



Insurance Law Alert

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Weekly Insurance Law Alert: 19 March 2024

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Highlights

COMPETITION

Competition Tribunal Case

- [Capitec Life Ltd and Funeral Insurance Business Underwritten in Cell Structure of Centriq Life Insurance Company Ltd \(LM152Dec23\) \(14 March 2024\)](#)

CONTRACT

Case

- [Standard Bank of South Africa Ltd v Mogapi and Others \(23784/2021\) \[2024\] ZAGPJHC 133 \(15 February 2024\)](#)

FINANCIAL MARKETS

Law Firm Article

- Bipraj, Rishal. Banks argue jurisdiction in Rand manipulation case. [[Competition Commission of South Africa v Bank of America Merrill Lynch International and Others \(215/CAC/APR23\) \[2024\] ZACAC 1 \(8 January 2024\)](#)] – [2024 Mar 15 Garlicke & Bousfield](#)

FINANCIAL SERVICES

Government Gazette

- Mutual Banks Act 124 of 1993: Registration – YWBN Mutual Bank. – [GenN2364 GG 50292 p106 15Mar2024](#)

MEDICAL AID/INSURANCE

Government Gazette

- Medical Schemes Act 131 of 1998: Medical Schemes registered in terms of the Act, as at March 2024. – [GenN2362 GG 50292 p89 15Mar2024](#)

PENSION LAW

Case

- [Papu v Government Employees Pension Fund \(3676/2021\) \[2024\] ZAECQBHC 17 \(5 March 2024\)](#)

Draft Amendments to Bills

- Proposed amendments to provide for legislative changes implementing the two-pot retirement system into the following public sector pension laws: [Government Employees Pension Law, 1996 \(Proclamation 21 of 1996\)](#); [Post and Telecommunications-related Matters Act 44 of 1958](#); [Transnet Pension Fund Act 62 of 1990](#)

Financial Services Tribunal Decision

- [Ismail v Latchman \(In his capacity as the Principal Officer of the UWC Retirement Fund\); Pension Funds Adjudicator; Sanlam Life Insurance Ltd \(PFA76/2023\) \(13 March 2024\)](#)

ROAD ACCIDENT FUND

Case

- [Road Accident Fund v Mahmoud and Another \(2018-28163\) \[2024\] ZAGPJHC 243 \(3 March 2024\)](#)

ARTIFICIAL INTELLIGENCE

Internet Article

Martin, Vinoliah. GenAI in insurance: Getting the governance, ethics right.

2024 Mar 19 IT Web

“Insurance organisations have historically been too conservative to fully embrace the power of emerging digital technologies. This reluctance stems from various challenges, such as complex legacy systems, regulatory compliance, risk aversion and a culture that is resistant to change, among others. However, as artificial intelligence (AI) continues to advance and with the emergence of generative AI (GenAI), insurers are presented with a compelling opportunity to streamline processes, drive efficiency, enhance customer experience and unlock new opportunities for growth and competitiveness.”

<https://www.itweb.co.za/article/genai-in-insurance-getting-the-governance-ethics-right/Olx4zMkae2lv56km>

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CLIMATE CHANGE

Internet Article

Makhabane, Teboho. The climate megatrend and what it means for investors.

2024 Mar 18 FANews

“Right now, the financial sector isn’t adequately pricing in the climate transition risk, due to the uncertainty around the net-zero transition. Without clear policies in place, investors are adopting a ‘wait and see’ strategy, stalling any real reallocation of capital. Meanwhile, the financial risks accumulate, posing material risks to investment portfolios. Going forward, investment performance will increasingly rely on future-looking data where scenario analysis becomes important. We must consider what the financial impact of the worst-case climate scenario would be and have the in-house expertise to use this data meaningfully.”

<https://www.fanews.co.za/article/investments/8/general/1133/the-climate-megatrend-and-what-it-means-for-investors/39034>

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COLLECTIVE INVESTMENT SCHEMES

FSCA CIS Notice

Financial Sector Conduct Authority. FSCA CIS Notice 3 of 2024 (CIS). Collective Investment Schemes Control Act 45 of 2002. Exemption of 27Four Collective Investments RF (Pty) Limited from certain provisions of Board Notice 778 of 2011. 14 March 2024.

[https://www.fsca.co.za/Notices/FSCA CIS Notice 3 of 2024.pdf](https://www.fsca.co.za/Notices/FSCA%20CIS%20Notice%203%20of%202024.pdf)

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COMPETITION

Competition Tribunal Case

Capitec Life Ltd and Funeral Insurance Business Underwritten in Cell Structure of Centriq Life Insurance Company Ltd (LM152Dec23) (14 March 2024)

Large merger – Funeral insurance policies – Approved subject to conditions.

<https://www.comptrib.co.za/case-detail/20682>

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CONTRACT

Case

Standard Bank of South Africa Ltd v Mogapi and Others (23784/2021) [2024] ZAGPJHC 133 (15 February 2024)

Public policy defence – *Ubuntu* – Respondents contending that guarantees should not be enforced on grounds of public policy – Failure to prove that applicant breached legal duty – Nothing in guarantees that would be unfair, unreasonable or unjust to justify interference on grounds of public policy – Respondents failed to discharge onus to prove enforcement of guarantees would be contrary to public policy – No bar to applicant's claim – Judgment granted in favour of applicant.

<https://www.saflii.org/za/cases/ZAGPJHC/2024/133.pdf>

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CRYPTOCURRENCIES/ASSETS

Internet Article

Muchena, Heath. The transformative impact of Spot Bitcoin ETFs on global finance.



2024 Mar 18 FANews

“The financial landscape is undergoing a seismic shift with the introduction of Spot Bitcoin Exchange-Traded Funds (ETFs), bridging the gap between traditional investment avenues and the burgeoning realm of digital assets. This article explores the multifaceted repercussions of this innovation, providing a holistic view of its implications for investors, markets, and regulatory frameworks worldwide.”

<https://www.fanews.co.za/article/cryptocurrencies-blockchain/1407/general/1408/the-transformative-impact-of-spot-bitcoin-etfs-on-global-finance/39030>

Journal Article

Vumazonke, Namhla and Parsons, Shaun. An analysis of South Africa’s guidance on the income tax consequences of crypto assets.

2023 26(1) South African Journal of Economic and Management Sciences

“This study assessed the adequacy of the guidelines available to South African taxpayers on the consequences of crypto asset transactions, and identified the income tax consequences for transactions not addressed in these guidelines... Two objectives were pursued in this study. The first objective was to assess the scope and depth of the SARS guidelines on crypto asset transactions compared to those of other selected jurisdictions... The second objective was to extend the existing research by providing recommendations regarding specific income tax consequences that may arise on transactions not yet addressed by the SARS guidelines. These recommendations would support SARS in developing comprehensive guidance to taxpayers on crypto asset transactions.”

<https://sajems.org/index.php/sajems/article/view/4832/2700>

Media Comments

Changole, Adelaide. South Africa to license 60 cryptocurrency platforms in regulatory milestone.

2024 Mar 14 BizNews

“South Africa is stepping into the forefront of cryptocurrency regulation, set to license approximately 60 platforms by month-end. This move marks a significant stride, making it among the first African nations to mandate permits for digital-asset exchanges. The Financial Sector Conduct Authority reveals over 300 crypto providers sought approval, signalling a growing interest. With the existing framework, consumer protections and regulatory oversight are heightened, promising a more secure crypto landscape for investors.”

<https://www.biznews.com/sa-investing/2024/03/14/south-africa-license-cryptocurrency-platforms>

Cross, Michael. ‘Bitcoin inventor’ using courts ‘as a vehicle for fraud’.

