

Monthly Compliance and Legislation

Presenter: Caryn Maitland

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

This webinar covers changes during the month of May 2022

Presenter

Caryn Maitland

Caryn is a qualified CA(SA and RA, who has lectured extensively at UKZN (and other institutes) where she lectured Advanced Financial Accounting up until 2011 as well as co-ordinating the module on the Pietermaritzburg campus and was appointed Section Head of Financial Accounting and Deputy Head of the School of Accounting (managing the Pietermaritzburg campus) prior to leaving UKZN.

She has conducted independent workshops and seminars for professional accountants since 2006 on various topics and has consulted on a number of technical issues. Since January 2011, she has focused on her own business as technical freelance consultant and trainer to those working within the accounting profession. Caryn is a technical advisor to the SAICA Eastern Region Midlands District, Northern District and Southern District Associations, as well as the Small Practice Interest Group in Durban – specialising in financial reporting (IFRS, IFRS for SME's and general accounting), assurance, legislation and ethics. Caryn has a passion for Corporate Governance, which together with her Companies Act specialism and Financial Management for Non Financial Management lecturing background, has served her well in consulting and advising various Boards of Directors in recent years.

Caryn is also a platform presenter for various institutes as well as many small to medium accounting practices across the country and into Southern Africa. Maitland was appointed as a visiting Associate Professor to the University of Limpopo tasked with mentoring their Financial Accounting staff (Aug 2011 to Dec 2013).

Maitland's passion is IFRS and IFRS for SME's and was delighted at the opportunity granted in 2013 to serve on the APC subcommittee constituted to investigate the need for Micro GAAP and the role of IFRS for SME's for small and medium sized practitioners. Caryn, also serves on the Joint Accountants, Auditors and Attorneys Committee of SAICA, and is part of the School Governing Body project initiated by SAICA in KwaZulu-Natal, and has been appointed as an alternative member to the APC in June 2020

Caryn was elected as the first woman Chairperson for the Midlands District Association for SAICA in 2018 and also serves on the Eastern Region SMP Committee as well as the Local Subvention Committee for SAICA. In 2019 Caryn was appointed to the SAICA Eastern Region Council. As someone who is committed to environmental affairs, Caryn serves as a non-executive director for the Institute of Natural Resources, a Non Profit Company focusing on research. Since 2018 Caryn has worked extensively with commerce and industry, assisting analysts, directors and other users of financials to interpret, prepare, analyse and forecast based on the results of financial statements.



Course Outline

Table of Content

Accounting Update

Auditing Update

Company Secretarial Update

Employment Law Update

Other Laws & Regulations Update

Taxation Update

Regulator News

General Announcements

Quote

We need four principles to fix this country, we don't need money. We need spirituality, morality, values and ethics. You fix that, you fix the country. We will have a surplus of money overflowing because you'll do things the right way, in the honest way, with integrity, and the moment you do that, in Islam, we say, its barakah – blessing, bounties and abundance.

- Imtiaz Sooliman (Founder of Gift of the Givers Foundation)

Accounting Update

Accounting Update:

Standards – What's new

IFRS Monthly news summary

Feedback from IFRS Advisory Council

IFRS for SME – 2nd Comprehensive review status

Accounting issues

Accounting for Cryptos – still a talking point

Sustainability Reporting

IFRS MOU with Global Reporting Foundation

Feedback from IFRS Advisory Council

New Projects to be added to the work plan

Intangible assets and climate related risk

Current Projects

Primary financial statements (looking at operating expenses)

Goodwill and Impairment (emphasis on disclosures)

Endorsement of IFRS 17 (1 Jan 2023 effective date confirmed)

COVID related relief (eg rent concessions)

Updates on ISSB exposure drafts

Accounting for Crypto's

IASB

- In June 2019, the IFRS IC published its agenda decision on ‘Holdings of Cryptocurrencies’, and it considered a subset of cryptographic assets with the following characteristics:
- a digital or virtual currency recorded on a distributed ledger that uses cryptography for security;
- not issued by a jurisdictional authority or other party; and
- does not give rise to a contract between the holder and another party

- The IFRS IC concluded that
 - IAS 2, 'Inventories', applies to such assets where they are held for sale in the ordinary course of business.
 - If IAS 2 is not applicable, an entity applies IAS 38, 'Intangible Assets', to holdings of cryptocurrencies.

