



Companies and Intellectual
Property Commission

a member of the **dtic** group

'Without Prejudice'

Date: 04 April 2024

Ref.: CCDR 150/2019

RE: INTER-REGULATOR INVESTIGATION UPDATE // MEETING REQUEST

Dear Fellow Regulators, Enforcement Agencies, Affected Parties and Interested Parties

1. On 10 August 2022, the Companies and Intellectual Property Commission ("CIPC") issued a Media Release titled **COMPLIANCE NOTICE ISSUED TO NOVA PROPGROW GROUP HOLDINGS LTD**, with the subheading *Inter-Regulator Investigation Following Failure to Satisfy the Commission from a Notice to Show Cause Regarding Reckless Trading or Trading Under Insolvent Circumstances*.

2. For contextual purposes to this update and ease of reference, the CIPC hereby draws the following extracts of the Media Release to your attention:

2.1. *"The Commission found certain historical salient matters, part of which included the fallout of the property syndication industry. This **necessitated the requirement to diagnose the causes of that fallout and identify areas that may need further attention for better prospective inter-regulator co-ordination**, inter alia. The legal implications of the retrospective findings that surfaced from the triangulation have a grossly material impact on the actions taken by the parties which caused the cessation of various property syndication companies, including, but not limited to; Sharemax property syndication companies, the restructuring thereof and the consequent establishment of the entities known as Nova Property Group Investments (Pty) Ltd (formerly Nova Property Investments (Pty) Ltd) and Nova PropGrow Group Holdings Ltd (formerly Nova Property Group Holdings Ltd)." [emphasis added]*

2.2. *"Faced with the decision to potentially cause NOVA to cease trading or carrying on its business, the Commission has considered the various implications of such a decision. These implications led to a need to **seek further clarity contained in documentation not readily available to the Commission**. To this end, the provisions of Section 188 (3) of the Companies Act were invoked, with an expectation to expedite **the realisation of a legally accurate and equitable outcome** and arrive at a satisfactorily conclusion of the case." [emphasis added]*

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2.3. *"In terms of Section 188 (3)(a), the Commission may liaise with any regulatory authority on matters of common interest, exchange information with and receive information from any such regulatory authority pertaining to matters of common interest or a specific complaint or investigation. Pursuant to the above and in line with the functions and responsibilities of the Commission, deliberations with other regulators explicit to this case are urgently required, the objectives of which are aimed at:*

- *gathering and collating the actual facts and legal framework(s) that were relied upon and applied to cause a cessation of operations of the then Sharemax property syndication companies, which culminated in the formation of Nova Property Group Investments (Pty) Ltd and Nova Propgrow Group Holdings Ltd*
- *assessing the requisite enforcement action to be taken by the rightful regulator (s), in the context of the regulatory parameters within which NOVA exists*
- *reaching a common understanding of the outputs and outcomes of specific actions that were set in motion by the decisions made by certain regulatory stakeholders, the content of which will inform the most accurate remedial action required to be taken in order to address the contraventions identified in NOVA's annual financial statements*
- *accurately and satisfactorily concluding on this case without causing any undue damage to those charged with governance in Nova PropGrow Group Holdings Ltd, debenture holders and other affected stakeholders"*

2.4. *"It is for this reason, therefore, that the Commission has had to take further enforcement steps against NOVA by **escalating the case to an inter-regulator level**; in order to, *inter alia*, maintain significant levels of investor confidence and mitigate the systemic risk of the economic phenomena that has led hitherto and incidental to the NOVA case."* **[emphasis added]**

3. Following the publication of the Media Release, the CIPC, in pursuit of the objectives cited above; and guided by Sections 40, 41 and 42 of the Constitution of the Republic of South Africa, Section 186(2) of the Companies Act 71 of 2008 (as amended) and Regulation 137(6) of the Companies Regulations, 2011; had a series of meetings and consultations with several key stakeholders, some of which includes law enforcement agencies, the Office of the State Attorney, former directors, attorneys, auditors, CEOs, brokers and investors.

4. Of the stakeholders that were consulted, some of the natural persons include founders/former directors/CEOs of juristic persons that participated in the property syndication industry, namely Sharemax Investments (Pty) Ltd, Purple Rain15 (Pty) Ltd (also known as Realcor Cape), Amatenda Group (Pty) Ltd and A & S King Makelaars (Pty) Ltd t/a King Financial Services.



5. Of the documentation obtained, juristic persons which were considered, but not adequately investigated; include the Picvest/Highveld Syndications and Bluezone Property Investments (Pty) Ltd.
6. In terms of the current juncture of the inter-regulator investigation, given the complexity of the issues at hand, coupled with overlapping legislative considerations; the CIPC deemed it prudent to convene a sitting (the equivalent of a hearing or inquisition) in order to review the findings of the preliminary report and pave the way for the compilation of a final report; the contents of which would be the basis for achieving some of the itemized objectives in 2.3. above, *inter alia*.
7. The preliminary report, per paragraph 6 above, will be furnished during the course of this month to all relevant regulators, law enforcement agencies, affected parties and interested parties (confined to regulators and organs of State) prior to the sitting to afford them an opportunity to review its contents and adequately prepare for the sitting.
8. Given the legal inconsistencies, procedural anomalies and potential jurisdictional over-reach identified in the documentation perused thus far, the sitting is aimed at affording the parties that will converge at the meeting an opportunity to:
 - 8.1. Ventilate several contentions explicit to the NOVA case and other property syndication companies alluded to in paragraphs 4 and 5 above, the merits of which may help strengthen the ultimate recommendations to resolve the NOVA case and other pending investigations/litigation pertaining to the erstwhile property syndication industry
 - 8.2. Allow law enforcement agencies and other organs of State to consolidate/collate the various legal positions assumed to be the premise of the propositions that informed various courts' judgements, so as to expunge or affirm the legal premise and facts that caused the various property syndication companies to be intercepted and restructured/liquidated/prosecuted, whichever the case was/is
 - 8.3. Interrogate the validity of the actions taken against the natural- and juristic persons alluded to in paragraphs 4 (primary) and 5 (secondary) above
 - 8.4. Reach common ground and agree, in part or in whole, on a way forward that promotes regulatory integrity, while upholding the Constitution of the Republic of South Africa.

9. It is possible, premised on potential supplementary compelling evidence that was not in the purview of various court proceedings, that the outcome and outputs of the sitting might have an impact on previous court rulings, the implications of which could include review applications and/or rescission applications by affected parties.

10. Areas which may require the consideration of criminal proceedings, stemming from the potential misrepresentation of facts identified in some of the evidence obtained thus far, will be referred to the relevant regulator(s), with the final report constituting the referral report.

11. In light of the above, the CIPC hereby notifies you of the need and request to avail yourselves for the said sitting, which is anticipated to take place during the month of May on a date to be communicated with you once a suitable venue, date and time have been agreed upon.

12. Given the gravity of the potential negative ramifications and/or reputational damage that may befall certain organs of the State, should there be a fragmented approach to the resolution of some of the issues at hand, the CIPC further requests all pending litigation pertaining to the natural- and juristic persons alluded to in paragraphs 4 and 5; where applicable, to be suspended/postponed until the sitting has concluded and a final report has been compiled and published.

13. The contents of this letter should not be construed as averments, accusations, or allegations against any party cited or referenced herein.

14. We trust you find the above in order.

15. The Commission's rights remain firmly reserved.

Yours Sincerely,



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05/04/2024

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