2024 Mar 13 The Law Society Gazette

“The self-styled inventor of the Bitcoin digital currency has been accused of using the courts of several jurisdictions as a vehicle for fraud. The allegation was made yesterday at the beginning of closing statements in a High Court action brought against Australian-born computer scientist Dr Craig Wright, who claims to have originated bitcoin in 2008. In the case, an alliance of mainly US-based software developers is seeking a court declaration that Wright is not ‘Satoshi Nakamoto’ and an injunction preventing him from further legal action based on that claim.”

<https://www.lawgazette.co.uk/news/bitcoin-inventor-using-courts-as-a-vehicle-for-fraud/5119039.article>

See also:

- **Cross, Michael. Judge dashes bitcoin entrepreneur’s ‘Satoshi’ claim.** – 2024 Mar 14 The Law Society Gazette.

<https://www.lawgazette.co.uk/news/judge-dashes-bitcoin-entrepreneurs-satoshi-claim/5119062.article>

Prosecutors urge 40-50 years for crypto fraudster Bankman-Fried.

2024 Mar 15 Briefly News

“US prosecutors have requested that a court sentence disgraced crypto mogul Sam Bankman-Fried to between 40 and 50 years imprisonment for massive fraud that cost customers \$8 billion, court documents showed Friday.”

<https://briefly.co.za/business-economy/technology/182527-prosecutors-urge-40-50-years-crypto-fraudster-bankman-fried/>

Ryan, Ciaran. Nigeria detains two Binance execs over currency crisis.

2024 Mar 14 Moneyweb

“There may be a cautionary tale here for cryptocurrency executives planning on visiting Nigeria – it’s probably not a good idea right now. Two executives from Binance, the world’s largest crypto exchange, have been detained for two weeks in Abuja, Nigeria’s capital, at a time when the country’s finance authorities are increasingly skittish over what



they perceive as a cryptocurrency assault on their evaporating domestic currency, the naira, which has lost nearly 80% of its value against the US dollar over the last five years.”

<https://www.moneyweb.co.za/moneyweb-crypto/bitcoin/nigeria-detains-two-binance-execs-over-currency-crisis/>

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CYBERCRIME/ATTACKS

See also: [PENSION LAW: GPA Security Breach](#)

Internet Articles

Aon. Damage to brand or reputation top risk for the sports and entertainment industry.

2024 Mar 15 FANews

“[Aon Global Risk Management Survey \(GRMS\)](#). Damage to brand or reputation was rated the no.1 risk facing the sports, recreation and entertainment (SRE) industry in Aon’s latest [Global Risk Management Survey](#). This was closely followed by business interruption, cyber-attacks, data breaches, increasing competition and vendor management or third-party risks ranked in the top five risks... Financial and operational discipline will be vital to addressing the top risks for the sports and entertainment industry.”

<https://www.fanews.co.za/article/risk-management/32/general/1218/damage-to-brand-or-reputation-top-risk-for-the-sports-and-entertainment-industry/39022>

Gwabeni, Keneilwe. The intersection of consumer protection and cybersecurity in insurance.

2024 Mar 14 FANews

“The insurance industry in South Africa must prioritise cybersecurity measures to safeguard policyholders’ data privacy effectively. Cyber threats such as data breaches, ransomware attacks, and identity theft pose significant risks to both consumers and insurers, underscoring the importance of robust cybersecurity defenses. To address these challenges, insurance companies in South Africa are investing in advanced cybersecurity technologies and implementing comprehensive risk management strategies. This includes encryption protocols, multi-factor authentication, intrusion detection systems, and regular security assessments to identify and mitigate potential vulnerabilities.”

<https://www.fanews.co.za/article/views-letters-interviews-comments/18/all/1102/the-intersection-of-consumer-protection-and-cybersecurity-in-insurance/39006>

Sayce, Scott. Three trends set to drive cyber-attacks in 2024.

2024 Mar 18 FANews

“Following two years of high but stable loss activity, 2023 saw a worrying resurgence in ransomware and extortion losses, as the cyber threat landscape continues to evolve. Hackers are increasingly targeting IT and physical supply chains, launching mass cyber-attacks, and finding new ways to extort money from businesses, large and small. It’s little wonder that our customers and clients rank cyber risk as their top concern in the annual [Allianz Risk Barometer](#) survey.”

<https://www.fanews.co.za/article/short-term-insurance/15/general/1217/three-trends-set-to-drive-cyber-attacks-in-2024/39033>

Media Comments

Burrows, Tracy. Known vulnerabilities, increased ransoms and BEC: Emerging trends in cyber crime.

2024 Mar 18 IT Web

“Ransom demands are soaring and the number of cyber attacks is increasing both globally and in South Africa. This is according to Arctic Wolf cyber security experts, who unpacked the highlights of the [2024 Arctic Wolf Labs Threat Report](#) during a webinar held in partnership with ITWeb this week. Jason Oehley, regional sales director at Arctic Wolf, said: “Cyber crime is growing exponentially in our region, and cyber criminals are always innovating. But the good news is that so are we.”

<https://www.itweb.co.za/article/known-vulnerabilities-increased-ransoms-and-bec-emerging-trends-in-cyber-crime/O2rQGMAEyODMd1ea>

Schultz, Christiaan. Cybercrime an ‘ever-present threat’ for hospitality.

2024 Mar 18 Tourism Update

“Natasha Parry, GM of SATIB Insurance Brokers, told Tourism Update that it had noticed a general increase in the frequency and sophistication of malware attacks in the hospitality industry... “The evolving nature of cyber threats emphasises the importance of proactive measures to mitigate risks. Hospitality establishments that neglect to protect



or insure themselves against malware face severe consequences. These may include financial losses, damage to reputation, loss of customer trust, and potential legal ramifications.”

<https://www.tourismupdate.co.za/article/cybercrime-ever-present-threat-hospitality>

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FINANCIAL ADVISORS/INTERMEDIARIES

Media Releases

Financial Sector Conduct Authority. FSCA imposes administrative penalties on My Wealth Dias (Pty) Ltd (My Wealth Dias) and My Wealth Method (Pty) Ltd (My Wealth Method) [the investigated parties] and debars Mr Charl Francois Coetzee. 15 March 2024.

“The Financial Sector Conduct Authority (FSCA) has:

- Imposed an administrative penalty of R15 065 852 million on My Wealth Dias;
- Imposed an administrative penalty of R58 793 075 million on My Wealth Method; and
- Debarred Mr Charl Francois Coetzee (Coetzee) for a period of twenty years.

The investigated parties issued, marketed, and sold shares in My Wealth Dias to the public, without being authorised to do so. Members of the public bought the My Wealth Dias shares through the My Wealth Method platform. The investigated parties convinced the public to invest by promising unrealistic returns of up to 400% on the invested funds.”

[https://www.fsc.co.za/News%20Documents/FSCA%20Press%20Release-](https://www.fsc.co.za/News%20Documents/FSCA%20Press%20Release-%20FSCA%20imposes%20administrative%20penalties%20on%20My%20Wealth%20Dias%20(Pty)%20Ltd%20(My%20Wealth%20Dias)%20and%20My%20Wealth%20Method%20(Pty)%20Ltd%20(My%20Wealth%20Method)%20[the%20investigated%20parties]%20and%20debars%20Mr%20Charl%20Francois%20Coetzee..pdf)

[%20FSCA%20imposes%20administrative%20penalties%20on%20My%20Wealth%20Dias%20\(Pty\)%20Ltd%20\(My%20Wealth%20Dias\)%20and%20My%20Wealth%20Method%20\(Pty\)%20Ltd%20\(My%20Wealth%20Method\)%20\[the%20investigated%20parties\]%20and%20debars%20Mr%20Charl%20Francois%20Coetzee..pdf](https://www.fsc.co.za/News%20Documents/FSCA%20Press%20Release-%20FSCA%20imposes%20administrative%20penalties%20on%20My%20Wealth%20Dias%20(Pty)%20Ltd%20(My%20Wealth%20Dias)%20and%20My%20Wealth%20Method%20(Pty)%20Ltd%20(My%20Wealth%20Method)%20[the%20investigated%20parties]%20and%20debars%20Mr%20Charl%20Francois%20Coetzee..pdf)

Financial Sector Conduct Authority. FSCA imposes administrative sanction on Du Toit Advisors CC (FSP 22020). 13 March 2024.