Relevant Characteristics for Accounting Purposes

- For the purposes of determining which accounting standard applies
- A single, generally accepted framework for the classification of these varied cryptographic assets does not currently exist.
- There is consequently no generally applied definition of a cryptographic asset.
- This reflects the **broad variety of features and bespoke nature** of the transactions in practice.
- There are some characteristics that can be used to classify cryptographic assets into similar types.
 - the primary purpose of the cryptographic asset; and
 - how the cryptographic asset derives its inherent value.
- Although a range of other characteristics exist, we view these as not being fundamental to determining a common accounting treatment.

Subsets of Assets

Asset	Purpose	Inherent Value
Cryptocurrency	Cryptocurrencies are digital tokens or coins based on blockchain technology, such as Bitcoin. They currently operate independently of a central bank and are intended to function as a medium of exchange.	None – derives its value based on supply and demand.
Asset Backed token	An asset-backed token is a digital token based on blockchain technology that signifies and derives its value from something that does not exist on the blockchain but instead is a representation of ownership of a physical asset (for example, natural resources such as gold or oil).	Derives its value based on the underlying asset.

Subsets of Assets

Asset	Purpose	Inherent Value
Utility Token	Utility tokens are digital tokens based on blockchain technology that provide users with access to a product or service, and they derive their value from that right. Utility tokens give holders no ownership in a company's platform or assets and, although they might be traded between holders, they are not primarily used as a medium of exchange.	Value is derived from the demand for the issuer's service or product
Security token	Security tokens are digital tokens based on blockchain technology that are similar in nature to traditional securities. They can provide an economic stake in a legal entity: sometimes a right to receive cash or another financial asset, which might be discretionary or mandatory; sometimes the ability to vote in company decisions and/or a residual interest in the entity	Value is derived from the success of the entity, since the holder of the token shares in future profits or receives cash or another financial asset.

*Hybrid transactions

Assurance Update

Assurance Update:

Standards:

ISA 220 (Revised) - definition of an engagement team fact sheet

Legal/Ethics:

IESBA Expands the Definition of Public Interest Entities and the Implications for South Africa

Report on IESBA's accomplishments – Elevating Ethics and Independence Standards in a complex world

Other:

IRBA Issues Conforming and Consequential Amendments to the Other International Standards as a Result of the New and Revised Quality Management Standards and Aligns Existing IRBA Pronouncements Following These Conforming Amendments

IAASB LCE Conference takeaways

Audit Quality Indicators (AQIs): a global overview of initiative - factsheet

ESG governance: recommendations for audit committees

ISA 220 (revised) Definition of an Engagement team

THE *ENGAGEMENT TEAM* INCLUDES:

Partners and Staff performing the engagement:

Other individuals who perform audit procedures on the engagement:

Para. 12(d)

Individuals (including *component auditors*) from a *network firm*

Individuals (including *component auditors*) from a firm that is not a *network firm*, or another *service provider*¹

Para. A17

In the *engagement partner's* own location

In another location

Para. A15

Con:

ISA 220 (revised) Definition of an Engagement team

THE ENGAGEMENT TEAM MAY ALSO INCLUDE:

An auditor's internal expert

Individuals from service delivery centers

Individuals with expertise in a specialized area of accounting or auditing

Para. A18–A19

Cons

HOWEVER, THE ENGAGEMENT TEAM DOES NOT INCLUDE:

An individual whose involvement is limited to consultation

The engagement quality reviewer and other individuals performing the engagement quality review

An auditor's external expert

Internal auditors who provide direct assistance on an engagement

Para. 12(d)

Para. A19–A20

Definition of Engagement Team and Group Audits

- Key issue definition and application of independence
- Communication issues

Revised Definition of PIE

Consider impact on EQCR, Rotation, etc....

Definition of a PIE

- Factors to consider in evaluating the extent of public interest in the financial condition of an entity include (para 400.9):
- The nature of the business or activities, such as taking on financial obligations to the public as part of the entity's primary business.
- Whether the entity is subject to regulatory supervision designed to provide confidence that the entity will meet its financial obligations.
- Size of the entity.
- The importance of the entity to the sector in which it operates including how easily replaceable it is in the event of financial failure.
- Number and nature of stakeholders including investors, customers, creditors and employees.
- The potential systemic impact on other sectors and the economy as a whole in the event of financial failure of the entity.

