

# SAIV

SOUTH AFRICAN INSTITUTE OF VALUERS

# The South African VALUER



February 2019

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## From the President's Desk



2019 is the Institute's 110th year in existence which is a massive milestone and very worthy of recognizing and celebrating. We will be holding our National AGM and Seminar at the Southern Branch this year and we will use the occasion to recognize the people that have made the Institute the incredible organization that it is.

We have implemented a number of strategic initiatives over the past year, one which most of you would have seen and heard us talking about which is the rebranding of the Institute. This new look has modernized our image and ensured that we remain seen as a forward thinking and relevant organization.

Our second initiative has been to implement webinars starting with 'Expropriation without Compensation' presented by Bulelwa Mabasa from Werksmans Attorneys. We have already released the first edition with the second lengthier webinar due for release shortly. We are honored that Mrs. Mabasa is willing to make the time to present to our valuers considering that she is serving on President Ramaphosa's advisory panel

on land reform that will support the Inter-Ministerial Committee on Land Reform chaired by Deputy President David Mabuza.

The KwaZulu Natal branch has launched a new student mentorship programme that will be rolled out throughout all branches. This has been extremely well received by students and has generated a lot of correspondence from other students showing interest in the programme.

I look forward to engaging with as many members as possible during March when our General Manager, Lerato Pooe and I will be travelling across the country to attend all of our Branch AGMs. We look forward to your active participation in all of our initiatives that are aimed at supporting the ongoing development and sustainability of our industry.

**Tracey Myers**  
**SAIV President**

# From the GM's Office



2019 has gotten off to a good start and we are looking forward to another exciting and eventful year for the SAIV and all of our members!

We have an anniversary to celebrate. Yes, SAIV is 110 years old! What a time to be alive. Reaching such a milestone is testament of the vision of the past leaders as well as current leaders of the SAIV. It is a testament to the commitment and dedication of all those who have served voluntarily over the years in various capacities on the branches; and all those members who belong to the institute and whose interests are being represented.

Not only is it a year of celebration but it is importantly a year of reflection. It is a time to reflect and look back at the history which has guided our current identity, our mission and our vision. We look forward to celebrating this big milestone. More details of which will follow.

This year promises to be full of informative and exciting seminars and workshops. The branches are also trying to bring more opportunities for engagements and networking. This includes more student drives.

The KZN branch took off on 26th January by hosting a mentorship workshop with 23 Valuation students. It was the first of many sessions which the Branch committee members are running to provide students with practical valuation experience over a period of two years or until they have reached professional status.

The other branches are also hard at work finalising their plans on the initiatives they will be undertaking during the course of the year at the various educational institutions.

In the next few weeks we'll be having our first Voluntary Associations and SACPPV meeting. These meetings are scheduled to take place on a quarterly basis.

We hope you enjoyed the pre-recording presented by Bulelwa Mabasa and Patrick O'Connell on Expropriation without compensation which was provided at no cost, with the opportunity to obtain 1 CET point. We are looking to provide you with more of these opportunities in 2019.

We are continuously working to provide you with quality and information packed events. A lot of planning is already underway. Below are the dates for the planned events for the year, please diarise! More information will be made available on the website closer to the date of the event. You also are more than welcome to contact the General Managers office. Be sure to attend and take part!

MONTH	DATE	BRANCH	ACTIVITY
March	1	SOUTH	AGM & Seminar
March	5	EASTERN CAPE	AGM & Seminar
March	8	CENTRAL	AGM & Seminar
March	12	KZN	AGM & Seminar
April	2	NORTH	AGM & Seminar
May	14 - 17	SOUTH	NATIONAL AGM & OTHER EVENTS
June	6	KZN	Seminar
July	26	SOUTH	Seminar
August	15	EASTERN CAPE	Seminar
August	28-29	KZN	Seminar
September	13-14	NORTH	Seminar
October	17 & 18	CENTRAL	Seminar
October	24	KZN	Seminar
October	25	SOUTH	Seminar
November	1	NORTH	Seminar
November	7	EASTERN CAPE	Seminar
November	21	KZN	Seminar

Take care  
Lerato

## CBE Bulletin February 2019



The February edition of the CBE Bulletin includes the very successful CBE Transformation Indaba and the State of the Nation Address (SoNA) held on 7th and 8th February. In addition the 21st February was International Mother Tongue Day, an opportunity to embrace and express our South African diversity. Did you know that the United Nations has proclaimed 2019 the International Year of Indigenous Languages?

