



How collaboration across industry organisations may curb fraud ravaging the insurance industry

7 July 2022

Agenda

- Introduction – Legal framework on collaboration
- Can closer data collaboration fight insurance fraud?
- How can data collaboration be supported?
- Insurer/broker relationship broken?
- Growth of aggregators has increased the aggregate score
- Data collaboration vs data breach
- Industry collaboration and how it relates to internal fraud detection

Introduction: The legislative framework for industry collaboration

Financial Sector Regulation Act 9 of 2017

- s20(1): “...a Financial Stability Oversight committee is hereby established.”

Objectives: - to support South African Reserve Bank (“SARB”) in its financial stability functions.
- to facilitate co-operation and collaboration and co ordination of action among authorities.

Functions of FSOC:

- To make recommendations to other state organs on appropriate steps in order to promote, protect or maintain, manage or prevent risks to financial stability.
- **S27 provides for the SARB and financial sector regulators to enter into MoU:**
- how to co-operate and collaborate with each other in order for the respective authorities to fulfil their duties pertaining to financial stability -

❑ **s166BA reiterates the mandatory nature of co operation and collaboration**

Closer cross-industry data collaboration is key

ASISA and SAIA

- Data sharing = early detection.
- Similarly to ASISA the South African Insurance Association (“SAIA”) believes that data sharing is one of the pivotal ways of fighting fraud.
- As part of the SAIA mission, “creating an environment in which the members of our industry can share information, debate important and relevant issues, and create a common vision for the non-life insurance industry.”

Supporting data collaboration

- ICB has been involved in initiatives that aim to address organised crime in the insurance industry as well as numerous educational efforts aimed at creating public awareness of insurance fraud scams.
- ICB confirms that this allows members to benefit from collaborative capabilities which are driven by data sharing, as they deem such to be fundamental in identifying and curbing cross carrier of syndicated fraud.
- In investigating fraud the ICB works with insurance companies in their internal fraud investigation units as the initiators of the investigations.
- Internal investigations facilitate thorough investigations by the SAPS and subsequently orderly prosecutions by the NPA.

Urgency for agency relationship revival

The insure/broker relationship and the value it has

- The Twin Peaks model as created by the FSR Act is a poignant measure in ensuring consumer protection and fostering at the conduct across financial services.
- With that as a recipe, the ability of fraud to rear its ugly head when it comes to the industry is being dealt with head on.
- With the FSR Act the collaboration among industry stakeholders will be fostered as the Twin Peaks will ensure that there is supervision from the SARB side and also there will be supervision in respect of the Financial Sector Conduct Authority, which is formally known as the Financial Services Board (“FSB”).

Aggregators and their increased prevalence

Research has shown = policies concluded over the internet have increased

- The aggregators ought to be used for combating fraud as more fraudsters hide behind the internet
- Insurance companies' co-operation is key in unlocking this potential
- Industry to invest in advanced infrastructure pertaining to artificial intelligence

Collaboration: POPIA breach?

The FSR Act is deliberate in its call for collaboration

- The sharing of data across industry can be done without compromising personal information.
- s11 of POPI Act further allows for processing of personal data by insurance industry stakeholders.
- The data must be used of the purpose for which it is intended i.e. fraud prevention and/or detection.

Corruption and fraud prevention

- ICB prides itself for the impact it has had in the insurance industry and it states that change has been brought about by the collective resources of insurance companies, law enforcement agencies, and other stakeholders to facilitate detection prevention and mitigation of insurance.
- ICB assists in prosecution of repeat offenders and fraudsters by way of ongoing insurance fraud investigations.
- Institutions like ASISA, SIA and ICB are available for purposes of citing corruption and fraud within the insurance industry.
- If then, the question is whether these institutions are being utilised by industry for their purposes.

What is FRAUD?

- Misrepresentation?
- Dishonesty?
- Intention to defraud insurer?
- Does the differentiation carry any water?
- ❑ Bottom Line: Financial losses to the industry and the greater public due to increased premiums

ASISA

(“The Association for Savings and Investments South Africa”)

- About two (2) months ago ASISA confirmed that the increase from 2020 to 2021 in respect of life insurance fraudulent and dishonest claims moved from 587,3 million to 787,6 million.
- The convenor of the ASISA Forensics Standing Committee, Megan Govender states that “the search and exposed fraudulent and dishonest claims can be attributed to the deployment of sophisticated detection mechanisms by the long term insurance industry to stop fraud and dishonesty”.
- Acknowledgment of sharing of information leading to fraud detection.

Is there room for collaborative efforts?

Non Profit Organisation



Short Term & Long Term
Insurance Industry



Collaboration with other
stakeholders



Is the legal framework hampering collaboration within the industry?

- Financial Sector Regulation Act (“FSR Act”) argument for a fragmented regulatory framework could be raised but as the FSR Act has been signed into law, this issue can no longer be raised.
- The integration of the financial sector regulation into the SARB, is also another way that integration can be used in a collaborative effort towards fighting insurance fraud in all its forms.
- Integration between banking and financial services sectors by way of the SARB and the FSCA is an effort aimed at ring-fencing fraud either perpetuated through the banking industry or the insurance industry.
- No hindrances to the industry collaborating their data.

Prudential Authority versus FSCA

❑ Prudential Authority

- Within the SARB

❑ FSCA = FSB

- FSCA replaces the FSB and will supervise the manner in which financial institutions conduct business and treat their customers.
- FSCA will be a standalone commission with an executive committee including a commission and deputy commissioners having independent government committees.

The powers of PA and FSCA

❑ The authorities can impose:

- Administrative penalties
- Institute criminal prosecution in relation to offences in terms of the FSR Act

❑ Alternatives:

- Authority can choose to remedy situation
- Issuing directives
- Declaring practices as undesirable
- Apply to court for appropriate orders
- Entering into enforceable undertakings.

The aim is to rectify breach and to ensure no recurrence

The soil fertile for industry to collaborate data to fight fraud.

Esihle Kobese

Senior Associate

+27 82 238 4012

Johannesburg, South Africa

Clyde & Co LLP accepts no responsibility for loss occasioned to any person acting or refraining from acting as a result of material contained in this summary. No part of this summary may be used, reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, reading or otherwise without the prior permission of Clyde & Co LLP.
© Clyde & Co LLP 2022

Clyde & Co LLP

www.clydeco.com