Definition of a PIE

- Para 400.10
- Stakeholders have heightened expectations regarding the independence of a firm performing an audit engagement for a public interest entity because of the significance of the public interest in the financial condition of the entity.
- The purpose of the requirements and application material for public interest entities is to meet these expectations, thereby enhancing stakeholders' confidence in the entity's financial statements that can be used when assessing the entity's financial condition.

Definition of a PIE

- A Firm shall treat an entity as a public interest entity when it falls within any of the following categories:
 - (a) A publicly traded entity; **(no longer listed)**
 - (b) An entity one of whose main functions is to take deposits from the public;
 - (c) An entity one of whose main functions is to provide insurance to the public; or
 - (d) An entity specified as such by law, regulation or professional standards to meet the purpose described in paragraph 400.10.
- When terms other than public interest entity are applied to entities by law, regulation or professional standards to meet the purpose described in paragraph 400.10, such terms are regarded as equivalent terms.
- However, if law, regulation or professional standards designate entities as “public interest entities” for reasons unrelated to the purpose described in paragraph 400.10, that designation does not necessarily mean that such entities are public interest entities for the purposes of the Code.
- **Consideration:** Private entities with large numbers of stakeholders (other than investors).

Company Secretarial Update

CIPC Notices

Notices Independent Review Practice Note 3 of 2022

Independent Review Practice Note 3 of 2022

CIPC Notice 13 of 2022 - CIPC link with DHA has been restored.

Article:

SAICA : FAQs for members and associates relating to the Companies Act

and Practice Notes issued (enforcement and to customers):

Independent Review

Practice Note 3 of 2022

“that they have proper mechanisms for ensuring that their members participate in continued professional development (CPD) and achievement of professional competence”; ...

Recognized Accounting Professional Bodies have been reporting on the above element, however, our request is for additional measures to be taken, to ensure that their members do indeed achieve the level of professional competence that is expected from them.

It is requested from Accounting Professional Bodies that a sample of the work (2-5 as a minimum) of independent reviewers be subjected to review/inspection to ensure that they are in adherence with the prescribed standards and regulations when engaging in the independent review process.

All recognized Accounting Professional Bodies are therefore required to conduct the abovementioned reviews/inspections and that the outcomes of these reviews/inspections should form part of their annual reports that are submitted to CIPC from the 2023 reporting period.

EMPLOYMENT LAW

Employment Law

Interim suspension of UIF Compliance certificate requirement

Interim suspension of UIF Compliance certificate requirement for doing business with government, SOEs etc.

Other Laws and Regulations Update

The Big 5

Issue 17 - this Update overviews new relevant National laws up to 30 May 2022

The Big 5 in this Update include:

The Civil Aviation Act: Amendment Act 2021;

The Electronic Communications Act: End-users and subscriber service charter

The Financial Sector Regulation Act: Introductory commissions;

The Long-term Insurance Act and Short-term Insurance Act: Demarcation regulations benefit escalations; and

The Occupational Health and Safety Act: Commercial diving regulations 2022

Other Laws and Regulations

Other acts and articles:

Amendments to the JSE Listings Requirements

Financial Sector Regulation Act: Introductory commissions Information request
4 of 2022

Draft Magistrates Bill

National Health Act: Notifiable conditions

Non-profit Organisations Act: Draft Amendment Bill 2021

Financial Sector Regulation Act:

Introductory commissions Information request 4 of 2022

Available from the FSCA

Information related to the payment of vehicle and asset finance dealer introductory commissions, requested from all banks, credit providers operating in the vehicle asset finance environment, and motor vehicle dealers by 30 June 2022

Note: Failure to comply timeously will be an offence

Draft Magistrates Bill

Draft Magistrates Bill

The Draft Bill proposes revisiting magistrates appointment, conditions of service, remuneration, removal from office, and powers and duties; and Commission size, objects, powers and remuneration provisions.

Comment deadline extended to 15 June 2022

Note: References laws not currently available, namely a future code of conduct; and future regulation on when a magistrate may be found to be suffering from an incapacity, be grossly incompetent, or be guilty of gross misconduct.

Further note: Proposes that a magistrate may not perform any paid work outside his or her duties of office, and must disclose particulars of all his or her registrable interests and those of his or her immediate family members, as prescribed.

