



Structured Risk Solutions (Pty) Ltd Reg No : 2016/233252/07

An Authorised Financial Services Provider License No. **50618**

## **PAIA MANUAL**

for

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**STRUCTURED RISK SOLUTIONS (PTY) LTD**

**FSP LICENSE NUMBER 50618**

**(Financial Services Provider, "FSP")**

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## 1. INTERPRETATION

In this manual, clause headings are for convenience and shall not be used in its interpretation unless the context clearly indicates a contrary intention –

1.1. An expression which denotes –

1.1.1. Any gender includes the other genders;

1.1.2. A natural person includes an artificial or juristic person and *vice versa*;

1.1.3. The singular includes the plural and *vice versa*;

1.2. The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings –

1.2.1. "**Act**" - Promotion of Access to Information Act No. 2 of 2000, as amended from time to time including the regulations promulgated in terms of the Act;

1.2.2. "**Business day**" - any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa;

1.2.3. "**Manual**" - this manual together with all of its annexures, as amended from time to time;

1.2.4. "**Head**" – the Chief Executive Officer of Structured Risk;

1.2.5. "**Information officer**" - the person duly authorised by the Head and appointed by Structured Risk to facilitate or assist the Head with any request in terms of the Act;

- 1.2.6. **"Structured Risk"** – Structured Risk Solutions (Pty) Ltd a duly registered company, with Company registration number 2016/233252/07, a "Public body" for purposes of this Manual;
- 1.3. Any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation as at the signature date, and as amended or substituted from time to time;
- 1.4. If any provision in a definition is a substantive provision conferring a right or imposing an obligation on any party then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this Manual;
- 1.5. A reference to a party shall include a reference to that party's successors and assigns;
- 1.6. A reference to a document includes a reference to an amendment or supplement to or to a replacement or notation of that document;
- 1.7. Where any term is defined within a particular clause other than this, that term shall bear the meaning ascribed to it in that clause wherever it is used in this manual;
- 1.8. Where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a business day, the last day shall be deemed to be the next succeeding day which is a business day;
- 1.9. Any reference to days (other than a reference to business days), months or years shall be a reference to calendar days, months or years, as the case may be;
- 1.10. The use of the word "including" followed by a specific example(s) shall not be construed as limiting the meaning of the general wording preceding it and the generis rule shall not be applied in the interpretation of such general wording or such specific example(s); and

1.11. Insofar as there is a conflict in the interpretation of or application of this manual and the Act, the Act shall prevail.

## **2. INTRODUCTION**

2.1. Section 32 of the Constitution of the Republic of South Africa, No. 108 of 1996 („the Constitution“) provides:

- (1) Everyone has the right of access to –
  - (a) Any information held by the state; and
  - (b) Any information that is held by another person and that is required for the exercise or protection of any rights.
- (2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state.

2.2. The Promotion of Access to Information Act, 2 of 2000 (“the Act”), was assented to on 3 February 2000 to give effect to Section 32 of the Constitution, that is giving effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights.

2.3. Where a request is made in terms of this Act, the private or public body to which the request is made is obliged to release the information, except where the Act expressly provides that the information must not be released. The Act sets out the requisite procedural issues attached to such request.

2.4. The Act came into effect on 9 March 2001 with the exception of sections 10, 14, 16 and 51 which Sections were brought into operation on 15 February 2002.

2.5. The Minister of Justice and Constitutional Development exempted private bodies from compiling and submitting Section 51 Manuals on 1 September 2003. All private bodies with the exception of public

companies were thus exempted from submitting the manual from 1 September 2003 until 31 Dec 2005.

### **3. PURPOSE OF THE MANUAL**

3.1. This manual is intended to foster a culture of transparency and accountability within the Financial Services Industry as a whole, by giving effect to the right to information that is required for the exercise or protection of any right and to actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect their rights.

3.2. In order to promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in terms of the Act in order for them to exercise their rights in relation to public and private bodies.

