



SOUTH AFRICA LAYS THE GROUNDWORK FOR **FINTECH REGULATION**

contents

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EDITOR: Tembisa Marele

We have recently released our three year strategy, which details our regulatory approach and priority areas in the short to medium term. We have six key goals we want to achieve during this period. They are about building a new organisation; an inclusive and transformed financial sector, a robust regulatory framework that promotes fair customer treatment, informed financial customers, strengthening the efficiency and integrity of our financial markets, and understanding new ways of doing business and disruptive technologies.

The financial services sector continues to evolve and new technologies are fueling the rate of change, creating opportunities to improve efficiencies, reach more customers and drive inclusion. These opportunities however, if not effectively managed and understood, comes with the risk of creating instability and further exclusion resulting in poor outcomes for customers and markets. Traditionally, regulators have been behind the curve in Financial Technology (FinTech) developments, and due to the escalating pace of change and the scale of the risk and opportunity that FinTech presents, we recognise that this has to be a strategic focus area for the FSCA, in collaboration with other financial sector stakeholders.

For us, the appropriate regulatory response is to create balance between innovation and risk management, with the ultimate goal of ensuring good outcomes for customers. The financial risks involved in the virtual

currency landscape have made it necessary for a regulatory framework to be developed.

To this end, the South African Reserve Bank (SARB) has established a FinTech programme that is designed to assess the regulatory implications of these technological developments, and in this regard, to strengthen the ongoing collaboration with fellow regulators. This newly established Intergovernmental FinTech Working Group (IFWG) recently introduced a market outreach workshop to help regulators and policy makers to better understand the FinTech environment.

In this issue, we further look at Directive 8 in the retirement fund space, which was issued to combat and prevent corruption and corrupt activities by prohibiting acceptance of gratification by trustees. The Directive has garnered a lot of attention in the retirement funds industry, attention possibly caused by the extensive breadth of its scope and its possible impact on officials and service providers involved with commercially sponsored funds.

As always we value any feedback from you, so get in touch with us using the contact details provided.

Enjoy the issue!

Tembisa

SOUTH AFRICA LAYS THE GROUNDWORK FOR FINTECH REGULATION

FINTECH

FINANCIAL TECHNOLOGY

BY CAROLINE DA SILVA - DIVISIONAL EXECUTIVE: REGULATORY POLICY

Financial Technology (FinTech) has become an increasingly popular phenomenon, with people familiarising themselves with crypto-currencies such as Bitcoin, SAFCoin and many others. The main issue with all these currencies is that they operate in a relatively unregulated environment; thus government is unable to either track or protect consumers from potential fraud that may be associated with these platforms.

According to an article published on the official site of Moneyweb (<http://www.moneyweb.co.za/>), "the South African Reserve Bank (SARB) issued a position paper on virtual currencies in 2014. At the time, the central bank opted not to oversee, supervise or regulate the virtual currency landscape as it posed no threat to financial stability. The SARB did, however, reserve its right to change its position, should the landscape warrant regulatory intervention."

Although this seemed like a positive paradigm shift, the financial risks involved when it comes to crypto-currencies and tokens and the fact

that they are not regulated and there are no legal requirements or standardised documents for the issuer to adhere to, made it necessary for a regulatory framework to be developed.

The SARB later announced the establishment of the FinTech programme, designed to assess the emergence and regulatory implications of FinTech. FinTech is simply the process of infusing technology into financial services, which will potentially yield benefits, including improving financial inclusion, this a definition adopted by the various policymakers and key industry players in SA.

The SARB has recently decided to establish a broader FinTech programme, with dedicated full-time staff members. Although it is at an early stage, this programme will be required to strategically review the emergence of FinTech and assess the related user cases.

According to Francois Groepe, Deputy Governor of the South African Reserve Bank, "The primary responsibilities

are expected to include the facilitation of the development of refreshed policy stances for the SARB across the FinTech domain. This will be done by robustly analysing both the pros and the cons of emerging FinTech innovations as well as the appropriate regulatory responses to these developments. A critical success factor of the programme will be the ongoing collaboration with our fellow regulators".

The newly established Inter governmental FinTech Working Group, which comprises the National Treasury (NT), the Financial Sector Conduct Authority (FSCA) and the Financial Intelligence Centre (FIC), introduced its inaugural market outreach workshop. The Working Group was formed to develop a common understanding among regulators and policymakers of FinTech developments and relevant policy and regulatory implications for the South African financial sector and economy. It also seeks to develop and co-ordinate an approach to FinTech policy making in the country.



The workshop focused on the following key areas.



1. PRIVATE CRYPTO-CURRENCIES: the session aimed to gain insight from the industry on broader crypto-currency activities such as the existing and emerging use cases, the role of crypto-currency exchanges and more specific activities relating to Initial Coin Offerings (ICOs). For the purposes of this document, crypto-currencies and tokens are referred to as separate concepts.



2. FINANCIAL INCLUSION: the session aimed to achieve greater understanding of the existing and potential future impact of FinTech on financial inclusion, as well as an understanding of risks, including consumer protection risks, regulatory challenges and possible policy or regulatory solutions. Innovations such as digital identity were also discussed.



3. INNOVATION FACILITATION: the session aimed to identify learnings from the experience of other regulators that have implemented innovation facilitators and/or policy positions conducive to innovation facilitation as well as improved engagement between regulators, FinTech providers and incumbents.



4. REGULATORY AND POLICY RESPONSES: the closed session aimed to provide the IFWG and its members with the opportunity to reflect on the feedback provided by workshop participants. During the session, policymakers and regulators considered the inputs that were received. Input received from participants was contrasted to work-in-progress on respective focus areas.

According to the National Treasury, the workshop brought regulators, policymakers and industry players together to develop a 'harmonised' approach to FinTech-driven innovation and consider appropriate policies and regulatory frameworks.

The conference conceded that a robust regulatory framework would be beneficial to protect and educate investors against bad actors. Regulators have an option to either amend existing laws by changing current definitions to cater for emerging innovation or create a new overarching regulation that would cater for FinTech. To monitor the quality and credibility of issuers it was proposed that registering all ICOs with a central body would be ideal.

The workshop discussion also brought up a few regulatory issues that may be hampering South Africa's progress on financial inclusion. Two debates emerged among the workshop delegates. Both sides of the debate recognised the role that technology must play.