National Health Act: Notifiable conditions

Notifiable medical conditions amended to provide for listing COVID-19;

- masking in public places and transport;
- limiting gatherings (planned assembly or meeting at a particular venue involving 100+ persons, but excluding registered basic education institutions from gathering requirements);
- and further regulating entry into SA (but not for travellers under 12 or daily commuters from neighbouring countries),

in a manner that may be switched on and off as the Minister decides.

Note: The listing of COVID-19 as a category 2 notifiable medical condition means that the Department of Health must be notified within 7 days of diagnosis by health care providers, private health laboratories or public health laboratories.

National Health Act: Notifiable conditions

Further note: Reminder that the regulations prescribe duties for:

- health establishments (eg using standard case definitions);
- health care providers (eg using national department forms and tools);
- laboratories (eg ensuring regulations are adhered to by laboratory);
- pathologists and laboratory staff (eg adhere to department guidelines); and
- medical schemes (eg report notifiable condition that a claim has been made for).

Final note: The regulations also cover the form of a report by a health provider, medical scheme etc; measures (voluntary and mandatory examinations, treatment and isolation, and control including reporting by member of community); and rights (legal representation, confidentiality and protection of records).

Non-profit Organisations Act: Draft Amendment Bill 2021

The Draft Bill proposes, amongst others,

- reference updates;
- facilitating voluntary registration of nonprofit organisations and
- compulsory registration for foreign organisations operating within SA; and
- **prescribing accounting records and reports.**

Comment deadline 30 calendar days from 10 May 2022.

Note: Despite the above facilitation statement a proposed amendment in section 12 (requirements for registration) reads that "any nonprofit organisation, including foreign nonprofit organisations that intend to operate business within the Republic must be registered in terms of this Act before they may operate and shall be subjected to the provisions of this Act and any other laws of the Republic".

Final note: The heading to the notice also refers to a draft victim support services bill, though nothing is further mentioned of such a draft bill in the remainder of the notice.

Taxation Update

Tax Update – M&A Newsletter

Filing Season 2022

- . The [public notice](#), scheduled for publication in the *Government Gazette* on 3 June 2022, relates to the notice in terms of section 25, read with section 66(1) of the Income Tax Act, 1962, specifying the persons to submit income tax returns for the 2022 tax year and the periods for submission.

Note the changes in deadlines – 24 October for non-provisional and 23 January 2023 for provisional taxpayers.

- . SARS also noted that in preparation for the opening of the Personal Income Tax Filing Season in July 2022, between the period of 4 June 2022 until the opening of Filing Season, there is a possibility that the prepopulated data reflecting within taxpayers' Personal Income Tax or Provisional Tax returns requested via eFiling, the SARS Mobi application or via a SARS Branch Office during this period, will pre-populate but may not be comprehensive until Filing Season is officially opened to the public.

No official news as to when filing season will open, but it will likely be 1 July as per usual.

Tax Update – M&A Newsletter

PAYE changes

An updated version of e@syFile was released. The changes include adjustment to EMP501 submission files to align validation for Tax Directive numbers with the SARS PAYE BRS and adjustment to the PDF rendering to allow Operating System (OS) default application. For the latest version 7.2.6 (including 7.2.5), see the [e@syFile webpage](#)

Tax Update – M&A Newsletter

SARS Service Charter

SARS has released a new Service Charter, which is available for view here: <https://www.sars.gov.za/about/service-charter/>

Improvements:

- Far more detail about the various submission channels.
- Updated for new, post COVID processes
- More clarity on Customs and Excise issues

Concerns:

- Does not cover the new s95(6) processes.
- Does not provide definitive timeframes, but phrases completion in terms such as “we will complete 9 out of 10 requests for reasons within 45 business days”. What happens if you’re the one case?
- In addition, certain of the timeframes are not in line with the requirements of the Tax Administration Act or the Dispute Resolution Rules – dates which SARS is legally required to comply with.

Overall, it certainly is a more robust document than the previous version, it does however have some serious flaws. These have been raised with SARS through the various RCB’s.

