombud Complaints - Short Term Insurance

**AND WHEN THE FOG CLEARS?**



# It's Anyone's guess, but mine is.....

- 1. Three clear and separate types of Insurer**
  - 1.1. Micro Insurers, Short Term Insurers and Long Term Insurers
  
- 2. Separate and specific rules and regulations for Insurers and UMA's**
  - 2.1. UMA's will not be separate FSP's
  - 2.2. The book will belong to the Insurer
  
- 3. Separate and specific rules and regulations for brokers (financial advisers)**
  - 3.1. FAIS will address financial advisers rendering a limited product range separately to those that have a full range of products on offer

**Thank you for listening.**

**Enjoy the rest of your  
conference**