

FSCA Press Release

7 December 2022

FSCA issues revised penalty of R20 million to Mr Markus Jooste in line with the Financial Sector Tribunal's decision on Insider Trading regarding Steinhoff International Holdings N.V.

The Financial Sector Conduct Authority (the FSCA) has imposed a revised administrative penalty of R20 000 000 on Mr Markus Johannes Jooste (Mr Jooste) for breaches of section 78 (5) of the Financial Markets Act, Act 19 of 2012 (the Financial Markets Act). R1 million of this penalty has been levied for encouraging Mr Jaap du Toit to sell his Steinhoff shares. Notwithstanding the disclosure and encouragement, Mr Du Toit never acted on the contents of the warning SMS. The provision prohibits an insider from encouraging or discouraging another person to deal in securities which the inside information relates to.

This penalty is payable on or before 06 January 2022.

On 29 October 2020, the FSCA imposed an administrative penalty of R161 568 068 on Mr Jooste for breaches of both section 78 (4) (a) and section 78 (5) of the Financial Markets Act. The Financial Sector Tribunal (the Tribunal) on 13 December 2021 set the FSCA's administrative penalty aside and referred the determination of an appropriate administrative penalty for the contravention of section 78 (5) of the Financial Markets Act to the FSCA for consideration.

The Tribunal concluded that Mr Jooste did not contravene section 78 (4) (a) of the Financial Markets Act as the information he provided in the warning SMS sent to Mr Jaap du Toit, Dr Gerhardus Burger, Mr Marthinus Swiegelaar and the late Mr Ockert Oosthuizen to encourage them to sell their Steinhoff shares, was vague and imprecise. Section 78 (4) (a) prohibits an insider from disclosing inside information to another person.

Executive Committee:

Commissioner: U. Kamlana | **Deputy Commissioners:** A. Ludin | K. Gibson | F. Badat

The Tribunal advised the FSCA to consider alternative dates to calculate the losses avoided by the trades of Dr Burger and Mr Oosthuizen.

In arriving at the amount of the new administrative penalty, and in line with the decision of the Tribunal, the FSCA considered amongst other factors, the amounts of the losses avoided by the recipients of the warning SMS as a result of the offending transactions, Mr Jooste's level of cooperation during the investigation, the seriousness of the breaches, the need to deter such conduct as well as Mr Jooste's submissions regarding the merits of the case against him including his submissions regarding an appropriate penalty.

Detailed information of the Authority's decisions are available on the Authority's website:

<https://www.fsca.co.za/Enforcement-Matters/Pages/Enforcement-Actions.aspx>

ENDS

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