A tangential question was where this innovation should be sourced from. The discussion emphasised the importance of understanding the financial service needs of the currently underserved consumers. The second major issue indicated by delegates was the difficult Know Your Client/Customer. (KYC) requirements that are placed on financial institutions, assigned by global Anti Money Laundering and Counter Terrorism Financing (AML/CTF) standards that South Africa subscribes to. These approaches would require regulatory changes in whatever kind of KYC due diligence is acceptable among financial institutions.

Going forward

The market participants, in particular, were excited that regulators were taking steps toward making the environment in South Africa more enabling for innovation, showing that South Africa was indeed 'open for business' to investors and entrepreneurs looking to make an impact in the local financial market.

The discussions that occurred throughout the workshop have influenced the production of a draft policy paper which will set out the policy position on FinTech and innovation in South Africa's financial sector by 2019.

The IFWG will host another industry workshop before the end of 2018. In this workshop there will be more discussion on issues that were not covered in the first workshop. The SARB National Payments Service Department will also host its payments and innovation workshop.

The National Treasury has indicated that a FinTech framework will form part of the much-anticipated Conduct of Financial Institutions (COFI) Bill, which may also include the introduction of a 'regulatory sandbox'-type initiative to encourage innovation within a controlled environment.

One of the FSCAs priority focus area in the newly released Regulatory Strategy is understanding new ways of doing business and

COVER STORY

disruptive technologies. This will assist the Authority to understand the impact this focus area will have on the consumers by institutions. Furthermore, research will need to be conducted to inform the FSCAs position in FinTech. There are discussions with the regulatory quarters to establish innovation hubs, acceleration hubs, and sandboxes,

where financial institutions can approach the conduct authority for direction on how regulation impacts on new innovative developments and to test new innovations in a safe environment.

The fact that regulators and supervisory bodies across the world are creating 'regulatory sandboxes'

as controlled environments within which innovation can occur is evidence that they acknowledge that FinTech presents both opportunities and challenges. Some of these challenges arise in the areas of risk and regulation.

SOME FINTECH BUZZWORDS

CRYPTOCURRENCY: A digital currency that relies on cryptography to validate and secure transactions. There are different types of cryptocurrencies - bitcoin and Ether are amongst the best known.

BITCOIN: A digital - or crypto - currency that enables payment in a decentralised peer-to-peer (P2P) network not governed by any central authority or middleman.

SANDBOXING: Is a process of allowing testing of new technologies in a managed space, affording customers appropriate protection and resolution should the FinTech initiative not deliver to expectations.

INSURTECH: Inspired by the term fintech, insurtech champions the use of technology to modernise and improve the insurance business.

REGTECH: Or regulatory technology. The term refers to software and other technology aimed at helping financial services businesses comply with regulations efficiently and inexpensively, or regulators enforce rules.

BLOCKCHAIN: Software that first emerged as the system underpinning bitcoin. Also known as distributed ledger technology (DLT), it is a shared record of information that is maintained and updated by a network of computers rather than a central authority. It is protected and secured by advanced cryptography.

ETHEREUM: A type of blockchain network. The bitcoin and Ethereum blockchains differ primarily in purpose and capability. While the bitcoin blockchain is used to track ownership of the digital currency bitcoin, the Ethereum blockchain can be used to build decentralised applications. The virtual currency associated with Ethereum is called Ether.

P2P LENDING: Also known as social lending, peer-to-peer lenders run websites where borrowers can secure money directly from lenders bypassing banks.

SMART CONTRACTS: Software that runs on blockchain technology and can automatically enforce the terms of an agreement. A "smart bond", for example would automatically make interest payments to investors.

ROBO-ADVICE: Financial advice given through the use of computer algorithms. Robo-advisors, also known as online investment managers, typically invest their clients' money in portfolios made up of low cost exchange-traded funds.

KYC: Or know your client/customer. A process to ensure businesses identify and verify the identity of their clients, for anti-money laundering (AML) purposes.





Our Vision

To ensure an efficient
financial sector where
**customers are informed
and treated fairly** ●

REPORT BY THE FSCA

**BY SOLLY KEETSE, MARKET
INFRASTRUCTURE, FSCA**

The FSCA is mandated to investigate and in appropriate instances take enforcement action in cases of market abuse in the financial markets. Three kinds of market abuse are prohibited in South Africa, namely; insider trading, market manipulation (prohibited trading practices) and false reporting relating to the affairs of a public company.

In matters of insider trading, the FSCA may order that the alleged offender pay to the profit made or the losses avoided as a result of the offending transactions, and a penalty of up to three times such amount. These funds are distributed, after recovery of costs, to persons who may have been prejudiced by the offending transactions.

In market manipulation and false reporting cases, the FSCA may impose a penalty and a cost order on the offender. In addition, market abuse transgressions are criminal offences in terms of the FMA (Financial Markets Act, No. 19 of 2012). The Director of Public Prosecutions may institute criminal action against any person.

It is not the function of the FSCA to institute criminal prosecutions; however, it provides all information necessary to assist the Director of Public Prosecutions.

Since 1999, the FSCA and its predecessors, the Directorate of Market Abuse and the Insider Trading Directorate, have investigated a total of 413 cases. 295 cases were closed because there was no, or insufficient, evidence that the FMA

(or the now repealed Insider Trading Act and Securities Services Act) was contravened. In 91 cases the FSCA/DMA decided to proceed with enforcement action. The penalties imposed on offenders to date amounts to approximately R108 million.

The Regulatory Actions Forum of the FSCA (Financial Sector Conduct Authority) held a meeting on 24 July 2018 to discuss various market abuse investigations. Below is a list detailing the current status of insider trading and prohibited trading practices investigations. It should be noted that these are not investigations of the affairs of the companies listed but of trading in shares on the stock exchange.

