Special points of interest:

- 20 December—IAC office closure
- 24 December—VAT manual submissions and payments
- 31 December
  - VAT electronic submissions and payments
  - CIT provisional tax payments
- 6 January—IAC office reopens

Inside this issue:

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Annual General Meeting—Cape Town—18 October 2019

Seasons Greetings

From the IAC Board and staff, may you have a joyous holiday and a happy new year.

Office closes on 20th Dec 2019 & re-opens on 6th Jan 2020.
IAC Board Members

A.W. Bezuidenhout  
PRESIDENT

S.T. Cupido  
VICE PRESIDENT

D.M. Johnstone  
(IMMEDIATE PAST PRESIDENT)

N. Chengeta  
(PRESIDENT ZIMBABWE)

C. Alberts

J.M.J. Lubbe

T. Mzwakali

D.W. Swanepoel

M. Telleman

P. Singh  
CEO (RSA)

F.J. Dube  
CEO (ZIMBABWE)
## SARS Payment arrangements

SARS provides for a deferment, or installment payment arrangement for outstanding tax debt. This mechanism allows the taxpayer to pay outstanding debt in one sum or in installments over time. This agreement however would be subject to certain qualifying criteria.

A payment arrangement may be requested through:
- SARS efiling
- The Contact Centre on 0800 00 7277;
- A SARS Branch Office; or
- A Debt Management Office

### Criteria for payment arrangements

SARS may enter into a payment agreement if:
- The taxpayer suffers from a lack of assets or liquidity which is reasonably certain to be remedied in the future;
- The taxpayer anticipates income or other receipts which can be used to satisfy the tax debt;
- Prospects of immediate collection activity are poor or uneconomical but are likely to improve in the future;
- Collection activity would be harsh in the particular case and the deferral or installment agreement is unlikely to prejudice tax collection;
- The taxpayer provides the security as may be required;
- All outstanding returns and/or recons are submitted.

## What happens when a taxpayer does not pay taxes

It is a criminal offense not to submit a tax return when it is due, and can be a criminal offense not to pay.

There are a number of debt collection options at SARS’ disposal, including:
- Collect the debt from someone who holds money on the taxpayer’s behalf
- Third Party appointments i.e. employer, bank or customer.

- Issue a judgement to blacklist the taxpayer.
- Attach and sell the taxpayer’s assets.
- Obtain a preservation order in respect of the taxpayer’s assets.
- If the taxpayer hold assets off-shore, an order can be obtained compelling the assets to be repatriated to South Africa and in the interim the taxpayer’s right to trade or to travel can be restrained.
- Liquidate or sequestrate the taxpayer’s state

### Valid bank account

According to SARS, a valid bank account means:
- Cheque account
- Savings account
- Transmission account

In the name of the taxpayer.

The following are not regarded as a valid bank account:
- Credit card
- Bond
- Foreign Bank account

### Customs and Excise clients

Customs and Excise clients needs to visit their nearest SARS Customs branch as registering or changing of banking details can not be done on efiling. A completed DA185 and applicable supporting documents must be submitted at a branch.

SARS will not update banking details if requested via e-mail, fax, post or telephone.

### Who can update?

Only taxpayers, Registered Representatives and Registered Tax Practitioners are allowed to change banking details.

The registered representative’s details must match those on the SARS system.

For more information, refer to the Change of Banking Details External Guide.

## Updating bank details

If you need to add or change banking details it can be done:
- In person at any SARS branch if you’re not registered on efiling, or
- By completing the Registration, Amendment and Verification form (RAV01) on efiling (excluding Customs and Excise)

When completing the following on efiling: ITR12, ITR14 or request for Transfer Duty Refund.

Rather fail with honor than succeed with fraud.

Sophocles
Any person may contact the South African Revenue Service (SARS) to report a particular taxpayer if he/she suspects that the taxpayer may be non-compliant.

Suspected non-compliance can be reported by:

- Calling the SARS Contact Centre on 0800 00 SARS (7277)
- Visiting your nearest SARS branch
- Accessing the RSNO1 form from the SARS website, completing it and submitting it to SARS.

