



Advantage

The Perps behind the Ponzi

“Let me tell you about an unbelievable investment opportunity... but keep it a secret!”



Ryan Sacks
Director
Horwath Forensics

Ponzi is the buzz word making global business news headlines. From Bernie Madoff’s \$65 billion dollar caper to Allen Stanford, who bankrolled the world’s richest cricket game with the fruits of his \$8 billion scheme.

Ponzi schemes are collapsing all around the world because of the severe economic downturn. And it seems that the general public appears to have no sympathy for the victims of the fraud as they really should have known better. But, ponzi schemes (or multi-level pyramid schemes) aren’t only the domain of the exclusive few. Think of the Miracle 2000 scheme a few years back, when Sibusiso Radebe stole R36 million from thousands of unsuspecting impoverished township people.

Locally, Tannenbaum’s Frankel Investment Scheme could be the largest single fraud scheme in South African history and will number among its many victims highly intelligent businessmen and professionals. Tannenbaum is one of the most popular

conversation topics around the boardroom tables and trendy power lunch eateries. We gossip as to who got taken and for how much, but mostly we are all curious as to how they pulled it off?

In essence, fraudsters like Madoff are brilliant con artists (read: psychopaths) who knew how to prey on human nature like no other, appealing to the inherent emotional weakness of their investors: greed. The most common technique to overcome the victims hesitation to invest was the ‘veil of exclusivity’. The fraudsters and their co-conspirators generally live an affluent lifestyle by stealing from their friends and neighbours while masquerading as respected members of the community.

Harry Markopolis, who first reported Madoff to the SEC in 2000, describes that Madoff would give them a flattering reason as to why he considered investors to be special, and they would fall for it. Investors who asked too many questions were politely told not to invest. Smart investors would

stick to their investment strategy and walk away, whereas greedy investors would fall over themselves to hand Madoff money. Markopolis says that Madoff was brilliant in letting smart investors walk away and not being offended by it. He knew his targets were investors who didn’t ask too many questions.

A senior attorney from a leading South African law firm said in a recent interview on Summit TV that the ‘herd theory’ also plays an important role in that potential investors hear about other well known people going into the scheme so they just go along with it. As the attorney said “It’s psychological - you say to yourself “if they can go in and they find it to be fine how bad can it be?””

Well, you just have to ask the investors who lost billions! For more information in identifying and investigating fraudulent schemes, please contact Ryan or Terence.

Contact Ryan: +27 11 217 8000
Email: ryan.sacks@horwath.co.za

The Global Economy and Tourism



Michèle de Witt
Director
Horwath Tourism & Leisure
Consulting

Historically, emerging markets have been viewed as secondary playgrounds for financially developed markets; the volatility and risk involved caused restraint but also yielded higher returns. The instability that plagued many countries now considered to have emerging economies has subsided, political regimes have established themselves more confidently, fiscal policy has been conducted more responsibly, and most importantly these countries have increasingly learned to rely on themselves to stimulate their own economies. Whilst the global economy is causing all to suffer, albeit to different degrees, emerging markets have remained rather buoyant in contrast to mature markets.

As a significant contributor to any economy, tourism is playing its role; albeit that the global scale of the tourism industry alone implies a decline in growth when financial turmoil

strikes. Following a period of robust growth, the first half of 2008 represented the climax of the boom in world tourism and, as expected, the negative trend in international tourist arrivals that emerged during the second half of 2008 has intensified in 2009.

Mature markets have been affected the worst, experiencing negative growth in international tourist arrivals, yet emerging markets, such as Africa, Central and South America, are showing stable demand growth according to the World Tourism Organization (UNWTO).

