

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: 36/2017

In the matter of:

THE REGISTRAR OF COLLECTIVE INVESTMENT SCHEMES FINANCIAL SERVICES BOARD	First Applicant
and	Second Applicant
H4 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 R20 000 (Twenty thousand rand).

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

Signed in Durban on the^{6TH} day of December 2017.


.....
E MOOLLA

Deputy 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: **36/2017**

In the matter of:

REGISTRAR OF COLLECTIVE INVESTMENT SCHEMES	First Applicant
FINANCIAL SERVICES BOARD	Second Applicant
H4 COLLECTIVE INVESTMENTS (RF) (PTY) LIMITED	Respondent

**SETTLEMENT AGREEMENT IN TERMS OF SECTION 6B (7)(a) OF THE
FINANCIAL INSTITUTIONS (PROTECTION OF FUNDS) ACT, NO.28 OF 2001**

1. PARTIES TO THE AGREEMENT

1.1 The First 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.

1.2 The Second Applicant is the Financial Services Board (FSB), a juristic person established in terms of section 2 of the Financial Services Board Act, No. 97 of 1990. The functions of the FSB are *inter alia* to supervise and enforce compliance with the laws relating to financial institutions.

and

1.2 The Respondent is H4 Collective Investments (RF) (Pty) Limited; a company duly registered in terms of the laws of the Republic of South Africa with company registration number: 2002/009140/07. The Respondent's business address is at 15 Cavendish Street (Corner of Cavendish and Warwick Streets), Claremont, Cape Town.

2. THE CONTRAVENTION OF SECTION 4 (4) (a) OF CISCA

2.1. The First Applicant is of the opinion that the Respondent contravened section 4 (4) (a) of the Collective Investment Schemes Act, 45 of 2002 (CISCA).

2.2. The Respondent wishes to enter into a settlement agreement with the First Applicant as contemplated in section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001 ("the FI Act").

2.3. It is agreed between the parties that from 29 April 2013 to 27 September 2017 the Respondent contravened section 4 (4) (a) of CISCA in that whilst being the Manager of the Citadel SA Money Market H4 Fund and the Citadel Global Equity H4 Fund of Funds it failed to stipulate in the deed of the H4 Collective Investment Scheme the correct valuation point and the point in time by when repurchase requests would be effected in respect of the aforementioned portfolios.

3. THE MITIGATING FACTORS

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 H4 has since taken steps to rectify the errors in the deed.

3.1.2. The Respondent co-operated with the Applicants with regard to the enforcement action.

3.1.3. The Respondent has never contravened CISCA previously and regrets the present non-compliance.

3.1.4. There were no investors that were prejudiced.

4. THE AGREED PENALTY

4.1. In light of the above, the parties have agreed that the Respondent will pay a penalty of R20 000 (Twenty Thousand Rand) inclusive of costs.

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 Respondent 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 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 *domicilium 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

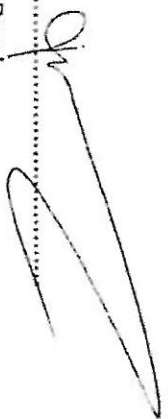
The Respondent:

c/o Mr Phillip Bredenhann
The Citadel
15 Cavendish Street
Claremont
Cape Town


PhilipB@Citadel.co.za

5.8. 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 5 / 12 / 2017 on behalf of the Applicants.

.....

.....
J Boyd

Signed at Claremont on 4 December 2017 on behalf of the Respondent.

.....

.....
P Bredenhann