“The Financial Sector Conduct Authority (FSCA) has imposed an administrative sanction of R473 000 on Du Toit Advisors CC (DTA) for failing to comply with certain provisions of the Financial Intelligence Centre Act, No. 38 of 2001 (FIC Act).”

[https://www.fsc.co.za/News%20Documents/FSCA%20Press%20Release%20-](https://www.fsc.co.za/News%20Documents/FSCA%20Press%20Release%20-%20FSCA%20Imposes%20Administrative%20Sanction%20on%20Du%20Toit%20Advisors%20CC%20(FSP%2022020).pdf)

[%20FSCA%20Imposes%20Administrative%20Sanction%20on%20Du%20Toit%20Advisors%20CC%20\(FSP%2022020\).pdf](https://www.fsc.co.za/News%20Documents/FSCA%20Press%20Release%20-%20FSCA%20Imposes%20Administrative%20Sanction%20on%20Du%20Toit%20Advisors%20CC%20(FSP%2022020).pdf)

Financial Sector Conduct Authority. The FSCA warns the public against Mr Jacobus Stephanus Geldenhuis again. 12 March 2024.

“The FSCA found that Mr Geldenhuis and Classic Financial Services contravened section 7(1) of the Financial Advisory and Intermediary Services Act No 37 of 2002 and conducted the business of a bank in contravention of section 11 of the Banks Act No. 94 of 1990. Neither Classic Financial Services nor Mr Geldenhuis are authorised FSPs or a representative of an authorised FSP.”

[https://www.fsc.co.za/News%20Documents/FSCA%20Press%20Release%20-](https://www.fsc.co.za/News%20Documents/FSCA%20Press%20Release%20-%20The%20FSCA%20warns%20the%20public%20against%20Mr%20Jacobus%20Stephanus%20Geldenhuis%20again.pdf)

[%20The%20FSCA%20warns%20the%20public%20against%20Mr%20Jacobus%20Stephanus%20Geldenhuis%20again.pdf](https://www.fsc.co.za/News%20Documents/FSCA%20Press%20Release%20-%20The%20FSCA%20warns%20the%20public%20against%20Mr%20Jacobus%20Stephanus%20Geldenhuis%20again.pdf)

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FINANCIAL MARKETS

Law Firm Article

Bipraj, Rishal. Banks argue jurisdiction in Rand manipulation case. [[Competition Commission of South Africa v Bank of America Merrill Lynch International and Others \(215/CAC/APR23\) \[2024\]](#) ZACAC 1 (8 January 2024)]

2024 Mar 15 Garlicke & Bousfield

“The Competition Commission referred a complaint to the Tribunal on 15 February 2017 against 28 local and international banks alleging price fixing and market division contravening section 4(1)(b)(i) and (ii) of the Competition Act... Following appeals by several of the banks and a cross appeal by the Commission, a [decision](#) was taken by the Competition Appeal Court on 28 February 2020, the effect of which was to give the Commission a ‘final opportunity’ to file a new affidavit to substitute and replace the affidavit before the Tribunal in 2017.”

<https://www.gb.co.za/banks-argue-jurisdiction-in-rand-manipulation-case/>



Media Comment

Faku, Dineo. Public trust in the financial system is not what it needs to be — Kganyago.

2024 Mar 13 TimesLIVE

“Reserve Bank governor Lesetja Kganyago has told delegates at the Financial Services Conduct Authority (FSCA) conference in Johannesburg public trust in banks is not what it should be after currency manipulation allegations against local and international banks. “We cannot say the public image of the financial sector is everything it should be,” Kganyago said.”

<https://www.timeslive.co.za/sunday-times/business/business/2024-03-13-public-trust-in-the-financial-system-is-not-what-it-needs-to-be-kganyago/>
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FINANCIAL SERVICES

Government Gazette

Mutual Banks Act 124 of 1993

Registration – YWBN Mutual Bank.

GenN2364 GG 50292 p106 15Mar2024

https://www.gov.za/sites/default/files/gcis_document/202403/50292gen2364.pdf

Media Comments

4 new banks launching in South Africa.

2024 Mar 15 Business Tech

“The South African Reserve Bank’s (SARB’s) Prudential Authority has gazetted the official notice of registration for a new mutual bank in the country – one of four new banks launching over the next few years. The PA gave notice that YWBN Mutual Bank has now been registered as a mutual bank in the country, with effect from 22 January 2024. This marks the final step in the official registration process for the bank, following the announcement from the Young Women in Business Network (YWBN) that it received its mutual banking licence at the start of the year.”

<https://businesstech.co.za/news/business/760833/4-new-banks-launching-in-south-africa/>

Beware of fraudsters posing as financial services providers.

2024 Mar 13 Personal Finance

“Specialist loans provider, DirectAxis, has added its voice to warnings about a company calling itself Direct Access Finance using false information apparently in a bid to dupe consumers. It appears to be a case of fraudsters using a bogus identity that tries to imitate a legitimate brand to extract money or personal details from customers, DirectAxis said in a statement.”

<https://www.iol.co.za/personal-finance/financial-planning/beware-of-fraudsters-posing-as-financial-services-providers-7710391a-c4e8-42c5-ae5f-b30c60afb192>

Ithala may continue taking deposits after court ruling. [*Kruger v Ithala Soc Ltd (19051/2023) [2024] ZAKZPHC 17 (14 March 2024)*]

2024 Mar 15 Moneyweb

“The administrator tasked with supervising the payment affairs of the KwaZulu-Natal-based development bank, Ithala, will not be allowed to stop the bank from taking deposits, following a high court ruling on Thursday. This comes after Ithala made a reconsideration application to the Pietermaritzburg High Court, which set aside an earlier ruling.”

<https://www.moneyweb.co.za/news/companies-and-deals/ithala-may-continue-taking-deposits-after-court-ruling/>

See also:

- **Khumalo, Kabelo. Court finds banking regulator treated Ithala unfairly. – 2024 Mar 17 BusinessDay**
<https://www.businesslive.co.za/bd/companies/financial-services/2024-03-17-court-finds-banking-regulator-treated-ithala-unfairly/>
(Subscription needed)

Khumalo, Kabelo. Pay up, judge tells Standard Chartered and African Banking.

2024 Mar 17 BusinessDay

“British-multinational lender Standard Chartered (StanChart) and African Banking Corporation (ABC) are running out of legal options in bid to avoid paying an SA investor nearly R1bn over the collapse of then JSE-listed Blue Financial Services in 2013. This is after the high court in Johannesburg last week refused the banks leave to appeal against its



earlier decision that the two lenders colluded to breach a debt-restructuring agreement that sank Blue Financial Services more than a decade ago...”

<https://www.businesslive.co.za/bd/companies/financial-services/2024-03-17-pay-up-judge-tells-standard-chartered-and-african-banking/>
(Subscription needed)

Mkhwanazi, Siyabonga. Political leaders question timing by FNB to close Zuma’s accounts.