Tax Update – M&A Newsletter

Crypto-Assets

While nothing much has changed in the regulatory space since the Exchange Control Circular earlier this year, it seems that the OECD is finally starting to make some progress on the question of crypto-assets and their required reporting standards. The OECD held a consultative meeting on the proposed reporting framework. The comments are available here: <https://www.oecd.org/tax/exchange-of-tax-information/public-consultation-meeting-crypto-asset-reporting-framework-and-amendments-to-the-common-reporting-standard-23-may-2022.htm>

The main concerns raised are:

- The ability of crypto-assets to circumvent current transparency efforts such as the Common Reporting Standard.
- What standards could be used in lieu of the CRS to keep track of crypto-assets transactions?
- Creation of international legislation templates that can be applied across the board to ensure consistency in reporting by member countries.

The end result of the discussions is a proposal that the service providers of crypto assets should be the ones held responsible for providing the reporting standard. Each jurisdiction would therefore be responsible for ensuring compliance within their jurisdictions.

Tax Update – M&A Newsletter

Odds and sods

- Revised interest tables are up and available on the SARS website
- [Interpretation Note \(IN\) 120 – Prohibition of Deductions in respect of Certain Intellectual Property](#) has been released and is available on the SARS website. This deals specifically with tainted intellectual property.
- IN 119 – Deductions in Respect of Improvements to Land or Buildings not Owned by a Taxpayer dealing with s12N and s12NA has been released.
- IN 59, IN58 and IN 102 have been updated for changes in law.
- Comprehensive Guide to Dividends tax has been updated to issue 5.

Tax Update – M&A Newsletter

Tax Cases

Case 24578

Although this case does not bring significantly new legal principles to bear, it is the end result of a dispute between SARS and the taxpayer dating back to 2013. The end result of this case is that the taxpayer got landed with attorney's costs and a direct order compelling the release of documentation to SARS. The moral of the story? The courts do not appreciate justice delayed, or litigants who play games with discovery.

Please pay attention to timelines!

Lutchman N.O. and Others v African Global Holdings (Pty) Ltd and Others; African Global Holdings (Pty) Ltd and Others v Lutchman N.O. and Others (1088/2020 and 1135/2020) [2022] ZASCA 66 (10 May 2022)

The main gist of this case to determine whether liquidators had the power and authority to sell assets that had previously been subject to restrictions as per court orders. The courts found that as the restrictions had been settled, the liquidators did have the requisite authority. While this is relevant information, this case makes for a roller coaster read as it relates to the Bosasa group of companies implicated in the Zondo Commission. Quite the high stakes drama...

Regulator Update

Regulators News

IRBA News & press releases:

- See above

SAICA press releases and other publications:

- [Protection of Personal Information Act \(POPIA\) guide released](#)
- Fact Sheet 1 – Overview of the 8 conditions of the POPI Act
- Fact Sheet 2 – Understanding Data Subjects Rights
- Fact Sheet 3 – Direct marketing: staying on the right side of the law
- Fact Sheet 4 – Basic security information checklist for small low risk owners

Regulators News

- See above

Consumer Regulator (CGSO)

- 1st Quarter Newsletter (April to June 2022)

SAIBA:

- Accounting Weekly Newsletter

- CFO Talks

Competitions Commission:

- Computicket agrees to pay R11.3M as a second fine for alleged abuse of dominance

- Commission meets with airlines

- Commissions Decisions from May 2022

Regulators News

FIC Advisory & Guidance:

- FIC Warns of Scam notices using its name

Companies Tribunal:

- Name disputes (3 granted 1 refused)
- Director disputes (2 granted 2 refused)
- Exemptions (2 granted)
- AGM (1 granted)
- Other matter dismissed

Property Practitioners Board

- Extension of deadline to submit financials (4 months to 6 months)

Regulators News

11. 11.



LPC welcomes Ombud

National Credit Regulator



None

FSCA publications & press releases:



None

Information Regulator:



See SAICA

SARS:



Refer to Newsletters



Change in Tax Practitioner CPD Requirements (10 hours tax, 2 hours ethics and 6 hours relating to service practitioner provides)

General Announcements

Media articles

Media articles and Other thoughts...

Debt management - When does the clock for prescription start?

- From when the debts becomes due...
- “A debt shall not be deemed to be due until the creditor has knowledge of the identity of the debtor and of the facts from which the debt arises. It provides that a creditor shall be deemed to have such knowledge if he could have acquired it by exercising reasonable care.”
- What are the terms and conditions of the debt?

Prescriptions Act No 68 of 1969

**Thank you for your
participation**