3.3. Section 9 of the Act however recognizes that such right to access to information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to –

3.3.1. Limitations aimed at the reasonable protection of privacy;

3.3.2. Commercial confidentiality; and

3.3.3. Effective, efficient and good governance;

moreover, in a manner that balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

### **4. WHO MAY REQUEST INFORMATION IN TERMS OF THE ACT**

4.1. Any person, who requires information for the exercise or protection of any rights, may request information from a private body.

Section 50 of the Act states that –

- (1) A requester must be given access to any record of a private body if –
  - (a) That record is required for the exercise or protection of any rights;
  - (b) That person complies with the procedural requirements in this Act relating to a request for access to that record; and
  - (c) Access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.

4.2. A requester is any person making a request for access to a record of Structured Risk. There are two types of requesters –

#### 4.2.1. PERSONAL REQUESTER

4.2.1.1. Personal Requester is a Requester who is seeking access to a record containing personal information about the requester. Structured Risk will voluntarily provide the requested information, or give access to any record with regard to the Requester's personal information. The prescribed fee for reproduction of the information requested will be charged.

#### 4.2.2. OTHER REQUESTER

4.2.2.1. This Requester (other than a personal requester) is entitled to request access to information on third parties. However, Structured Risk is not obliged to voluntarily grant access. The Requester must fulfil the prerequisite requirements for access in terms of the Act, including the payment of a request and access fee.

## 5. HUMAN RIGHTS COMMISSION GUIDELINE

5.1. In terms of Section 10 of the Act, the Human Rights Commission must compile a Guide by 14 August 2003. This guide is intended to assist users in the interpretation of the Act. The guide will contain a description of the objects of the Act, the contact details of the Information Officers of all the public bodies, particulars of the public bodies, the manner of access to the records of those public bodies and the remedies available in law regarding a breach of any of the provisions of the Act.

5.2. The South African Human Rights Commissars contact details are as follows –

The South African Human Rights Commission

27 Stiemens Street, Braamfontein

Telephone Number: (011) 877 3600

The above guide is available from website: [www.sahrc.org.za](http://www.sahrc.org.za);

E-mail Address: [info@sahrc.org.za](mailto:info@sahrc.org.za)

## **6. PROCEDURES FOR OBTAINING ACCESS**

### 6.1. CONTACT DETAILS

6.1.1. Any person who wishes to request any information from Structured Risk with the object of protecting or exercising a right may contact the information officer whose contact details are as follows –

#### POSTAL ADDRESS

The Information Officer

Structured Risk Solutions (Pty) Ltd

Building 3

Country Club estate

Woodlands Drive

Woodmead

Johannesburg

2191

Email: [hyleec@structured.co.za](mailto:hyleec@structured.co.za)

### 6.2. PRESCRIBED ACCESS FORM

- 6.2.1. In terms of section 53, a request for access to a record of Structured Risk must be made in the prescribed form to Structured Risk at the address, or electronic mail address given above. The form requires the Requester to provide the following information:
  - 6.2.1.1. Sufficient information to enable the information officer to identify the requestor;
  - 6.2.1.2. Sufficient information to enable the information officer to identify the record(s) requested;
  - 6.2.1.3. The form of access required;
  - 6.2.1.4. The requestor's postal address or fax number;
  - 6.2.1.5. Identification of the right sought to be exercised or protected;
  - 6.2.1.6. An explanation on why the record is required to exercise or protect that right;
  - 6.2.1.7. The manner in which the Requester wishes to be informed of the decision on the request, if in a manner in addition to written notification; and
  - 6.2.1.8. If the request is made on behalf of a person, the submission of proof of the capacity in which the Requester makes the request, to the satisfaction of the information officer.
- 6.2.2. Structured Risk will process the request within 30 days, unless the Requester has stated special reasons which would satisfy the Information Officer that circumstances dictate that the above time periods not be complied with.
- 6.2.3. The Requester shall be informed whether access has been granted or denied in writing.