[Access the February CBE Bulletin](#)





## SAIV-KZN hosts Mentorship Programme



On Saturday, 26 January 2019, the South African Institute of Valuers KZN Branch hosted a Mentorship Programme at Master Builders Association Head Quarters, Westville. 23 students attended the first formal training workshop of the Mentorship Programme.

The programme provides students with practical valuation experience under the mentorship of SAIV-KZN Committee Members.





**Reminder!**  
*Submit your CET points to the SACPVP*

**Click here to visit SACPVP website**

## 2019: The Year of Compliance from Rules-based to Risk-Based Approach



*Written by Emil Bihl, Director of Risk Management Division at Erasmus Motaung Incorporated*

The deadline for accountable institutions to meet the amendments of the Financial Intelligence Centre Act, No. 38 of 2001 (FICA) legislation, which was introduced to counteract money laundering and the financing of terrorism, is fast approaching on April 2, 2019.

These amendments, which were primed by a Mutual Evaluation Report, sought to clarify those aspects of FICA which were not being implemented correctly and which did not prevent certain acts of financial misconduct, resulting in wasted resources. One of these amendments stemmed from non-compliance to a rules-based approach, which then prompted FICA to lead companies into taking a risk-based approach, which is outlined in Section 42 of the Act.

The Risk Management and Compliance Programme (RMCP) amendment was first introduced in October 2017, this has allowed about a year and a half for companies to meet its requirements. However, as this new amendment now touches on every aspect of a business, including how a business deals with their clients, to how they are dealing with their client's money, it is an immense task and a big step for companies to take.

While rules can only apply to concrete aspects of a business, risks can touch on areas that are abstract, and unforeseen especially if you approach risk to be the uncertainty on objectives. Then, issues such as weather which are normally reserved for conversation making, become critically important as change in weather patterns effect service delivery, as an example

The new amendment forces accountable institutions to now actively be involved in the day-to-day risks that they, as well as their clients, may face, and forces companies to be constantly aware of developments in transactions. While many companies can implement these difficult changes by themselves, or hire a compliance agency to assist with the process, the problem comes in that it falls back into the rules-based

approach of a check list, where the RMCP is not effectively integrated in a company's operations and the ideas are often not shared with all the stakeholders.

When you do not have buy-in from all the stakeholders involved, you will not see any efficiency in your RMCP. Stakeholders especially internal stakeholders in your company, like your HR, Sales and IT are critical control points and accountability needs to be assigned to each and every internal stakeholder. Further, this needs to be managed into the RMCP program. Trying to implement an unrealistic risk management program, without the buy-in from all your stakeholders will lead to failure. Externally, accountable institutions need to comply with FIC's (Financial Intelligence Centre) demands and also balance the interaction with its clients with an effective risk approach while treating the client fairly especially, if the client falls within the jurisdiction of the Consumer Protection Act.

Another factor that needs to be taken into consideration when implementing an RMCP into your company, is the practicality of the program. Internal stakeholders need to understand what is being said in the RMCP or a company risks the effective implementation of the Act, again, falling by the wayside. Through implementing a practical approach, companies can avoid creating situations where expectations are created that cannot be met. Implemented correctly, a RMCP not only assists a company to be compliant, but will help the company to achieve the financial goals it has set out for itself, creating a win for the FIC and a win for the company.

Due to the rising risks of identity theft and fraud, the Act has also brought about extended Know-Your-Customer (KYC) obligations, which now forces accountable institutions to go beyond confirming the identity of a client to give effect to the Act, and consequently protect your business and all stakeholders involved, and prompts these institutions to not only delve into the client's business operations, but to also establish the identity of the owner. While it is easy to have a name and face by which companies can do business, verifying a juristic person is challenging and it also ventures into the Protection of Personal Information Act (POPI) territory, which is an area that law firms are ideally positioned to deal with.

The local estate agency sector is one area that the RMCP and KYC amendments are intently focused on. The Act specifically requires estate agents to regularly update their RMCPs and to report clients that are suggested to not be FICA compliant to the FIC or where the client is displaying suspicious behavior. The result is, that a management function within the estate agency is required to monitor the clients and transactions. The execution of such a management function must be auditable by third parties, which means that the process must be recorded in writing and there must be proof that the process has come to everyone's attention and there must be proof of its execution in the sense of written confirmation of compliance.

Although accountable institutions have been given some time to comply with these amendments, it is often left to the last minute, not being implemented until some concrete examples of non-compliance have been made, with many companies choosing not to adhere to this important amendment. The Act has the ability to enforce administrative sanctions, which could be up to R50 million for a company if a company is found non-compliant which can be an extremely costly exercise for an organization.

