



Financial Services Commission
Mauritius

Public Notice

Disqualification of Mr Kenneth Maillard from holding position as Officer for five (5) years

The Financial Services Commission, Mauritius (the “FSC”) refers to the positions held by Mr Kenneth Maillard (“Mr Maillard”) in the following companies:

1. Director and Secretary of Belvedere Management Limited (“BML”);
2. Director of Lancelot Global PCC (“LGP”);
3. Director of Four Elements PCC (“FEP”);
4. Director of Two Seasons PCC (“TSP”);
5. Director of CountingHouse Limited (“CHL”);
6. Director of MountRock Investment Management (“MIM”); and
7. Director of EntreCap.

Based on various breaches committed by the abovementioned companies, pursuant to section 53(1) of the Financial Services Act 2007 (the “FSA”), the FSC referred Mr Maillard to the Enforcement Committee (the “Committee”).

After due consideration of the written representations made by Mr Maillard, the Committee has concluded that during his tenure in office:

1. BML has:

- a. breached section 30 of the FSA since it failed to file the audited financial statements for the year ending 31 December 2014;
- b. contravened paragraph 3.1 of the Code on the Prevention of Money Laundering and Terrorist Financing (the “Code”) as BML did not implement a system of internal

controls as well as other measures to combat money laundering and the financing of terrorism;

- c. infringed paragraphs 4.1 and 4.3 of the Code since it failed to apply appropriate Customer Due Diligence (“CDD”) measures on the business relationship, including identifying and verifying the identity of clients under its administration and failed to maintain certified CDD documentation on its client companies;
- d. contravened paragraph 4.2 of the Code as it did not take appropriate measures to ascertain the source of funds of its client companies;
- e. failed to carry out the risk profiling of its client companies in accordance with paragraph 5.1 of the Code; and
- f. breached paragraph 6.1 of the Code inasmuch as it did not conduct on-going monitoring of the business activities of its client companies.

2. LGP has:

- a. breached section 29 of the FSA, as well as paragraphs 4.1 and 4.1.2.1 of the Code since CDD were not conducted in accordance with the provisions of the Code and no proper records of same were kept;
- b. acted in breach of paragraph 4.2 of the Code since it failed to conduct proper checks on the source of funds of investors;
- c. contravened paragraph 4.3 of the Code since CDD documents were not certified in accordance with the requirements of the Code;
- d. breached paragraphs 5.4 and 5.5 of the Code since it did not retain documentation to support its decision to apply simplified or reduced CDD and did not maintain relevant minimum documentation as required by the Code; and
- e. acted in breach of Regulation 57 of the Securities (Collective Investment Schemes and Closed-end Funds) Regulations 2008 ("CIS Regulations 2008") inasmuch as expenses paid were not properly disclosed in the offer document.

3. FEP has:

- a. breached section 29 of the FSA, since its accounting records were incomplete;
- b. acted in breach of paragraphs 4.1 and 4.1.2.1 of the Code since it was noted that in many instances, CDD was not conducted in accordance with the provisions of the Code;

- c. contravened paragraph 4.2 of the Code since it failed to conduct checks on the source of funds of investors as required under the Code;
- d. infringed paragraph 4.4 of the Code since it was noted in many instances that the Group Eligible Introducer Certificates submitted on behalf of group of companies investing in FEP were not as per the Specimen Group Eligible Introducer Certificate prescribed by the Code; and
- e. failed to comply with paragraphs 5.4 and 5.5 of the Code since it did not retain documentation to support its decision to apply simplified or reduced CDD and it did not maintain relevant minimum documentation as required by the Code.

4. TSP has:

- a. breached section 29 of the FSA, since it failed to maintain records of its transactions for its business activities;
- b. acted in breach of Regulation 57 of the CIS Regulations 2008, inasmuch as expenses paid were not disclosed in the offer document;
- c. contravened Regulation 59 of the CIS Regulations 2008, since there was manipulation of the Net Asset Value;
- d. failed to comply with Regulation 63 of the CIS Regulations 2008, since transactions between two connected persons were not at arm's length;
- e. acted in breach of paragraph 4.1 of the Code since appropriate CDD checks and measures on business relationships were not conducted in accordance with the Code; and
- f. acted in breach of paragraph 4.2 of the Code since verifications on source of funds from investors were not conducted as required under the Code.

