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Out of pocket insider trading

By Gerhard van Deventer, Insider Trading, FSB

The King Task Group recommended that insider trading should be regulated under a separate statutue outside the Companies Act, 1973. This article does not intend to deal with the legal technical aspects of the new insider trading Act, but rather to introduce it to the public.

The Insider Trading Act, 135 of 1998 came into operation on 17 January 1999. This Act replaces section 440F (read with section 440D) of the Companies Act. From a regulatory perspective, the major difference brought about by the new Act is that the Securities Regulation Panel is no longer the watchdog for insider trading. This responsibility has been transferred to the Financial Services Board (FSB). An important innovation is the possibility that offenders can now be summoned before a civil court and ordered to repay an amount of up to four times any profit made or loss avoided on illegal transactions.

Definitions

But what exactly is insider trading? Insider trading is the dealing in securities or financial instruments by a person knowingly in possession of inside information, relating to the instrument being dealt in. Securities and financial instruments are stocks, shares, debentures, notes, units of stock issued in place of shares, and options and rights to such instruments. The terms include options on indices and loan stock

Inside information is specific and precise information obtained by an insider which is price sensitive and has not been made public. If information may have an effect on the price or value of an instrument if it is made public, it is price sensitive. Someone who has obtained inside information through being a director, employee or shareholder of the issuer of the instrument, or someone who gained access to such information by virtue of his employment, office or profession is an insider.

The new regulator

The Insider Trading Directorate (ITD) is a committee of the FSB. The following entities may each nominate one person and an alternate to serve on the Directorate: the Johannesburg Stock Exchange; the South African Futures Exchange; the Bond Exchange of South Africa; the Law Society of South Africa; and the South African Institute of Chartered Accountants.

In addition, a person from the insurance banking industry, and two business persons may be nominated. The Minister of Finance has the power two appoint the abovementioned nominees and two additional persons with appropriate experience. By the time of going to press, nominations have been submitted to the Minister, but no appointments have yet been made.

Operational aspects

The FSB will administer the Directorate. The Act confers wide powers of investigation on the FSB, including powers of interrogation, search and seizure. The findings of the investigations must be placed before the Directorate by the Executive Director. The Directorate has the power to decide on the action to be taken against alleged offenders.
The civil remedy

The FSB may institute civil claims against persons who knowingly used inside information to trade in securities or financial instruments. If the FSB can prove that a person profited or avoided a loss through unlawful dealing, the profit or loss avoided may be recovered. In addition such a person will be liable to pay a penalty of up to three times the amount of his ill-gotten gains, plus interest and legal costs.

After a successful civil action, the FSB may recoup its costs out of the amount recovered before distributing the balance to affected investors.

In the next issue of the Bulletin, the civil remedy will be discussed.

The criminal sanction

Any individual who knows that he has inside information and who deals directly or indirectly, for his own account or for any other person, in the securities or financial instruments to which such information relates or which are affected by such information, is guilty of the offence of insider trading.

Two other offences are created by the Act. A person who knows that he or she has inside information and encourages or discourages another person from dealing, or discloses any inside information, may be guilty of an offence.

The above offences can result in a fine of up to R2 million and imprisonment of up to ten years. Insider trading is not confined only to South African financial instruments, but may also apply to instruments issued in other countries.

Regulatory issues

Levies on South Africa's three financial markets will finance supervision costs, including costs of forensic investigations. A successful civil claim can however result in legal costs being recovered from an offender.

The focus of the Directorate will not only be on investigations after the event, but rules and guidelines may be promulgated in terms of the Act to minimise the window of opportunity for insider trading.

A last word on insider trading

It has been repeatedly stated that insider trading is rife in the South African markets. Whilst we cannot deny that insider trading is alive and well and living in Diagonal Street, we must not lose sight of the fact that a spade is not always a spade. A good example of mistaken identity is for instance the practice of some investors "getting in and out" on the back of a share that is rising in price and volume. This means that an investor will purchase a share that is rising in price and volume while it is on its upward journey. The position is then liquidated within a very short period while the share price is still climbing. Such market participants are speculating and not trading on inside information. Not all the criticism relating to the integrity of our financial markets is valid.

Anybody who wants further information or who wants to report an instance of alleged

insider trading can phone the FSB on (012) 428-8000 or e-mail the information to gerhardv@fsb.co.za. The new Act is available on the FSB website at www.fsb.co.za.

