

Promotion of access to information manual

PIAI Manual

January 2016

More information?

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www.riscura.com

RISCURA

Table of contents

1	Preamble	3
2	Introduction	3
3	Company structure and overview	3
4	Contact details	4
5	Section 10 Guide on how to use the Act	4
6	Availability of records held by RisCura	4
7	Records available in terms of any other legislation	5
8	Subject and categories	5
8.1	General	5
8.2	Finance	5
8.3	Audit	6
8.4	Company Secretary	6
8.5	Corporate Communications	6
8.6	Human Resources:	6
8.7	Legal and Compliance	7
8.8	Information Technology	7
8.9	Administration	7
8.10	Other Party Records	7
9	Access to Records	7
10	Request procedure	8
11	Decision	8
12	Fees	9
13	Grounds for refusal of access to records	9
14	Remedies available when RisCura refuses a request for information	10
15	Availability of the Manual	10

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Manual prepared in accordance with Section 51 of the Promotion of Access to Information Act, No 2 of 2000 (“the Act”) in respect of the following entities (Jointly referred to in this manual as “RisCura”):

- ▶ RisCura Solutions (Proprietary) Limited, registration number 1999/010296/07
- ▶ RisCura Technology (Proprietary) Limited, registration number 2000/017095/07
- ▶ RisCura Proprietary Limited, registration number
- ▶ Archird 26 Proprietary Limited, registration number 2015/021674/07
- ▶ Ryla 28 Proprietary Limited, Registration number 2015/086456/07
- ▶ RisCura Fundamentals Proprietary Limited, registration number 2015/013632/07
- ▶ RisCura Analytics Proprietary Limited, registration number 2015/042153/07
- ▶ Victory Parade Proprietary Limited, registration number 2010/010147/07
- ▶ RisCura Capital Proprietary Limited, registration number 2009/019234/07

1 Preamble

The South African Human Rights Commission issued a guide on the compilation of the promotion of Access to Information Manual in terms of the Act.

2 Introduction

The Act was enacted on 3 February 2000. The purpose of the legislation is to give effect to the constitutional right of access to any information held by the State and any information held by any other person including public and private bodies and that is required for the exercise and protection of any rights.

One of the main requirements specified in the Act is the compilation and publication of a manual that provides information on the types and categories of records held by a public or private body. Where a request is made in terms of the Act, the 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 limitations, in terms of section 9 of the Act, should be justifiable and relate to, inter alia, the reasonable protection of privacy, commercial confidentiality, and effective, efficient and good governance. In this context, moreover, the right of access to any information held by a public or private body may be limited to the extent that the limitations are reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom as contemplated in section 36 of the Constitution.

This document serves as the manual for RisCura as required in terms of the Act and to provide a reference as to the records held by RisCura and the process to be followed to request access to records.

3 Company structure and overview

RisCura Solutions is a private company, which provides financial solutions primarily to pension funds via consulting, auditing and risk management. Through these services, RisCura Solutions enables investment decision makers from trustees to portfolio managers to optimally prepare and position their funds for any market environment. The company was established in 1999. The business is advisory only and does not directly manage or transact in assets of any form. RisCura Technology is a private company, established in 2000 primarily for the purpose of assisting RisCura Solutions with its technology needs.

4 Contact details

All requests for information in terms of this manual should be directed to:

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Phone number: 021 673 6999
Fax number: 021 673 6998
Email: mfair@riscura.com
Website address: <http://www.riscura.com>

5 Section 10 Guide on how to use the Act

The guide, which provides greater clarity on how to use the Act, is available from the South African Human Rights Commission.

Please direct any queries to:
The South African Human Rights Commission
PAIA Unit
The Research and Documentation Department
Postal address: Private Bag 2700
Houghton
2041

Telephone: +27 11 484 8300
Fax: +27 11 484 7146
Website: www.sahrc.org.za
E-mail: PAIA@sahrc.org.za

6 Availability of records held by RisCura

The Minister of Justice is entitled to publish a list of records submitted by RisCura to which the public may have access without formally applying for access to such records.

The lists of records that are freely available and which need not be requested in terms of the Act are:

- ▶ social responsibility projects
- ▶ marketing material

7 Records available in terms of any other legislation

Records of RisCura are kept by or on behalf of RisCura in accordance with and including, but not limited to, the following legislation:

Basic Conditions of Employment Act 75 of 1997
 Collective Investment Schemes Control Act 45 of 2002
 Companies Act 61 of 1973
 Compensation for Occupational Injuries and Diseases Act 130 of 1993
 Constitution of the Republic of South Africa 108 of 1996
 Electronic Communications and Transactions Act 25 of 2002
 Employment Equity Act 55 of 1998
 Financial Intelligence Centre Act 38 of 2001
 Financial Advisory and intermediary Services Act 37 of 2002
 Income Tax Act 58 of 1962
 Labour Relations Act 66 of 1995
 Medical Schemes Act 131 of 1998
 Pension Funds Act 24 of 1956
 Regional Services Council Act 109 of 1985
 Skills Development Act 97 of 1998
 Skills Development Levies Act 9 of 1999
 Unemployment Insurance Act 63 of 2001
 Exchange Control Regulations

Reference to the above-mentioned legislation shall include subsequent amendments to such legislation and all relevant sections within such legislation of which the private body holds records.