In conclusion, consumers are encouraged to embrace FICA, as it offers security to all parties involved in a transaction by having a 'watch dog', represented by the accountable institution monitoring the transaction by identifying and managing any risks that may arise as a result of identity or any suspicious behaviour of a party to the transaction.

#### **Emil Bihl**

*Emil is a litigation attorney with 15 years-experience in corporate, commercial and labour matters. Emil has a passion to help companies avoid landing on his litigation desk and as a result qualified as an ISO31000 Risk Manager (PECB) in order provide risk advisory services to clients based on Emil's litigation, corporate,*

*commercial and labour experience. Combining risk expertise with legal ability allows for effective and practical risk advisory services.*





# Regulations to the Property Valuation Act



The Regulations to the Property Valuation Act of 2014 were gazetted on 30 November 2018. The Minister of Rural Development and Land Reform has, under section 20 read together with section 1 of the Property Valuation Act, 2014, made the regulations in the Schedule available here.

[Regulations to the PVA 2018](#)

# Understanding the risks faced by Homeowners' Association Directors for non-compliance with the Community Schemes Ombud Service Act 9 of 2011



I have always maintained that a Homeowners' Association (hereinafter referred to as an HOA) constituted under a Memorandum of Incorporation, is a rather clumsy vehicle to manage a property development. If you own a unit in a Sectional Title scheme, there is specific, tailor made legislation, under the Sectional Titles Schemes Management Act, which makes compliance and regulation far easier.

With the advent of the Community Schemes Ombud Service on the 7th of October 2016, there was speculation amongst owners in HOAs as to whether or not the Service applied to these developments. There have, in fact, been legal challenges already from certain large schemes which feel that the Service should only govern the Sectional Title community. The Ombud service will have none of that and cites Chapter 1, Section 1 of the Community Schemes Ombud Service Act 9 of 2011, which defines a Community Scheme as follows:

**“any scheme or arrangement in terms of which there is shared use of and responsibility for parts of land and buildings, including but not limited to a sectional titles development scheme, a shareblock company, a home or property owners’ association, however constituted, established to administer a property development, a housing scheme for retired persons, and a housing co-operative as contemplated in the South African Co-Operatives Act.”**

Consequently, it is clear that HOAs must register with the Ombud's office and will face penalties on interest should they fail to pay the quarterly CSOS levy. The CSOS legislation faces imminent amendment to include a peremptory compliance certificate for governance documentation(rules).

As Directors of Lots of Loot Equestrian Eco Estate, what would Advocate Tshepo “Hot Shot” Mjali, Sharon “Know-it-All” Sheridan-Pierce, Emilio “Mediator” Massimiliano and Eddie “Hot Head” Perumal Naidoo need to know in order to limit their risks as Directors. As a first, they will be happy to know that in terms of the Regulations of the CSOS Act, Chapter 4, they will henceforth be promoted to “Scheme Executives”. They may not be as excited to know that, in terms of the very same chapter, they are obligated to:

1. Take reasonable steps to inform and educate themselves about the community scheme,

its affairs and activities and the legislation and governance documentation in terms of which the community schemes operate;

2. Take reasonable steps to obtain sufficient information and advice about all matters to be decided by the scheme executives to enable them to make conscientious and informed decisions;
3. Unless excused by the chairperson of the scheme executives on reasonable grounds- attend all meetings of the scheme executives and attend the community scheme's annual general meeting if it holds such a meeting;
4. Exercise an active and independent opinion with respect to all matters to be decided by the scheme executives;
5. Exercise due diligence in relation to any business of, and necessary preparation for and attendance at meetings of, the scheme executives or any committee to which such scheme executive is appointed.

For me, the crucial part of the Act is Chapter 4 which states that all the above obligations are in addition to and do not derogate from the fiduciary obligations of a scheme executive in terms of the Common Law or any applicable statute. Our fearless foursome group of Directors will have to take their fiduciary duties really seriously. This duty is the duty of care and skill in dealing with the affairs of the scheme. Breaches of fiduciary duties could lead to personal liability. So when Eddie "Hot Head" Perumal Naidoo blurts out at a meeting that this Directorship business is just his side job, or, Sharon "Know-it-All" Sheridan Pierce is still relying on the MOI alone, not having realised that the CSOS Act has come into effect, owners in the Estate must decide whether or not they can afford to have Directors who do not understand their increased onus and responsibilities.