Statutory empowerment for issuing policy statements

By Dr. Franso van Zyl, Head: Research, FSB

The introduction of clear statutory authorisation to issue policy statements may contribute to better compliance and less utilisation of enforcement measures.

A problem arose in Canada in connection with policy statements issued by the Ontario Securities Commission (OSC) and other provincial securities regulators. Formerly the OSC's power was based on administrative law principles which recognise the right of a regulator's use of policy as a legitimate means of informing the public of the manner in which it may exercise its statutory discretions. In this sense it was seen as a very potent regulatory instrument. However, in two important court cases in 1992 and 1993, judicial challenges to such statements were issued, as regards empowerment to issue such statements and a tendency for such statements to be seen as legal pronouncements having the force of law.

As a result, the Minister of Finance established a joint Ministry of Finance and Ontario Securities Commission Task Force on Securities Regulation in 1993. Its mandate has been to review and advise the development of securities policy with particular attention to the policy-making role of the OSC. The Task Force published its final report in June, 1994.

It was of the view that in the securities context, policy statements have many benefits regarding the creation of consistent and coherent approaches - industry participants and investors can proceed with some certainty; a regulator can deal with matters more comprehensively and actively; flexibility is permitted in application and administration; guidance is provided to the regulator's staff; and facilitation of national and international regulatory co-operation and administration.

The Task Force recommended to enact express statutory empowerment for issuing policy statements with safeguards, as regards the fact that such statements do not have the force of law. In the application of policy, the OSC has regard to the exigencies of individual cases. Such statements need not be drafted in mandatory terms and need not contain comprehensive codes of conduct.

The legal status of policy statements in Ontario's law corresponds with the status thereof in former RSA law. In future, policy statements in our law may be subject to constitutional adjudication. Such statements will however certainly not be accorded the full status of force of law. At present, regulators such as the different registrars acting under the auspices of the FSB have to formulate policy as regards the exercise of statutory discretions. This is done in the form of circulars sent regularly to financial institutions. There is, however, no clear statutory authority to formulate policy with the assistance of the public, or to publish them widely. Statutory advisory boards or committees such as the advisory board on financial markets and the advisory committees on long- and short-term insurance, pension

funds and unit trusts, can play a significant role in the formulation of policy.

The Policy Board for Financial Services and Regulation (Policy Board), acts as adviser to the Minister of Finance on a macro-level in connection with financial services and regulation. The activities of the Policy Board do not seem to be comparable to those of the OSC. The OSC's policies are policies within the ambit of discretionary powers vested in a regulator, indicating the manners in which such powers are intended to be exercised in particular cases. However, the functions of the Policy Board are worded widely enough to enable it to also advise the Minister on certain matters relating to a particular existing statutory provision and the policies in terms of which it should be applied. But the Minister has no formal power to force a registrar of financial institutions to adopt such recommended policy. He will in practice be forced to initiate legislative amending procedures to give statutory recognition to any such policy.

The introduction of clear statutory authorisation for the different registrars of financial institutions to issue policy statements may carry the same types of benefits as envisaged for Ontario, provided that the same types of safeguards apply. Comprehensive prior policy-formulation and publication thereof may contribute to better compliance and less utilisation of enforcement measures. It will inevitably contribute to wider knowledge of the meaning and possible manners of application of statutory provisions with which the financial services industry has to comply.

Executive Officer of FSB appointed for further term of office

The Minister of Finance, Mr Trevor Manuel, has appointed Mr Rick Cottrell for a further term of office as the Executive Officer of the Financial Services Board (FSB). Mr Cottrell's new term of office will commence on 1 April 1999 and end on 30 June 2000.

Commenting on Mr Cottrell's further term of office, the Chairperson of the FSB, Dr Chris de Swardt said: "The Board of the FSB welcomes the extension of Mr Rick Cottrell's term of office as Executive Officer and looks forward to working further with him in pursuit of the strategic objectives of the FSB."

Mr Cottrell has been employed as Executive Officer of the FSB since 1 April 1996.

From the FSB to IMRO - My experience as a secondee

By Rinate Smit, Manager: Financial Markets, FSB

After negotiations between the FSB and the Investment Management Regulatory Organisation (IMRO) in the UK, IMRO agreed to accept a secondee from the FSB as part of their contribution towards training personnel of overseas regulators. I was fortunate to be seconded to this UK regulator for a period of almost 15 months.