2024 Mar 17 IOL

“Some political leaders have questioned the timing by [FNB to close the bank account](#) of former president Jacob Zuma’s with elections a few months away. [Zuma has been leading the uMkhonto weSizwe \(MK\) party](#) for the last four months after he announced his support for the new party and is number one of the list of candidates for the party.”

<https://www.iol.co.za/news/politics/political-leaders-question-timing-by-fnb-to-close-zumas-accounts-84e51528-7e87-4b54-9604-7942bd6497df>

Media Release

Financial Sector Conduct Authority. FSCA Consumer Advisory Panel starts its work. 15 March 2024.

“The Financial Sector Conduct Authority (FSCA)’s newly established Consumer Advisory Panel has officially commenced its work, setting its key strategic objectives for the financial year starting on 1 April 2024. The panel was established in November 2023 to provide independent advice and consumer-relevant perspectives to the work of the FSCA.”

<https://www.fsca.co.za/News%20Documents/FSCA%20Press%20Release%20-%20FSCA%20Consumer%20Advisory%20Panel%20starts%20its%20work%2015%20March%202024.pdf>

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FUNERAL POLICY

Competition Tribunal Case

Capitec Life Ltd and Funeral Insurance Business Underwritten in Cell Structure of Centriq Life Insurance Company Ltd (LM152Dec23) (14 March 2024) See [COMPETITION](#)

Internet Article

KGA Life. Insurance Brokers drive innovation in the funeral industry, says expert.

2024 Mar 18 FAnews

“Funeral brokers play a vital but often overlooked role in insurance innovation for the local funeral industry, which collectively conducts about [480 000 funerals](#) a year in post-COVID South Africa. Industry expert Clinton Macdonald, CEO of KGA Life, says South African funeral insurers would not have been able to adapt to the changing needs of customers to the degree that they have since the pandemic, were it not for the insights provided by the intermediaries who broker funeral policies. “Brokers are customer-facing, while insurers are not. Brokers drive customer-centric innovation and efficiencies in the funeral industry.”

<https://www.fanews.co.za/article/life-insurance/9/estates-wills/1001/insurance-brokers-drive-innovation-in-the-funeral-industry-says-expert/39026>

Media Comment

Moloi, Herman. Family plans to sue insurer over funeral policy payout.

2024 Mar 14 SowetanLIVE

“A Tshwane family is threatening to take Old Mutual to court over what they say was unfair payout on a funeral policy. The family say they received R2,150 instead of R15,000 for the funeral cover claim. They say Old Mutual penalised them over an administrative matter which led to the gender and surname of the deceased being captured incorrectly.”

<https://www.sowetanlive.co.za/news/south-africa/2024-03-14-family-plans-to-sue-insurer-over-funeral-policy-payout/>

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GREYLISTING

Law Firm Article



Laskov, Hilah. Large fines show FSCA is focused on enforcement to leave the grey list – A red flag for non-compliant financial services providers as more fines likely.

2024 Mar 14 Werksmans Attorneys

“The Financial Sector Conduct Authority (FSCA) has recently imposed administrative sanctions on two financial services providers (FSPs), in each case for failing to comply with certain provisions of the Financial Intelligence Centre Act (FICA). The first received a penalty for R400,000 and the second, a staggering R16 million fine.”

<https://www.werksmans.com/legal-updates-and-opinions/large-fines-show-fsca-is-focused-on-enforcement-to-leave-the-grey-list-a-red-flag-for-non-compliant-financial-services-providers-as-more-fines-likely/>

Media Comment

Mntambo, Nokukhanya. US wants SA to fast-track plans to address its financial system deficiencies.

2024 Mar 14 EWN

“The United States (US) is calling on South Africa to fast-track plans to address deficiencies in the country’s financial system, as weak controls continue to worry investors. It’s believed the country’s ability to attract investment diminished after landing on the notorious grey list.”

<https://www.ewn.co.za/2024/03/14/us-wants-sa-to-fast-track-plans-to-address-its-financial-system-deficiencies>

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HEDGE FUNDS

Media Comment

Majola, Given. SA hedge funds attracted record net inflows of R6.24 billion in 2023.

2024 Mar 16 Business Report

“South African hedge funds attracted record net inflows of R6.24 billion in 2023 and grew the assets under management to R137.9 billion (excluding fund of funds), according to the latest figures from the Association for Savings and Investment South Africa (ASISA). The industry recorded healthy net inflows for the second consecutive year. Net inflows in 2022 amounted to R4.54 billion... Hayden Reinders, the convenor of ASISA’s Hedge Funds Standing Committee, said the South African hedge fund industry seemed to be in good health, a factor attributable to the country’s regulatory treatment of hedge funds.”

<https://www.iol.co.za/business-report/markets/sa-hedge-funds-attracted-record-net-inflows-of-r624-billion-in-2023-595a16a5-0f49-4201-a157-e19b6241a776>

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INSOLVENCY

Case

Prudential Authority and Another v Habib Overseas Bank and Others (2023/071935) [2024] ZAGPPHC 189 (26 February 2024)

Winding-up – Final liquidation – Bank placed under provisional winding-up – Applicants alleging that it is in interest of creditors, mainly depositors, that respondent be finally wound-up – Delay will further prejudice creditors – Respondent is commercially insolvent – Discretion – Applicants are properly before court with winding-up application grounded by statutory triggering mechanisms – Entitled to their remedy without having to start resolution actions – Final winding-up just and equitable.

<https://www.saflii.org/za/cases/ZAGPPHC/2024/189.pdf>

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INSURANCE

Law Firm Articles

Dinnie, Donald. Principles of USA insurance law similar to South Africa.

2024 Mar 14 Norton Rose Fulbright: Financial Institutions Legal Snapshot

“This US judgment’s summary of Michigan insurance law will be largely familiar to South African readers:



“An insurance policy is much the same as any other contract. It is an agreement between the parties in which a court will determine what the agreement was and effectuate the intent of the parties. Accordingly, the court must look at the contract as a whole and give meaning to all terms. Further, any clause in an insurance policy is valid as long as it is clear, unambiguous and not in contravention of public policy. This Court cannot create ambiguity where none exists...”
<https://www.financialinstitutionslegalsnapshot.com/2024/03/principles-of-usa-insurance-law-similar-to-south-africa/>

Strachan, Andrew and Moodley, Yishika. Norton Rose Fulbright South Africa successfully represents Lloyd’s in R93 million claim. [[Underwriters at Lloyd’s of London v Minister of Safety and Security \(40975/2016\) \[2024\] ZAGPPHC 198 \(4 March 2024\)](#)]

2024 Mar 6 Norton Rose Fulbright

“On March 04, 2024 the Pretoria High Court gave judgment in favour of The Underwriters at Lloyd’s of London against the Minister of Safety and Security for R93 919 298.47 based on its finding that the conduct of police employees who participated in a major robbery and cover-up was sufficiently closely connected to their employment to make the Minister vicariously liable. The case arises from a robbery which occurred at the SBV cash centre at Emalahleni in April 2014. In criminal proceedings against the robbers, the high court found that two South African Police Service (SAPS) employees were involved in the planning and execution of the robbery and that the SAPS employees were on duty at one or more times before, during, and after the robbery.”

<https://www.nortonrosefulbright.com/en-za/knowledge/publications/a7c025c9/norton-rose-fulbright-south-africa-successfully-represents-lloyds-in-r93-million-claim>

Media Comments

Khumalo, Kabelo. Regulator to investigate Old Mutual breach.