Details of non-compliance

It is important to provide as much details as possible when reporting non-compliance. This includes the following:

- Type of non-compliance, e.g. SARS corruption, non-registration for tax, tax fraud, under-declaration of tax or smuggling
- Potential annual loss to the Government
- Detailed description of the non-compliance and proof
- If you have details about the assets of the person you are reporting.

Details of reporter

You have the option to remain anonymous. If you choose to disclose your personal details, general details such as name, telephone number and e-mail address should be provided.

What is suspected non-compliance?

Suspected non-compliance refers to any conduct or attempted activity or pattern or display of transactions that typically meets any of the following conditions:

- A person is not submitting true information on a return or any submission to SARS;
- A person or business is eligible to register for any type of tax but not paying any form of tax;
- A person or business employs people and deducts PAYE from the employees but is not issuing IRP5 certificates to the employees;
- A person or business is subject to any type of tax, registered for the tax, but not submitting the required returns to SARS;
- A person is living beyond his obvious financial means – displaying unusually high life-style patterns for a person with similar forms of income;
- A person is found to carry an unusual large amount of currency (money) in any form whilst travelling into or out of South Africa;
- A person or business is trading in goods that are suspected of being counterfeit of original brands;
- Derives income from criminal activity;
- A person or business is submitting VAT refund claims that are fraudulent and do not reflect the truth;
- A person or business is liable to be registered for VAT but is not;
- Customs warehouse irregularities;
- Businesses or persons involved in different forms of structure financing;
- A person or business owes SARS money as a result of an assessment or schedule but not paying SARS;
- An importer (including the clearing agent) that enters a Voucher of Correction on more than one occasion;
- An importer or exporter (including the clearing agent) found to have imported or exported illicit goods (drugs, fire-arms, explosives, CITE described items, counterfeit goods);
- Imported goods being sold on the open market at a price lower than “landed cost” i.e. less than what it would cost to purchase the goods, transport them and pay VAT and duty on importation;
- A person or business suspected of having mixed fuel of any kind;
- A person or business found to have imported or exported frequently using the common 7070-customs code on Bills of Entry.

Non-compliant tax practitioners

According to section 240(3)(d) of the Tax Administration Act, SARS can deregister tax practitioners who are non-compliant in terms of their personal tax affairs.

SARS has embarked on a process of de-registering non-compliant tax practitioners. The initial focus was on practitioners who had outstanding returns in their personal capacity. Of the 123 most non-compliant practitioners, 51 have been de-registered as they have failed to heed SARS’ request to regularize their personal tax affairs.

Submitted returns are scrutinized for correctness, and where the declarations appear to be incorrect, these cases are referred to Enforcement for further action. It is SARS’ intention to continue this initiative until all practitioners have regularized their tax affairs.

SARS has also established a Governance Committee for Reporting Unprofessional Conduct in October 2018. This committee evaluates complaints regarding unprofessional conduct lodged against registered tax practitioners, and decides whether to report the matter to the tax practitioner’s Recognized Controlling Body for further investigation and possible disciplinary action. To date, more than 100 cases have been reported to SARS either by other practitioners or by taxpayers themselves.

The bulk of complaints revolved around tax practitioners failing to release the e-filing profiles of their clients. We remind practitioners that it is an offence not to release the eFiling profile of a client, even if they have outstanding fees. All such cases will be referred to the practitioner’s Recognized Controlling Body for further action. Some of the more serious complaints lodged against registered tax practitioners are:

- Verbal and physical abuse of SARS employees
- Submission of fraudulent tax returns
- Giving advice that is contrary to the law and to the disadvantage of taxpayers
- Unreasonably delay the finalization of any matter before SARS
- Failing to perform the duties of a registered tax practitioner
- Serious personal non-compliance.

Third party appointments—Employers

SARS extended its appointment of employers as third parties to collect overdue assessed tax debt in addition to the current administrative penalties. These appointments are being made under Section 179 of the Tax Administration Act.

Only employers who have employees with outstanding tax debt will be affected. Once an affected employer is appointed by SARS as a third party, the employer must deduct the overdue tax debt from the employee’s salary and pay the money over to SARS.