In fact, according to the UNWTO, worldwide international tourist arrivals have declined by some eight percent in the first four months of this year when compared to the same period in 2008 with the Middle East (-18%)

.....Page 4

InSide:

Fringe benefits and STC - interest rate	2
“One Stop Shop” Versus Independence	2
Announcements	2
Unlawful Lock-Out from Commercial Premises and Dispossession of Assets	3
Tax and VAT Interest Rates	3
WCA Earnings Limit Increased	3
Corporate Sustainability and Risk Management - An Introduction	4



Fringe benefits and STC - interest rate



Kent Karro
National Tax Partner
Horwath in Southern Africa

Managing Partner
Horwath Zeller Karro

If inadequate interest is charged to an employee (including working directors) on loans (other than for the purpose of furthering his own studies) in excess of R3 000 from his employer (or associated institution), tax on the fringe benefit may be payable.

Unless interest is charged at the "official" rate or greater, the employee is deemed to have received a taxable fringe benefit calculated as being the difference between the interest actually charged and interest calculated at the "official" rate.

For employees' tax purposes, the tax deduction must be made whenever interest is payable. If not regularly, then on a monthly basis for monthly paid employees, weekly for weekly paid employees, etc.

In general, only distributions of income from a company / close corporation are subject to STC. To the extent that there are profits/reserves available for distribution, loans or advances to or for the benefit of a shareholder / member will be deemed to be dividends

subject to STC unless interest at the "official" rate (or market related rate in the case of foreign currency loans) is payable on the loan or fringe benefits tax is payable on an interest free (or subsidised interest) loan to an employee.

The "official" rate of interest was reduced for both the above purposes from 9,5% per annum to 8,5% per annum with effect from 1 July 2009.

Contact Kent: +27 21 481 7000
Email: kent.karro@horwath.co.za

The "official" rate of interest over the past 5 years is as follows -

With effect from 1 March 2004	9,0% p.a.
With effect from 1 September 2004	8,5% p.a.
With effect from 1 September 2005	8,0% p.a.
With effect from 1 September 2006	9,0% p.a.
With effect from 1 March 2007	10,0% p.a.
With effect from 1 September 2007	11,0% p.a.
With effect from 1 March 2008	12,0% p.a.
With effect from 1 September 2008	13,0% p.a.
With effect from 1 March 2009	11,5% p.a.
With effect from 1 June 2009	9,5% p.a.
With effect from 1 July 2009	8,5% p.a.

"One Stop Shop" Versus Independence



Nigel Willmott
Sales & Marketing Director
Horwath Financial Services

In the small to medium business end of the employee benefits market, many employers make use of what is termed the "One Stop Shop" model of administration primarily offered through various insurance underwriters.

This type of model was prevalent over the past 15 – 20 years when convenience was key to employers wishing to set up a hassle free employee benefits arrangement. Often employees were prescriptive and paternalistic in their approach to setting up these schemes. There was little or no involvement from the employees in terms of what they would like to see in their employee benefit package.

The alternative to the one stop shop approach is for employers and employees to adopt a model that incorporates independence, allows for flexibility and ensures maximum performance from the participating service providers.

This one stop shop model begins to take strain in this day and age where the fundamentals across many fronts are tested.

We shall dissect some key aspects that should be considered:

Conflicts of Interest

Within the one stop shop environment, the service provider often controls the administration, investments, risk underwriting and also the consulting in many instances.

There is no measure of independence at all. In an independent model the aforementioned roles need to be handled by independent specialist service providers.

Cost

Within the one stop shop environment there is little flexibility to contain costs. If one or more of the service areas such as the underwriting of the risk benefits or the administration becomes expensive either the employer has to live with the costs or the entire scheme would have to be moved. Within the independent model, the administration, risk benefits or the investments can be reviewed and switched as required without any undue trauma to the scheme as a whole.

Compliance

Often there is little or no employee representation in the management of the scheme. In many of the one stop shop type arrangements this is often overlooked and not seen as necessary especially within one stop shop umbrella funds. There should be equal representation of both the employer and the employees to ensure that the scheme meets the expectations of both parties.

These are just three critical elements that should be considered by an employer when looking to set up a new scheme or when reviewing their current arrangements.