IMRO

IMRO regulates a variety of firms. These include fund managers, authorised united trust managers, venture capital companies, pension schemes, advisers, investment committees / unauthorised unit trusts, banks, trustees, marketing companies, life offices and crest sponsors. The fund management firms make up the biggest portion of IMRO's membership.

IMRO consists of different departments such as Legal and Policy, Admissions, Monitoring, Enforcement, Intelligence and Regulated Firm Records. I was employed in IMRO's Monitoring Department. The Director of Monitoring takes care of the whole department and sets policy, while the assistant directors are responsible for the Department's day to day work in monitoring, specifically supervising the team managers and ongoing departmental projects. There are ten monitoring teams which supervise the different firms. Each team has approximately 125 firms to supervise, with the exception of two special teams, dealing with approximately 70 high risk firms each.

In addition a team specialises in one or two areas such as merchant banks, unit trust firms, or occupational pension schemes. The reason for this is to increase the team's expertise in a specific area, to see and understand what other market participants do, to assist in ensuring consistency across teams and firms, and to utilise the team's experience of problem areas when visiting other firms.

A monitoring team's work can be broadly split between visit work - including planning, post-visit work and escalating of issues; and non-visit work. This entails the revision of periodic returns, processing clearance events (change of controller, or chief executive), attending to amendment requests, dealing with queries, correspondence and rules guidance.

My team was responsible for foreign banks and we spent most of our time outside the office on monitoring visits. Each firm is categorised in terms of risk as low, medium or high, which determines the frequency of the normal periodic visit. These visits are supplemented by special visits, theme visits and surprise visits.

A typical periodic monitoring visit will kick-off with an opening meeting with the chief executive, senior managers and compliance officer of the firm. The visit focuses on different areas such as custody arrangements, training and competence, client money, fund management dealing, client relationships, and compliance arrangements.

A visit can last anything from a day to a week and can be anywhere in England, Scotland, Ireland or Wales. All preliminary findings are discussed during the course of the visit and the contents of the monitoring report is discussed at the closing meeting. Back at the office, the report is prepared and forwarded to the firm's chief executive and compliance officer. Thereafter outstanding issues are resolved between the firm and the Monitoring Department. Depending on the findings, the Monitoring Department has the discretion to either caution a firm, or refer a particular issue to the Enforcement Department for further attention. This Department will then investigate the issue and depending on their findings, the firm and/or its personnel will be fined, suspended or their contractual relationship with IMRO terminated.

A firm's application to be regulated by IMRO is submitted to the Admissions Department which operates on a two-phase admission process. The first phase deals with the scrutiny of the application and can take up to three months. The second phase occurs once the firm has been approved. During this period the Admissions Department will assist the firm and provide a "hand-holding" service through the initial period of approval. Once the Department is satisfied with a firm's progress, the firm is transferred to one of the ten monitoring teams for future and further supervision.

I attended a number of in-house courses at IMRO. The Monitoring Department follows a specific training and development programme which provides a framework for the development of its staff. Within this framework, relevant courses and other forms of development are selected. Additional courses supplement the main programme, updating staff on a range of industry developments and regulatory changes.

Financial Services Authority (FSA)

Towards the end of my secondment, the absorption of the different regulatory organisations into the FSA became a visible reality. During the second week of November 1998, it became IMRO's turn to move to 25 The North Colonnade in Canary Wharf - the new home of the FSA. On 18 November 1998 Her Majesty the Queen, accompanied by the Duke of Edinburgh, formally opened the building.

With the move to Canary Wharf, traveling between home and work became more complicated than before for most of the staff. The FSA went out of their way to accommodate staff, but was hampered by the limited abilities of the Dockland Light Railway and the fact that work on the extension to underground railroads, suffered infinite setbacks. The FSA arranged special bus services, as well as a River Ferry. Except for the additional time it took to get to work, my new journey was very enjoyable. From London Bridge Station I caught the River Ferry at London Bridge Pier which is a 20 minute (depending on the tide) sailing down/up the Thames to Canary Wharf Pier.

In the new office, the open plan policy is clearly visible - starting from the chairman right down to the security guards at reception. Lifts and refreshment rooms are centered around the middle of the building with large glass panels around the building to allow for as much as possible natural light and of course, an excellent view of London.

