

# THE FINANCIAL SECTOR CONDUCT AUTHORITY

CASE NO: **CMD01/2018**

In the matter between:

**FINANCIAL SECTOR CONDUCT AUTHORITY**

and

**SHEPHERD BUSHIRI INVESTMENTS (PTY) LTD**

---

## ORDER INTERMS OF SECTION 167 OF THE FINANCIAL SECTOR REGULATION ACT NO.9 OF 2017

---

### Introduction

1. The Financial Sector Conduct Authority is a juristic person established in terms of section 56 of the Financial Sector Regulation Act, No.9 of 2017. The office of the FSCA is situated at Riverside Office Park, Block B, 41 Matroosberg Road, Ashlea Gardens.
2. The functions of the FSCA are *inter alia* to regulate and supervise the conduct of financial institutions in accordance with the financial sector laws.

### The Facts

3. Shepherd Bushiri Investments (Pty) Ltd (SBI) is a company duly incorporated and registered in accordance with the laws of the Republic of South Africa, bearing registration number 2015/386049/07. SBI's registered address is situated at World Trade Centre, 8<sup>th</sup> floor, 3 Lower Road Morningside, Sandton, Johannesburg.

4. During or about December 2016 until December 2017, SBI contravened section 4(2)(a) of the Financial Markets Act, No.19 of 2012 (FMA) in that it purported to be an exchange, whilst it was not licensed as an exchange.

#### **5. Factors Taken Into Account In Determining The Penalty**

6. The FSCA has taken the following circumstances into consideration in this matter:

7. SBI has accepted responsibility for its actions for having contravened the FMA.

8. SBI co-operated with the FSCA and took a pro-active role and admitted to the contravention, thereby saving the resources and time of the FSCA.

9. SBI has not been found to have previously breached any provisions of the FMA.

10. There was no profit made or income earned from the contravention.

#### **11. The Penalty**

12. The FSCA hereby imposes an administrative penalty of R50 000 (fifty thousand rand), inclusive of costs on SBI, to be paid within 14 working days from the date of this order.

13. Further Take note that:

13.1. If SBI fails to pay the administrative penalty within the period prescribed by this order, in terms of section 169 of the Act, interest, at the rate prescribed for the time being in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975), will be payable in respect of any unpaid portion of administrative penalty until it is fully paid.

13.2. Failure to comply with this order and notice will result in the provisions of section 170 of the Act being invoked, which reads as follows:

*“(1) The responsible authority that makes an administrative penalty order may file with the registrar of a competent court a certified copy of the order if:-*

*(a) the amount payable in terms of the order has not been paid as required by the order; and*

*(b) either:-*

*(i) no application for reconsideration of the order in terms of a financial sector law, or for judicial review in terms of the Promotion of Administrative Justice Act of the Tribunal’s decision, has been lodged by the end of the period for making such applications; or*

*(ii) if such an application has been made, proceedings on the application have been finally disposed of.*

*(2) The order, on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in that court.”*

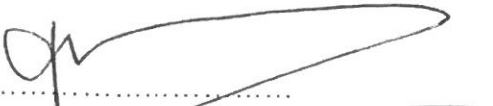
13.3. In terms of section 230 of the Act a person aggrieved by this decision has a right to apply for the reconsideration of the decision by the Financial Services Tribunal (Tribunal). An application for reconsideration must be made –

(a) in accordance with the Tribunal rules; and

(b) within the time periods set out in section 230(2) of the Act.

The licensee may contact the secretary of the Tribunal at (012) 428 8012 or per electronic mail at [LEG.Tribunal@fsca.co.za](mailto:LEG.Tribunal@fsca.co.za).

Signed at Pretoria on the 13 day of **August 2018**.

  
.....  
**Mr J A BOYD**

**FOR THE FINANCIAL CONDUCT AUTHORITY**

