

ENFORCEMENT OUTCOME

Revocation of Investment Adviser (Restricted) Licence - Capricorn Finance

Ref: ENF/18A2021/E1

1. Background

- 1.1. Capricorn Finance (the “Company”) was incorporated as a private company limited by shares on 26 May 2014. It was granted a Category 1 Global Business Licence, as well as, an Investment Adviser (Restricted) Licence by the Financial Services Commission (the “FSC”) on 28 May 2014.
- 1.2. Mrs Delphine Evelyne Marcelle Brouard Rault (“Mrs Rault”) is the last remaining director of the Company. Mr Xavier Rault (“Mr Rault”) was the Chief Executive Officer of the Company for the period from 12 December 2014 to 30 June 2017. He was also part of the Investment Advisory Team.
- 1.3. Following the resignation of the Management Company and Company Secretary of the Company with effect from 17 April 2018, the latter has remained unmanaged. The Global Business Licence of the Company thereafter lapsed on 01 July 2019.

2. Breaches committed by the Company

- 2.1. Based on the information referred by the FSC, the Enforcement Committee (the “EC”) noted that the Company has:
 - 2.1.1. Contravened Licensing Condition 7 of its Category 1 Global Business Licence following the resignation of its Management Company;
 - 2.1.2. Failed to settle the applicable licence fees for the period 2018/2019 in relation to its Category 1 Global Business Licence and its Investment Adviser (Restricted) Licence thereby infringing section 22(1) of the Financial Services Act 2007 (the “FSA”); and

Financial Services Commission

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- 2.1.3. Breached its reporting obligations under section 55 of the Securities Act inasmuch as its Audited Financial Statements for the years ended 31 December 2017 and 31 December 2018 have not been filed with the FSC.
- 2.2. This matter was subsequently referred to the EC by the Chief Executive of the FSC in accordance with section 53(1) of the FSA for such action as it deems appropriate.
3. **Proceedings of the EC**
In view of the above, based on its assessment of the referral material submitted by the FSC, the EC contemplated the revocation of the Investment Adviser (Restricted) Licence held by the Company pursuant to sections 7(1) (c) (vi) and 52(3) of the FSA.
4. **Notice under section 53(2) of the FSA and findings of the EC**
- 4.1. The EC issued a notice dated 01 September 2020 to the Company, by registered post, pursuant to section 53(2) of the FSA wherein the latter was informed that the EC was contemplating the revocation of its Investment Adviser (Restricted) Licence pursuant to sections 7(1) (c) (vi) and 52(3) of the FSA.
- 4.2. The Company was also informed of its right, to make written representations to the EC, within a period of 21 days from the date of the notice as to why the EC should not revoke its Investment Adviser (Restricted) Licence.
- 4.3. All the referral materials provided by the FSC were communicated to the Company along with the notice dated 01 September 2020.
5. **Substituted Service**
- 5.1. Service of the notice dated 01 September 2020 by registered post at the residential address of the last director of the Company, namely Mrs Rault, was not successful. In this respect, the EC effected substituted service of the notice by causing a summary version to be published on the website of the FSC on 16 October 2020.

- 5.2. The Company was provided with the opportunity to make written representations to the EC, regarding the proposed revocation of its Investment Adviser (Restricted) Licence, within a period of 21 days from the publication of the notice on the website.
- 5.3. The Company failed to make written representations to the EC.
- 5.4. In this respect, the EC has concluded that the statutory breaches as detailed in the notice dated 01 September 2020, were undisputed by Company.
6. **Decision of the EC**
- 6.1. In light of the above, the EC revoked the Investment Adviser (Restricted) Licence held by the Company pursuant to sections 7(1) (c) (vi) and 52(3) of the FSA, on 23 December 2020.
- 6.2. The decision of the EC takes effect immediately after a period of 21 days from the date of the Decision Notice.
7. **Application to the Financial Services Review Panel (the “FSRP”)**
The Company may make an application to the FSRP for a review of the above decision of the EC, within 21 days from the issue of the Decision Notice. Such an application must be made by registered post, specifying the reasons for the review, in accordance with section 53(4) of the FSA. A copy of the application must be sent, by registered post, to the FSC.

18 January 2021

This published version of the Decision Notice has been edited for formatting purposes and to remove certain confidential, sensitive or personal information.

The person to whom the decision in this Notice relates may exercise the right to seek a review by the FSRP. Any amendment, cancellation or further update pertaining to the exercise of the aforementioned right in relation to the decision in this Notice will be communicated at the appropriate time.

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