8 Subject and categories

This section of the manual sets out the subject and categories of records held by RisCura. The inclusion of any subject or category of records should not be taken as an indication that records falling within those subjects and/or categories will be made available under the Act. More specifically, certain grounds of refusal as stipulated in the Act may be applicable to a request for such records.

8.1 General

- 8.1.1. General correspondence
- 8.1.2. Statutory records
- 8.1.3. Administration records
- 8.1.4. Contracts and agreements
- 8.1.5. Insurance records
- 8.1.6. Capital expenditure records

8.2 Finance

- 8.2.1. Regional Services Council Records
- 8.2.2. VAT Records
- 8.2.3. Tax Records
- 8.2.4. PAYE Records
- 8.2.5. UIF Records
- 8.2.6. Asset inventory

- 8.2.7. Asset register
- 8.2.8. Invoices
- 8.2.9. Statements
- 8.2.10. Debtors and Creditors details
- 8.2.11. Credit notes
- 8.2.12. Banking details and account records
- 8.2.13. Cash records
- 8.2.14. Financial documentation and other accounting records
- 8.2.15. Financial reports and statements

8.3 Audit

- 8.3.1. Risk management records
- 8.3.2. Group audit records
- 8.3.3. Audit reports and supporting working papers

8.4 Company Secretary

- 8.4.1. Share registration records
- 8.4.2. Company secretarial documents
- 8.4.3. Constitution of the business
- 8.4.4. Memorandum and Articles of Association
- 8.4.5. Registers
- 8.4.6. Statutory records
- 8.4.7. Powers of Attorney
- 8.4.8. Shareholders agreement
- 8.4.9. Minutes of meetings
- 8.4.10. Share certificates

8.5 Corporate Communications

- 8.5.1. New releases/statements
- 8.5.2. Media cuttings
- 8.5.3. Brochures

8.6 Human Resources:

Personal records provided by employees and other records including but not limited to:

- 8.6.1. Personnel files
- 8.6.2. Employment contracts/ Letter of appointment
- 8.6.3. HR policies and procedures
- 8.6.4. Salary advice slips/ remuneration records
- 8.6.5. Curriculum vitae
- 8.6.6. Leave records
- 8.6.7. Educational history records
- 8.6.8. Salary increase records
- 8.6.9. Disciplinary codes, policies, procedures and records
- 8.6.10. Performance management records
- 8.6.11. Long service award records
- 8.6.12. Training records
- 8.6.13. Training manuals
- 8.6.14. Employment equity policy

- 8.6.15. Provident fund records
- 8.6.16. Unemployment insurance records
- 8.6.17. Medical aid records
- 8.6.18. Records relating to salary deductions

“Employee” refers to any person who works for, or provides services to or on behalf of the private body, and receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting the business of the private body. This includes, without limitation, directors, permanent and limited duration employees as well as contract and/or seasonal workers.

8.7 Legal and Compliance

- 8.7.1. General legal correspondence
- 8.7.2. Trademarks
- 8.7.3. Litigation and dispute records
- 8.7.4. FICA documentation
- 8.7.5. All applicable contracts and mandates
- 8.7.6. Records in terms of the FAIS and FICA legislation

8.8 Information Technology

- 8.8.1. Software licenses
- 8.8.2. Software programmes
- 8.8.3. Software applications
- 8.8.4. Computer generated databases
- 8.8.5. Inter-company e-mails
- 8.8.6. Internet connectivity reports
- 8.8.7. IT contracts and agreements
- 8.8.8. IT operational records
- 8.8.9. Asset records
- 8.8.10. Policy records

8.9 Administration

- 8.9.1. Correspondence with internal and external parties

8.10 Other Party Records

- 8.10.1. Employee, customer or private body records which are held by another party (e.g. accountant or independent contractor), as opposed to the records held by the private body itself;
- 8.10.2. Records held by the private body pertaining to other parties, including, but not limited to, financial records, correspondence, contractual and transactional records, records provided by the other party, and records third parties have provided.

9 Access to Records

Records held by RisCura may be accessed by requests only once the prerequisite requirements for access have been met.