POSSIBLE INSIDER TRADING CASES

Security	JSE code	Period	Case status
1. Capitec Bank Holdings	CPI	2018-01 – 2018-02	Ongoing
2. EOH Holdings Limited	EOH	2017-11 – 2017-12	Ongoing
3. Famous Brands Limited	FBR	2017-10	Closed
4. Fortress Income Fund Limited (nr 2)	FORT	2017–2018	Ongoing
5. Greenbay Properties Limited	GRP	2017–2018	Ongoing
6. Mr Price Group Limited	MRP	2017-11	Ongoing
7. Murray & Roberts Holdings Limited	MUR	2018-03	Ongoing
8. Resilient REIT Limited (nr 2)	RES	2017–2018	Ongoing
9. Steinhoff International Holdings N.V. (nr 1)	SNH	2017-08	Ongoing
10. Steinhoff International Holdings N.V. (nr 3)	SNH	2017-11 – 2017-12	Ongoing
11. Steinhoff International Holdings N.V. (nr 4)	SNH	2017-12	Ongoing
12. Super Group Limited (nr 2)	SPG	2017-09 – 2017-10	Closed
13. Times Media Group Limited	TMG	2014-02 – 2014-03	Ongoing
14. Trustco Group Limited	TTO	2017-11	Ongoing
15. Vodacom Group Limited	VOD	2017-10	Ongoing
16. WG Wearne Limited	WEA	2017-09	Ongoing
17. Wheat Futures Contracts	WEAT	2017-04 – 2017-05	Ongoing

POSSIBLE PROHIBITED TRADING PRACTICES (MARKET MANIPULATION) CASES

Security	JSE code	Period	Case status
18. Aspen Pharmacare Holdings Limited (nr 2)	APN	2018-01	Ongoing
19. Capitec Bank Holdings (nr 2)	CPI	2018-01 – 2018-02	Ongoing
20. December 2016 WEAT	WEAT	2016-09	Ongoing
21. 15 June 2016 ALSI Futures Contract	15June16ALSI	2016-04	Ongoing
22. Oakbay Resources and Energy Limited (nr 2)	ORL	2014-11 – 2015-04	Ongoing
23. Resilient REIT Limited	RES	2018-01	Ongoing
24. Resilient REIT Limited (nr 2)	RES	2017–2018	Ongoing
25. SABMiller PLC	SAB	2016-03-09	Ongoing
26. The Foschini Group Limited	TFG	2016-03-09	Ongoing
27. Trustco Group Limited (nr 2)	TTO	2017-12 – 2018-02	Ongoing
28. White Maize Futures Contract 24 March 2017	WMAZ	2017-03-24	Ongoing
29. Fortress Income Fund Limited (nr 2)	FORT	2017–2018	Ongoing
30. Nepi Rockcastle PLC	NRT	2017–2018	Ongoing
31. Greenbay Properties Limited	GRP	2017–2018	Ongoing

REGULATORY FOCUS

POSSIBLE FALSE OR MISLEADING REPORTING CASES

Security	JSE code	Publication	Case status
32. African Dawn Capital Limited	AFD	2007-03-01 – 2010-06-30	Ongoing
33. Alliance Mining Corporation Limited	ALM	2007-03-01 – 2009-09-30	Ongoing
34. Aspen Pharmacare Holdings Limited (nr 2)	APN	2018-01	Ongoing
35. Capitec Bank Holdings (nr 2)	CPI	2018-01 – 2018-02	Ongoing
36. Lewis Group Limited (nr 2)	LEW	2015-01 – 2016-10	Ongoing
37. Resilient REIT Limited	RES	2018-01	Ongoing
38. Resilient REIT Limited (nr 2)	RES	2017–2018	Ongoing
39. Steinhoff International Holdings N.V. (nr 2)	SNH	2015, 2016 & 2017	Ongoing
40. Steinhoff International Holdings N.V. (nr 4)	SNH	2017-12	Ongoing

Investigations are ‘closed’ once it becomes evident that no, or insufficient, evidence has been obtained to warrant action in terms of the Act.

PRELIMINARY INVESTIGATIONS

Security	JSE Code	Period	Case status
1. EOH Holdings Limited	EOH	2017-07-18	Ongoing





NEPI ROCKCASTLE AND GREENBAY ADDED TO FSCA INVESTIGATION

BY RAY MAHLAKA, MONEYWEB

Market regulator's probe into possible insider trading and market manipulation within the Resilient group is expanded.

The Financial Sector Conduct Authority (FSCA) has broadened its investigation into the Resilient group of companies, casting its net wide to include Nepi Rockcastle and Greenbay Properties for possible insider trading and market manipulation.

A FSCA update of investigations dated 26 July 2018 reveals that JSE-listed Nepi Rockcastle and

Greenbay has been included in the market regulator's roll of ongoing investigations.

The two are new additions to the FSCA's probe. The regulator began an investigation in March 2018 to scrutinise trades in Resilient and Fortress Income Fund shares after scathing allegations of share price manipulation by key directors and associates surfaced.

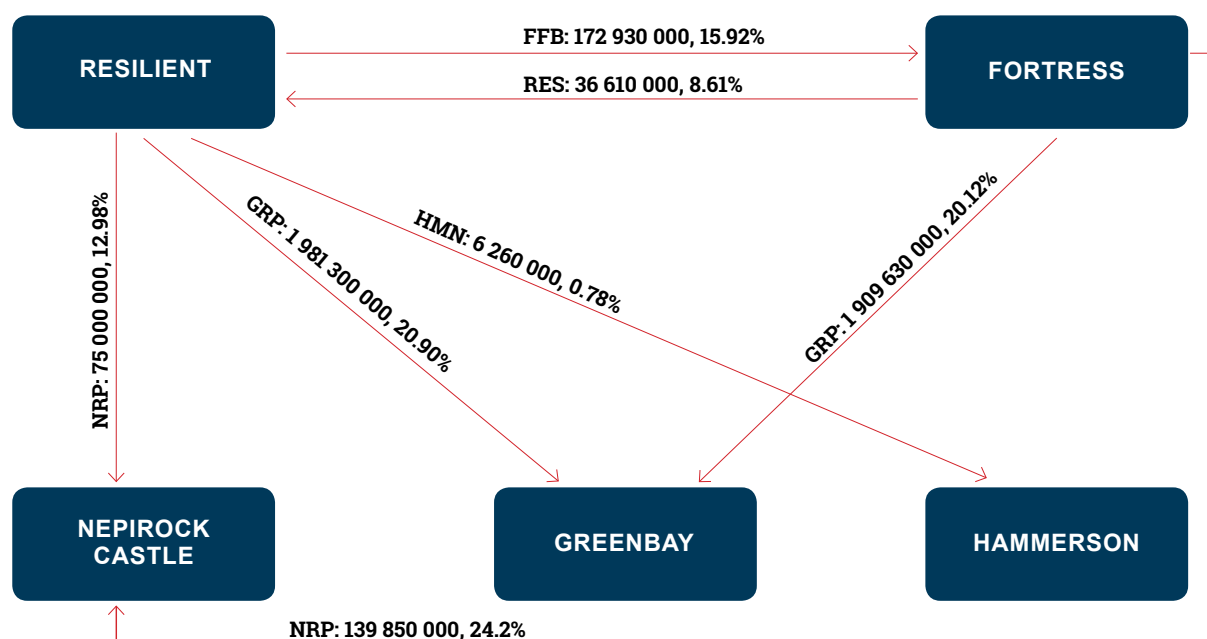
Nepi Rockcastle is being probed for possible market manipulation, while the investigation into Green bay centres on both possible market manipulation and insider trading. The FSCA will review the share trades

of Nepi Rockcastle and Green bay for the period beginning in 2017 to 2018.