Another area to highlight for our intrepid leadership team in terms of the new legislation is fidelity insurance. An Estate/HOA may be vulnerable to loss of money occasioned by theft or fraud. The Directors have to insure the scheme against risk or loss of money by the dishonest conduct of a scheme executive (themselves), an employee or agent of a community scheme who has control of the money, a managing agent or a contractor who has access to the monies of the scheme. Chapter 4 of the CSOS Regulations goes as far as to set out that the minimum cover in respect of the fidelity fund insurance must be the total value of reserves and investments at the end of the last financial year together with 25% of the Community Scheme's operational budget for the current year. If Emilio "Mediator" Massimiliano should possibly pipe up that everyone involved in the running of the Estate's monies is of impeccable standing and would never contemplate theft or fraud, it would become necessary to point him to the current statistics that increasingly indicate a trend towards dishonest behaviour, possibly caused by a tight economy.

Finally, if there is any doubt at all about Directors'/Scheme Executives' compliance with the Community Schemes Ombud Service Act, allow me to point out Chapter 2 Section 34 of that Act. The clause deals with offences and penalties.

Any person who-

1. Fails to provide access to any books, accounts, documents or assets when required to do so under this act:
2. Fails to comply with a directive under this act
3. Fails or refuses to give data or information
4. Intentionally refuses to perform a duty or obstructs any person in the exercise of a power or performance of a duty
5. Accepts any unauthorised fees or reward, either directly or indirectly as a result of a person's position with the Service
6. Uses the name, logo or design of the Service without authority is guilty of an offence.

If convicted, that person would face a fine or imprisonment up to 5 years, or both. A second offence would attract a fine or 10 year sentence or both. Advocate Tshepo “Hot Shot” Mjali, realising the impact of the legislation is thus quick to persuade his merry band of men, and one woman, to hand over the minutes of meetings when required to do so by CSOS, during an investigation of a complaint by owner, Gustav Finkelstatten, who has constantly complained about the dampproofing problem at the common property stables, housing his Black Percheron Mare.

Having served on the CSOS Board last year, I have been privy to the operations of the Service, which is becoming resourced and more powerful. As a result, compliance will be a priority this year, with the appointment of inspectors, playing a bigger role in checking that all Community Schemes fall squarely within the letter of the Law.

**Marina Constas**





# Condolences on Passing of Members

## Condolences

It is with great sadness that we announce the passing away of some of our members as the South African Institute of Valuers. Condolences to their families, colleagues and everyone saddened by their sudden demise.

### **Hein Beneke**



Hein was a professional valuer whose career started in 1979 in Cape Town at the Estimates Department. A year later he was transferred to the Regional Office in George where he worked for the Western Cape Provincial Administration until the end of 1996. In 1997 he became a director of Southern Cape Valuers, a private valuation company. He left the company in 2005. He also served on Valuation Appeal Boards for various municipalities in his private capacity. Hein was well known and loved by his colleagues and will be missed.

### **Dr Corné de Leeuw**



He was the Managing Director of DelQS Quantity Surveyors and Property Valuers. He had over the years received special awards from the Association of South African Quantity Surveyors (ASAQS), the International Cost Engineering Council (ICEC) and the Africa Association of Quantity Surveyors (AAQS). De Leeuw was the past president of the SACQSP, ASAQS, AAQS and SAPOA respectively. He had a specialist knowledge in building and property economics (including financial viability analysis), value management (value engineering), contractual and legal matters related to building construction and in property valuation and willingly gave his time and experience as part of various industry body committees. At the time of his passing, he served as a member of the SAPOA Innovative Excellence Awards committee.

**William Watkins**

William was a member of the Northern Branch of the SAIV. Further information was not available at the time of publishing.

**Employment Opportunities**

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# Interesting Articles



## **City of Johannesburg Land Use Scheme, 2018: New requirements for land use and development**

The new City of Johannesburg Land Use Scheme, 2018 was published by The City of Johannesburg Metropolitan Municipality (Council) on 2 January 2019 and came into operation on 1 February 2019.

[Read More](#)

## **Illegal building demolished in Cyrildene**

The department of development planning on behalf of the City of Johannesburg demolished an illegal building at Derrick Avenue in Cyrildene on August 31. This follows efforts by CoJ to give the property owner opportunities to amend their property in order for them to comply with by-laws.

[Read More](#)

## **Asset Magazine | Issue 68 - February 2019**

Articles in the latest issue of Asset Magazine include Waterfall City: smart, green and world class, UCT modernises property studies degrees for 2020, SKIDATA grows its brand and presence in SA market and Investing in South African inner cities amongst others.

[Read More](#)