A requester is any person making a request for access to a record of RisCura. There are two types of requesters:

- ▶ **Personal Requester**

A personal requester is a requester who is seeking access to a record containing personal information about the requester. RisCura 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.

▶ **Other Requester**

This requester (other than a personal requester) is entitled to request access to information on third parties. However, RisCura 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.

10 Request procedure

The requester must comply with all the procedural requirements contained in the Act relating to the request for access to a record.

- ▶ The requester must complete the prescribed request for access to records form which can be found under the legal info section of our website (www.riscura.com), and submit the same as well as payment of a request fee and a deposit, if applicable, to RisCura at the postal or physical address, fax number or electronic mail address as stated above.
- ▶ The prescribed form must be filled in with enough particularity to at least enable RisCura to identify:
 - ▶ The record or records requested,
 - ▶ The identity of the requester,
 - ▶ Which form of access is required, if the request is granted,
 - ▶ The postal address or fax number of the requester.
- ▶ The requester must state that he/she requires the information in order to exercise to protect a right, and clearly state what the nature of the right is to be exercised or protected. In addition, the requester must clearly specify why the record is necessary for the exercise or the protection of that right.
- ▶ RisCura will process the request within 30 days, unless the requester has stated special reasons which would satisfy RisCura that circumstances dictate that the above time periods not be complied with.
- ▶ The requester shall be informed whether access has been granted or denied. If, in addition, the requester requires the reasons for the decision in any other manner, he/she must state the manner and the particulars so required.
- ▶ If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of RisCura.
- ▶ If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.
- ▶ The requester must pay the prescribed fee, before any further processing can take place.

11 Decision

RisCura will, within 30 days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect.

The 30 day period within which RisCura has to decide whether to grant or refuse the request, may be extended for a further period of not more than 30 days if the request is for a large amount of information, or if the

request requires a search for information held at another office of RisCura and the information cannot reasonably be obtained within the original 30 day period. RisCura will notify the requester in writing should an extension be sought.

12 Fees

The Act provides for two types of fees, namely:

- ▶ A request fee, which will be a standard fee; and
- ▶ An access fee, which must be calculated by taking into account reproduction costs, search and preparation time and costs, as well as postal costs.

When the request is received by RisCura, it shall by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any), before any further processing of the request. If the search for the record has been made and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, RisCura shall notify the requester to pay as a deposit the prescribed portion of the access fee which would be payable if the request was granted.

RisCura shall withhold a record until the requester has paid the fees as indicated in the record reproduction fees document which can be found under the legal info section of our website (www.riscura.com).

A requester whose request for access to a record has been granted, must pay an access fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.

If a deposit has been paid in respect of a request for access, which is refused, then RisCura will repay the deposit to the requester.

13 Grounds for refusal of access to records

The main grounds for RisCura to refuse a request for information relate to the:

- ▶ Mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information about that natural person;
- ▶ mandatory protection of the commercial information of a third party, if the record contains:
 - ▶ trade secrets of that third party
 - ▶ financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party
 - ▶ information disclosed in confidence by a third party to RisCura, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- ▶ mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- ▶ mandatory protection of the safety of individuals and the protection of property;
- ▶ mandatory protection of records which would be regarded as privileged in legal proceedings;
- ▶ the commercial activities of RisCura, which may include:
 - ▶ RisCura's trade secrets;

- ▶ financial, commercial, scientific or technical information which disclosure could cause harm to RisCura's financial or commercial interests;
- ▶ information which, if disclosed, could put RisCura at a disadvantage in negotiations or commercial competition;
- ▶ a computer program which is owned by RisCura, and which is protected by copyright;
- ▶ the research information of RisCura or a third party, if its disclosure would disclose the identity of RisCura, the researcher or the subject matter of the research and would place the research at a serious disadvantage.

Requests for information that are clearly frivolous or vexatious in nature or which involve an unreasonable diversion of resources shall be refused.

14 Remedies available when RisCura refuses a request for information

Internal Remedies

RisCura does not have an internal appeal procedure for the refusal of access to information. As such, the decision made by RisCura is final and requesters will have to exercise external remedies at their disposal if the request for information is refused, and the requester is not satisfied with the answer supplied by RisCura.

External Remedies

A requester that is dissatisfied with RisCura's refusal to disclose information may, within 30 days of notification of the decision, apply to a relevant court for relief.

Likewise, a third party dissatisfied with RisCura's decision to grant a request for information may, within 30 days of notification of the decision, apply to a court for relief. For purposes of the Act, the courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status.

15 Availability of the Manual

This manual is available for inspection at the offices of RisCura as well as the RisCura website, free of charge. Copies are also available from the South African Human Rights Commission and may be published in the Government Gazette.