- 6.2.4. If in addition, the Requester requires the reasons for the decision in any other manner, he must state the manner and the particulars so required.
- 6.2.5. If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally. The information will be properly recorded and be kept in record.
- 6.2.6. The requester must pay the prescribed fee, before any further processing can take place.
- 6.2.7. Requestors, please note that all of the information as listed above should be provided, failing which the process will be delayed while the private body requests such additional information. The prescribed periods will not commence until all pertinent information has been furnished on the private body by the requestor.
- 6.2.8. Records held by Structured Risk may be accessed by requests only once the prerequisite requirements for access have been met.

### 6.3. PRESCRIBED FEES

- 6.3.1. Payment of fees is regulated in terms of Section 54 of the Act. The Regulations to the Act provide for two types of fees -
  - 6.3.1.1. Request fee. This is a non-refundable administration fee paid by all requestors with the exclusion of personal Requestors. It is paid before the request is considered.
  - 6.3.1.2. Access fee. This is paid by all Requestors only when access is granted. This fee is intended to reimburse the private body for the costs involved in searching for a record and preparing it for delivery to the Requestor.

- 6.3.2. The Information Officer must give written notice to a Requester other than a personal Requester of the request fee and amount to be paid before the request may be further processed.
- 6.3.3. If in the Information Officer's opinion, the search for a record or preparation of the record for disclosure will require more than the prescribed hours, the Information Officer may require the Requester to pay a deposit, not being more than one third of the access fee that would be payable if the request is granted. If the request is declined, the deposit must be repaid to the Requestor.
- 6.3.4. The notice given by the information officer must advise the Requester that s/he has a right to apply to court against the payment of the request fee or deposit, and advise of the procedure of the application.
- 6.3.5. The Information Officer shall withhold a record until the Requester has paid the fees as indicated in Form "B".
- 6.3.6. If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer concerned must repay the deposit to the requester.

## **7. TYPES OF RECORDS**

### **7.1. RECORDS THAT ARE AUTOMATICALLY AVAILABLE IN TERMS OF SECTION 51(1) (c) OF THE ACT**

The following records are automatically available without a person having to request access in terms of the Act.

#### **7.1.1. STATUTORY RECORDS**

7.1.1.1. Memorandum of association;

7.1.1.2. Memorandum of Incorporation;

7.1.1.3. Articles of association;

- 7.1.1.4. Certificate of incorporation;
- 7.1.1.5. Certificate to commence business;
- 7.1.1.6. Register of directors;
- 7.1.1.7. Form COR 9.1 – reservation of name;
- 7.1.1.8. Form COR 10.1 – defensive names;
- 7.1.1.9. Form COR 9.2 – change of name;
- 7.1.1.10. Form COR 31 – allotment of shares;
- 7.1.1.11. Form COR 21.1– registered office;
- 7.1.1.12. Form COR 25 – waive period of notice of meeting;
- 7.1.1.13. Form COR 39 – consent to act as a director;
- 7.1.1.14. Form COR 44 – appointment/ resignation of auditors;  
and
- 7.1.1.15. Form COR 25– change of year-end.

## 7.1.2. CORPORATE COMMUNICATIONS

- 7.1.2.1. Corporate policies;
- 7.1.2.2. Corporate overview presentation;
- 7.1.2.3. Presentations; and
- 7.1.2.4. Corporate mission statement.

## 7.1.3. HUMAN RESOURCES

- 7.1.3.1. Employment Equity returns to the Dept. of Labour;
- 7.1.3.2. Work skills development plan submitted to INSETA;

- 7.1.3.3. Personnel records are available to the employee whose file it is;
- 7.1.3.4. Records of disciplinary hearings and related matters are available to the employee concerned;
- 7.1.3.5. The company's policies and procedures;
- 7.1.3.6. The company's staff handbook; and
- 7.1.3.7. Standard Terms and Conditions of Employment applicable to all Staff.

#### 7.1.4. INTELLECTUAL PROPERTY

- 7.1.4.1. Structured Risk's copyright, designs, logos, trademarks (collectively "intellectual property").