The FSA is a non-governmental body and has statutory powers under the Financial Services Act, 1986 and the Banking Act, 1987. The Chancellor of the Exchequer appoints the FSA Board which consists of the Executive Chairman, Howard Davies, three managing directors and ten non-executive directors. The Board sets the overall FSA policy and the executive is responsible for the operational decisions and management of the 1700 staff members. The FSA is therefore mainly responsible for banking supervision, regulating investment business, market supervision, enforcement, services to consumers and services to the industry and other regulators.

The FSA has already taken over the responsibility for banking supervision from the Bank of England. The different organisations whose responsibilities will be absorbed into the FSA, following enactment of further legislation, are the Building Societies Commission, Friendly Societies Commission, Insurance Directorate of HM Treasury, IMRO, Personal Investment Authority (PIA), Registry of Friendly Societies and Securities and Futures Authority (SFA).

Until such time, the FSA agreed detailed service level agreements with the SROs (IMRO, PIA and SFA), enabling them to carry out their responsibilities. Most investment business is carried out by the approximately 6 000 firms regulated by these three SROs.

Although it will take time for the entities to become fully integrated, the FSA has successfully crossed most of the hurdles and are well on their way to continue operating as an open, transparent and accountable regulator.

Personal

Living and working in London was a wonderful, privileged and extremely educational experience for which I want to thank both the FSB and the FSA. I would like to especially thank everyone who crossed my path in the UK and who went out of their way to accommodate me, specifically all the personnel at IMRO. I became very fond of England and some of her British subjects and was sad to leave during January 1999. Nevertheless, I hope and trust that the friendships formed will stand the test of time.

I enjoy being back in the sun and the fact that I am no longer responsible for most of

those activities that end on -ing, like ironing, washing, cleaning, groceries packing, train catching and excessive walking. Although I loved every moment in England, it is good to be home and back at the FSB.

Judge Friedman to chair Appeal Boards

Mr Justice Gerald Friedman has been appointed as the new chairperson of the FSB Appeal Board and the Appeal Boards established under the Stock Exchanges Control Act and the Financial Markets Control Act.

It is not hard to understand why Judge Friedman has been appointed chairperson of these prestigious Appeal Boards. Only a quick glance at his curriculum vitae shows that he just fits the bill.

Career

The Knysna-born Judge obtained his BA and LLB degrees at the University of Cape Town. In 1950 he was admitted as an advocate and joined the Cape Bar. Twenty years later he acted as a Judge of the Cape Provincial Division of the Supreme Court (now High Court) and then became chairperson of the Cape Bar Council.

Judge Friedman was appointed vice chairperson of the General Council of the Bar of South Africa in 1976. "During this time I represented the South African Bar on the Council of the International Bar Association. This was a wonderful experience and I attended meetings in Stockholm and London," he says. But this is not where his experience ends. He was also Judge of the Cape Provincial Division and served as Judge for the Appellate Division from 1989 to 1992. Before becoming the new chairperson of the Appeal Boards, he was Judge President of the Cape Provincial Division of the Supreme Court.

Other experience

Judge Friedman has been a member of the Advisory Board of the Commonwealth Judicial Education Institute since 1994. "During this time I attended the Worldwide Common Law Judiciary Conference in Washington as a representative of the South African Judiciary," he adds. He is also Judge of the Appeal Boards of Botswana and Lesotho.

Chairperson of Appeal Boards

But how does Judge Friedman see his new position? "First of all, I regard it as a great honour and a real compliment that the Minister has seen fit to express such confidence in my ability to occupy the position of chairperson of these three Appeal Boards. The Financial Services Act, Financial Markets Act and Stock Exchanges Control Act are all aimed at ensuring the highest standards of integrity in the control exercised by the structures set in place to administer the financial institutions concerned. I see the main challenge of the Appeal Boards to act as a monitor of the actions taken by these structures and in doing so, to uphold the standards which the Acts seeks to maintain," he explains.

Personal

Judge Friedman is a founder member of Woodside Sanctuary in the Western Cape, a home for seriously brain damaged children. He has been chairperson from 1974 and is today honorary life president.

His philosophy in life derives from his lifelong work as an advocate and judge. "My work has made me realise that there are always two versions. Before making any decision, it is important to listen to and evaluate arguments on both sides."

