

MCLU

Monthly Compliance & Legislation Update

Presenter: **Lettie Janse van Vuuren CA(SA)**

25 JANUARY 2023



*Stay informed on the multitude of
Compliance and Legislation Updates*

This webinar covers changes during the month of DECEMBER 2022

Presenter

Lettie Janse van Vuuren CA(SA)

- Lettie joined SA Accounting Academy in November 2017 as Head of Technical. She is a Chartered Accountant, Qualified Auditor, Assessor and Moderator.
- She is a **professional trainer and webinar host**, and with her relaxed and humorous presentation style, she is able to hold the attention of an audience. She has a unique ability to communicate with delegates at their respective levels of knowledge and experience. Over the last 20 years, she has trained thousands of partners, managers, trainee accountants and other professionals.
- She is responsible for our MCLU (Monthly Compliance and Legislation Updates).
- She was the Professional Development Manager at SAICA for 4 years and in charge of accrediting new training offices and monitoring existing ones (including the moderation of training offices and trainee assessments).
- Lettie is passionate about improving the efficiency and standardisation at practices. She has extensive experience on a variety of technical and practical topics which she consults on, including: SAICA re-accreditation assistance and preparation, IRBA inspection assistance and preparation, audit file reviews (post-issuance monitoring and EQCR), Quality control implementation, other office-specific manuals, and FASSET skills development facilitation.



Quotes

Your Success And
Happiness Lie In
You. Resolve To
Keep Happy, And
Your Joy And You
Shall Form An
Invincible Host
Against Difficulties
—Helen Keller

A graphic for the New Year 2023. The year '2023' is rendered in large, bold digits with a colorful, low-poly, mosaic-like texture. Below the year, the words 'HAPPY NEW YEAR' are written in a clean, white, sans-serif font, with each letter separated by a small gap.

2023
H A P P Y N E W Y E A R

WHAT'S ON THE AGENDA?



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ACCOUNTING UPDATE



ACCOUNTING

Accounting Update

1. IFRS Monthly News Summary

Only 2 items really new or important:

IFRS 17 Insurance Contracts comes into effect

- *applies to companies with annual reporting periods beginning on or after 1 January 2023.*

IFRS for SMEs Accounting Standard Update

- *The December 2022 Update includes frequently asked questions on the proposals in the Exposure Draft Third Edition of the IFRS for SMEs Accounting Standard; a list of newly available resources to support the consultation; and guidance on how to get involved.*
- *You can also watch a webcast which gives an overview of the exposure draft.*
- *The deadline for comments to the consultation is 7 March 2023.*

➤ *Refer to Source Document*

AUDITING UPDATE



Auditing Update

Standards:

1. New Edition of the IAASB Handbook Now Available

- Volume 1
- Volume 2
- Volume 3
- *Some standards, which are not yet effective for this version of the handbook, have been included in the back of Volumes 1, 2 and 3, as appropriate*
- *Refer to Source Documents*

Auditing Update *(continued)*

Legal/Ethics:

2. The IESBA Releases Update on Sustainability Work

- IESBA released "Continuing with the Development of Global Ethics and Independence Standards for Sustainability Reporting and Assurance," a publication providing an overview of the sustainability-related decisions made by the Board at its recent meeting and how those decisions will shape the Board's work in 2023 and beyond.
- They unanimously approved **two new projects** that will deliver the following:
- **Sustainability Project**
 - Profession-agnostic independence standards for use by all sustainability assurance practitioners
 - Specific ethics provisions relevant to sustainability reporting and assurance
- **Experts Project**
 - Specific ethics and independence provisions addressing the use of experts by organizations as well as in the context of audit and assurance engagements (including sustainability assurance)

➤ *Refer to Source Document*

Auditing Update *(continued)*

3. Exposure Draft: Proposed Amendments to the IRBA Code of Professional Conduct for Registered Auditors – Revisions to the Definitions of Listed Entity and Public Interest Entity

- In November 2022, the proposed amendments to the definitions of Listed Entity and Public Interest Entity (PIE) in the IRBA Code of Professional Conduct for Registered Auditors (Revised November 2018). Subsequently, a Board Notice to the same effect was published in the Government Gazette for public comment.
- The following is also briefly discussed:
 - Background
 - IESBA Amendments and the Process Followed in South Africa
 - Rationale for the Proposed Amendments to the IRBA Code
- Proposed Effective Date = for audits of financial statements for periods beginning on or after 15 December 2024, in line with the effective date of the IESBA Code revisions. Early adoption will be permitted.
- Request for Comments: submitted by the 3rd of April 2023.