In the past, SARS largely appointed employers to deduct money owing to SARS in respect of administrative penalties which were imposed on a taxpayer for non-submission of a return. However, this time the third party appointment of an employer will be for overdue tax debt resulting from an assessment that was raised by SARS following the submission of a personal income tax return. The appointment of employers as a third party to act on behalf of SARS is the final step in a lengthy process of debt collection measures undertaken by SARS.

The payment allocation rules have been enhanced to include the allocation of payments for AA88 based on the payment reference number (PRN) supplied by an employer. Where an outdated PRN is used, these payments will be allocated on a First-In-First-Out (FIFO) basis.

Cancellation of AA88s

Deductions of AA88s should be stopped when an employee has sorted their tax affairs and paid the outstanding AA88 debt. Employers should continuously synchronize the e@syFile™ Employer, to ensure the latest information concerning AA88s is received from SARS.

All AA88 deductions must also be stopped, when an employee produces an official SARS letter (which will contain the official SARS stamp) confirming that their tax affairs have been rectified and the outstanding debt has been paid, accompanied by a SARS Statement of Account with a zero balance or refund. Amounts withheld and not paid to SARS should be returned to the employee.
BPR 334—Waiver of loan by settler of a trust

Background
A South African individual formed and registered a trust in South Africa. The settler is also a beneficiary of the trust. The settler loaned R30 million to the trust to acquire an equity interest in a South African private company. The loan is unsecured, interest-free and has no terms of repayment. The applicant will waive some of the loans.

Ruling

Applicant
The waiver of the loan constitutes a donation which is subject to donations tax at 20% to the extent the donation does not exceed R30 million and subject to 25% donations tax to the extent the aggregate value of the donation exceeds R30 million.

Since the applicant and the trust are connected persons, any capital loss in consequence of the disposal must be disregarded.

Trust
Paragraph 12A will not apply to the debt benefit received when the applicant waives the loan claims, as this paragraph excludes the application of paragraph 12A to the extent that the debt is reduced by way of a donation.

To the extent that the R100 000 exemption under section 56(2)(b) is taken into account in calculating the amount of donations tax payable, the amount of expenditure so incurred in respect of the shares acquired in the private company must be reduced by the debt benefit (R100 000) in respect of that debt.

Deduction of costs relating to loyalty program

In Commissioner, South African Revenue Services v Clicks Retailers Ltd [2019] ZASCA 187, the Supreme Court of Appeal held on 3 December 2019 that an allowance in terms of section 24C of the Income Tax Act 58 of 1962 is not allowed for Clicks’ loyalty program.

Clicks’ claim arose from its loyalty programme known as the ClubCard. Customers could sign up as members of the loyalty programme in terms of a contract that provided that for every purchase exceeding R10 for which the customer presented a ClubCard at the till, the customer would receive 1 point for every R5 spent.

For every 100 points accumulated in a quarter they would receive a R10 rewards voucher, which could be exchanged in part payment for subsequent purchases. The rewards vouchers could not be exchanged for cash and would lapse after one year.

Clicks argued that it received revenue from the sales generating the points and was obliged to use that revenue to finance its obligations to provide rewards vouchers. As the revenue was used to finance its future obligations under those sales contracts, Clicks was of the view that it was entitled to claim an allowance under s 24C of the Act.

The SCA held that while the revenue arose in terms of the sale contracts, the allocation of points and the issue of rewards vouchers arose under the loyalty programme agreement.

The obligation to award points and thereafter vouchers, to a customer in respect of a qualifying contract of sale, arises from the ClubCard contract and not the contract of sale concluded with the customer. When a qualifying contract of sale is concluded, the obligation on Clicks either to issue vouchers or to honor them, as the case may be, in terms of the ClubCard contract, becomes exigible.

In the absence of the ClubCard contract, a customer acquires no right to acquire points and thereafter vouchers and Clicks incurs no obligation, to do so.

Accordingly the revenue and the expenditure did not arise under the same contract as required by s 24C and the Commissioner was correct to refuse the allowance.

The revenue from the initial sales was used to finance the acquisition of trading stock in the ordinary course of Clicks’ business and not for the specific purpose of meeting any obligations to award points and issue rewards vouchers. The effect of such vouchers was no different from any other arrangement where Clicks offered customers a discount on purchases.

