



**TO: THE SENIOR PARTNERS
ALL LEGAL PRACTITIONERS AT FIRMS
AND
BOOKKEEPERS**

Dear Sir/Madam

FINANCIAL CIRCULAR – AUGUST 2008

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**A SMITH
ACCOUNTANT**

1. **REFORM AUDIT SUPPORT SYSTEM (RASS) NAMIBIA: UPDATE**

During the past year Mr Smith promoted RASS and its implementation to all the firms in Namibia and many of you have indicated your willingness to participate in RASS.

The Reform Audit Support System (RASS) now forms part of the Rules of the Law Society of Namibia as amended (as approved at the 2006 Special General Meeting and published in the Government Gazette on 6 December 2007).

The RASS reporting officially commenced on 1 March 2008. The first Accounts Certificate (Rule 20A) will be due October 2008. During the past year Mr Smith has also conducted many visits to the firms in an attempt to sensitise the legal practitioners and its staff members to the requirements of RASS and to obtain your application forms to participate in RASS.

Council will in due course consider the applications from the firms who have indicated their interest to participate in RASS.

We shall inform you in due course whether your firm has been selected to join RASS for the 2008/2009 financial year.

Please note that all the firms should still submit audit reports for the February 2008 financial year-end. The RASS reporting will cover the period as from March 2008.

RASS application forms are available from Mr André Smith.

2. **AUDIT REPORTS: FINANCIAL YEAR-END 2008**

We thank all of you who have timeously instructed your auditors and who have already submitted their audit reports to the LSN.

All audit reports must be submitted by not later than six months after the year-end. (i.e. 31 August 2008 if the year-end is 28 February 2008). Many of the firms have to submit the audit reports by the end of August 2008. **Please note that 31 August 2008 is on a Sunday and therefore you will be allowed to still submit the audit reports by not later than 17h00 on Monday 1 September 2008.**

Every year, and during the past year on an increasing basis, firms failed to submit their audit reports within 6 months after their financial year end and / or within 6 months after closure of the firms / dissolution of the partnerships, etc. This failure resulted in penalties be given to the defaulting firms and created a huge work load for the Council of the LSN.

All firms are required to instruct their auditors in writing to conduct the audits. Should you require an extension to file your audit report you must please also copy the LSN with the instruction to the auditors. The firm as well as the auditor must explain the reason for the late submission of the audit report in order for Council to consider the penalties.

Should you have any **qualifications** on the audit report, such qualifications **must** be explained in detail by the legal practitioners and the auditors, in order for Council to consider the reasons and to make an informed decision.

Should there at any stage be a **deficit / shortfall** on your trust account it **must** be reported immediately to Mr Smith and be explained to Council and any shortfall **must** immediately be rectified. Please submit, together with your explanation, proof of payment.

Please note that the LSN must also protect the interests of the public as well as the Fidelity Fund.

3. TRUST ACCOUNTS OF FIRMS - BOOKKEEPERS

Kindly be advised that the legal practitioners remain ultimately responsible for the bookkeeping at their firms (irrespective of whether you assign it to a staff member, bookkeeper or accountant). You should ensure that the person, responsible for maintaining your accounting records, is familiar with the LSN Rules and Regulations. Some items you and your staff should be vigilant about are:

- overdrawn or inactive client trust ledger accounts
- uncorrected or unexplained reconciling items on the trust bank reconciliations
- trust receipts outstanding beyond the following banking day
- review of the trust comparison for accuracy by the 25th of the following month

It is highly recommended, if you did not attend the training presented by Mr André de Kock on 20 and 21 June 2007, to purchase the training material “Continuing Legal Education (CLE), Practice Management, Firm Accountability and Essentials of Legal Practitioners Trust Accounts” (N\$42.00) which includes the “Internal Control Guide” guiding you on the internal controls appropriate for your office, especially if your firm handles client trust funds which will ensure that you and your staff are following the correct record keeping and money handling procedures. .

4. PAYMENT OF NET INTEREST EARNED ON TRUST INVESTMENTS AND TRUST BANK ACCOUNTS

Kindly ensure that this form is completed correctly on a **monthly basis and forwarded to the LSN**. Note that the issuing of your **Fidelity Fund certificates for 2009** will be dependant on compliance with the Rules and Regulations of the LSN.

5. FROM THE RASS DESK: UNDERSTANDING RECONCILIATIONS: RULE 18(3)(a) & 18(7)

Each firm is required to produce a monthly report that compares the firm’s total trust liability to clients, with the reconciled amount of trust funds controlled by the firm in bank accounts and other negotiable instruments. It’s advisable that this report be completed each month within 15 days of the month’s end.

The Directors / Partners of the firm are responsible for the amount of funds held in trust. If the report is not prepared by the Director / Partner, it is essential that a Director / Partner review this report in detail. Therefore, Directors / Partners should be aware of all reconciling items that appear on the report. A reconciling item is any item that causes a difference between the actual balance in your bank and the balance of your trust liability to clients (bank errors, service fees, outstanding cheques and receipts). All reconciling items should be listed in detail, showing the amount, the date and a brief description. Director / Partners should question all items that seem odd, or that are carried on the report for more than one month.

Directors / Partners should ensure their accounting staff determine the cause of the recurring items and correct them. Some items may be as simple as bank charges, may relate to complex processing or posting errors, or could indicate a means to hide the misappropriation of funds. Cheques that have remained outstanding (uncashed) for over six months may become stale dated (not negotiable) and may have to be cancelled and re-issued.

When comparing the firm's trust holdings to its trust liability, it is also helpful to peruse the individual client ledger accounts to identify debit (negative) balances, or amounts that remain unchanged for several months. Any debit balances should be investigated and resolved, either by correcting any posting errors, or by depositing the exact amount of the overdrawn accounts. Unchanged balances should be reviewed to determine if the funds can be returned to the client or applied to invoices previously sent to clients.

Please do not hesitate to contact us should you require further information and / or assistance.