Mark Danckwerts

Partner
Head of Insurance:
KPMG in South Africa
Tel: +27 82 710 3261
Email: mark.danckwerts@kpmg.co.za

Is it a bird; is it a plane?[1] Oh no Father, it's a drone! Well in my day my boy, a drone was a bee. What's it doing? Why Father it's scanning that pine plantation for disease, delivering medicine to poor and far-flung communities and taking pictures of that driverless motor car to see how damaged it is.

But Father, what is a bee? A bee was an insect that would buzz around happily all day long, flying from flower to flower to collect pollen and nectar to make honey and while it did that it would drop bits of pollen from one plant onto other plants to fertilise them. On sunny days there would be many bees working at the same time, and the air would be noisy with their droning.

I think I shall buy a drone Father; and I shall drop pollen all over and fill the meadows and dales with beautiful flowers! And how will you do that you silly boy; you have no bitcoins!

The insurance industry is having a moment. Old rules are being set aside and new realities are being explored. My fear was that South African insurers would do nothing but many have done much.

It is with great pride that we release another survey of the financial results of 37 of South Africa's short-term insurance companies, 22 long-term insurers and 8 reinsurance companies. I hope that you will enjoy reading the survey and the articles written by the extraordinary people in our insurance practice.

[1] It's a Bird... It's a Plane... It's Superman is the title of a 1966 Broadway musical composed by Charles Strouse

Mark Danckwerts

Partner: Insurance
Head of Market Conduct Practice
Tel: +27 82 710 3261
Email: mark.danckwerts@kpmg.co.za

Finn Elliot

Associate Director
Insurance Law
Tel: +27 79 039 9367
Email: finn.elliot@kpmg.co.za

Governance and Individual Accountability

Hiding behind the Accountability veil

Conduct regulation was recently introduced into South Africa. It manifests itself most patently in the establishment of the conduct regulator, being the Financial Sector Conduct Authority ("FSCA") and in the introduction of "a consolidated, comprehensive and consistent regulatory framework for the conduct of financial institutions", in the form of the Conduct of Financial Institutions ("COFI") Act (currently still a draft Bill).

The primary objective of the FSCA is the regulation and supervision of the "conduct of business" of all financial institutions. Conduct introduces a distinct shift in the manner and approach to the regulation and supervision of the financial services industry, by the FSCA. Key amongst these, is the potential introduction of an accountability regime, in one form or another.

Individual Accountability

The National Treasury's Explanatory Policy Paper accompanying the COFI Bill requires,

"…improvements in financial institutions' culture, including ensuring appropriate governance frameworks and that decision makers are ***directly and personally held accountable*** *for weak governance and abusive practices by the institution, [for] ensuring that financial institutions better serve South Africans."*

The 2018 Financial Markets Review recommended that "regulators consider the implementation of an accountability regime that is equivalent and proportional for all market participants…"

We know that governance and accountability is a key focus of the FSCA, and that it is taking it very seriously. The comments made thus far provide a strong indication of the direction that the FSCA may move in, and the extent to which it may go, in order to drive accountability within financial institutions.

Accountability has always been a feature of corporate governance, but this presents a clear regulatory enforcement mechanism to be able to hold senior management to account.

Essentially in terms of the concept of "individual accountability", senior managers in a financial institution are held personally liable for regulatory breaches and conduct failures.

Enabling the regulator to link inappropriate customer outcomes to those individuals responsible for the decisions that resulted in those inappropriate outcomes will, in turn, ensure that important responsibilities within a financial institution are appropriately assigned to specific senior managers.

The focus on accountability is not just a South African concept; the concept of holding individuals within financial institutions personally accountable for abusive practices is becoming a regulatory focus area around the world. The UK, Australia, Hong Kong, Singapore and the US have all implemented forms of individual accountability and more countries are likely to follow suit over the coming years.

Why introduce "individual accountability"?

If we consider the UK example, there was significant criticism that the then existing regulatory framework was unable to hold individuals accountable for their personal responsibility and, as a consequence, there was concern that senior managers continued to shelter behind an accountability veil.

The inference is that senior managers were not seen to be adequately taking account for their responsibilities and that internal mechanisms within business, to hold senior managers to account, were lacking.

There is a strong interplay between culture and accountability. Accountability is one of the key indicators of a strong corporate culture. The threat of regulatory sanctions will hopefully engender an enhanced sense of accountability, which should in turn strengthen corporate culture ultimately driving down misconduct in the business.

The South African context

We don't have certainty on whether "individual accountability" will be introduced into South Africa; in what form it may be introduced or when it might happen.

However, it would be amiss to ignore the regulatory tone and direction that the FSCA is taking in this regard.

Either way, senior management will receive increased scrutiny and attention from the FSCA for their roles and accountability within financial institutions.

At its core the accountability regime requires that all financial institutions ensure that the "universe" of conduct responsibilities is properly identified and individual accountability is assigned to senior managers for each responsibility.

What should you think about?

A key question is whether your business would respond to the introduction of individual accountability purely as a regulatory burden or because developing consequence management mechanisms to hold senior managers to account for their responsibilities for the fair treatment of customers is the correct approach and builds a culture of integrity.

- Do you consider it necessary to introduce or enhance your accountability mechanisms and consequence for senior management failures in Conduct?
- Are responsibilities properly delegated and accountabilities properly defined to senior management across your business?
- Have you developed a comprehensive responsibilities universe reflecting how all senior management are responsible and accountable and how this responsibility is shared across the business?

Tax Technology in the Insurance Industry

Visibility of tax data is often not good, making it difficult to evaluate the accuracy and completeness of tax decisions made by the organisation.

Technology and more specifically Data Analytics can provide substantial benefits to tax functions by providing better visibility and insight into tax data. This allows tax functions to be in control of their data and the tax decisions made across the organisation. Having visibility and insights to millions of transactions, and a view of trends and potential risk indicators at your fingertips, will give tax functions more time to evaluate discrepancies and improve overall value add to the organisation. Imagine a world where the Tax department is in control of the full end-to-end tax process, while simultaneously reducing risks through sufficient controls and processes.

KPMG can put you in control of your tax data and compliance.

For more information please contact:

Madelein van Zyl
Partner, Insurance Tax Technology
T: +27 82 718 8810
E: madelein.vanzyl@kpmg.co.za

Teresa Fondse
Manager, Insurance Tax Technology
T: +27 82 719 5791
E: teresa.fondse@kpmg.co.za