2024 Mar 18 BusinessDay

“The Financial Sector Conduct Authority (FSCA) is investigating allegations that Old Mutual independent financial advisory business Adviceworx’s (ADX) adviser acquisition model breaches regulations, putting clients’ interests second. Meanwhile, the falling out between ADX and its former senior employees turned whistle-blowers is growing. One of the whistle-blowers, in his communication with Old Mutual top brass, describes the alleged breach as the “largest financial advisory and intermediary services breach in SA history”...”

<https://www.businesslive.co.za/bd/companies/financial-services/2024-03-18-regulator-to-investigate-old-mutual-breach/> (Subscription needed)

Magubeni, Coceka. Delays at state forensic labs cause backlogs on 17,000 cases.

2024 Mar 14 Sunday World

“Almost 17,000 toxicology cases and 7,000 histology cases — some of which date back to 2007 — are currently being dealt with by the Gauteng health department. This means a delay in insurance claims, deceased estates and healing for the families of the deceased.”

<https://sundayworld.co.za/news/delays-at-state-forensic-labs-cause-backlogs-on-17000-cases/>

Trump says posting \$454 million bond in NY fraud case ‘a practical impossibility’.

2024 Mar 18 Daily Maverick

“Donald Trump said he reached out to the world’s biggest insurance companies to seek help in arranging an appeal bond covering the \$454 million verdict against him in New York’s civil fraud suit, and none would take his real estate as collateral. They all want cash and Trump says he doesn’t have enough.”

<https://www.dailymaverick.co.za/article/2024-03-18-trump-says-posting-454-million-bond-in-ny-fraud-case-a-practical-impossibility-2/>

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MEDICAL AID/INSURANCE

Health Disclosure

Media Comment

Moosa, Tauriq. Top court weighs medical aid limits in health disclosure poser.

2024 Mar 12 BusinessDay

“In what looks set to be a landmark case, the Constitutional Court will deliberate on the extent of medical information disclosure required for medical scheme members. The case, which involves Profmed Medical Scheme and the late



Adelia Steyn, questions whether nondisclosure of a condition such as gastritis, deemed immaterial by the patient, can justify the termination of health coverage...”

<https://www.businesslive.co.za/bd/national/2024-03-12-landmark-case-about-disclosing-conditions-to-medical-schemes-to-be-heard/>
(Subscription needed)

National Health Insurance

Media Comment

Clarke, Michelle. R23.6 billion paid in medical legal claims from 2020 to date – A red herring for NHI.

2024 Mar 12 Democratic Alliance

“In response to a [parliamentary question](#), the DA can reveal that R23.6 billion has been paid in medico-legal claims across our provinces from January 2020 to December 2023. Further, R1.3 billion has been spent in legal costs for these cases. This figure is staggering, especially considering the widespread shortages of healthcare funding across our provinces and bodes terribly for the ANC’s National Health Insurance (NHI) pipedream.

<https://www.da.org.za/2024/03/r23-6-billion-paid-in-medical-legal-claims-from-2020-to-date-a-red-herring-for-nhi>

Prescribed Minimum Benefits

Circular

Council for Medical Schemes

Circular 13 of 2024: Prescribed minimum benefit definition guidelines for 2024/2025 (12 March 2024).

<https://www.medicalschemes.co.za/circular-13-0f-2024/>

Primary Healthcare

Media Comment

Kahn, Tamar. Deadline looms for companies that sell primary healthcare cover.

2024 Mar 5 BusinessDay

“Insurers that offer cheap primary healthcare cover are anxiously waiting to hear whether SA’s medical scheme industry regulator will grant them another reprieve from the requirements of the Medical Schemes Act, or compel them to take their products off the market when their exemption expires on March 31. Between 800,000 and 1.5-million consumers are members of primary healthcare products that provide cover for private sector medical services such as GP and dentist visits, according to industry sources. Most of these beneficiaries are low-income workers subsidised by their employers, who cannot afford the much higher premiums charged by medical schemes...”

<https://www.businesslive.co.za/bd/national/health/2024-03-05-deadline-looms-for-companies-that-sell-primary-healthcare-cover/>
(Subscription needed)

Registered Schemes

Government Gazette

Medical Schemes Act 131 of 1998

Medical Schemes registered in terms of the Act, as at March 2024.

GenN2362 GG 50292 p89 15Mar2024

https://www.gov.za/sites/default/files/gcis_document/202403/50292gen2362.pdf

Tariffs

Media Comment

Libera, Malcolm. Double blow for South Africans hitting next month.

2024 Mar 12 Business Tech

“South Africans are surviving on debt, with many putting at least half of their incomes towards repayments every month while others are simply not coping – and it’s about to get worse with price hikes for medical aid and electricity coming next month.

<https://businesstech.co.za/news/lifestyle/759507/double-blow-for-south-africans-hitting-next-month/>



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MEDICAL MALPRACTICE INDEMNITY COVER

Internet Article

Knoesen, Myra. Concerns related to the discretionary nature of the indemnity products.

2024 Mar 13 FANews

“Contrary to popular belief, JP Ellis, Head of Legal & Claims at Ethiqal, pointed out that South African healthcare practitioners are not legally required to hold appropriate medical malpractice indemnity cover. In 2010, the Department of Health promulgated regulations which sought to introduce mandatory professional indemnity cover for healthcare practitioners. The regulations were made by the Minister of Health in terms of sections 61(1)(c) of the Health Professions Act. The impetus for mandatory cover was to ensure that victims of medical malpractice incidents were not left without compensation.”

<https://www.fanews.co.za/article/short-term-insurance/15/general/1217/concerns-related-to-the-discretionary-nature-of-the-indemnity-products/38988>

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MONEY LAUNDERING

Media Comment

Ndenze, Babalo. Parly committee finds nine EFF MPs guilty of calling Ramaphosa a 'money launderer'.

2024 Mar 14 EWN

“Another group of EFF MPs face parliamentary sanctions after being found guilty of contempt of Parliament. The nine were found guilty of calling President Cyril Ramaphosa a money launderer and refusing to withdraw the remarks during the Presidency budget on the 9th and 10th of June 2022.”

<https://www.ewn.co.za/2024/03/14/parly-committee-finds-nine-eff-mps-guilty-of-calling-ramaphosa-a-money-launderer>

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OMBUD SYSTEM

Law Firm Article

Ndabambi, Wandile. A new National Financial Ombudsman's office.

2024 Mar 12 ENS

“The National Financial Ombud (“NFO”) is a new and potentially effective way of resolving disputes between financial service providers and consumers. Companies must be aware and prepared to deal with consumer complaints using the new NFO Rules to adjudicate such complaints. The NFO combines four separate South African Ombud Schemes under one umbrella Financial Services Ombud scheme. It has jurisdiction over banks, credit providers, short-term insurers (non-life insurance), and long-term insurers (life insurance).”

<https://www.ensafrica.com/news/detail/8237/a-new-national-financial-ombudsmans-office->

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PENSION LAW

Foreign Pension Schemes

Journal Article

Kruger, Des. Foreign pension schemes: There be dragons, and some confusion: South African members *qua* beneficiaries have a vested right to the income and capital of the foreign pension scheme (trust) *ab initio* — Part 2.

2023 14(4) Business Tax and Company Law Quarterly p1



“Given South Africa’s present political and economic position, a significant number of wealthy taxpayers are either engaged in making contributions to foreign pension schemes or are contemplating doing so. As the heading to this article suggests, the South African tax implications that arise when a South African resident taxpayer embarks on this journey are complex and confusing... This article explores the South African tax implications that are triggered for South African residents in consequence of their participation as *vested* beneficiaries in these foreign pension schemes — the situation addressed in SARS’ binding class ruling.”

GPAA Security Breach

Media Comments

Brouwers, Terri-Ann. GEPF data breach: Second time lucky for the hackers?