Judge Friedman has a wide variety of interests. "I like most kinds of sports," he says. "Until fairly recently, I have been a keen tennis player." But he is also interested in the arts - "especially music, opera and ballet in which I have been called upon to play an active role since my retirement."

The Financial Services Board is honoured to have such an experienced jurist as chairperson of the Appeal Boards and is looking forward to working closely with him.

New era for SAFEX

By Theo Coggin, Ziningweni Communications

It is almost impossible not to associate Safex without Mr Stuart Rees. Mr Rees, Safex's chief executive chaired the working group that designed the exchange in 1988. He was Safex's first employee and chief executive. After 11 years at the exchange, he is to step down.

"I thoroughly enjoyed being involved in Safex's creation, seeing it through all its stages of growth until now when it is appropriate to enter a new era of development," he says.

Future of Safex

The new era of development involves the planned merger of Safex with the Johannesburg Stock Exchange and the Bond Exchange of South Africa. The three exchanges are due to produce a report by July this year on the merger's implications. "I strongly support the stated objectives of the merger. They are right for all three exchanges, and more particularly for the continuing development of financial markets in South Africa," explains Mr Rees.

The chairman of Safex, Mr Mark Barnes says that the futures market will continue to be central to the ongoing success of the trading markets in South Africa as a whole. "I look forward to the merger report on how objectives that are common to the three exchanges can best be achieved. Safex will continue to play its full role in this process."

Influence

Mr Rees' influence as the driving force behind Safex's establishment in the eighties came at the peak of economic sanctions against South Africa. Nevertheless, he still ensured that Safex became recognised locally and internationally.

In the ten year's of its existence, Safex has become the 22nd most liquid futures exchange in the world. Its flagship product, the All Share Index future is the fifth most successful of its kind.

"We are grateful for the role Mr Rees has played in making Safex a world-class operation. The exchange now turns over more than R2 billion annually, has approximately 1,5m contracts open and nearly R2 billion in margin to back the market. Members' interest has grown from R3,5m in 1988 to R100m today," says Mr Barnes.

The establishment of the Agricultural Futures Market was also a result of Mr Rees'

initiative. "There was a great deal of scepticism about the viability of this market at the time and very few believed that the agricultural industry would adapt to it. The disappearance of the old agricultural boards and the emerge of market orientation under the new government provided an ideal window of opportunity. Safex's agricultural marketing division has a monthly turnover equal to 650 000 tons of maize. The division has more than recovered its start-up capital and is now the price determinant of maize in South Africa," adds Mr Barnes.

For Mr Rees, his departure marks the pinnacle of one part of his career, and the opportunity to become involved once again in the next stage of his career in growing something new. "I have enjoyed the challenge of being involved in an innovative business initiative, and view the prospect of spending the next part of my career doing so again as very exciting."

Mr Rees holds a BSc degree in biochemistry and an MBA. "I first worked in biochemistry before joining Senbank as part of its capital markets team. I found the financial markets very exciting," he says. After two years he became a bond trader and then formed Stuart Rees with the idea of developing technology for the markets. Teaming up with Gerry Hodgson he formed Securities Trading and Technology and was then asked to join South Africa's first futures trading operation.

So what does Mr Rees have up his sleeve now? "When I look back at what I was doing in 1988, I feel very much the same now. Maybe I will go back into technology, but this time with the added excitement of financial markets."

SADC stock exchanges to link trading, clearing and settlement

By Mr Darrell Till, Director: Marketing, Research and Development, JSE

The stock exchanges of Southern Africa will link their trading, clearing and settlement systems to build the region's market into a world contender. This strategy was agreed by the SADC Committee of Stock Exchanges.

Stock Exchanges in Southern Africa have grown fast and play an increasing role in the economic development of the region. Two stock exchanges of the Southern African Development Community (SADC), Namibia and Johannesburg, put links on line in November. Wider investigations into linking central depositories and other systems will begin immediately.

The SADC Committee of Stock Exchanges has been meeting since 1997. The Committee's aim is to harmonise operations and regulations and to speed-up development and strategy for the region. At the Committee's last meeting, the Secretary-General of the International Federation of Stock Exchanges, Mr Gerrit de Marez Oyens, shared his vision of stock exchange developments until the year 2005. He outlined progress on current mergers

and of alliances between stock exchanges worldwide. The Secretary-General forecast "one country, one market: one market, one screen" with different markets co-operating on systems and other applications.