➤ *Refer to Source Document*

Auditing Update *(continued)*

Other/Guidance:

4. IRBA publishes fourth Audit Quality Indicators Report: Talent turnover at manager and supervisory level is a growing risk to audit quality

- The report is based on data collected from JSE-accredited audit firms. Statistical analysis on data from 13 audit firms from 2018 to 2021 is included in the report
- An area that stands out in this year's AQI Report is the sharp increase in staff turnover at supervisory and managerial level with several firms experiencing unusually high staff turnover. South African audit firms, not unlike global firms, are reporting that the battle for talent has intensified.
- The profession is being impacted by the “great resignation” and the risk to audit quality cannot be underestimated. The IRBA is intent on working with the profession to increase the attractiveness of the career, while firms themselves will need to employ retention strategies, looking at benefits, work-life balance, and talent growth strategies

➤ *Refer to Source Document*

Auditing Update *(continued)*

5. ISQM 1 illustrative risk matrix and proforma toolkit

- The purpose of this toolkit is to provide a suite of illustrative documentation (i.e., policies, checklists, sample letters and forms) to assist non-network audit and assurance firms when implementing responses to address and mitigate quality risks identified. (This information was sourced from Chartered Accountants Australia and New Zealand ABN 50 084 642 571 (CA ANZ) Formed in Australia. Members of CA ANZ are not liable for the debts and liabilities of CA ANZ. The information may have been amended or superseded since it was sourced. Certain materials in this publication are protected by copyright and are reproduced by permission of CA ANZ, 2022.)
- IFAC has applauded and recognized this toolkit
- Details Quality Objective, Quality Risks, and detailed risk response for the components
- *Refer to Source Document*

Auditing Update *(continued)*

6. IFAC Releases New Implementation Tool for Auditors on Identifying and Assessing Risks of Material Misstatement

- The tool helps auditors implement the International Auditing and Assurance Standards Board's (IAASB) International Standard on Auditing (ISA) 315 (Revised 2019), Identifying and Assessing the Risks of Material Misstatement,
- which is effective for audits of financial statements for periods beginning on or after 15 December 2021.
- The implementation tool provides an overview of core concepts and explains new and previously existing requirements. It also includes examples and emphasizes the scalability of the standard with a focus on less complex entities. The tool does not replace the need to read ISA 315 (Revised 2019), including its application and other explanatory material
- The resource is based on Chartered Professional Accountants of Canada's (CPA Canada) Implementation Tool for Auditors and follows the release earlier this year of IFAC's Auditing Accounting Estimates: ISA 540 (Revised) Implementation Tool

➤ *Refer to Source Document*

Auditing Update *(continued)*

7. New IAASB Fact Sheet Helps Auditors Navigate Quality Management for Group Audits

- addresses quality management at the engagement level, and ISA 600 on group audits. The fact sheet highlights aspects of a group audit that may be affected by ISA 220 (Revised) and International Standard on Quality Management 1 addressing quality management at the firm level. This includes the revised definition of engagement team and leadership and direction, supervision, and review responsibilities.
 - The factsheet will be particularly useful for group audits in which component auditors are involved
- *Refer to Source Document*

Auditing Update *(continued)*

8. IFAC resources: Implementing the IAASB's Quality Management Standards

https://www.iaasb.org/focus-areas/quality-management?utm_source=Main%20List%20New&utm_campaign=97b47cf08f-IFAC-quality-management-standards-email&utm_medium=email&utm_term=0_c325307f2b-97b47cf08f-80727052

