

**ATTORNEYS INSURANCE INDEMNITY FUND
(THE AIIF)
REPORT OF THE CHAIRPERSON
FOR THE PERIOD ENDED 31 DECEMBER 2009**

1. INTRODUCTION

Like most business entities, the AIIF has been affected by the market volatility and recessionary conditions, resulting in a lower return being achieved on the AIIF investments. However, the company's investment portfolio performed satisfactorily relative to the prevailing volatile market conditions. The company's investment portfolio continues to be well managed by our two investment managers (Old Mutual and Peregrine Quant) and monitored by our consultants, Riscura.

The change in the type of claims being reported (discussed further below) has also had an impact on our ability to earn interest income in that there is now a shorter lead time between claims being lodged with the AIIF and payment of the claims. The loss of interest income in this regard should, however, be set off against the savings made in respect of investigation costs and interest payable to the claimant had it taken longer for the claim to be paid.

The 2008 insurance year has been a record year for the AIIF both in terms of the number of claims registered (639 claims which represents an increase of 57% from the number of claims registered in 2007) as well as the total incurred to the scheme (that is the aggregate of the reserve to the scheme, the damages paid as well as the costs paid to our panel attorneys in respect to those matters referred to panel attorneys) which is an amount of R73, 849,280.31.

We express our sincere gratitude and thanks to the Attorneys Fidelity Fund for the increase in the annual premium to R55, 000,000.00 for the 2009/2010 insurance year.

The company continues to implement measures aimed at obtaining maximum efficiency and maximum cost savings including dealing with as many claims as possible internally as opposed to referring matters to panel attorneys.

2. **STATISTICAL INFORMATION**

The total value of assets of the AIIF as at 31 December 2009 was R403,048,604. This represents an increase of 5.7% on the figure for the 2008 year of R 381 192 967.00.

The gross total outstanding reserve (our maximum exposure) at the same date was R188, 291,567, whilst in 2008 this figure stood at R190, 446,399.00. The solvency margin of the AIIF as at 31 December 2009 was 459%, down on the 2008 figure of 557%.

The company's investment portfolio delivered reasonable returns taking into account the downturn in the economy.

3. **COVER**

It has been reported annually that the AIIF provides three insurance options to practitioners.

The standard cover for all firms is an amount of between R 1 562 500.00 and R 3 125 000.00 per year depending on the number of principals in the firm.

The second option provides 50% of the above cover with a corresponding 50% reduction in deductibles.

The third option provides 25% cover with a 25% deductible.

In 2007, 131 practices chose option 2 and 111 chose option 3, representing a figure of about 2.7% of the profession.

The downward trend in numbers of firms taking the reduced options has continued. In 2008, 108 practices chose option 2, while 78 chose option 3, representing approximately 1.1% of the profession. In 2009, 687 firms chose option 2 and 459 firms chose option 3, representing approximately 6.1% of the profession.

It is gratifying to know that the profession appears conscious of the fact that it is not its or the public's interest to scale down on insurance cover.

4. **CLAIMS**

In the 2003/2004 year, 366 claims were registered, 372 in the 2004/2005 year, 383 in the 2005/2006 year and 384 in the 2006/2007 year. In the 2007/2008 year we registered a total of 406 claims. In the 2008/2009 year we have registered 639 claims and, as at 31 December 2009 (that is half way through the 2009/2010 insurance year) we have registered 306 claims. It will be noted that we are still being notified of claims which fall into the previous insurance years.

The tables below set out in some detail, the amounts of claims incurred and made against the scheme in the past years with specific reference to the area of practice in which the claims arose.

TABLE "A"

TOTAL AMOUNTS INCURRED TO THE SCHEME IN THE PAST FOUR AND A HALF YEARS: (IT WILL BE NOTED THAT THE 2009/2010 FIGURES REPRESENT THE POSITION AS AT SIX MONTHS INTO THE YEAR)

YEAR	2005/2006	2006/2007	2007/2008	2008/2009
Type				
MVA Prescription	R11.5m	R17m	R16.6m	R10.7m
MVA under-settlements	R1.9m	R7.9m	R4.9m	R3.8m
General Prescription	R4.3m	R2.1m	R5.2m	R2.4m
Litigation	R8.2m	R7m	R8.6m	R5.8m
Commercial	R3.4m	R7m	R1.5m	R8.1m
Conveyancing	R7.7m	R8.9m	R12.7m	R38.9m
Other	R2.9m	R6m	R3.8m	R3.6m
Total	R39.9m	R55.9m	R53.3m	R73.3m