Nepi Rockcastle, Green bay and Fortress have long been considered by market watchers to be associate companies or stablemates of Resilient, given their complex web of cross-shareholdings in each other.

To recap: Resilient holds a 13% stake in Nepi Rockcastle and 21% in Greenbay. Fortress holds a 9.9% stake in Resilient and 24% in Nepi Rockcastle (see image below). Resilient recently unwound its shareholding in Fortress, disposing of its 15.5% stake to existing shareholders.

Exhibit 1: Group Structure



Source: Argam Capital Research, Company Data

As at April 2018, Resilient sold its Fortress shareholding.

REGULATORY FOCUS

Scathing reports by asset managers 36ONE and Mergence, stockbroker Navigare, and independent sell-side research house Arqaam Capital have put the spotlight on questionable practices in the Resilient group of companies.

The property group has been accused of using its cross-shareholdings, black economic empowerment trust Siyakha, and questionable accounting policies to artificially boost share prices, dividend payments, and net asset values.

36ONE's report concluded that Resilient's related parties – meaning companies associated with it and individuals close to Resilient executives – traded large volumes of Resilient, Fortress, Nepi Rockcastle and Greenbay shares with the intention of boosting share prices.

36ONE concluded that the high valuation of shares in the four companies was not because of

“normal market activity but from deliberate (and frequently concealed) actions by some of the influential owners and key management of the group”.

However, an independent investigation – commissioned by Resilient and led by former auditor-general Shauket Fakie – has cleared the property group's key directors and related parties of any wrongdoing relating to insider trading and share price manipulation.

Market watchers have been highly critical of the independent review, calling it a “whitewash”, as its scope was set by Resilient in the first place and its capacity to review individual share trades was limited.

The FSCA investigation will have access to a full set of Resilient's JSE share transactions, as the market regulator will collaborate with the JSE.

The FSCA said its investigation is not centred on the company affairs of Nepi Rockcastle and Greenbay, but that it will probe the share trades of both companies to determine if there has been market manipulation or insider trading

If found guilty of unfair trading, the four companies or the company directors could face administrative sanctions, including monetary fines. The findings of the FSCA might be referred to the National Prosecuting Authority, where the directors could face penalties of R15 million or 10 years imprisonment.

This article was first published on Moneyweb and may be viewed using the following link: <https://www.moneyweb.co.za/news/companies-and-deals/nepi-rockcastle-and-greenbay-added-to-fcsa-investigation/>





Our Mission

To ensure a fair and stable financial market, where consumers are informed and protected, **and where those that jeopardise the financial well-being of consumers are held accountable** ●

A REGULATORY UPDATE ON DIRECTIVE 8

BY RENEILWE MTHELEBOFU,
COMMUNICATIONS AND
LANGUAGE SERVICES, FSCA

Earlier this year Directive 8 which speaks of prohibition on the acceptance of gratification has garnered a lot of attention in the retirement funds industry. From the viewpoint of industry participants, this attention has possibly been caused by the extensive breadth of its scope and the possible impact on officials and service providers involved with commercially sponsored funds. As a result of concerns, the context and thinking behind the directive, issued to combat and prevent corruption and corrupt activities, has been a subject of debate amongst industry participants.

The directive presents an extensive overview of what the Registrar of Pension Funds views as gratifications. These include money, whether in cash or otherwise; any donation, gift, loan, fee, reward, valuable security, property or interest in property of any description, whether movable or immovable or any other similar advantage; any forbearance to demand any money or money's worth or valuable thing; and any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part among other gratifications.

The directive is based on the general principle that a board member, principal officer, employee of a retirement fund, auditor, valuator, administrator, employee of an administrator, or service provider to a retirement fund should not be involved in any conduct constituting corruption or corrupt activities. Any such involvement will have a bearing on such persons' fitness and propriety to hold office and/or to provide a service. The conditions in the directive were prescribed in order to aid in the combatting and prevention of corruption and corrupt activities.

It was issued as part of the FSCAs continuous and enhanced supervisory approach to ensuring that retirement funds are properly managed and that trustees are not unduly influenced. According to Olano Makhubela, Divisional Executive for Retirement Funds at FSCA, the aim of the directive is to prescribe conditions to combat and prevent potential corrupt activities. He also noted that gifts could be seen as attempted bribes. "Such excessive influence and conduct could impair trustees' ability to objectively assess service providers and the true value they offer to retirement funds," he says.

During the FSCAs regulatory update session at the recent Institute of Retirement Fund Association Conference, delegates were encouraged to approach regulation positively, and, when criticising, their criticism of regulation should be based on facts and ethical grounding. The positive point of Directive 8 is that trustees can now understand what is required of them. Directive 8 was intended by the FSCA to be a proactive measure to prevent corruption and corrupt activities. "Ethical behaviour by trustees and principal officers is an integral part of the theme of this conference and majority of the speakers at this conference said something that is related to ethical behaviour," said Naheem Essop, from the FSCA.

"Trustees and principal officers are leaders in their own right and they make decisions on behalf of members, so leaders have the responsibility to act ethically and are required to conduct themselves in a manner which is consistent with putting the needs of members above their own," said Essop.



The Pensions Fund Adjudicator, **Muvhango Lukhaimane**, said that Directive 8 cannot exist independently of governance processes, and that people should raise their hands when something does not look right. "I was disappointed when I saw people require something like this, but after seeing what I have seen, I do know that Directive 8 is required; the thing now is to look around for the enforcement and oversight of it, so that people know you are watching," said Lukhaimane.

According to the directive, board members, principal officers, deputy principal officers, employees of retirement funds, auditors, valuers, administrators, employees of administrators and service providers to retirement funds are also directed to report or disclose to the Registrar any breach or attempted breach of this directive immediately upon becoming aware of it and are referred to Information Circular 1 of 2018 for guidance on how to report or to make a disclosure to the Registrar.