- IFAC reminded firms and professional accountancy organizations (PAOs) of available materials that can provide guidance and support.
- IAASB
 - Basis for Conclusions & Factsheets – ISQM 1, ISQM 2, ISA 220
 - First Time Implementation Guides – ISQM 1, ISQM 2, ISA 220
- IFAC Quality Management Series: Small Firm Implementation, Installment One addressing the mindset change the new standards require and the shift in focus from quality control to quality management
- IFAC panel discussions on getting ready for the new risk-based approach and early lessons learned
- Three-part article series on ISQM1
- *Refer to website link*

COMPANY SECRETARIAL UPDATE



Companies and Intellectual
Property Commission

a member of **the dti** group

Company Secretarial Update

1. Practice note 05: Issuance of Notices of Acceptance and Official Actions and e-filing of outstanding documents

- *Issued 10 Dec 2022*
- The Patents Division of the CIPC (the Patent Office) will introduce new e-filing functionality on IPonline, to enable applicants to electronically submit outstanding documents accompanying patent applications
- with effect from 12 December 2022
- *Refer to Source Document*

EMPLOYMENT LAW UPDATE



Employment Law Update

Nothing this month...

OTHER LAWS & REGULATIONS



Other Laws & Regulations

The following items are dealt with here:

1. Legal Update Summaries:

Nothing published during December 2022

Other Laws & Regulations

(continued)

Other Acts:

2. Crypto asset regulation gaining traction in South Africa

- On 29 November 2022, notice published in Government Gazette 47596 (“Notice”) to amend Schedules 1, 2 and 3 of the Financial Intelligence Centre Act 38 of 2001 (“FIC Act”). In terms of the Notice, several new entities have been classified as “accountable institutions” and accordingly included in Schedule 1 of the FIC Act.
- The FIC Act, inter alia, requires accountable institutions to:
 - i. verify the identity of a prospective client before the accountable institution enters into a transaction and/or business relationship with such a client,
 - ii. perform on-going identification verification on their clients and
 - iii. submit reports to the Financial Intelligence Centre (“FIC”). The FIC Act also prohibits accountable institutions from establishing a business relationship or concluding a transaction with an anonymous client or a client using a fictitious name
- Refer to <https://emarketing.werksmans.co.za/e/xeagwzdt4jyjjiq/a40b9658-5e94-46d4-8b89-f72ec62fded0>

Other Laws & Regulations

(continued)

Crypto asset regulation gaining traction in South Africa (continued)

- Paragraph 22 of the Notice states that any person who carries on the business of one or more of the following activities or operations for or on behalf of a client, will now be classified as an accountable institution under the FIC Act –
 - exchanging a crypto asset for a fiat currency (i.e. government-issued currency) or vice versa;
 - exchanging one form of crypto asset for another crypto asset;
 - conducting a transaction that transfers a crypto asset from one crypto address (using the public cryptographic key that allows for the transfer of crypto assets between crypto addresses) or accounts to another crypto address;
 - safekeeping or administration of a crypto asset or an instrument enabling control over a crypto asset; and
 - participation in, and provision of, financial services related to an issuer's offer or sale of a crypto asset, (collectively "Crypto Asset Service Providers").

Other Laws & Regulations

(continued)

Crypto asset regulation gaining traction in South Africa (continued)

- For purposes of paragraph 22 of the Notice, the definition of a “crypto asset” is a digital representation that has perceived value and can be traded or transferred electronically within a community of users of the internet who consider it as a medium of exchange, unit of account or store of value and use it for payment or investment purposes. The definition, however, specifically excludes a digital representation of a fiat currency or security as defined in the Financial Markets Act 19 of 2012.
- The designation of Crypto Asset Service Providers as accountable institutions in terms of the Notice requires these Crypto Asset Service Providers to verify the identities of prospective crypto asset transactors, and as such, it will become legally impossible to deal anonymously with crypto assets in South Africa. The FIC may impose administrative sanctions (as set out in section 45C of the FIC Act) on accountable institutions who fail to comply with their statutory requirements.