Contact Nigel: +27 11 217 8000
Email: nigel.willmott@horwath.co.za

Announcements

The Board of Horwath in Southern Africa is proud to announce that Horwath Gurugroup has joined the Horwath in Southern Africa Network. Horwath Gurugroup was established in 1983 in Gaborone, the capital city of Botswana; the Francistown branch was established in 1990 and they became a full member of Crowe Horwath International in 2009.

We are delighted to announce that Horwath Mahomedy Omar Paruk has expanded to Stanger in KwaZulu Natal. It will be their pleasure to serve you at their new Stanger office with the same quality and service you have come to expect.



Dr. Robin Beale

Horwath Leveton Boner is delighted to announce the formation of Horwath Tax Consulting Gauteng (Pty) Ltd with effect from 1 July 2009. Dr Robin Beale will head this division. Robin holds the degrees of

BA. LL.B (UCT), LL.M (Unisa) and Ph.D (Wits). He has extensive experience as a tax partner at both Deloitte and PKF. Robin's role is to develop and provide a tax consulting service to clients.



Unlawful Lock - Out from Commercial Premises and Dispossession of Assets



In their field of specialist property management, Durban Property Managers (Pty) Ltd. occasionally encounter situations that surpass the norm of routine property administration.

One such case involved the above situation instigated by a finance company. The background was as follows:

- the landlord let premises to a tenant who, in turn, let part of the premises to various sub-tenants with the consent of the landlord.
- a finance company lent money to the tenant for establishing the infrastructure around the premises and for financing certain equipment within the tenant's premises. As security, it registered a Notarial Bond over the moveable assets of the tenant.
- each of the sub-tenants occupied their premises and installed their own equipment therein.
- over a few months the tenant defaulted with its loan re-payments which resulted

in the finance company obtaining a High Court Order to attach the moveable assets of the tenant which formed part of the security conferred by the Notarial Bond.

However, in the execution of the High Court Order, the following occurred:

1. the finance company, either willfully or erroneously, attached certain specialized equipment which was owned by one of the sub-tenants.
2. the finance company also proceeded to lock-up the landlord's premises and retain possession of the keys.

It is important to note that as this equipment was an asset of the sub-tenant the finance company had no legal right to attach it.

As the finance company's security consisted of moveable assets only, it had no legal right to lock-out the premises.

This lock-out resulted in all the sub-tenants being denied access to their premises and the landlord suffering loss of rentals as the tenant was thereafter not in a position to pay its rentals.

After five months and two costly, protracted High Court actions, the landlord finally regained possession of its premises and the sub-tenant regained possession of its specialized equipment.

The landlord is now proceeding with a further High Court application against the finance company to recoup the loss of rental suffered by it during the period of the "unlawful lock-out".

This case illustrates the damages suffered by an innocent landlord and sub-tenants who were locked out of their premises and consequently could not trade and an innocent sub-tenant who also had its equipment unlawfully attached.

Contact Yusuf: +27 31 337 3311
Email: yusuf.paruk@horwath.co.za

Tax and VAT Interest Rates



It is important to remember that interest and penalties paid to SARS are not deductible for tax purposes. On the other hand, interest received from SARS is fully taxable (after deducting the current initial exemption of R21 000 per annum (R30 000 if you are 65 or older)) for all interest and foreign dividend income earned by natural persons. Out of the total exemption, foreign interest and foreign dividends are only exempt up to R3 500.

1 July 2009; 7,5% per annum from 1 August 2009 and 6,5% per annum from 1 September 2009.

If the refund is made after a successful tax appeal, the interest rate is 13,5% per annum from 1 May 2009; 12,5% per annum from 1 July 2009; 11,5% per annum from 1 August 2009 and 10,5% per annum from 1 September 2009.

1 March 2009; 9,5% per annum from 1 June 2009 and 8,5% per annum from 1 July 2009.

GENERAL

The rates of penalties for late payments (where applicable) have been substantially increased with effect from 1 March 2009.