5. CHL has:

- a. breached section 24 of the FSA by failing to seek the prior approval of the FSC in respect of the appointment of the Head of Treasury;
- b. failed to comply with section 29 of the FSA by not maintaining written records of its business correspondences with respect to the appointment of Mr. Deepak Ruhee as the Alternate Money Laundering Reporting Officer ("AMLRO") and by not keeping proper records of contracts with respect to the accounting services;
- c. breached section 30 of the FSA since it has failed to prepare its Audited Financial Statements in accordance with International Financial Reporting Standards;

- d. failed to produce the final constitutive documents and material contracts to be entered in connection with its operations within one month of its licences being issued;
- e. failed to comply with Rule 14 of the Securities (Licensing) Rules 2007 since CHL did not maintain the minimum stated unimpaired capital of MUR 600,000;
- f. breached condition 3 of its Treasury Management Licence since it has failed to forthwith notify the FSC of any material change in its activity wherein it was involved in business activities such as Swift payment, which was contrary to its business plan submitted; and
- g. failed to comply with paragraph 3.2 of the Code inasmuch as CHL failed to appoint an AMLRO and that Mr. Deepak Ruhee of Belvedere Management Ltd, was acting as AMLRO of CHL without his appointment having been notified to the FSC.

6. MIM has:

- a. acted in breach of section 29 of the FSA by not maintaining true written record of transactions since consultancy fees derived from lead generation which were charged from MIM to Fountain Capital Investments Ltd (“Fountain”) were described as ‘investment advisory services’ on MIM's invoices instead of consultancy fees;
- b. contravened section 55 of the Securities Act 2005 (“SA”) by failing to submit its annual report for the year ended 31 December 2013 within 90 days of its balance sheet date;
- c. failed to comply with paragraph 3.2 of the Code since as at the date of the investigation, MIM did not have a Money Laundering Reporting Officer (“MLRO”);
- d. breached paragraph 3.3 of the Code as the appointment of Mr. Laval Law How Hung as MLRO had not been notified to the FSC and MIM had not maintained a Suspicious Transaction Report log book;
- e. acted in contravention of paragraph 4.2 of the Code given that MIM failed to identify the source of funds of its client companies;
- f. contravened Circular Letter CL280313 since the directors failed to exercise the required degree of care, diligence and skills inasmuch as they were not conversant with the services offered by MIM, they were not acquainted with the system set in place with regards to the Disaster Recovery Plan and they were not aware of MIM's business activity or the Business Plan submitted to the FSC;
- g. breached condition 2 of its Investment Adviser (Unrestricted) Licence as MIM was not acting as Investment Adviser but was providing consultancy services to Fountain on a project to project basis which included business strategy, investment advice, technical

advice and introductions to prospective clients, services which do not fall under the ambit of its Investment Adviser (Unrestricted) Licence; and

- h. infringed condition 7 of its Global Business Category 1 Licence since the FSC was never apprised of the change in the working principle of MIM, whether it was consultancy services, lead generation or even administration services.

7. EntreCap has:

- a. breached paragraph 3.2 of the Code inasmuch as it did not have an AMLRO;
- b. contravened condition 4(b) of its Investment Adviser (Unrestricted) Licence since it did not disclose position knowingly held by itself or any of its related and associated companies within its group regarding proposed financial products/services; and
- c. failed to commence business within 6 months from the date on which it was licensed.

Given that the above breaches have been committed during the tenure in office of Mr Maillard, the Committee has concluded that he is not fit and proper to hold position as Officer in any licensee of the FSC and has consequently disqualified him from holding position as Officer in any licensee of the FSC Mauritius for a period of five (5) years pursuant to sections 7(1) (c) (iv) and 52(3) of the FSA.

In accordance with section 53(4) of the FSA, Mr Maillard may apply to the Financial Services Review Panel for a review of the decision of the EC within 21 days from the issue of the written notification from the EC.

The disqualification of Mr Maillard shall be effective at the expiry of the abovementioned 21 days period.

Financial Services Commission, Mauritius
23 December 2016