TAXATION UPDATE



Taxation Update

➤ *Each item in this Taxation Section is available to you as a Source Document*

- **Guides (new, updated & issued):**

The guides for Income Tax return have been updated:

1. **Comprehensive Guide to the ITR12 Income Tax Return for Individuals**

- 123 pages

2. **How to submit your individual income tax return via eFiling**

- 64 pages

3. **Guide to the Tax Directive functionality on eFiling**

- 65 pages

Taxation Update *(continued)*

- **Interpretation Notes issued:**
 - 1. Interpretation Note 10 (Issue 4) – Skills development levy exemption: Public benefit organisations**
 - 2. Interpretation Note 18 (Issue 5) – Rebate and deduction for foreign taxes on income**
 - Interpretation Note 18 “Rebate and Deduction for Foreign Taxes on Income” explains the scope, interpretation and application of section 6quat which provides for a rebate or deduction for foreign taxes on income. The Interpretation Note has been updated for legislative changes, an expanded view on the interpretation of “other than taxes contemplated in (1A)” in section 6quat(1C)(a) [with the result that certain foreign taxes on income from a foreign source may qualify for a deduction in circumstances where the specified requirements are met (see paragraph 6 of the Note for detail)], and other minor clarifications
 - 3. Interpretation Note 126 – Extraordinary dividends treated as income or proceeds on the disposal of certain shares**
 - Section 22B and paragraph 43A of the Eighth Schedule

Taxation Update *(continued)*

- **Binding Rulings (Private/Class/General) issued:**
 1. Binding General Ruling 62 – Value-added tax implications of securities lending arrangements
 2. Binding Private Ruling 387 – Attribution of nett income to a public benefit organisation

Binding Class Rulings

1. Binding Class Ruling 085 – *En commandite* partnerships investing in photovoltaic solar energy plants
2. Binding Class Ruling 084 – Transfer of funds held in trust to a “beneficiary fund”

Taxation Update *(continued)*

- **Notices and other publications issued:**

- 1. Tax Directives**

https://www.sars.gov.za/latest-news_tax-directives-9-dec-2022_approved_07122022_eh-sr/

- SARS has implemented enhancements to the Tax Directives system in line with the introduction of Par 2(2B) of the Fourth Schedule which requires that employees' tax to be calculated and withheld at a fixed tax rate from an annuity. Read more
- The introduction of Par 2(2B) of the Fourth Schedule requires that employees' tax be calculated and withheld at a fixed tax rate from an annuity, if a taxpayer receives remuneration from more than one source during a year of assessment and where one or more of those sources is from an employer who is a retirement fund or is licensed as an insurer under the Insurance Act.
- The following documents have been updated:
 - IT-AE-41-G04 – Guide to the Tax Directive functionality on eFiling – External Guide (also mentioned above in Guides section)
 - IRP3s – Application for Tax Directive Share Option – External-Form

Taxation Update *(continued)*

- **Notices and other publications issued (continued):**

- 1. Average Exchange Rates**

Updated on 7 Dec 2022

- **Table A** – A list of the average exchange rates of selected currencies **for a year of assessment** as from December 2003
- **Table B** – A list of the **monthly average exchange rates** to assist a person whose year of assessment is shorter or longer than 12 months
- **Example** – How to calculate Average Exchange Rates for a period longer than 12 months
- The next update can be expected in March 2023

Taxation Update *(continued)*

Court cases:

❖ Tax Court cases

<https://www.sars.gov.za/legal-counsel/dispute-resolution-judgments/tax-court/tc-2022-2020/>

SARSTC IT 45710 (ADM) [2022] ZATC CPT (29 November 2022)

- Whether the new ground may be relied upon by the applicant on the provisions of rule 32(3), or whether it falls beyond the scope of the type of new ground contemplated in the sub-rule

❖ High Court cases

<https://www.sars.gov.za/legal-counsel/dispute-resolution-judgments/high-court/hc-2022-2020/>

Glencore International AG v CSARS (34490/2021) [2022] ZAGPPHC (7 December 2022)

- Customs: Review application of the Commissioner's decisions to regard the applicant's goods diverted in terms of section 18(3) of Act 91 of 1964. As a result, the goods liable for forfeiture in terms of the provisions of section 88(2)(a) and levied an amount in lieu of forfeiture, outstanding VAT and VAT penalty.