Specific types of gratification that are not permitted are:

- Any gratification, which, objectively viewed, creates a conflict of interest with their fiduciary duty towards the fund;
- Token gift/s that exceed/s the annual limit set by the board in terms of the fund's gift policy, which annual limit shall not be more than R500.00 per annum in aggregate from any one service provider;
- Any gratification relating to local or international due diligence including, but not limited to, subsistence, travel or accommodation;
- Any gratification relating to local or international entertainment or sporting events including, but not limited to, subsistence, travel or accommodation; or
- Conferencing costs or board of fund expenses.

In the end, trustees must have the strength to be unwaveringly ethical, clear and unbiased in both their thinking and decision-making, and also not be distracted by the many distractions around them.

Information Circular 1 of 2018 can be accessed using the link below:
<https://www.fsb.co.za/NewsLibrary/Information%20Circular%20No.%201%20of%202018.pdf>

FINANCIAL SECTOR REGULATION AND FINANCIAL INCLUSION

**BY THANDOLWETHU MASANGO,
COMMUNICATIONS AND
LANGUAGE SERVICES, FSCA**

One of the key objectives of financial regulation is to create a safe and stable financial services sector, in which all South Africans will have the freedom to transact in good faith without fear of being taken advantage of by unscrupulous characters. The first challenge the financial sector is faced with in achieving this objective is the low levels of financial inclusion in South Africa.

According to the Financial Sector Regulation (FSR) Act, financial inclusion means that all persons have timely and fair access to appropriate, fair and affordable financial products and services. Accessibility should be accompanied by usage, which should be supported through financial education. Simply put, financial inclusion is one of the fundamentals for financial regulation.

It does not end there: consumer financial education on the use of financial services is important if the previously disadvantaged are to use these services in a productive and responsible manner. This means that financial consumer education is integral in ensuring sustainable financial inclusion.

The lack of knowledge about financial products and services must be overcome to ensure beneficial use of these products and services. Increased and more diversified product offerings, as well

as the increased complexity of some products, pose a challenge to all users of such products. It is therefore the responsibility of the industry and its authorities to demystify the technical jargon in some of these financial products and to make it easy for consumers to understand.

For individuals and firms, access to affordable and reliable financial products and services enables people to engage in economic transactions on a daily basis, to save for retirement and other long-term goals, to insure against varied risks, and to avoid an over-reliance on debt and exploitative or reckless lending practices. Consumer issues, such as the inability to evaluate the appropriateness of financial products in relation to personal circumstances, to appropriately assess fee and pricing structures, and limited knowledge of recourse mechanisms, further highlight the need for consumer financial education.

The Financial Sector Conduct Authority (FSCA) will also have the responsibility to protect financial customers by:

- (i) promoting fair treatment of financial customers by financial institutions; and**
- (ii) providing financial customers and potential financial customers with financial education programmes, and otherwise promoting financial literacy and the ability of financial customers and potential financial customers to make sound financial decisions.**

Going forward, the FSCA will provide for a broader scope for financial education: current themes and topics will be supplemented by additional information, which will help with enabling the consumer to be financially savvy.

A stable and more inclusive financial sector is needed to support increased economic growth in South Africa. At a macroeconomic level, a stable and well-developed financial sector supports real economic activity through the efficient channeling of savings into productive forms of investment, contributing to the country's objectives of job creation and a more inclusive economy as set out in the National Development Plan.

The regulation and supervision of financial institutions and markets seeks to respond to the market failures that can arise due to the particular nature of risks and challenges in the financial sector. The consumer-centric approach as set out in the FSR Act will necessitate the integration of strategic financial education, inclusion and protection that will empower consumers with the financial capability to access quality financial products and services that cater to the consumer's needs.

FINANCIAL INTELLIGENCE ACT BROADENED TO STEM CRIME BY FSP'S

BY PHILLIP LANGENHOVEN, FINANCIAL INTELLIGENCE CENTRE

INDEPENDENT PERSPECTIVE

The broad range of services offered by financial services providers can make them vulnerable to being exploited by criminals involved in money laundering and/or the financing of terrorist activities.

It is for this reason that financial services providers are included as one of the 16 Schedule 1 accountable institutions in the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) (FIC Act).

The FIC Act gives the Financial Intelligence Centre (FIC) the mandate to identify funds generated from criminal acts, to combat money laundering and terror financing. As South Africa's centre for gathering and analysing financial data, the FIC is able to develop valuable financial intelligence reports for investigative and prosecutorial authorities for their follow up actions and investigations. This information gathering and report development, however, is largely reliant on the compliance of accountable institutions and the submission of reports from them.

Financial service providers, like all accountable institutions, are required to fulfil compliance obligations that is geared to protect the financial system

and its institutions, and to strengthen them against abuse.

TRANSPARENCY AND GLOBAL STANDARDS FOR SOUTH AFRICA

As money movements within and across borders continue, across the globe, the call for transparency is increasing at a similar pace.

In South Africa, much consideration on transparency in the financial system has gone into the amendments made to the Financial Intelligence Centre Act, 2017 (Act 1 of 2017) which was promulgated on 2 May 2017. A more transparent financial system entails application of customer due diligence, proper record keeping, reporting measures to enable detection, investigation and sanctioning of illicit activity.

The builtin innovative standards and provisions brought about in the amended FIC Act are designed to bring South Africa's financial system in line with global practices. The major changes to the FIC Act include:

ADOPTION OF A RISK-BASED APPROACH TO KNOWING THE CUSTOMER

This approach gives financial institutions the flexibility to assess and manage risk depending on the category of the customer. Institutions can vary their approach, depending on factors such as type of customer, business relationship, product and location.

IDENTIFYING WHO REALLY OWNS AND BENEFITS FROM COMPANIES

Institutions need to know the people behind companies – those who benefit financially – to bring greater transparency to the financial system. This will help authorities detect, investigate and prosecute instances where corporate structures have been used to hide illicit financial dealings.

IMPROVING THE MANAGEMENT OF RELATIONSHIPS WITH PROMINENT INFLUENTIAL PERSONS

According to global standards, financial institutions need to pay close attention to people in prominent positions in the public sector. The amendments to the FIC Act has adopted this measure and broadened its scope to include people in the private sector who do business with government (those in senior positions responsible for high value procurement contracts).