The Stock Exchange of Mauritius already has a central depository. Johannesburg and Tanzania plan to make theirs operational within the next few months, bringing paperless trading to the markets. Botswana, Lesotho, Malawi, Zimbabwe and Zambia plan to use the Mauritian central depository system. Namibia, which has already linked its trading and broker back office systems to the JSE, will link into the JSE's STRATE project, set to go on line in July.

Exchanges which still use trading systems such as a floor, call over or a central order matching office, plan to switch to computerised training. The exchanges agreed that all the region's markets should be
accessible to traders through the same desktop screen. Investigations are starting into connectivity to frame future automation of the individual exchanges.

The Committee also reported on a successful process of harmonising listing requirements across the region. All exchanges have revised their regulations into a similar pattern based upon 13 agreed principles which are in line with international requirements.

The meeting agreed that all stockbroking staff in the region should take the same entry-level exams, set by the UK-based Securities Institute. The exchanges agreed to develop recommendations on developing bond markets across the region.

The JSE shared its strategic and regulatory progress, including capital raising for small and medium enterprise, new regulation and Year 2000 computer plans. The Financial Services Board outlined the recent insider trading legislation and the intentions to rationalise legislation governing the securities markets.

What does the new Inspection Act entail?

By Bessie van der Lingen, Sub-editor, FSB Bulletin

The FSB has decided to replace the existing Inspection of Financial Institutions Act, 1984", reads the article New draft Bill on Inspection of Financial Institutions in the Fourth Quarter of the 1997 Bulletin. In October 1998 this Bill became an Act (the Inspection of Financial Institutions Act, No 80 of 1998). But why was it necessary to replace the old Act and how will the industry and public benefit from the new Act?

"Due to fast-moving developments in the financial services sector and a marked increase in unregistered entities, there was no other option but to replace the 1984 Act," explains Flip Stander, inspector at the FSB. "It has become ineffective in dealing with these, and contained a number of other shortcomings which had to be reviewed."

The 1984 Act probably fell short regarding certain constitutional requirements. Inspectors also had limited powers in inspecting unregistered entities. In the new Act, the drafters attempted to balance enhanced powers of inspection with certain pertinent constitutional rights. So what has changed in the Act?

"In a nutshell, inspectors have wider powers of examination and of search and seizure than under the old Act," explains Flip. "In some instances, such as the search and seizure of individuals' homes, a warrant has been built into the process to meet constitutional requirements. They also have the power to determine the time and place of examinations and who may be present at such examinations, subject to an examinee's right of legal representation. Further, the registrar may now instruct the inspection of an unregistered entity without the Minister's approval. This will help prevent delays in matters where time is of the essence. The registrar's own power to conduct an inspection has however been scrapped, to protect his or her impartiality when considering the results of an inspection."

The new Act grants the registrar wider powers to act in the interest of investors. "For instance, it permits the registrar to disclose information to parties who are at risk," says Flip. The registrar may also now recover the costs of any inspection from the inspectee, should such action be warranted.

As in the 1984 Act, the new Act provides for certain applicable offences. A person who refuses an inspector's request to take an oath, or without lawful excuse refuses to answer questions, are guilty of an offence. If persons wilfully give false information or hinder inspectors in the exercise of their duties, they are also guilty of an offence. The penalties for these offences are a fine, two years' imprisonment or both.

"We believe that the more effective powers in the new Act will not only benefit the financial services industry, but also consumers of such services," says Flip.

Top student to join FSB's Actuarial Department

By Bessie van der Lingen, Sub-editor, FSB Bulletin

Phula David Seooe of Dobsonville, Soweto scoops five distinctions in matric examination", reads the front page of the December edition of the Sowetan. And it is this very same top student that received a bursary from the FSB to study actuarial science.

One just cannot help liking David," remarks a colleague as I am on my way to meet the bright youngster. And it is not hard to understand why. David greets me with a big smile, his bright eyes sparkling with enthusiasm. "Why do you want to see me?", he asks surprisingly.

When I refer to his outstanding results, he says modestly: "I am just relieved that it is all over now. If it was not for the support from my teachers and family I would not have been able to get such results." He obtained distinctions in mathematics, economics, physical science, accounting and english, all on higher grade.