Taxation Update *(continued)*

Court cases (continued):

❖ SCA cases

<https://www.sars.gov.za/legal-counsel/dispute-resolution-judgments/supreme-court-of-appeal-sca/sca-2022-2020/>

Pacific Solar Technologies (Pty) Ltd v CSARS (715/2021) [2020] ZASCA 166 (29 November 2022)

- Customs and Excise Act 91 of 1964 – whether solar home system has the essential character of an energy source and power generation device or that of a lighting kit – product has a utility of its own – it constitutes a fully functioning lamp – classifiable under tariff heading 9405.40.21 of Part 1 of Schedule 1 to the Act.

Taxation Update *(continued)*

- **SARS Scams**

Members of the public are randomly emailed with false “spoofed” emails made to look as if these emails were sent from SARS, but are in fact fraudulent emails aimed at enticing unsuspecting taxpayers to part with personal information such as bank account details.

1. **PayFast SMS**

- *26 Dec 2022*
- The latest scam appears to be a SMS from SARS, indicating a payment to be received from SARS via Pay_Fast.
- Users are then urged to click on a link to redeem the PayFast payment received

REGULATOR NEWS



Regulator News

- **IRBA News, press releases & other publications:**
 1. **IRBA_News issue #60**
 - This issue looks at the fact that IRBA is on the right path.
 - The profession is ready for the positive changes that will help it regain its reputation.
 - *Refer to Source Document*
- **SAICA press releases & other publications:**
 1. **2023 Training Regulations**
 - Effective 1 January 2023
 - 3 Documents: Training Regulations (marked-up and clean versions) together with the Explanatory memorandum
 - **Webinar to be presented by Lettie on 21 February 2023**
 - *Refer to Source Documents*

Regulator News

- **SAICA press releases & other publications (continued):**
 - 2. 2023 SAICA Training Office Fees**
 - Effective 1 January 2023
 - Fees payable in respect of SAICA Training Contracts
 - These fees have been approved by SAICA Board and there was average increase around 3,5%
 - *Refer to Source Document*
 - 3. Accreditation Policy**
 - Effective 1 January 2023
 - 2 Documents: Accreditation Policy (marked-up and clean versions)
 - *Refer to Source Documents*

Regulator News

- **SAICA press releases & other publications (continued):**
 - 4. CA Accredited training offices - Using SAICA Branding**
 - SAICA developed brand guidelines which have been designed specifically for use by SAICA accredited providers in line with brand and marketing best practice.
 - SAICA has created specific accreditation logos that CA accredited training offices can use to confirm that they are a SAICA accredited provider. These logos are to be used on all corporate stationery, corporate wear and communication channels
 - 5. 2022 CPD Declarations are due by 28 February 2023**
 - for the period 1 January 2022 to 31 December 2022
 - Due to some technical changes that had to be effected on the CPD declaration system, the activation of the annual CPD declaration functionality on the member portal had to be delayed
 - 6. The Tax Practitioner Annual Declaration is due on 31 January 2023**
 - for the period 1 January 2022 to 31 December 2022

Regulator News *(continued)*

- **SAIBA Newsletters:**
 1. **CFO Talks** (CFO Talks™ is devoted to sharing ideas and conversations between CFOs. It is a platform which facilitates insightful and powerful talks relevant to CFOs)
 - <https://cfotalks.com/>
 2. **Accounting Weekly** (weekly newsletter)
 - <https://accountingweekly.com/>
 - **Companies Tribunal:**
 - **1 Decision reached on cases heard** *(1 Name dispute, 0 Exemption, 0 AGM, 0 Directorship disputes, 0 Review, 0 Other)*
 - **Quarterly Newsletter – Bulletin**
 - Volume 3: October to December 2022
 - The Companies Tribunal (Tribunal) present this third quarter Bulletin to create awareness, inspire hope and confidence in its services
- Refer to Source Documents for each of the above topics

Regulator News *(continued)*

- CIPC:

1. CIPC Troubleshooting sessions in January 2023

- To help customers navigate the upgraded E-services and BizPortal platforms.
- The aim of the revamped platforms was to provide a foundation for full automation of CIPC processes, ease of doing business and offers a better user experience and quicker turnaround times. Due to the problems experienced with the revamped E-services and BizPortal platforms, CIPC has taken the decision to roll back to the previous E-services and BizPortal platforms.
 - Friday, 13 January 2023: A troubleshooting session to help customers navigate the upgraded E-services and BizPortal platforms
 - Wednesday, 18th January: Director Amendments & Foreign Director Assurance
 - Thursday 19th January: Company registration and name reservations
 - Friday, 20th January: Open session CANCELLED ON 20 JAN 2023
- The 1ST 3 webinars were streamed live on CIPC Facebook and YouTube.
- Recordings available on the social media platforms, incl. YouTube and the CIPC Facebook Page