The following will apply for both income tax and VAT -

- payment to SARS is not suspended due to objection
- the circumstances are to be formalised where payment will be required despite objection
- provision is to be made for interest where a payment is made pending consideration of an objection and is subsequently refunded

Contact Kent: +27 21 481 7000
Email: kent.karro@horwath.co.za

VAT

Payable to SARS on late payments: 13,5% per annum from 1 May 2009; 12,5% per annum from 1 July 2009; 11,5% per annum from 1 August 2009 and 10,5% per annum from 1 September 2009.

Payable by SARS on VAT refunds after prescribed period: 13,5% per annum from 1 May 2009; 12,5% per annum from 1 July 2009; 11,5% per annum from 1 August 2009 and 10,5% per annum from 1 September 2009.

INCOME TAX, PROVISIONAL TAX, STC, ETC

Payable to SARS on short payments of all such taxes (other than VAT): 13,5% per annum from 1 May 2009; 12,5% per annum from 1 July 2009; 11,5% per annum from 1 August 2009 and 10,5% per annum from 1 September 2009.

Payable by SARS on refunds of tax (where interest is applicable): 9,5% per annum from 1 May 2009; 8,5% per annum from

FRINGE BENEFITS

Official interest rate for loans to employees below which a deemed fringe benefit arises: 11,5% per annum from 1 March 2009; 9,5% per annum from 1 June 2009 and 8,5% per annum from 1 July 2009.

STC

Official interest rate for loans (designated in Rands) to shareholders below which such loans can be deemed to be dividends on which STC is payable: 11,5% per annum from

WCA EARNINGS LIMIT INCREASED

With effect from 1 July 2009, the maximum amount of earnings in terms of the Compensation for Occupational Injuries and Diseases Act (formerly WCA) has been increased to R239 172 per annum.

Employees whose earnings are in excess of this amount are disregarded for the purpose of determining the annual levies payable to the Fund established under this Act.

Corporate Sustainability and Risk Management

... An Introduction



Karuna Naidu
Director:
Corporate Governance
Horwath Risk Consulting

Corporate sustainability can be viewed as a relatively new and evolving corporate management paradigm. Whilst corporate sustainability recognizes that corporate growth and profitability are important it requires the pursuance of societal and environmental goals relating to sustainability. Sustainability is fundamental to the continuing operations of a corporate.

In South Africa the King III Report and the revised Companies Bill 2009 have made it obligatory for corporate boards and management to think of 'strategy and performance' in the context of the environment and society within which they operate; i.e. integrated sustainability reporting. In Australia, sustainability is defined as, "encompassing strategies and practices that aim to meet the needs of the stakeholders today, while seeking to protect, support and enhance the human and natural resources." (Carewren, 2008).

Hence, in a highly competitive environment, corporate boards and corporate management are required to strategically assess risks in the pursuance of future sustainability and growth through a system of good corporate

governance practices, i.e. policies and procedures. Whilst corporate governance can be defined as a system of policies and procedures of good corporate governance practices, ensuring corporate sustainability is much more challenging.

Enterprise Risk Management (ERM) is a method that uses a risk-based approach to identify the needs of various stakeholders, through the pillars of economic, environmental and social identification. The corporate sustainability methodology within the enterprise risk management framework is an important management assessment tool used in the pursuance of corporate sustainability. Thus corporate sustainability models within ERM help enterprises determine strategic direction, improve business performance, optimise the cost of managing risk, invigorate opportunity-seeking and assist in establishing a competitive advantage. In so doing they seek to maintain an optimal balance between economic progress, social development and environmental responsibility.

Identifying these risks and reducing complexity in helping corporate leaders make informed decisions for sustainability enhances shareholder value.

A key factor in embracing opportunities and managing risks derived from economic, environmental and social developments through implementation of enterprise risk management systems is that it distinguishes leading corporations. (Dow Jones, 2008)

Whilst effective sustainability models within the context of Enterprise Risk Management may not guarantee a definite outcome, research has shown that top companies that have invested in corporate sustainability initiatives display higher levels of competence and are regarded as top companies by investors.