The appeal accordingly succeeded and the decision of the Tax Court was set aside and replaced by an order dismissing the taxpayer’s appeal.
In Commissioner, South African Revenue Service v Pieters and others (1026/17) [2018] ZASCA 128 it was considered whether payments made to workers were subject to PAYE.

**Background**

Slabbert Burger Transport (Pty) Ltd (the company) was a large transport business with its main place of business in Wellington in the Western Cape. The company was finally wound up in the Cape Town high court on 8 February 2013.

The company had approximately 700 employees. Their employment contracts were, under the Insolvency Act, suspended on the date of the commencement of the winding-up on 7 December 2012. The employment contracts came to an automatic end 45 days later by virtue of the provisions contained in s 38(9) of the Insolvency Act. At the time of the commencement of the company’s winding-up, leave pay had accrued to the employees.

Prior to the confirmation of the L&D account, the respondents awarded and paid to the company’s employees certain amounts, which included salaries, leave and severance pay. The respondents did not deduct any employees’ tax in accordance with para 2 of the Fourth Schedule to the Income Tax Act 58 of 1962. On 21 August 2014 the Commissioner objected to the confirmation of the L&D account since no PAYE was deducted and paid to SARS.

It was the Commissioner’s case initially, that the liquidators became the representative employer as envisaged in the definition section of para 1(a) of Part I of the Fourth Schedule to the Income Tax Act.

The payments were however limited as follows:

- the payment of salaries or wages to former employees for a maximum period of three months are included in s 98A(1)(a)(i) but limited to R12 000;
- leave or holiday pay which has accrued are included in s 98A(1)(a)(ii) but limited to R12 000; and
- Severance or retrenchment pay is included in s 98A(1)(a)(iv) but limited to R4 000.

Section 98A of the Insolvency Law can be described as having a social justice objective as they are clearly aimed at alleviating the plight of employees who are left unpaid by the financial woes of their liquidated employer company. More often than not, as the present instance demonstrates, these would be vulnerable blue collar employees. Self-evidently, employee tax deductions would reduce the modest amounts under s 98A.

The salaries and wages of employees now rank just below the costs of execution and above preference under certain statutory obligations, which includes PAYE under the Schedule. The change was plainly deliberate.

Ordinarily the Commissioner would not be without recourse. In the event that, at the end of the relevant tax year, it appears that PAYE is payable by the employees, the Commissioner may lodge a claim, which was not done in this case.

**Decision**

The amounts paid to employees as part of the liquidation was not subject to PAYE.

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**Foreign donor funded projects (FDFP)**

The draft Taxation Laws Amendment Bill states that each project must be registered separately for VAT. During the consultation process, it was suggested that, where one entity manages many such projects, the entity be entitled to register all the various projects under one VAT registration number.

This proposal was however not accepted. Treasury stated that each project has its own terms and conditions, its own implementation plan, its own funding requirements, end date, etc. For these reasons, each project will be required to be registered separately in order to remain separately identifiable.

Further, the VAT system does not permit a vendor to be issued with more than one VAT registration number, unless it is registering different branches. By including this proposed amendment to section 50(1), it is proposed that each project be registered as a branch of the vendor that is the “implementing agency” of the various projects. A guideline will be issued by SARS providing clarity on the process to be followed to register a FDFP. With regard to the impact on current projects, changes will be made in the 2019 Draft TLAB to provide that the proposed amendments will only be applicable to those projects that apply for registration on or after the 01 April 2020.
Dear IAC Members

As the New Year is approaching, I want to take this opportunity to express my heartfelt appreciation to each of you being valuable members of the IAC, and pass my gratitude and seasonal greetings to you and your families. I trust that your accomplishments and achievements have been materialised in your own special way in the past year.

Mr. E. Nagia, the EX CEO of IAC for many years with the Institute, retired on the 31st December 2018, and I would like to firstly thank him for building a strong foundation for the IAC, a foundation that future teams can build on, and make IAC the desired Institute that we can be proud of. On behalf of our Board of Directors, Staff and myself, we want to wish him well in all his future endeavours, and pray good health and a blessed rest in his well deserved retirement.