#### 7.2. RECORDS WHICH ARE AVAILABLE IN ACCORDANCE WITH ANY OTHER LEGISLATION IN TERMS OF SECTION 51(1)(d)

- 7.2.1. Records are available in accordance with the following current South African legislation (only to the extent that the relevant Act makes disclosure of records compulsory) –
  - 7.2.1.1. The Occupational Health and Safety Act No. 29 of 1996;
  - 7.2.1.2. Consumer Affairs (Unfair Business Practices) Act No. 71 of 1988;
  - 7.2.1.3. The Compensation for Occupational Injuries and Disease Act No. 130 of 1993;
  - 7.2.1.4. Intellectual Property Laws Amendments Act No. 38 of 1997;
  - 7.2.1.5. Income Tax Act No. 95 of 1967;
  - 7.2.1.6. The Value Added Tax Act No. 89 of 1991;

- 7.2.1.7. The Income Tax Act No. 58 of 1962;
- 7.2.1.8. The Companies Act No. 61 of 1973;
- 7.2.1.9. All documents of incorporation of Structured Risk are lodged at the offices of the Registrar of Companies, and may be inspected there. The documents include the memorandum and articles of association of the company, as well as the relevant forms.
- 7.2.1.10. Special resolutions are lodged with the Registrar of Companies, and are therefore available for inspection.
- 7.2.1.11. 'Registers of the directors' and 'officials' interests in contracts entered into by the company are kept at the registered office of the company, and are available for inspection.
- 7.2.1.12. Basic Conditions of Employment Act No. 75 of 1997;
- 7.2.1.13. Employment Equity Act No. 55 of 1998, as a designated employer, Structured Risk has lodged copies of employment equity plans at the Department of Labour in terms of the Employment Act no 55 of 1998;
- 7.2.1.14. The Labour Relations Act No. 66 of 1985;
- 7.2.1.15. Skills Development Levies Act No. 9 of 1999
- 7.2.1.16. Skills Development Act No. 97 of 1998, as a designated employer, Structured Risk attends to the continuous and regular payment of its skills development levies in terms of the Skills Development Act No. 97 of 1998;
- 7.2.1.17. Usury Act No 73 of 1968;
- 7.2.1.18. The Pension Funds Act No. 24 of 1956;
- 7.2.1.19. The National Credit Act;

7.2.1.20. The Competition Act No. 89 of 1998;

7.2.1.21. The Electronic Communications and Telecommunications Act 25 of 2002;

7.2.1.22. The Long-Term Insurance Act 52 of 1998; and

7.2.1.23. The Financial Advisory and Intermediary Services Act 37 of 2002.

7.2.2. The aforementioned records are not automatically available without a request in terms of the Act, as contemplated in paragraph 6 hereof. The Information Officer will take into considerations section 8 of the manual to decide on whether or not access to any of the information stated above should be given to the requester.

7.3. RECORDS HELD BY Structured Risk and available as contemplated in SECTION 51(1)(e) of the ACT

7.3.1. STRATEGIC RECORDS

7.3.1.1. Administration Records;

7.3.1.2. Internal Reports and Communications; and

7.3.1.3. Strategic Plans and Supporting Documentation.

7.3.2. COMPANY SECRETARIAL

7.3.2.1. Contracts and Agreements;

7.3.2.2. Property Records;

7.3.2.3. Intellectual Property Rights Records (Trademarks, Patents, Registered Designs and Copyright);

7.3.2.4. Investment Records;

- 7.3.2.5. Share Registration Records;
- 7.3.2.6. Statutory Records;
- 7.3.2.7. Minute Books;
- 7.3.2.8. Internal Reports and Communications;
- 7.3.2.9. List of Suppliers;
- 7.3.2.10. List of Debtors and Creditors;
- 7.3.2.11. Insurance Policies;
- 7.3.2.12. Lease Agreements;
- 7.3.2.13. Office Building Structures;
- 7.3.2.14. Tender Contracts;
- 7.3.2.15. Employees travel records;
- 7.3.2.16. Internal Policies and procedures; and
- 7.3.2.17. General correspondence.

### 7.3.3. FINANCE

- 7.3.3.1. Tax Records;
- 7.3.3.2. Corporate and Subject Records;
- 7.3.3.3. Administrative Records; and
- 7.3.3.4. Internal Reports and Communications.