IMPOSING UNITED NATIONS SECURITY COUNCIL FINANCIAL SANCTIONS

The amended FIC Act establishes a legal framework to applying and administering financial sanctions emanating from United Nations Security Council Resolutions. The FIC Act will be responsible for administering the measures requiring accountable institutions to freeze property or transactions that are subject to these Resolutions.

FIC ACT DEFINITION OF FSP

A financial services provider requiring authorisation in terms of the Financial Advisory and Intermediary Services Act, 2002 (Act 37 of 2002), to provide advice and intermediary services in respect of the investment of any financial product (but excluding a short term insurance contract or policy referred to in the Short-term Insurance Act, 1998 (Act 53 of 1998) and a health service benefit provided by a medical scheme as defined in section 1(1) of the Medical Schemes Act, 1998 (Act 131 of 1998).

These seven compliance obligations are:



INDEPENDENT PERSPECTIVE

The legislative amendments also bring South Africa's anti-money laundering and counter terror financing standards in line with recommendations made by the international standard setting body, the Financial Action Task Force (FATF).

This should augur well for South Africa in 2019, when the FATF is scheduled to conduct a mutual evaluation of the country's implementation of measures to combat money laundering and terror financing.



RISK-BASED APPROACH: GREATER FLEXIBILITY AND INCLUSIVITY

Fundamental to the amendments in the Financial Intelligence Centre Act, 2017 (Act 1 of 2017) has been the introduction of a risk-based approach.

The regulatory framework for protecting the integrity of the South African financial system was originally set in place with the promulgation of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001). This has been further strengthened by the introduction of the risk-based approach to customer due diligence by the amendments to the FIC Act in 2017.

The intention of the risk-based approach is to introduce greater efficiencies and to offer a less burdensome and cost-effective alternative to prescriptive methods for institutions to meet compliance measures.

The risk-based approach requires the FIC, financial institutions,

other accountable and reporting institutions and supervisory bodies to take steps to identify and assess the risk of doing business with their customers with a view to deciding how best to manage that risk. By rating their clients in terms of risk for money laundering and terrorist financing against specific products, services and other factors, institutions are able to allocate their resources more efficiently using the risk-based approach. Where money laundering or terror financing risks are amplified, stronger controls will be needed. Conversely, where there is low level of risk, fewer or a reduced amount of controls will be needed.

As part of implementation of their risk-based approach, institutions need to know and practice the following:

- Institutional risk framework needs to be in writing – a risk management compliance programme
- The above programme needs to be regularly updated
- When doing client profiles in regard to money laundering and terror financing risk, consider these scenarios as high risk:

- ✔ **Type of client** – politically exposed persons, legal entities, non-face-to-face clients.
- ✔ **Product type** – Internet accounts, private banking, money remittals, stock brokering, annuities, insurance products, off shore services, correspondent banking etc.
- ✔ **Geographical location** – Countries listed on terrorism and sanctions lists of governments and international organisations and non-members of the Financial Action Task Force (FATF) or of a FATF style regional body.

RISK MANAGEMENT COMPLIANCE PROGRAMME

To meet compliance requirements of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001), accountable institutions need to fulfil the following obligations:

- Client identification and verification using a risk-based approach
- Risk management and compliance programme using a risk-based approach
- Record keeping
- Reporting
- Appointment of a compliance officer
- Training of employees
- Registration with the FIC.

One of these obligations, the risk management and compliance programme, was introduced as part of the suite of amendments to the Financial Intelligence Centre Act, 2017 (Act 1 of 2017). Included in section 42 of the amended Act, this amendment obliges accountable institutions to develop, document, maintain and implement a risk management and compliance programme (RMCP).

The letter and spirit of institutions' RMCP need to be fully understood by their boards and senior management who need to actively lead the process to understand money laundering and terror financing risks that they need to take into account.

The RMCP is integral to the application of the amended FIC Act's risk-based approach. For institutions' to know how and to what extent they are vulnerable to money laundering and terrorist financing, they need to conduct a risk assessment, which in turn will help them determine the extent of resources required to mitigate that risk.



Our Values

Agility

Camaraderie

Diligence

Fairness

Integrity

Perseverance ●

WARNINGS

THE FINANCIAL SECTOR CONDUCT AUTHORITY (FSCA) WARNS THE PUBLIC TO ACT WITH CAUTION WHEN DEALING WITH THE FOLLOWING ENTITIES:

GLOBAL ELECTION INVESTMENTS

The Financial Sector Conduct Authority (FSCA) warns the public to act with caution when dealing with Global Election Investments, **Ms Melissa Denraj** and **Ms Shaunita Singh**.

According to the information received, the aforementioned people purport to be financial services providers. The FSCA confirms that Global Election Investments, **Ms Melissa Denraj** and **Ms Shaunita Singh** are not authorised in terms of the Financial Advisory and Intermediary Services Act, 2002 ("FAIS Act"), to render any financial advice and intermediary services.



HARTNICK RECARDO IZAK HILTON (HRIH) INVESTMENTS

The Financial Sector Conduct Authority (FSCA) warns the public to act with caution when dealing with HRIH Investments.

The FSCA received information of the activities of HRIH Investments on Facebook through Facebook posts, from a Facebook account named: **Hartnick Recardo Izak Hilton**. HRIH Investments purports to be the only conceded Cyberasset Investment Company with the FSCA and to have a high ranking with the FSCA. HRIH Investments claims that it is 100% legitimate and secure. HRIH Investments claims to offer an unreasonably high return on its investments.

HRIH Investments is not authorised in terms of the Financial Advisory and Intermediary Services Act, 2002 ("FAIS Act"), to render any financial advice and intermediary services. Furthermore, the FSCA does not have any relationship as claimed by HRIH Investments and neither does it hold HRIH Investments in high ranking.



MUZI KHUMALO AND LIEZEL JOHNSON

The Financial Sector Conduct Authority (FSCA) warns the public to act with caution when dealing with **Muzi Khumalo** (who also uses the name **Liesel Johnson**). According to the information received, this individual purports to be a financial services provider. The FSCA confirms that he is not authorised in terms of the Financial Advisory and Intermediary Services Act, 2002 ("FAIS Act"), to render any financial advice and intermediary services.