Regulator News *(continued)*

- **Information Regulator of SA:**

1. Information Regulator's first bite!

- In what constitutes one of the Information Regulator's biggest investigations to date, the Information Regulator considered the right to access information in terms of the Promotion of Access to Information Act, 2000 (PAIA). The public hearings were held and precipitated by a complaint from Hardwick Trading (Pty) Ltd, who alleged that it is entitled to payment of license fees and/or copyright royalties due to Beulah Records - a record label previously owned by Hardwick Trading. In order to demonstrate the aforementioned entitlement, Hardwick Trading required access to information relating to the license fees and copyright royalties collected by RISA Audio Visual Licensing NPC (RAV)
- An Investigation Report issued by the Regulator found that RAV should not have refused Hardwick Trading's access to the requested information that included access to broadcasting and payment records
- The Report has been handed over to the Regulator's Enforcement Committee, who will conduct a further assessment of the matter, and give an outcome to the Regulator, who will then make a decision as to the right access to information by Hardwick Trading, and the recourse (if any) that must be taken in respect thereof

Regulator News *(continued)*

- **FSCA publications & press releases:**
 1. **FSCA issues revised penalty of R20 million to Mr Markus Jooste in line with the Financial Sector Tribunal's decision on Insider Trading regarding Steinhoff International Holdings N.V.**
 - This penalty was payable on or before 06 January 2023.
 - On 29 October 2020, the FSCA imposed an administrative penalty of R161 568 068 on Mr Jooste for breaches of both section 78 (4) (a) and section 78 (5) of the Financial Markets Act.
 2. The Financial Sector Tribunal (the Tribunal) on 13 December 2021 set the FSCA's administrative penalty aside and referred the determination of an appropriate administrative penalty for the contravention of section 78 (5) of the Financial Markets Act to the FSCA for consideration
 - *Refer to Source Document*
- 0 Warnings issued against fraudulent FSPs***

Regulator News *(continued)*

- **CGSO publications & press releases:**

- 1. Consumers Alert: Reliable Store not reliable**

- From 01 October 2021 to 01 December 2022, the CGSO received a total of 93 complaints against Reliable Store
- CGSO has issued another consumer alert for the year against the online retailer, Reliable Store, sellers of a wide range of products including electronic appliances, computers and accessories, cameras, gaming tools etc. Consumers are warned to be careful when trading with Reliable Store as they have, based on their response to complaints received by this office, to not be reliable.
- Reliable Store operates online and they sell a large variety of products including electrical appliances, computers and accessories, cameras, gaming tools etc. Most of the complaints received relate to delays in delivering orders, the delivery of incorrect orders to complainants and a general failure to deliver orders. Reliable Store accepts payment from complainants and provides a turnaround time for deliveries, however they tend to fail to keep up with the stipulated times. When complainants cancel their orders and request refunds, they fail to refund or take a long time to do so

Regulator News *(continued)*

- **OTO:**

- 1. Fairplay Issue 27**

- Newsletter for December 2022

➤ *Refer to Source Document*

- **SARS:**

- 1. Latest VAT Connect Newsletter – December 2022 issue**

- *Issued 9 Dec 2022*
- <https://www.sars.gov.za/tax-practitioners/tax-practitioner-connect-issue-37-october-2022/>
- The latest VAT Connect Newsletter was published with an update and detail on recent amendments to the VAT Act

GENERAL ANNOUNCEMENTS & NEWSY ARTICLES



Media articles

BusinessTech article

1. Changes to pensions in South Africa in 2023 – what you need to know

➤ *Refer to the following link:*

<https://businesstech.co.za/news/lifestyle/654993/changes-to-pensions-in-south-africa-in-2023-what-you-need-to-know/>

QUESTIONS





for your participation!