

**[TO BE PUBLISHED BY THE FSCA]**

**Case No: 1277**

**In the matter between:**

**The Financial Sector Conduct Authority**

**And**

**Ms Morwesi Rose Masiu**

**MBSA Guarantees (Pty) Ltd**

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**ENFORCEABLE UNDERTAKING IN TERMS OF SECTION 151(1) OF THE FINANCIAL  
SECTOR REGULATION ACT, 2017**

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**DEFINITIONS**

1. For purposes of this undertaking, the following definitions shall apply:
  - 1.1. **"MBSA"** means **MBSA Guarantees (Pty) Ltd**, a private company with limited liability, duly incorporated and registered in accordance with the Companies Act No. 71 of 2008 of the Republic of South Africa, under registration number 2018/029750/07, with its principal place of business situated at 16A Kerk Street, Polokwane, 0699.
  - 1.2. **"Effective Date"** means the date on which this undertaking becomes enforceable which is upon signature by a duly authorised officer acting on behalf of the Authority.
  - 1.3. **"Enforceable Undertaking"** means this undertaking duly signed and concluded between the Authority and MBSA.
  - 1.4. **"FAIS Act"** means the Financial Advisory and Intermediary Services Act No. 37 of 2002, as amended.

- 1.5. **"The Authority"** means the Financial Sector Conduct Authority.
- 1.6. **"FSR Act"** means the Financial Sector Regulation Act No. 9 of 2017, as amended.
- 1.7. **"Masiu"** means Ms Morwesi Rose Masiu, a director of MBSA.
- 1.8. **"Tribunal"** means the independent Financial Services Tribunal, a statutory body established in terms of section 219 of the FSR Act, with its principal place of business at Kasteel Office Park, Orange Building, 546 Jochemus street, Erasmuskloof, Pretoria, Gauteng.

## **COMPLAINT**

2. The Authority is the market conduct regulator of financial institutions that are licensed or required to be licenced in terms of financial sector laws. The FSR Act empowers the Authority to supervise and enforce compliance with financial sector laws.
3. The Authority received information that MBSA was issuing performance guarantees to the construction companies (insurance business) without been authorised or having an insurer, which was a contravention of section 5 of the Insurance Act 18 of 2017 (the Insurance Act).
4. Masiu has confirmed that from 1 January 2021 to 31 October 2024, MBSA issued performance guarantees to a total of 4 contractors, collected a total amount of R 400 445.30 in premiums and did not receive or settle any claim.
5. Masiu further confirmed that 4 clients of MBSA advised, were never placed with any licensed insurer.

## **INVESTIGATION AND CONTRAVENTIONS**

6. On 14 May 2024, the Authority commenced an investigation into the conduct of MBSA and Masiu, in terms of section 135 of the FSR Act. The investigation was in respect of their conduct during the period 1 January 2021 to 31 October 2024, to determine whether there was a contravention of:

- 6.1. Section 5(1) of the Insurance Act which states *that no person may conduct insurance business in the Republic unless that person is licensed under the Insurance Act*; The investigation revealed that during the period from 1 January 2021 to 31 October 2024, MBSA and Masiu issued 4 performance guarantees without a licensed insurer in contravention of Section 5(1) of the Insurance Act.
- 6.2. The investigation revealed that during the period from 1 January 2021 to 31 October 2024, MBSA and Masiu collected R 400 465 premiums and did not receive or settled any claims.
7. Masiu did not dispute her knowledge and/or involvement in the conduct of MBSA and as a result, she caused and/or permitted MBSA to contravene sections 5(1) of the Insurance Act.
8. MBSA and Masiu have cooperated with the Authority and admitted all the facts and contraventions in respect of this investigation.

### **ENFORCEABLE UNDERTAKING**

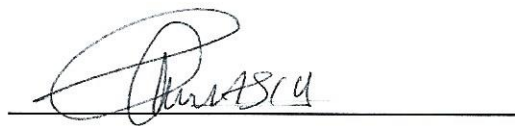
9. MBSA and Masiu tender the following Enforceable Undertaking to the Authority in terms of section 151(1) of the FSR Act:
- 9.1. In order to comply with section 5(1) of the Insurance Act, MBSA and Masiu will move all insurance business to a licenced underwriter of their choice within 90 working days, from the date of the signature of this Enforceable undertaking;
- 9.2. MBSA and Masiu will ensure that at all relevant times their clients' insurance business is placed with a licensed insurer;
- 9.3. MBSA and Masiu will submit proof within 90 working days from the date of the signature of this Enforceable undertaking, that paragraph 9.1 and 9.2 above was complied with; and

### **NON-COMPLIANCE WITH THE UNDERTAKING**

10. MBSA and Masiu understands that if any term contained in this Enforceable Undertaking is breached or contravened, the Authority:

- 10.1. may impose an administrative penalty against MBSA and/or Masiu, on the basis of joint and several liability;
- 10.2. may debar MBSA and Masiu; and/or
- 10.3. may approach the Tribunal to make certain orders in respect of the Enforceable Undertaking.
11. MBSA and Masiu acknowledge that they are familiar with all the provisions of section 151 of the FSR Act.

DATED AT Polokwane ON THIS 04 DAY OF December 2024.



Ms Morwesi Rose Masiu

(On behalf of MBSA)

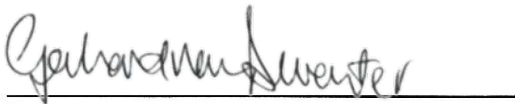


Ms Morwesi Rose Masiu

(In her personal capacity)

The aforesaid Enforceable Undertaking is accepted by the Financial Conduct Authority in terms of section 151(1) of the Financial Sector Regulation Act, 2017

DATED AT Pretoria ON THIS 8 DAY OF April 2025.



Gerhard van Deventer

(For the Authority)