The FSCA received information that **Muzi Khumalo**, who uses the alias Liesel and Liesl Johnson on Facebook, refers customers to the GT247.COM website as his own website. GT247 (Pty) Ltd, trading as GT247.COM, with company registration number 2017/190488/07, is a subsidiary and juristic representative of Purple Group Limited. Purple Group Limited has confirmed that neither they nor their affiliates have any relationship with **Muzi Khumalo** and/or **Liesel / Liesl Johnson** and neither have they given them permission to use their name.



SADIA AKBAR

The Financial Sector Conduct Authority (FSCA) warns the public to act with caution when dealing with **Sadia Akbar**. According to the information received, **Mrs Akbar** purports to be an employee of an entity called Financial Service Authority. The FSCA confirms that 'Financial Service Authority' is not authorised in terms of the Financial Advisory and Intermediary Services Act, 2002 ("FAIS Act"), to render any financial advice and intermediary services.

Mrs Akbar also claims that Financial Service Authority has its head office at the same office address as that of the FSCA and that they advise members of the general public on payments made to them via cheque, which may be couriered to members of the public through courier companies such as Aramex. **Mrs Akbar** and Financial Service Authority use the following email address and contact number: financialservicetax@gmail.com and 060 409 0863.

The FSCA is not affiliated with either **Mrs Sadia Akbar** or Financial Service Authority, nor has it granted them permission to use the official FSCA office address.

XCHANGE SHARE TRACKING AND TRADING (PTY) LTD & DSB BROKERS / DSB SECURITIES LTD



The Financial Sector Conduct Authority (FSCA) warns the public to act with caution when dealing with Xchange Share Tracking and Trading and/or DSB Brokers / DSB Securities Ltd, which are not authorised in terms of the Financial Advisory and Intermediary Services Act, 2002 ("FAIS Act"), to render any financial advice or intermediary service.

It was brought to the attention of the FSCA that the aforementioned entities were purporting to be authorised financial services providers who provide various money market facilities on the Johannesburg Stock Exchange. It has further been brought to the attention of the FSCA that the entities were soliciting money from the members of the public under false pretenses that such money would be invested to their benefit.

Neither Xchange Share Tracking & Trading nor DSB Brokers / DSB Securities Ltd are financial services providers authorised to render financial services as contemplated under the FAIS Act.

GLOBAL TRADING SOLUTIONS

The Financial Sector Conduct Authority (FSCA) would like to warn the public not to conduct financial services business with Global Trading Solutions and **Mr Ryan Venter**.

It has been brought to the attention of the FSCA that Global Trading Solutions and **Mr Ryan Venter** have been claiming to be associated with True North Capital Management (Pty) Ltd (an authorised financial services provider) when interacting with clients, creating an impression that they (Global Trading Solutions and **Mr Ryan Venter**) are affiliated/authorised by the FSCA to render financial services. True North Capital Management (Pty) Ltd has informed the FSCA that it neither has any relationship with Global Trading Solutions and **Mr Ryan Venter** nor has authorised them to use its business information.



Global Trading Solutions and **Mr Ryan Venter** are not authorised as financial services providers and are not representatives of any authorised financial services provider. Persons rendering financial services without a licence or without being appointed as representatives are acting in contravention of the Financial Advisory and Intermediary Services Act, 37 of 2002. Such contravention is an offence which carries a fine not exceeding R10 million or period of imprisonment not exceeding 10 years.

The FSCA again reminds consumers who wish to conduct financial services with an institution or person to check beforehand with the FSCA on either the toll-free number (080 0110 443) or on the website www.fsc.co.za whether or not such institution or person is authorised to render financial services.



Your money.
Your destiny.
Know your
rights and responsibilities.



FSCA AT THE INSURANCE INSTITUTE OF SOUTH AFRICA (IISA) CONFERENCE



**BY BOITUMELO MANGANYI,
COMMUNICATIONS AND
LANGUAGE SERVICES, FSCA**

The Insurance Institute of South Africa (IISA) hosted its annual conference recently. The IISA, being the only professional body for the short-term insurance industry, themed the conference “Exploring New Frontiers - African Insurance Exchange.”

Prevalent at the conference was the issue of transformation. With the mandate of the FSCA, broadened to look after the myriad of issues, including transformation. The insurance industry which is criticised as being the least transformed sector was under the spotlight. The FSCA is expected to play a role in supervising compliance by financial institutions with their transformation targets.

The overarching statutory objects of the FSR Act include the establishment of a supervisory and regulatory framework that promotes financial inclusion and transformation of the financial sector. The FSCAs transformation strategy will focus both on transformed financial institutions and optimising the role that the sector plays in supporting economic growth.

The FSCA seeks to ensure that its regulatory and supervisory frameworks support and strengthen the aims of the Financial Sector Code (FSC) in achieving broadbased economic empowerment. In addition, focus will be given to reducing barriers faced by financial institutions wishing to participate meaningfully in the sector and to creating an enabling environment for them to develop inclusive business models.

This year’s conference hosted a dedicated panel of speakers who exchanged knowledge on some of the transformational challenges faced within the industry; more specifically the inclusion of Africa more widely, gender issues in terms of women representation in the industry, disability in the industry and throughout Africa, as well as the progress made thus far in order to ensure a sustainable future.

South Africa is characterised by amongst other things social inequalities. For this reason, transformation should be encouraged and used as a tool to address the issue of inequality. The pace of transformation in the insurance industry has been slow, and not reflective of the realities of South Africa, with there being only a few executives of colour, as well as few female executives.

EVENTS

The Insurance Act 18 of 2017, aims, amongst other things, to increase low-income earners' ability to access insurance products and foster transformation in the insurance sector, but also to give small businesses the opportunity to enter the insurance industry. The Act seeks to link licensing with the sector's overall transformation targets as set out in the FSC which will empower the FSCA to push for development targets, financial inclusion and transformation objectives.

Ameliorating access to insurance is of great significance as it plays a part in enhancing inclusion, because of its ability to contribute to the country's growth. An access to insurance for all South Africans, would mean affording the ability to protect

themselves from unfavourable financial circumstances. This is especially important for low-income households, where insurance assists with covering any loss and can prevent them from sinking further into a poverty pit.

According to the CEO of IISA, Thokozile Mahlangu, the purpose of IISA is to build capacity within the insurance industry through insurance skills development and exposure into insurance as a profession, thereby mitigating skills shortage, improving opportunities for employment and social security thus making a sustainable contribution to the insurance industry and the economy.