### 7.3.4. ACCOUNTING

The Accounting department maintains financial and management accounts for Structured Risk Corporate Account records comprise the following main categories -

- 7.3.4.1. Accounting Records;
- 7.3.4.2. Investment Records;
- 7.3.4.3. General Correspondence;
- 7.3.4.4. Management Reports;
- 7.3.4.5. Transactional Records;
- 7.3.4.6. VAT Records;
- 7.3.4.7. PAYE Records;
- 7.3.4.8. Tax Records;
- 7.3.4.9. Consolidation Records;
- 7.3.4.10. Internal Reports and Communications;
- 7.3.4.11. A list of the company's creditors and debtors;
- 7.3.4.12. Salary information;
- 7.3.4.13. Bank account information; and
- 7.3.4.14. Fixed assets register.

### 7.3.5. LEGAL

The Legal department provides assistance with all corporate legal matters' material to the Legal department records comprise the following categories -

- 7.3.5.1. Bills and Legislation;

- 7.3.5.2. Intellectual Property Documentation/ Licenses
- 7.3.5.3. Powers of Attorney;
- 7.3.5.4. Working Files;
- 7.3.5.5. General Correspondence;
- 7.3.5.6. Copies of Agreements;
- 7.3.5.7. Statutory Records
- 7.3.5.8. Litigation Records;
- 7.3.5.9. Legal Records, Contracts and Documentation;
- 7.3.5.10. Internal Reports and Communications;
- 7.3.5.11. Various Business Contracts;
- 7.3.5.12. Compliance and legal risk management documentation; and
- 7.3.5.13. Legal Opinions and Research.

#### 7.3.6. PROCUREMENT

- 7.3.6.1. Procurement Policies and Procedures;
- 7.3.6.2. Procurement Forms;
- 7.3.6.3. Provider/ Supplier Lists;
- 7.3.6.4. Provider/ Supplier Agreements and Service Level Standards; and
- 7.3.6.5. Administrative Records.

#### 7.3.7. HUMAN RESOURCES

- 7.3.7.1. Employee's personal details;
- 7.3.7.2. Job Profiles;
- 7.3.7.3. Division and Cost Centres;
- 7.3.7.4. Remuneration;
- 7.3.7.5. Various Employee Contracts;
- 7.3.7.6. Medical Aid
- 7.3.7.7. Employee Benefits;
- 7.3.7.8. Employment equity records;
- 7.3.7.9. Disciplinary records;
- 7.3.7.10. Job competency profile;
- 7.3.7.11. Employee performance contract;
- 7.3.7.12. Training records/ Skills development plans;
- 7.3.7.13. Internal Policies and Procedures;
- 7.3.7.14. General correspondence; and
- 7.3.7.15. Employee Assistance Programme Reports and Evaluations.

7.3.8. ICT (Information Communication Technology)

These records relate to developing, implementing and supporting ICT policies, standards and best practice in Structured Risk and comprise the following main categories:

- 7.3.8.1. General Correspondence;

- 7.3.8.2. Policy Records;
- 7.3.8.3. Facilities Records;
- 7.3.8.4. Project Management Records;
- 7.3.8.5. Helpdesk Records; and
- 7.3.8.6. Intranet Communication.

### 7.3.9. MARKETING

- 7.3.9.1. Marketing Records;
- 7.3.9.2. Administration Files;
- 7.3.9.3. Company brochures and publications;
- 7.3.9.4. Documents relating to public relation events;
- 7.3.9.5. Advertising Material;
- 7.3.9.6. Company media releases;
- 7.3.9.7. Documentation for Insurance, Special Projects, Value Added Product Initiatives marketing information;
- 7.3.9.8. Project Management Records; and
- 7.3.9.9. Research and Development Records.
- 7.3.9.10. Industry, delivery, size and product –specific data
- 7.3.9.11. Client Lists;
- 7.3.9.12. Budgets; and
- 7.3.9.13. Management Information Statistics

## **8. INFORMATION REQUESTED ABOUT A THIRD PARTY**

8.1. The private body may possess records pertaining to other parties, including without limitation, contractors, suppliers, subsidiary/ holding/ sister companies, joint venture companies, service providers. Alternatively, such other parties may possess records, which can be said to belong to the private body. The following records fall under this category -

8.1.1. Personnel, customer or private body records which are held by another party as opposed to being held by the private body; and

8.1.2. Records held by the private body pertaining to other parties, including without limitation financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors/ suppliers.