TABLE "B"**CLAIMS MADE AGAINST PI SCHEME**

(Claims in number – not in value)

Periods	7,5 years: 1/7/02-31/12/09	Last full insurance year 1/7/2008 – 30/6/2009	Latest 6 months: 1/7/09 – 31/12/09
Type			
MVA Prescription	29.7%	16.7%	19.6%
MVA under settlement	5.3%	2.6%	4.9%
General Prescription	12.3%	2.3%	5.2%
Litigation	16.7%	10.3%	7.8%
Commercial	8.1%	4.4%	5.2%
Conveyancing	42.2%	46.8%	46.4%
Other	30.6%	4.4%	9.4%

5. CLAIMS MANAGER'S REPORT**Introduction**

A copy of the AIF Claims Manager's report as at 31 December 2009 has already been submitted to the fund. The Claims Manager's report gives a detailed breakdown of the claims lodged with the AIF. It will be noted that the trend in recent years of an increase in the number of claims continues. It will also be noted that in the 2008 year of insurance, the company is likely to breach the stop-loss limit of R55,000,000.00 in respect of claims and investigation costs paid in that year.

It will also be noted that conveyancing claims continue to make up the bulk of the number of claims in the 2009 year (47%). The increase in conveyancing-related claims can be ascribed mainly to a flood of bridging finance related claims received in the 2007, 2008 and 2009 years of insurance. The company is addressing the problem caused by bridging finance related claims from a risk management point of view and has put measures in place to deal with this issue. Of the conveyancing claims lodged in the 2008 year of insurance, 47% (with a total of approximately R19,600,000.00 incurred to the scheme) relate to bridging finance claims.

At the meeting of the Board of the AIIF on 16 March 2010, it was resolved that the AIIF policy be amended in order to exclude claims arising out of bridging finance transactions (other than those bridging finance transactions relate to the payment of outstanding rates and taxes and / or transfer duty). This amendment to the policy will come into effect at the beginning of the new policy year (1 July 2010).

The company has undergone changes in staffing in 2009. Ms Ann Bertelsmann (who was previously the General Manager) took up of the role of a full time Risk Manager on 01 April 2009. Ms Bertelsmann's previous role has now been filled by Mr Thomas Harban who was appointed Claims Manager on 01 April 2009. It was decided that the company needed a full time and dedicated Risk Manager in view of the growing number of claims.

Court Bonds

As at 31 December 2009, the company had issued 2265 court bonds with a total value of R1,481,184,783.45. Court bonds valued at R1,188,690,955.24 are active. This area of the company's operations continues to grow.

Ex-gratia Matters

No new ex-gratia matters were referred to us during this year.

6. **THE BOARD AT THE END OF 2009 CONSISTED OF THE FOLLOWING:**

Mohamed Husain	Chairperson
Ed Southey	Deputy Chairperson
Allan Mansfield	Managing Director
Ebrahim Moola	Director
Allan Peters	Director
Alison Tate	Director
Kathleen Dlepu	Director
CP Fourie	Director
Mike de Roos	Director

Mr Max Boqwana resigned as a Director during April 2009. Mr Sithembele Mgxaji, the chairperson of the Attorneys Fidelity Fund, will replace Mr Boqwana on the AIIF board. At this stage, the documents for the appointment of Mr Mgxaji to the AIIF Board have been submitted to the Financial Services Board for the confirmation by the FSB of Mr Mgxaji's appointment. We have, as yet, not received confirmation from the Financial Services Board that Mr Mgxaji's appointment has been accepted.

7. **ACKNOWLEDGEMENTS**

The AIIF extends its gratitude to:-

- 7.1 the Attorneys Fidelity Fund, its chairperson Mr Sithembele Mgxaji, its Executive Director Mr John Moorhouse and the other persons associated with the fund for all their support and financial assistance rendered during this year;
- 7.2 the staff and Directors of Glenrand MIB for having provided competent and skilled services to the AIIF and for their continued availability in cases of need.

I am particularly grateful to the Board of Directors for their support and continued guidance.

Mohamed J Husain
Chairperson
26 March 2010