This year's conference was attended by delegates working in insurance, reinsurance, insurance broking, risk management, insurance regulatory bodies, insurance skills development and service providers to the industry and has given delegates the opportunity to engage with some of Africa's greatest insurance leaders and industry experts.



Inter—Provincial Financial Literacy Speech Competition



CONSUMER
EDUCATION



FIRST RUNNER-UP - THOBEKA DLAMINI



SECOND RUNNER-UP - TARIRO MWANASAWANI



WINNER - NTOMBIZETHU CELE

INTERPROVINCIAL FINANCIAL LITERACY SPEECH COMPETITION 2018 FINAL

**BY BONTLE MALULEKA -
COMMUNICATION AND LANGUAGE
SERVICES, FSCA**

Following its successful inauguration in 2016, the Financial Sector Conduct Authority (FSCA) in collaboration with the Financial Services Consumer Education Foundation (FSCEF) hosted the Inter-Provincial Literacy Speech Competition.

The purpose of the competition was to promote financial literacy, encourage the spirit of entrepreneurship and create awareness on the importance of financial knowledge. The competition seeks to promote careers in the financial services industry among learners and introduce insurance as an investment choice for all individuals concerned.

The competition also aimed at improving financial literacy levels amongst Grade 11 learners by requiring them to do in-depth research on one of the approved

financial topics and present this to an audience in the form of a five minute prepared speech, with the objective, being not only to integrate theory and practice as an important principle in the National Curriculum Statement, but also to expose learners to additional research which supports the content of the curriculum.

Former President Kgalema Motlhante attended the event and gave the learners constructive advice which they were able to successfully incorporate in their presentations. "If you want to be winners in today's competition, know that it is the beginning of a new journey in your life and it will test you all the way through... Practice the nature of saving and save every little thing" he said.

The competition was open to Grade 11 learners from quintiles 1, 2 and 3 schools who are taking subjects in the economic and/or accounting science fields, and consisted of

four competition rounds, namely; classroom, district, provincial and an inter-provincial round where the top two learners from each province competed for the winning title.

The winner of the 2018 competition was Ntombizethu Cele from Little Flower School, in KwaZulu-Natal, who confidently took first place with her topic of, "With a little help from my friend, the Financial Planner". The first runner-up was Thobeka Dlamini, while the second runner up was Tariro Mwanasawani.

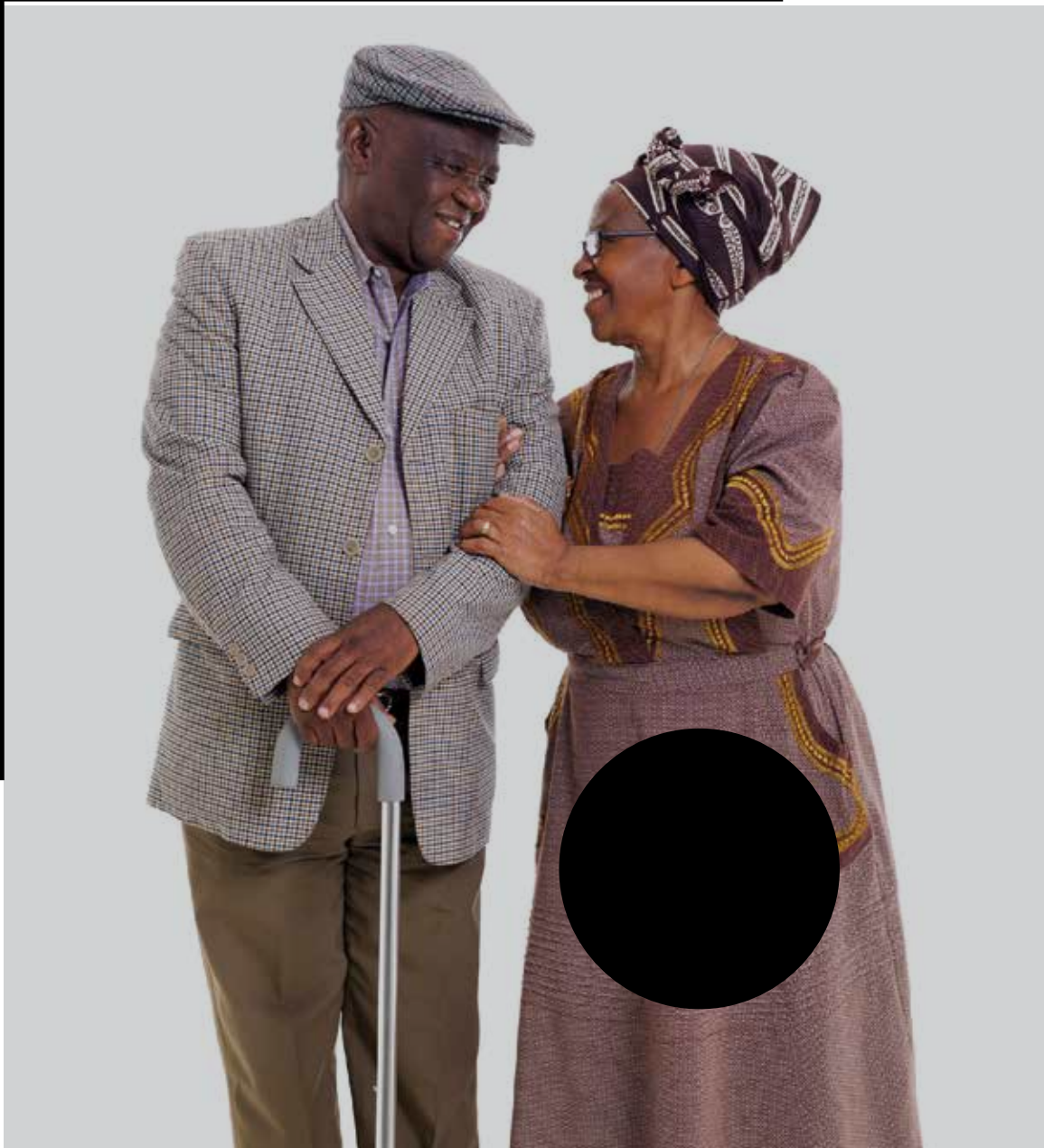
The winner received a prize of R20 000, with the first runner-up receiving R10 000 and second runner-up R5 000.

The outstanding factor of this competition is the unintended benefits it presented. Learners gained knowledge by conducting research on different topics and then in turn, were able to impart the knowledge gained onto others during their speeches.



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