David attended Raucall College in Brixton and has been top achiever since Standard Six. But this is not all. Some of his other achievements at Raucall include being amongst the top 20 in the University of Pretoria's Maths Competition, reaching the second round of the Maths Olympiad, being head boy, dux scholar and member of the Student's Representative Council.

Although David is only 17, he knows what he wants. "I am analytically inclined and always wanted to study in a mathematical field. My choice of study was between actuarial science and electrical engineering. I decided to become an actuary as I absolutely love maths and believe that actuarial science will be more challenging," he explains. David has already done some research in the actuarial field. He visited Prof. Rob Thompson at the University of the Witwatersrand, as well as Alexander Forbes where he spoke to an actuary.

David is looking forward to his studies at Wits. "Studying broadens one's horizons.

If I complete my degree, there will be a whole new world out there," he says optimistically. "Nevertheless, I must admit that it was hard work, dedication and lots of self-discipline which helped me through my matric examinations. I'll just have to work twice as hard at varsity," he adds.

But all work and no play makes Jack a dull boy. David also loves music, chess, reading and writing, and plans to play tennis and cricket this year. David received a golden certificate for piano in the 1997 Eisteddfod. "I would like to further my interests in music by learning to compose," he says. David is also very interested in computers and attended a computer camp in 1995. In my free time I love reading novels and self-improvement books. David comes from a very close-knit family and views his strength as being a humble and religious person. And his motto in life? "Be happy, it is up to you. Always concentrate on life's positive aspects and don't let what is negative get you down."

FSB places Oehl Trust under curatorship

Last year the FSB warned the public against unlawful investment practices, such as those conducted by Mr Werner Oehl. The FSB's application to place the business of Mr Oehl under curatorship was granted in the Cape High Court in January.

The companies acting unlawfully are Oehl Trust Integrated Financial Services (Pty) Limited (Namibia); Sharelink (Pty) Limited (Namibia); Capital Strategic Investments Limited (Namibia); Premier Holdings Group (Pty) Limited (Namibia); Premier Investment Corporation (Pty) Limited (Namibia); Invesco CC (Namibia); Wosprop 40 CC; Laritza Investments No. 25 (Pty) Limited; and Lartiza Investments No.17 (Pty) Limited.

Although most of the companies are incorporated in Namibia, Mr Oehl operates from offices in Tygervallei in Bellville, as well as in Windhoek, Namibia. Oehl Trust, via its agents received moneys on behalf of investors with the undertaking to manage their funds. These moneys were deposited into one of the bank accounts of the trust. Some of the proceeds were used to buy shares on the Johannesburg Stock Exchange. These shares were registered in the names of the above organisations, but mostly in the name of Sharelink (Pty) Limited. Neither Oehl Trust, nor any of the associated companies were approved by the FSB.

Lloyd's announces CEO succession

The Chief Executive Officer of Lloyd's, Mr Ron Sandler will step down later this year. Having played a central role in the successful reconstructuring of Lloyd's over the past four years, he plans to return to the company arena when the handover to his successor, Mr Nick Prettejohn, has been completed.

Mr Prettejohn is a director of Lloyd's and responsible for the Business Development Unit and North America Unit. Prior to Joining Lloyd's, he held senior positions in management consultancy, the venture capital industry and corporate strategy. He joined Lloyd's as Head of Strategy in 1995 and was a key member of the reconstruction and renewal team. Mr Prettejohn was closely involved with the establishment of Equitas, the company set up to reinsure and run-off the 1992 and prior year liabilities of Lloyd's syndicates. The formation of Equitas was a cornerstone of the reconstruction project. He is also a non-executive director of Anglo and Overseas Investment Trust Plc, a quoted investment

trust.

Apologies

In the Fourth Quarter of the 1998 FSB Bulletin (FSB and Registrar of Banks sign MOU, p.13) it was stated that the Registrar of Banks, Dr Chris de Swart signed the MOU. The correct wording should be: "The Registrar of Banks, Mr Christo Wiese...". Our apologies to all concerned.

What is SAILA?

By Bessie van der Lingen, Sub-editor, FSB Bulletin

If you are interested in insurance law, you should join the South African Insurance Law Association (SAILA). SAILA is an independent body which comprises of members from the insurance industry, insurance practice, and academia. It was founded in 1976 and previously known as the South African Insurance Law Association. SAILA is also affiliated to the world body, the Association International de Droit des Assurances (AIDA).