It is an absolute privilege that the IAC Board has entrusted and tasked me to be the CEO of the Institute as of the 1st June 2019. My main task really is to serve you, our Members, and then serve at the pleasure of the IAC Board, the Statutory Bodies, Staff and all Stakeholders involved with our Institute.

We held our IAC 92nd AGM on the 18th October 2019 at the SASNEV building in Pinelands, Cape Town. We have one new Director (Mr. C. Alberts) and we said goodbye to one outgoing Director, (Mr. M Biermann). Thank you Mickey for all the effort and time you have put into the Institute for many years.

On behalf of the membership and staff of the Institute I wish to express my best wishes to the New Board of Directors who will serve for the 2020 period and wish them well with the challenges that lay ahead.

This year has been a great and successful year, and many targets have been achieved amidst great challenges that face us daily from both the economy and envisaged changes that we overcome.

The year 2019 has been hectically challenging from day one and those of you keeping abreast of the Economy and Financial Markets and with the unstable rand, survival has been the key, and the IAC has done just that to sustain the Institute positively in many aspects.

The membership of the Institute has been stable with many ups and downs in the numbers, and although the Institute is making every effort to increase our membership numbers, we need the assistance of our members to grow the Institute.

Our annual subscription fees, which becomes due and payable on 01 January 2020 is upon us, and I urge all our members to please assist in honouring this obligation timeously. The IAC Board is well aware of the economic challenges faced by many of our members and have only increased the 2020 subscription fees by 3%. We have managed to negotiate a negligible increase of R4.99 more per annum for our professional indemnity insurance and this will give a net increase of 2.65% on average for those categories of membership that has compulsory professional indemnity insurance.

### Membership Category

<table>
<thead>
<tr>
<th>Membership Category</th>
<th>Subscription Fee</th>
<th>Insurance (R5m cover)</th>
<th>VAT</th>
<th>Total</th>
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</thead>
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<td>Financial Accountant in Practice</td>
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<td>R 546.80</td>
<td>R 805.85</td>
<td>R 6 178.20</td>
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<td>CC as Accounting Officer</td>
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**PLEASE NOTE THERE IS NO COVER FOR BUSINESS RESCUE PRACTITIONERS FOR 2020.**

*The fee structure for 2020 is as follows:*
The following penalties for late payment of subscriptions fees will apply:-

**Subscriptions fees unpaid by:-**

<table>
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<tr>
<th>Date</th>
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<tbody>
<tr>
<td>31 January 2020</td>
<td>Fee plus 15% penalty</td>
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<tr>
<td>28 February 2020</td>
<td>Fee plus 25% penalty</td>
</tr>
<tr>
<td>31 March 2020</td>
<td>Fee plus 40% penalty</td>
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Any subscriptions unpaid after 31 March 2020 (without prior arrangements being made), will automatically result in suspension or termination of membership.

Should you wish to pay your subscriptions by credit card, then the authorisation form can be downloaded from our website at www.iacsa.co.za (members section). If at all possible please pay via EFT.

**Continuous Professional Development Hours (CPD’S)**

In order to retain membership of the IAC (be compliant as an Accountant and Tax Practitioner), members must ensure that they meet the following CPD hours for the 2020 year (1 January 2020 to 31 December 2020):

The minimum CPD hours per annum will be 40 hours per annum of which a minimum of 50% must be structured (Tax 60% structured and 40% unstructured).

The CPD hours for Tax Practitioners for 2019 are 15 hours and Technical Accountants is 20 hours.

**Please be reminded to upload your CPD Hours on our website database by 31 December 2019.**

Failing to log your CPD hours by 31 December 2019, will result in the following penalties:

- R2000.00  (1st time offender)
- R5000.00  (2nd time offender)
- R10 000.00 (3rd time offender)

and suspension of your membership until you are compliant.

Members who are not compliant by 31 March 2020 will have their membership terminated without any further notice.

**Office closure**

The IAC office will be closed on the following days:

Christmas holidays: 20th December 2019 at 12:00 pm
Re-open: 06th January 2020

**Concluding Remarks**

Over the past year of Acting initially as the CEO of the Institute and then the CEO from 1st June 2019, it has been challenging but excellent. I remain insistent that compliance to set procedures, Good Corporate Governance, being Professional, and maintaining a high standard of Ethics is not negotiable and I make no apology that I will not compromise these principles going forward.