2024 Mar 13 Moneyweb

“Data released by ransomware group LockBit – allegedly through the Government Pensions Administration Agency (GPAA) – has the Government Employees Pension Fund (GEPF) “extremely concerned”. The fund acknowledged the incident in a statement on Tuesday.”

<https://www.moneyweb.co.za/news/tech/government-pension-fund-data-breach-second-time-lucky-for-the-hackers/>

See also:

- **Mabuza, Ernest. GEPF concerned about pension fund data leak in ransomware attack.** – 2024 Mar 12 TimesLIVE
<https://www.timeslive.co.za/news/south-africa/2024-03-12-gepf-concerned-about-pension-fund-data-leak-in-ransomware-attack/>

Media Release

Government Employees Pension Fund. Government Pensions Administration Agency (GPAA) data breach. 12 March 2024.

“The Government Employees Pension Fund (GEPF) has noted the release of data purportedly from its administrator, the Government Pensions Administration Agency (GPAA) by the ransomware group LockBit. The GEPF is extremely concerned with this alleged security breach, as it was informed by GPAA that no data breach had occurred when it was notified of an attempt to gain access to GPAA systems by unknown individuals on the 16 February 2024. The GPAA subsequently established that this was an attempt by the ransomware group LockBit.”

<https://www.gepf.co.za/government-pensions-administration-agency-gpaa-data-breach/>

Pension Benefits

Case

Papu v Government Employees Pension Fund (3676/2021) [2024] ZAECQBHC 17 (5 March 2024)

Quantification of applicant’s pension benefits following retirement – Applicant asserting that her benefits were incorrectly calculated by respondent who relied on incorrect date as to when pensionable service commenced – Respondent’s failure to correct its records relating to commencement and conclusion of applicant’s pensionable service period reviewed and set aside as being unlawful administrative action which is not reasonable and/or procedurally fair.

<https://www.saflii.org/za/cases/ZAECQBHC/2024/17.pdf>

Media Comment

Makwakwa, Thabo. Ousted judge president John Hlophe takes on Department of Justice for his benefits.

2024 Mar 17 Sunday Independent

“Hlophe’s removal followed his impeachment last month, when the National Assembly voted in favour of his removal, with only 27 members of Parliament against the 305 parliamentarians in favour, which included the ANC and the DA. Lamola’s spokesperson Chrispin Phiri later confirmed to the Sunday Independent that Hlophe would lose his benefits and pension.”

<https://www.iol.co.za/sundayindependent/news/ousted-judge-president-john-hlophe-takes-on-department-of-justice-for-his-benefits-0d12c381-3323-4880-ad6d-347a0a1aaf29>



Pension Payout/Old Mutual

Media Comments

Goodall, Keely. Warning! What you need to know before cancelling insurance policies.

2024 Mar 15 EWN

“After hearing about the Molefi family's dispute with Old Mutual, many people have been calling for an end to the insurer...After some back and forth and legal battles, Old Mutual revealed that the reason for the dispute around the payout was an undisclosed divorce which would affect how a pension is paid out. Knowler notes that an insurer does have the right to deny your claim over any information not disclosed, even if it is not directly relevant to the claim.”

<https://www.ewn.co.za/2024/03/15/warning-what-you-need-to-know-before-cancelling-insurance-policies>

Maphalala, Mpumelelo. Old Mutual explains not paying a pension fund after a court ruling.

2024 Mar 14 SABC News

“Financial services group Old Mutual has finally given some details that led to the company not paying a pension fund after a court ruling. It says this is a complex matter that involves a divorce decree on the pension assets of their customer who retired. The matter trended on social media after it failed to honor a court ruling to pay a pension payout.”

<https://www.sabcnews.com/sabcnews/old-mutual-explains-not-paying-a-pension-fund-after-a-court-ruling/>

Matlabe, Goitseman. Old Mutual SA reaches agreement on R3-million pension payout.

2024 Mar 12 The Star

“Even though Old Mutual SA has finally come to an arrangement in settling the payment of a R3-million pension payment of an irate family, customers remain wary of continuing to support the financial services company. Following a meeting between Old Mutual, Sebatso Molefi and her mother's legal representative today, the insurer announced that they had a positive engagement.”

<https://www.iol.co.za/the-star/news/old-mutual-sa-reaches-agreement-on-r3-million-pension-payout-f679ff39-f6bf-40b8-bad5-1caca717afd>

Peyper, Liesl. Old Mutual says 'lessons learnt' in social media furore over pension payout.

2024 Mar 14 Moneyweb

“Insurer Old Mutual claims it was always going to pay out the pension of a particular client whose daughter took to social media to complain about the company's inaction. Old Mutual public affairs manager Celiwe Ross said there is, however, legislation that all insurance companies need to adhere to before a claim can be settled. These issues are currently causing a delay in the customer's pension payout.”

<https://www.moneyweb.co.za/news/companies-and-deals/old-mutual-says-lessons-learnt-in-social-media-furore-over-pension-payout/>

Video

Old Mutual faces reputational damage after X storm.

2024 Mar 13 BusinessDay

“Business Day TV caught up with Old Mutual's director of public affairs, Celiwe Ross, to discuss how the firm is managing the reputational damage it faces, following a post on social media platform X about the financial services provider's non-payment of a pension policy despite a court order.”

<https://www.businesslive.co.za/bd/companies/financial-services/2024-03-13-watch-old-mutual-faces-reputational-damage-after-x-storm/>

Polygamous Marriages

Media Comment

Venter, Zelda. Widow's battle for more pension. [[Seloana v Government Administration Agency and Others \(7633/21\) \[2024\] ZALMPPHC 21 \(11 March 2024\)](#)]

2024 Mar 13 Pretoria News

“The surviving widow in a polygamous marriage with a deceased policeman, claimed that the Government Employee's Pension Fund (GEPF) discriminated against women in polygamous marriages, after it refused to pay her the full pension benefit as she is now the only remaining spouse.”

<https://www.iol.co.za/pretoria-news/news/widows-battle-for-more-pension-5df5f654-c979-42cf-824b-b7e2302f9e08>



Portfolio Changes

Financial Services Tribunal Decision

Ismail v Latchman (In his capacity as the Principal Officer of the UWC Retirement Fund); Pension Funds Adjudicator; Sanlam Life Insurance Ltd (PFA76/2023) (13 March 2024)

Application for reconsideration in terms of Financial Sector Regulation Act 9 of 2017, s 230 of decision of Pension Funds Adjudicator, dated 21 September 2023 and application for condonation – No undue delay proven against Fund and/or Principal Officer in executing switch request of benefit from Conservative retirement portfolio to Money Market portfolio – No liability proven against Fund and/or Principal Officer for financial losses suffered.

<https://www.fsca.co.za/Enforcement-Matters/Publications%20and%20Documents/Decision%20-%20Adiel%20Ismail%20v%20PFA%20&%20Others.pdf>

Retirement Funds

See: TAXATION

Two-Pot System

The following documents provide more information:

- [2023 Draft Revenue Laws Amendment Bill](#)
- [2023 Draft Memo on the Objects of the 2023 Draft Revenue Laws Amendment Bill](#)
- [2023 Draft Revenue Administration and Pension Laws Amendment Bill](#)
- [2023 Draft Memo on the Objects of the 2023 Draft Revenue Administration and Pension Laws Amendment Bill](#)
- Pension Funds Amendment Bill, 2023 ([GN4009 GG 49558 p3 26Oct2023](#))
- [Revenue Laws Second Amendment Bill, 2024](#) and [Explanatory Memorandum](#)

Draft Amendments to Bills

National Treasury. Proposed amendments to Government Employees Pension Law to provide for two pot retirement system for inclusion in Pension Fund Amendment Bill [B 3-2024]. 11 March 2024.