8.2. Section 71 of the Act makes provision for a request for information or records about a third party. In considering such a request, Structured Risk will adhere to the provisions of Sections 71 to 74 of the Act.

8.3. The attention of the Requester is drawn to the provisions of Chapter 5, Part 3 of the Act in terms of which Structured Risk is obliged, in certain circumstances, to advise third parties of requests lodged in respect of information applicable to or concerning such third parties. In addition, the provisions of Chapter 2 of Part 4 of the Act entitle third parties to dispute the decisions of the head or the request liaison officer by referring the matter to the High Court. If the request is for a record pertaining to a third party, the Information Officer must take all reasonable steps to inform that third party of the request. This must be done within 21 days of receipt of the request. The manner in which this is done must be in the fastest means reasonably possible, but if orally, the Information Officer must thereafter give the third party a written confirmation of the notification. The third party may within 21 days thereafter either make representation to the private body as to why the request should be refused; alternatively grant written consent to the disclosure of the record. The third party must be advised of the decision taken by the Information Officer on whether to grant or decline the request, and must

also be advised of his/ her/ its right to appeal against the decision by way of application to court within 30 days after the notice.

## **9. DECISION-MAKING PROCESS**

- 9.1. In terms of Section 55, the Information Officer will take all reasonable steps to find a record that has been requested. If the record cannot be found or does not exist, the Information Officer must notify the Requester by way of affidavit or affirmation that it is not possible to give access to the record. This is deemed a refusal of the request. If, however, the record is later found, the Requester must be given access if the request would otherwise have been granted.
- 9.2. Section 56 provides that the Information Officer must notify the Requester of the decision as to whether or not to grant the request, within 30 days of receipt of a correctly completed request. If the request is –
  - 9.2.1. Granted: the notification must state the applicable access fee required to be paid, together with the procedure to be followed should the Requester wish to apply to court against such fee, and the form in which access will be given.
  - 9.2.2. Declined: the notification must include adequate reasons for the decision, together with the relevant provisions of the Act relied upon, and provide the procedure to be followed should the Requester wish to apply to court against the decision.
- 9.3. The information officer may extend the period of 30 days by a further period not exceeding 30 days if -
  - 9.3.1. the request is for a large number of records or requires a search through a large number of records;
  - 9.3.2. the request requires a search for records located in a different office of the private body not situated in the same city;
  - 9.3.3. consultation between divisions of the private body, or with another private body is required; or

9.3.4. the Requester consents to the extension.

9.4. The Requester must be notified within the initial 30-day period in writing of the extension, together with reasons there for, and the procedure involved should the Requester wish to apply to court against the extension.

9.5. The Information Officer's failure to respond to the Requester within the 30-day period constitutes a deemed refusal of the request.

9.6. Section 59 provides that the Information Officer may sever a record and grant access only to that portion which the law does not prohibit access.

9.7. If access is granted, access must be given in the form that is reasonably required by the requestor, or if the Requester has not identified a preference, in a form reasonably determined by the Information Officer.

## **10. GROUNDS FOR REFUSAL OF A REQUEST**

Notwithstanding compliance with section 50, the request may be declined in accordance with one of the prescribed grounds in terms of the Act, namely –

10.1. Section 63 of the Act prohibits the unreasonable disclosure of the personal information of natural-person, third parties to Requesters. This includes the personal information of deceased persons

10.2. Section 64 states that a request must be refused if it relates to records containing third party information pertaining to -

10.2.1. Trade secrets;

10.2.2. Financial, commercial, scientific or technical information where disclosure would be likely to cause harm to the commercial or financial interests of that third party; or

10.2.3. Information supplied in confidence by the third party, the disclosure of which could reasonably be expected to put the third party at a disadvantage in contractual or other

negotiations, or prejudice the third party in commercial competition.