My relationship with Directors, Staff and Members was friendly and professional but more importantly respectful, and I thank everyone for the respect shown to me at all times.

In conclusion please accept my sincere thanks and appreciation for the loyal support to our Institute. Let’s work hard to add to the greatness of our Institute. I pray God’s blessings on all of you, and if you are travelling, please stay safe on the roads.

Mr. Prakash Singh
Chief Executive Officer
President of IAC Board—Year end message

I would like to take this opportunity to thank Prakash and the staff for their dedication and the support which they provide to the Board of Directors and the Institute’s members during the year. Their professionalism and valued input is greatly appreciated.

This has once again been a tough year, with economical challenges that we as Accountants and Tax Practitioners have faced within our own practices and our client’s businesses. I would like to thank each of you for being a loyal member of the IAC and for keeping yourselves up to date and being professional throughout all these challenges. Please bear in mind that your CPD hours need to be updated via the website by the 31st December 2019 in order for your membership to be renewed in the forthcoming year. CPD regulations are laid down by the Statutory Bodies and as such, the IAC has no alternative but to enforce these regulations, in order to ensure our existence and afford our members the ability to keep practicing. We thank you for your co-operation in keeping yourself up to date and uploading your hours on the Institute’s database.

In closing, I would like to thank you for your membership and your ongoing support, which has contributed towards making this Institute the success that it is today. I would like to wish each and every member and their families a peaceful festive season and a prosperous 2020.

When we are no longer able to change a situation - we are challenged to change ourselves.
~ Viktor E. Franklin ~

Yours sincerely

IAC Regional Chairpersons

J.M.J. Lubbe
CHAIRPERSON
(FREE STATE)

C. Alberts
CHAIRPERSON
(GAUTENG)

T. Mzwakali
CHAIRPERSON
(EASTERN CAPE)

S.T. Cupido
CHAIRPERSON
(WESTERN CAPE)

N. Chengeta
CHAIRPERSON
(ZIMBABWE)
Welcome to our new members

<table>
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<tr>
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<td>Govender</td>
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</table>

Dear IAC Member

Please load your CPD by the 31st of December with urgency. Kindly ignore this notice if you are CPD compliant.

Regards
Vision

To be a dynamic world class Professional Accounting Institute (incorporating related fields) at the forefront of technology and an integrated approach to the profession.

Mission

It is the aim of the Institute to be recognised as the pre-eminent Professional Body for Accountants and other related professionals by actively promoting the effective utilization and development of qualified professionals, through the achievement of excellence in standards of professional competence and socially acceptable ethical conduct amongst its members, through a dynamic integrated approach to the legislative and environmental arena.

Seasons Greetings

The IAC Board and Staff would like to wish you a joyous holiday and a happy New Year.

Please note that the IAC Head Office will be closed from the 20th Dec 2019 and will re-open on 6th Jan 2020.

New Appointment—IAC Compliance Officer—Mr. Irwin Naidoo

I, Mr Irwin Naidoo, with great appreciation, have been appointed as the Compliance Officer for the IAC South Africa, Cape Town.

I attended the University of the Western Cape where I completed my Degree in Law, followed by attending the University of Cape Town where I obtained my Practical Legal Training at the Legal Education and Development (L.E.A.D) School of law.

I completed my articles at a reputable law firm in Cape Town and I was admitted as an Attorney in August 2018. I have practiced as an attorney in all forms of litigation and have extensive knowledge of the law and its legislation.

I began to search for a Profession where I could challenge myself and my ability and achieve something for myself that would be out of my comfort zone and I found that in the IAC. I feel extremely motivated to make the position of fulfilling the duties of a Compliance Officer my own, and aim to ensure an efficient work ethic, in a respectful manner with my work colleagues and employer.

I am excited to begin a new chapter with the IAC and look forward to growing with the IAC family.

I further want to become au fait with you the members of IAC, and serve at the pleasure of the membership.

I wish all of you a blessed holiday season.

Regards

MR IRWIN NAIDOO