“To amend the Government Employees Pension Law, 1996, so as to insert certain definitions in order to provide for the introduction of the savings withdrawal benefit; to provide for the appropriate account of a member’s interest in the savings, retirement and vested components, to provide for deductions that may be made; and to provide for matters connected therewith.”

https://www.treasury.gov.za/comm_media/press/2024/Government_Employees_Pension_Law_Proposed_Amendments_2_pot_retirement_system_11_March_2024.pdf

See also [Media Statement released by National Treasury](#).

National Treasury. Proposed amendments to Post and Telecommunications-Related Matters Act to provide for two pot retirement systems for inclusion in Pension Fund Amendment Bill [B 3-2024].

“To amend the Post and Telecommunications-related Matters Act, 1958, so as to insert certain definitions in order to provide for the introduction of the savings withdrawal benefit; to provide the appropriate account of a member’s interest in the savings, retirement and vested components in the savings, retirement and vested components; to provide for deductions that may be made; and to provide for matters connected therewith.”

https://www.treasury.gov.za/comm_media/press/2024/Post_Telecommunications-related_matters_Proposed_Amendments_two_pot_retirement_system_11_March_2024.pdf

See also [Media Statement released by National Treasury](#).

National Treasury. Proposed amendments to Transnet Pension Fund Act to provide for two pot retirement systems for inclusion in Pension Fund Amendment Bill [B 3-2024]. 11 March 2024.

“To amend the Transnet Pension Fund Act, 1990, so as to insert certain definitions in order to provide for the introduction of the savings withdrawal benefit; to provide for the appropriate account of a member’s interest in the savings, retirement and vested components, to provide for deductions that may be made and to provide for matters connected therewith.”



https://www.treasury.gov.za/comm_media/press/2024/Transnet Pension Fund Proposed Amendments two pot retirement system 11 March 2024.pdf

See also [Media Statement released by National Treasury.](#)

Media Comments

Dentlinger, Lindsay. COSATU eagerly awaits implementation of two-pot retirement system.

2024 Mar 12 EWN

<https://www.ewn.co.za/2024/03/12/cosat-eagerly-awaits-implementation-of-two-pot-retirement-system>

Fraser, Luke. New pension system in South Africa – Avoid this big ‘don’t’.

2024 Mar 17 Business Tech

“South Africans will soon be able to access large parts of their pensions before retirement, but Discovery Invest says consumers should instead use other savings products for shorter-term needs. After several changes by the National Treasury and the Standing Committee on Finance, the two-pot retirement system will launch on 1 September 2024. One-third will automatically go to the savings component and be accessible before retirement.”

<https://businesstech.co.za/news/finance/759985/new-pension-system-in-south-africa-avoid-this-big-dont/>

Matya, Lulama. ‘Pension Fund Amendment Bill must supersede Divorce Act’.

2024 Mar 12 SABC News

“The Standing Committee on Finance has heard that the proposed amendments to the public sector pension laws that will allow for a two-pot retirement system contradicts the Divorce Act. Some of the stakeholders who made submissions to the committee are proposing that the Pension Fund Amendment Bill must supersede the Divorce Act.”

<https://www.sabcnews.com/sabcnews/pension-fund-amendment-bill-must-supersede-divorce-act/>

Opperman, Ina. Two-pot retirement system: concern about delays, but government pushes ahead.

2024 Mar 12 The Citizen

“There is concern about delays in implementing the two-pot retirement system and whether consumers understand it properly, but government is pushing head and has published the proposed amendments to various pieces of legislation governing public sector pension funds.”

<https://www.citizen.co.za/business/personal-finance/two-pot-retirement-system-concern-about-delays-but-government-pushes-ahead/>

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PERSONAL INJURY

Media Comment

Cokayne, Roy. MEC 100% liable for damages following motorist’s pothole-related accident. [[Jacobs v Member of the Executive Council for Public Works and Roads \(2218/2019\) \[2024\] ZANWHC 73 \(12 March 2024\)](#)]

2024 Mar 14 Moneyweb

“North West MEC for Public Works and Roads Gaoage Molapisi has been found by the High Court in Mahikeng to be liable for 100% of the damages “as may be proven or agreed” from the injuries to an engineer whose vehicle hit a pothole on a gravel road, lost control and collided with a tree. Petrus Jacobs, who was driving his Ford Everest on the Sterkstroom gravel road between Klerksdorp and Ventersdorp on 27 April 2018 when the accident occurred, initially claimed R8.6 million in damages for past and future medical expenses, past and future loss of earnings, and general damages.”

<https://www.moneyweb.co.za/news/south-africa/mec-100-liable-for-damages-following-motorists-pothole-related-accident/>

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PONZI SCHEME

Media Comment

Menges, Werner. Couple rearrested after court orders release (Namibia).

2024 Mar 18 The Namibian



“A couple alleged to have been involved in an illegal investment scheme in which depositors placed more than N\$160 million were rearrested on Friday, after a Windhoek magistrate declared their initial arrest at the start of last week unlawful and ordered their release. In a ruling delivered in the Windhoek Magistrate’s Court, magistrate Dawid Mukuyu declared that the arrest of Coenraad (‘Coenie’) Botha (69) and his wife and co-accused, Charlotte Murove (32), on Monday last week was not lawful, since the police did not have grounds to take them into custody without warrants for their arrest.”

<https://www.namibian.com.na/couple-rearrested-after-court-orders-release/>

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ROAD ACCIDENT FUND

Case

Road Accident Fund v Mahmoud and Another (2018-28163) [2024] ZAGPJHC 243 (3 March 2024)

Urgent application to interdict execution of warrant based upon applicant’s Fund Management Directive – Directive placed embargo on payment to foreign claimants until they had produced proof that they were in South Africa legally when accident that gave rise to claim occurred – Applicant cannot rely upon directive to rescind order in circumstances where applicant was aware of that directive before agreeing to settlement and consent order granted – Dismissed.

Judgment: <https://www.saflii.org/za/cases/ZAGPJHC/2024/243.pdf>. Media summary: <https://www.saflii.org/za/cases/ZAGPJHC/2024/243media.pdf>.

Media Comments

Illidge, Myles. Road Accident Fund violates 1,300 court orders — Kisses its fridges goodbye.

2024 Mar 17 My Broadband

“The Sheriff of the Court visited the Road Accident Fund’s (RAF) Menlyn offices on Friday, 15 March 2024, to cart off a bunch of fridges after the RAF failed to comply with over 1,300 court orders. According to a Netwerk24 report, a law firm submitted the court orders to the Sheriff to seize approximately R113 million of the RAF’s assets. Allegedly, the fund refused to pay out claims for victims of road accidents, healthcare services, and treatment for patients at state hospitals.”

<https://mybroadband.co.za/news/government/529155-road-accident-fund-violates-1300-court-orders-kisses-its-fridges-goodbye.html>

Mkentane, Luyolo. Numsa set for national shutdown of RAF offices, citing ‘incompetent’ CEO.

2024 Mar 12 BusinessDay

“The National Union of Metalworkers of SA (Numsa) is set to embark on a “national shutdown” of all Road Accident Fund (RAF) offices on Thursday, to demand the removal of CEO Collins Letsoalo for alleged “gross incompetence” and presiding over the “disastrous” state of affairs at the state-owned entity. The RAF is among state organs hollowed out by years of mismanagement, huge backlogs and corruption. The fund handles almost 100,000 claims each year and is subjected to, almost daily, fraudulent and overinflated claims...”