10.2.4. The information must, however, be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

10.3. Section 65 prohibits disclosure of information if such disclosure would constitute a breach of any duty of confidentiality owed to a third party in terms of an agreement.

10.4. In terms of section 66, a private body must refuse a request for access to a record of the body if disclosure could reasonably be expected to -

10.4.1. Endanger the life or physical safety of an individual;

10.4.2. Prejudice or impair the security of a building, structure or system, including but not limited to a computer or communication system, means of transport or any other property

10.4.3. The private body may also refuse a request for access to information, which would prejudice methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme or safety of the public.

10.5. Section 67 mandates the refusal of a request if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.

10.6. Section 68 pertains to records containing information about the private body itself and unlike the other provisions pertaining to decline of a request, is not mandatory, but rather discretionary. Structured Risk may refuse access to a record if the record –

10.6.1. Contains trade secrets of Structured Risk;

10.6.2. Contains financial, commercial, scientific or technical information, the disclosure of which would be likely to cause harm to the commercial or financial interests of Structured Risk;

10.6.3. Contains information which, if disclosed, could reasonably be expected to put the private body at a disadvantage in contractual or other negotiations, or prejudice Structured Risk in commercial competition; or

10.6.4. Consists of a computer program owned by Structured Risk.

10.7. Notwithstanding the above, the information must be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

10.8. Section 69 prohibits the disclosure of information about research where disclosure is likely to expose the third party, the person conducting the research on behalf of the third party, or the subject matter of the research to serious disadvantage. Disclosure is discretionary if such research pertains to Structured Risk itself.

10.9. Notwithstanding any of the above-mentioned provisions, Section 70 provides that a record must be disclosed if its disclosure would –

10.9.1. Reveal evidence of a substantial contravention of or failure to comply with the law, imminent and serious public safety or environmental risk; and

10.9.2. If the public interest in the disclosure clearly outweighs the harm.

## **11. REMEDIES AVAILABLE WHEN STRUCTURED RISK REFUSES A REQUEST FOR INFORMATION**

### **11.1. INTERNAL REMEDIES**

11.1.1. Structured Risk does not have internal appeal procedures. As such, the decision made by the Information Officer is final, and requestors will have to exercise such external remedies at their disposal if the request for information is refused, and the Requester is not satisfied with the answer supplied by the Information Officer.

## 11.2. EXTERNAL REMEDIES

- 11.2.1. A Requester that is dissatisfied with the Information Officer's refusal to grant access to any information may, within 30 days of notification of the decision may apply to court for relief. Likewise, a third party dissatisfied with the Information Officer's decision to grant a request may, within 30 days of notification of the decision, apply to court for relief.
- 11.2.2. It should be noted that notwithstanding any provision in this Act, the court might examine the record(s) in question. No record may be withheld from the court on any grounds. However, the court may not disclose the contents of the record(s).
- 11.2.3. The court is empowered to grant any order that is just and equitable, including:
  - 11.2.3.1. Confirming, amending or setting aside the information officer's decision
  - 11.2.3.2. Requiring the information officer to take any action, or refrain from taking any action as identified by the court within a specified period;
  - 11.2.3.3. Granting an interdict, interim or special relief; declaratory order or compensation; or costs.

## 12. AVAILABILITY OF THE MANUAL

- 12.1. This manual is made available in terms of Regulation Number R.187 of 15 February 2002.
- 12.2. A copy of the manual is available from the Human Rights Commission of South Africa. The manual will also be available on the website of Structured Group at [www.structuredgroup.co.za](http://www.structuredgroup.co.za).

## 13. DISCLAIMER

13.1. The Manual does not purport to be exhaustive of or to comprehensively deal with every procedure provided for in the Act. A Requester is advised to familiarize him/ her/ itself with the provisions of the Act before lodging any request with Structured Risk.