

THE FINANCIAL SECTOR CONDUCT AUTHORITY
CASE NO: 08 / 2019

In the matter between:

FINANCIAL SECTOR CONDUCT AUTHORITY

and

COMMUNITY GROWTH MANAGEMENT (PTY) Ltd

**ORDER IN TERMS OF SECTION 167 OF THE FINANCIAL
SECTOR REGULATION ACT, NO.9 OF 2017**

1. Introduction

1.1. The Financial Sector Conduct Authority ("the Authority") is a juristic person established in terms of section 56 of the Financial Sector Regulation Act, No.9 of 2017 ("FSR Act"). The office of the Authority is situated at Riverwalk Office Park, Block B, 41 Matroosberg Road, Ashlea Gardens.

1.2. The functions of the Authority are *inter alia* to regulate and supervise the conduct of financial institutions in accordance with the financial sector laws.

1.3. Community Growth is a registered manager of a collective investment scheme ("Manager") and as such subject to the prescripts of the Collective Investment Schemes Control Act, 45 of 2002 ("the Act").



2. The reasons and grounds for the administrative penalty

2.1. Section 73(3) of the Act prescribe that a Manager must appoint auditors and within 30 days of appointing such auditors, apply to the Authority for approval of such appointment. Community Growth appointed Lund and Kieck as auditors to the scheme on 22 February 2017. However, Community Growth only applied for approval as envisaged in section 73(3) of the Act on 18 October 2018. The previous auditors resigned as auditors of Community Growth on 27 March 2017. Community Growth has therefore failed to comply with section 73(3) of the Act.

2.2. The failure to comply happened during a transitional period at Community Growth and was as a result of a *bona fide* oversight.

3. The penalty

3.1. The Authority hereby imposes an administrative penalty of R10 000 (ten thousand rand), on Community Growth, to be paid by Community Growth in full by 30 June 2019.

4. Further take note that:

4.1. If Community Growth fails to pay the administrative penalty within the period prescribed in this order, in terms of section 169 of the FSR 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.



4.2. Failure to comply with this order and notice will result in the provisions of section 170 of the FSR 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."*

4.3. In terms of section 230 of the FSR 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 –

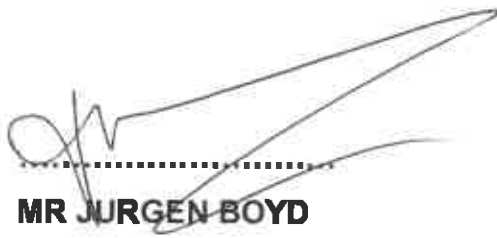
- (a) in accordance with the Tribunal rules; and



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

4.4. Community Growth may contact the secretary of the Tribunal at (012) 428 8012 or per electronic mail at LEG.Tribunal@fsca.co.za.

Signed at Pretoria on the 27th day of May 2019.

A handwritten signature in black ink, appearing to be 'J. Boyd', is written over a horizontal dotted line. The signature is stylized with a large, sweeping loop.

MR JURGEN BOYD

FOR THE FINANCIAL SECTOR CONDUCT AUTHORITY