<https://www.businesslive.co.za/bd/national/labour/2024-03-12-numsa-set-for-national-shutdown-of-raf-offices-citing-incompetent-ceo/>

(Subscription needed)

See also:

- **Tshikalange, Shonisani. Numsa urges Road Accident Fund staff to strike, citing mismanagement. –** 2024 Mar 13 TimesLIVE
<https://www.timeslive.co.za/news/south-africa/2024-03-13-numsa-urges-road-accident-fund-staff-to-strike-citing-mismanagement/>
- **Wicks, Bernadette. NUMSA calls for removal of RAF CEO Collins Letsoalo. –** 2024 Mar 12 EWN
<https://www.ewn.co.za/2024/03/12/numsa-calls-for-removal-of-raf-ceo-collins-letsoalo>

Mokoena, Sakhile. New efforts underway to amend Road Accident Fund (RAF) legislation.

2024 Mar 12 Parliament

“Representatives from the Road Accident Fund (RAF) told Parliament’s Portfolio Committee on Transport that plans are underway amend the RAF Act. The amendments are aimed at improving the entity’s operations. The RAF delegation briefed the Committee on Tuesday, 12 March to discuss the progress in implementing the entity’s turnaround strategy, including its plans to amend legislation governing the scheme.

<https://www.parliament.gov.za/news/new-efforts-underway-amend-road-accident-fund-raf-legislation>

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SHORT-TERM INSURANCE

Media Comment

Ridley, Kirtin and Tobin, Sam. Nord Stream sues insurers for refusing to cover pipeline explosions.

2024 Mar 12 BusinessDay

“Nord Stream is seeking more than €400m from its insurers for refusing to cover explosions in 2022 that ruptured pipelines designed to transport Russian gas to Germany, court filings show. The Switzerland-based company names Lloyd’s of London and Arch Insurance (EU) as defendants in its lawsuit, which was filed at London’s High Court in February.”

<https://www.businesslive.co.za/bd/world/europe/2024-03-12-nord-stream-sues-insurers-for-refusing-to-cover-pipeline-explosions/>

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SOCIAL GRANTS

Media Comments

Ensor, Linda. Recovery of R142m grant debt doubtful, says Lindiwe Zulu.

2024 Mar 14 BusinessDay

“It is doubtful whether it will be possible or financially viable to attempt to recover the R142m paid to deceased beneficiaries of social grants in the years 2021/22 and 2023/24, social development minister Lindiwe Zulu says. Replying to a question by Good MP Brett Herron, Zulu said the grant overpayments by the SA Social Security Agency (Sassa) were made to clients of state-owned Postbank...”

<https://www.businesslive.co.za/bd/national/2024-03-14-recovery-of-r142m-grant-debt-doubtful-says-lindiwe-zulu/> (Subscription needed)

Gabara, Nthambeleni. DPSA Does not have legal mandate to perform investigations – Minister Kiviet.

2024 Mar 18 DPSA

“Public Service and Administration Minister, Ms Noxolo Kiviet, clarified that the Department of Public Service and Administration (DPSA) does not have the legal mandate to conduct investigations. This statement was made in response to questions raised in the National Assembly regarding the wrongful payments made to public servants who fraudulently received Social Relief of Distress (SRD) grants. Minister Kiviet emphasized that the DPSA did not initiate an investigation to determine whether these wrongful payments were part of a scheme to defraud the state. As investigations fall outside the jurisdiction of the DPSA, they are not empowered to carry out such inquiries.”

<https://www.dpsa.gov.za/thepublicservant/2024/03/18/dpsa-does-not-have-legal-mandate-to-perform-investigations-minister-kiviet/>

See also:

- **Maqhina, Mayibongwe. 6 000 public officials face punitive steps over R350 grant fraud.** – 2024 Mar 18 Cape Times
<https://www.iol.co.za/capetimes/news/6-000-public-officials-face-punitive-steps-over-r350-grant-fraud-1f99b607-f5b2-41a7-ad93-3c3df1044f58>
- **R350 grant to increase to R370 from April.** – 2024 Mar 14 The Witness
<https://witness.co.za/news/kzn/2024/03/14/r350-grant-to-increase-to-r370-from-april/>

Joseph, Raymond. Previous Lottery board and management ignored corruption investigations.

2024 Mar 15 GroundUp

“The NLC Forensic Investigation Unit is probing all matters referred to it, including grant funding, irregularities, recruitment matters and non-compliance, Scholtz told MPs. Contract management will also be investigated as part of an audit of the NLC’s supply chain management. Two Special Investigating Unit (SIU) staff have been seconded to the NLC and they are currently looking at the Commission’s existing computer system, known as Fusion, she said.”

<https://groundup.org.za/article/previous-nlc-board-and-management-ignored-corruption-investigations/>

Mntambo, Nokukhanya. Social grant fraud remains a major concern, says Public Service Commission.

2024 Mar 12 EWN

“The Public Service Commission (PSC) says social grant fraud remains a major concern, as whistleblowers continue to flag the rot at government departments. The commission said it received close to 250 tip-offs about alleged corruption in the public sector during the third quarter of the 2023/2024 financial year.”

<https://www.ewn.co.za/2024/03/12/social-grant-fraud-remains-a-major-concern-says-public-service-commission>

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TAXATION

See also: [CRYPTOCURRENCIES/ASSETS](#)

Internet Article

Allan Gray. Moving or working offshore? Remember the tax man.

2024 Mar 14 FAnews

“Carla Rossouw, head of Tax at Allan Gray, who says that there is a myriad of confusion around this issue, which is impacting those leaving the country and those who have left the country many years ago... Today foreign regulators vigorously share information between one another, especially given the rise of common reporting standards between OECD countries. If a revenue authority picks up any information which ‘links’ you to South Africa, they are obligated to share that with SARS. The system has become sophisticated and SARS would be within their rights to enforce penalties if you owe tax,” she cautions, adding that failure to inform SARS may also hamper your access to your retirement funds, which only become available three consecutive years after you’ve ceased tax residency.”

<https://www.fanews.co.za/article/tax/16/tax/1016/moving-or-working-offshore-remember-the-tax-man/39014>

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UNEMPLOYMENT INSURANCE FUND (UIF)

Opinion

Bagraim, Michael. Hope for transforming Compensation Fund and UIF.

2024 Mar 17 Cape Argus

“Our government has clearly done a remarkable job of eroding the capabilities of both the Compensation Fund (CF) and the Unemployment Insurance Fund (UIF). These funds are entirely funded by South African workers and their employers. Contributions are traditionally made monthly or weekly depending on the employer’s payroll. The funds are paid with PAYE to the Receiver of Revenue’s office. In turn, the Receiver of Revenue allocates these payments to the Department of Employment and Labour, which then invests surplus funds into the Public Investment Corporation.”

<https://www.iol.co.za/capeargus/opinion/hope-for-transforming-compensation-fund-and-uif-14e8704c-2634-4889-8f4c-99c437c5b7c5>

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WARRANTY AND INDEMNITY INSURANCE

Law Firm Article

Pretorius, Koos and Mahomed, Aalia. Maximising benefits: The importance of efficiently leveraging W&I insurance to structure M&A deals.

2024 Mar 12 ENS

“Warranty and Indemnity (“W&I”) insurance is a risk management tool that transfers the liability of the seller to the insurer. W&I insurance typically covers the breach of warranties and indemnities provided by a seller/warrantor and the occurrence of events that were unknown or undisclosed to a buyer. This tool can bring significant benefits to transacting parties when consideration is given to W&I insurance during the early stages of a transaction.”

<https://www.ensafrica.com/news/detail/8235/maximising-benefits-the-importance-of-efficie>

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