

**FSCA Press Release**

**24 August 2020**

**The FSCA fines Tongaat Hulett Limited for contravention of the Financial Markets Act**

The Financial Sector Conduct Authority (FSCA) has concluded its investigation into alleged contraventions of the Financial Markets Act No.19 of 2012 (FMA) by Tongaat Hulett Limited (Tongaat) in the period prior to the discovery of significant accounting irregularities at the Company.

The requirement for Tongaat to make multiple, significant restatements of its 31 March 2017 and 31 March 2018 financial results supports the conclusion that Tongaat failed to meet its obligations under the FMA. The prior period errors extend back over the past six years and the cumulative correction has been reflected in the 31 March 2017 financial statements. The FSCA has therefore found that Tongaat made false, misleading or deceptive statements, promises or forecasts in its public statements to the markets in the prior period.

The FSCA has applied section 167 of the Financial Sector Regulation Act No.9 of 2017 (FSR Act) to determine the level of administrative penalty to be paid by Tongaat and, having considered representations from the company, has also considered a number of mitigating factors.

The FSCA has imposed an administrative penalty of R118 340 000 on Tongaat for contravening section 81 of the FMA 2012. Noting Tongaat's current financial position; to avoid penalising innocent Tongaat shareholders further and Tongaat's commitment to continue co-operating fully with the FSCA in all future actions taken against any persons allegedly responsible for the wrongdoing, the FSCA has resolved, under Section 173 of the FSR Act, to remit a portion of the administrative penalty resulting in the FSCA issuing an

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order for Tongaat to pay a penalty of R20 million, inclusive of the costs incurred by the FSCA in investigating this matter.

The FSCA states that events after the restated financial results have highlighted the gap that existed between Tongaat's prior public statements and the financial reality. The size of the headline penalty of R118 340 000 reflects the scale and severity of the regulatory breach. Nonetheless, considering Tongaat's current financial position, we have made the decision to remit a substantial proportion of the penalty.

We would like to thank the current Tongaat management team for their co-operation and constructive engagement through this difficult and complex process.

A copy of the order is available on the FSCA webpage [www.fsca.co.za](http://www.fsca.co.za)

## **ENDS**

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