

**IN THE ENFORCEMENT COMMITTEE ESTABLISHED IN TERMS OF SECTION
10(3) READ WITH SECTION 10A OF THE FINANCIAL SERVICES BOARD ACT,
97 OF 1990**

CASE NO: **15/2016**

In the matter of:

THE REGISTRAR OF COLLECTIVE INVESTMENT

SCHEMES

Applicant

and

SANLAM COLLECTIVE INVESTMENTS (RF) (PTY) LIMITED Respondent

ORDER

WITH DUE CONSIDERATION to the settlement agreement (attached marked annexure "A") in terms of section 6B (7) (a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001, I hereby determine that the Respondent contravened section 4 (4) (a) of the Collective Investment Schemes Act, 45 of 2002. I hereby impose a penalty of R10 000 (Ten thousand rand).

The remaining terms and conditions of the settlement agreement are incorporated and made an order of the Enforcement Committee.

Signed at **PRETORIA** on the *12th* day of **September 2016**.


.....
C F Eloff
Chairperson of the Enforcement Committee

IN THE PROCEEDINGS BEFORE THE ENFORCEMENT COMMITTEE
ESTABLISHED IN TERMS OF SECTION 10 (3) OF THE FINANCIAL SERVICES
BOARD ACT, NO. 97 OF 1990

CASE NUMBER: 15/2016

In the matter of:

THE REGISTRAR OF COLLECTIVE INVESTMENT

SCHEMES

Applicant

and

SANLAM COLLECTIVE INVESTMENTS (RF) (Pty) LIMITED

Respondent


**SETTLEMENT AGREEMENT IN TERMS OF SECTION 6B (7) (a) OF THE
FINANCIAL INSTITUTIONS (PROTECTION OF FUNDS) ACT, 28 OF 2001**

1. PARTIES TO THE AGREEMENT

1.1 The Applicant is the Registrar of Collective Investment Schemes (the Registrar) herein represented by Mr Jurgen Boyd in his capacity as the Deputy Executive Officer of Collective Investment Schemes.

and

1.2 The Respondent is Sanlam Collective Investments (RF)(Pty) Limited (the Respondent) , a company registered and incorporated in accordance with the company laws of the Republic of South Africa bearing registration number 1967/002865/07. The Second Respondent is Ms Liezl Myburgh the Chief Executive Officer of the Respondent who warrants that she has been duly authorised by the Respondent to enter into this agreement.

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1.3 The Respondent's business address is at 2 Strand Road, Belville, Cape Town.

2. THE CONTRAVENTION OF SECTION 4 (4) (a) OF THE COLLECTIVE INVESTMENT SCHEMES ACT, 45 OF 2002 (CISCA)


It is agreed between the parties that from November 2008 the Respondent was a manager of the Lynx Sanlam Collective Investments Balanced Fund of Funds (previously known as RWM Balanced Fund of Funds) and the Lynx Sanlam Collective Investments Cautious Fund of Funds) previously known as RWM Cautious Fund of Funds. Whilst managing the aforesaid portfolios the Respondent failed to organize and control the aforementioned portfolios in accordance with the supplemental deeds approved by the Registrar. In this regard the Respondent failed to effect an income distribution on a quarterly basis as dictated by the portfolios' Supplemental Deeds. Instead the distribution was effected biannually.

2.1. The Respondent's conduct constituted a contravention of section 4(4) of CISCA which section requires a manager to organize and control a collective investment scheme in a responsible manner.

3. THE MITIGATING CIRCUMSTANCES

3.1. It is agreed that *inter alia* the following mitigating factors are relevant to the matter:

3.1.1. The contravention was due to a *bona fide* oversight and since becoming aware of the wrongful conduct, the Respondent has performed an audit of all its existing supplemental deeds to ensure compliance with applicable legislation;

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3.1.2. The Respondents expressed regret for their actions, admitted the contravention and gave their full co-operation to the Registrar to ensure that this matter is brought to finality; and

3.1.3. The Respondent has never been found to have contravened prior to this matter.

4. THE AGREED PENALTY

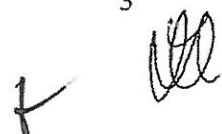
4.1. In light of the above, and in terms of section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001 (the FI Act), the parties have agreed that the Respondent will pay a penalty of R10 000 (Ten Thousand Rand).

5 OTHER CONDITIONS

5.1 This agreement is subject to approval by the Enforcement Committee and the parties specifically record that they are aware of the possibility that the Enforcement Committee may not accept the terms of this agreement. If the Enforcement Committee declines to make this agreement an order, then in such event this agreement will be null and void.

5.2 Should the Respondents not comply with the terms of this agreement and it becomes necessary for the Registrar and/or the FSB to proceed with legal proceedings, the Respondent herewith consents to pay all legal costs to the Registrar and/or the FSB on the Attorney and Client scale in terms of the High Court Rules inclusive of collection commission, interest and Value Added Tax.

5.3. No leniency or postponement given by the Registrar to the Respondents or any amendment to the terms and conditions of this agreement will be binding unless such postponement, leniency or amendment is reduced to writing and signed by the parties. Any leniency or postponement

Handwritten initials 'F' and a signature.

granted by the Registrar or any amendment to this Agreement shall not be a novation of the cause of action in terms whereof the Respondent was found to have contravened the Act.

- 5.4 Any receipt of a payment by the Registrar and/or the FSB after the due date, which date shall be outlined in an invoice for payment of the penalty shall be without prejudice to any of the rights of the Registrar and/or the FSB.
- 5.5 This Agreement constitutes the whole agreement between the parties in respect of the offer to pay a penalty.
- 5.6 This agreement is in full and final settlement only in respect of the Respondent's liability for an administrative sanction to the Registrar arising from this contravention.
- 5.7. The parties choose as their *domicillum citandi et executandi* their respective address set out below for all purposes arising out of or in connection with this agreement at which addresses all the processes and notices arising out of or in connection with this agreement, its breach or termination may validly be served upon or delivered to the parties. However the notice contemplated in terms of section 6E of the FI Act may be delivered by electronic email. For the purpose of this agreement the parties' respective addresses shall be:

The Applicant

Financial Services Board:
Block B, Riverwalk Office Park
41 Matroosberg Road
Ashlea Gardens ext. 6
Pretoria
0081

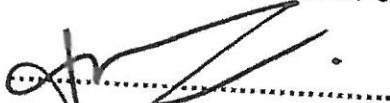
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The Respondent:

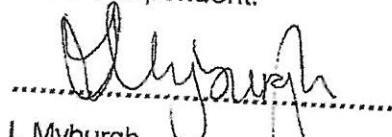
c/o MLiezi Myburgh
Sanlam Collective Investments (RF) (Pty)Limited
E mail: lliezi@sanlaminvestments.com

The parties humbly request that the Honorable Chairperson makes the settlement an order, as envisaged in section 6B (7) (b) of the F I Act.

Signed at PRETORIA on 9 September on behalf of the FSB and the Deputy Executive Officer of Collective Investment Schemes.


.....
J Boyl

Signed at Bellville on 6 September 2016 on behalf of the Respondent.


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L Myburgh