"Our object is to facilitate the exchange of opinions and research all aspects of insurance law in a structured manner," explains Prof. Heinrich Schulze from the Department of Mercantile Law at the University of South Africa. "The Association is aimed at the theory, as well as the practice of insurance with a view to obtaining solutions to practical problems. SAILA offers its members a forum to exchange ideas and to conduct research on insurance law."

To facilitate the exchange of ideas and the dissemination of research, the Association arranges half-day seminars for its members on topical aspects of the law relating to insurance contracts and insurance companies. "The next seminar will focus on selected aspects of the two new Long-term and Short-term Insurance Acts. The seminar will take place on the afternoon of 6 May at the Rand Afrikaans University," adds Prof. Schulze.

Subscription fees to SAILA are R75 (personal membership) and R250 (corporate membership) for 1999. "A corporate member may also, without paying any additional fee, nominate five persons for personal membership," he explains.

Anyone interested in joining SAIA or the seminar can contact either Prof. Schulze at 012 429 8454 (phone) or Mrs Stienie Koeleman at 012 429 8465 (phone); or 012 429 3343 (fax); or e-mail: schulwg@alpha.unisa.ac.za. or keolecje@alpha.unisa.ac.za. The addresses are: Department of Mercantile Law, Faculty of Law, UNISA, PO Box 392, Pretoria, 0003 or Centre for Business Law, Docex no. 163, Pretoria.

FSB concerned about early termination of long-term insurance policies

Why the high early termination of long-term insurance policies? To address this problem, the long-term insurance department of the FSB compiled a questionnaire for completion by the public. "This questionnaire is part of an investigation into the reasons for the early termination of policies, or the reduction of premiums payable under life insurance policies, including funeral insurance and the consequent losses to the policyholder public," says Mr

Oppie Opperman, Head: Long-term Insurance at the FSB.

Questions include "What would you consider to be the single main reason why you discontinued the premium payments or reduced them?, How did you take out or purchase the policy? Were you satisfied with the quality of service that you received from the life insurance company who issued you policy? To what extent did you read the letters and policy documents?" and "Do you still have contact with the salesperson through whom you took out the policy?"

Members of the public who took out long-term insurance policies during the last five years and reduced or stopped paying premiums, have been asked to respond. So if you are still interested in obtaining this questionnaire, you can surf the web at www.fsb.co.za, phone the FSB's toll free number at 0800 110 443, contact your local consumer body or complete the questionnaire included in the Bulletin.

This consumer questionnaire was also published in newspapers. "So far, the response has been immense. Since its publication, the FSB has received hundreds of queries and sent out questionnaires to all," adds Oppie.

Markdata is also in the process of developing a similar investigation. Both investigations are conducted totally independent from the long-term insurance industry.

Now the hard work of analysing the responses lies ahead. "If the FSB can only assist in addressing this problem in the interest of the public and long-term insurance industry, we would have reached our goal," says Oppie.

The books say

The Law of Investor Protection by Jonathan Fisher and Jane Bewsey

The Law of Investor Protection provides readers with a coherent account of the law which protects investors and regulates those involved in the investment industry. As it presents an overall approach to the subject, it is a useful companion to legal practitioners, compliance officers and those who work in the field of investment. At present, the law of investor protection is not a recognised subject in its own right. This book aims to stimulate interest in the development of this area of the law.

Contents include The Financial Services Act, 1986; The Pensions Act, 1995; Statutory and non-statutory systems for the regulation of investment; Investor protection in Criminal Law; and Investor protection in Civil Law. It deals with the law relating to England and Wales.

The Law of Investor Protection is available from Virtue Subscription Services CC, PO Box 48927, Booysens, 2016 or phone 011 433 2504.

Administrative Law under the 1996 Constitution by Yvonne Burns

Administrative Law under the 1996 Constitution addresses the fundamental right to just administrative action and the common law principles applicable to administrative law. Under our new constitutional dispensation the traditional distinction between constitutional and administrative law calls for reassessment. This book approaches administrative law as a specialised branch of constitutional law.

Contents include basic constitutional law concepts; general principles of administrative law; principles of co-operative government; sources of administrative law; the

administrative law relationship, legal subjects, administrative acts; just administrative action; the control of administrative action; and state liability.

Administrative Law under the 1996 Constitution is available from Butterworth Publishers (Pty) Ltd, Grayston 66, 2 Norwich Close, Sandton, 2196.