Contact Karuna: +27 11 217 8000
Email: karuna.naidu@horwath.co.za

Sources:
Dyllick, T&Hockerts, K. *Beyond the Business Case for Corporate Sustainability*

Corporate Governance and Sustainability: Challenges for Theory and Practice Edited by Suzanne Benn and Dexter Dunphy Publisher: Routledge of London ISBN: 0415380626

Dow Jones Sustainability indexes.(2008).

Kolk, A. *Sustainability, Accountability and Corporate Governance: Exploring Multinationals' Reporting Practices* University of Amsterdam - Business School papers.ssrn.com/sol3/papers.cfm?abstract_id=899852

The Global Economy and Tourism continued from Page 1

and Europe (-10%) being the worst affected regions, followed by Asia and the Pacific (-6%), and the Americas (-5%). Africa was the only region to record positive growth (+3%) in the first four months of 2009; primarily as a consequence of encouraging performance recorded in Morocco, Tunisia, and Kenya.

In the June 2009 edition of the UNWTO World Tourism Barometer, the UNWTO has revised its forecast for the full year 2009. Despite prospects being adjusted downward, with

international tourism expected to decline by between -6% and -4%, the UNWTO prospects anticipate Africa will achieve positive growth in international tourist arrivals in 2009 (between +1% and +5%).

According to a recently published report by the Economist Intelligence Unit, which was commissioned by global distribution system (GDS) provider Amadeus, business travellers are expected to make fewer, shorter, and cheaper business trips in 2009 and continue

to trade down, switching from luxury extras in favour of basic efficiency and good service.

With reference to the leisure market segment, the report indicates that long-haul trips have fallen more than short-haul trips. However, the report further indicates that there are signs that this could change as potential travellers realise that despite higher airfares, long-haul destinations are often more attractive in terms of overall prices.

Although some analysts predict that the outlook for the remainder of the year has improved, industry analysts concur that the possibility of a moderate recovery will depend on the evolving global economic conditions and the restoration of consumer and business confidence.

Contact Michelè: +27 21 527 2100
Email: mdewitt@horwathhtl.co.za



The Horwath Advantage

"The Horwath Advantage" is the newsletter of Horwath in Southern Africa.

Contact Details

Horwath Leveton Boner
Johannesburg
Tel: +27 11 217 8000
Fax: +27 11 217 8001

Horwath Zeller Karro
Cape Town
Tel: +27 21 481 7000
Fax: +27 21 481 7081

Horwath Mahomed Omar Paruk
Durban
Tel: +27 31 337 3311
Fax: +27 31 337 3312

Horwath Gurugroup
Botswana
Tel: +267 391 2805
Fax: +267 395 9638

Media Enquiries: Monique Ross, monique.ross@horwath.co.za

Editor: Kent Karro, National Tax Partner - Horwath in Southern Africa, Managing Partner - Horwath Zeller Karro
Sub-editor & Design: Monique Ross, Marketing Executive - Horwath Leveton Boner
Editorial Committee: Peter Katz, National Marketing Partner - Horwath Leveton Boner, Donna Rachelson, Marketing Consultant to Horwath in Southern Africa, Joel Berkowitz, Audit Partner - Horwath Zeller Karro, Susan Greiner - Horwath Zeller Karro and Yusuf Paruk, Audit Partner - Horwath Mahomed Omar Paruk.

Services provided by the Horwath Network:

- Assurance and Corporate Services
 - Audit
 - Client Accounting
 - Secretarial
 - Tax Compliance
 - Property Administration
 - Corporate Finance
 - IT Services
- Wealth Management
 - Financial Services
 - Employee Benefits
 - Estate Services
- Advisory Services
 - Forensics
 - Tax Consulting
 - Hotel, Tourism and Leisure
 - Alternative Dispute Resolution
 - Risk Consulting