

## ENFORCEMENT OUTCOME

### Disqualification – Mrs Delphine Evelyne Marcelle Brouard Rault

Ref: ENF/18A2021/E2

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#### 1. Background

- 1.1. Capricorn Finance (the “Company”) was incorporated as a private company limited by shares on 26 May 2014. The Company 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 director of the Company. She was also the promoter of the Company, as well as, the shareholder and ultimate beneficial owner.
- 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

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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.

### **3. Wilfully concealing information from the FSC**

3.1. Moreover, on 12 December 2014, Mrs Rault submitted a Personal Questionnaire ("PQ") Form dated 01 April 2014 to the FSC at the time of application for the Category 1 Global Business Licence and the Investment Adviser (Restricted) Licence on behalf of the Company. By signing and submitting the PQ Form to the FSC, she undertook to advise the latter of any material change occurring post the submission of the PQ Form.

3.2. However, she did not apprise the FSC that she has been sentenced to a suspended imprisonment of 1 year for the offence of concealment of property obtained through a felony, as per the judgment of the Angers Regional Court (Tribunal de Grande Instance) dated 30 June 2017. By not disclosing the judgment to the FSC, she failed to comply with the undertaking in the PQ Form and acted in breach of section 19(1) of the FSA.

3.3. Consequently, this matter was referred by the Chief Executive of the FSC, in accordance with section 53(1) of the FSA, to the EC for such action, as it deems appropriate.

### **4. Proceedings of the EC**

4.1. The EC noted that the abovementioned breaches, as committed by the Company, have occurred during Mrs Rault's tenure in office as director.

4.2. It was also observed that she has intentionally withheld information related to her sentence as per the judgment of the Angers Regional Court (Tribunal de Grande Instance) dated 30 June 2017 from the FSC.

4.3. In this respect, the EC formed the opinion that she no longer meets the fit and proper person requirements under section 20 of the FSA to hold position as officer in any licensee of the FSC.

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4.4. The EC thus issued a notice dated 01 September 2020 to her, pursuant to section 53(2) of the FSA. The purpose of the notice was to inform her that:

4.4.1. The EC was contemplating to disqualify her from holding position as officer in any licensee of the FSC for a period not exceeding five (5) years pursuant to sections 7(1) (c) (iv) and 52(3) of the FSA; and

4.4.2. She was entitled, as of right, to make written representations to the EC within a period of 21 days from the notice as to why she should not be subject to the abovementioned sanction.

4.5. All the referral materials provided by the FSC were communicated to her along with the notice dated 11 November 2020.

## 5. Substituted Service

5.1. Service of the notice dated 01 September 2020 by registered post at Mrs Rault's last known residential address was not successful. Consequently, 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. She was provided with a period of 21 days from the publication of the notice on the FSC website to make written representations to the EC regarding its intention to disqualify her from holding position as officer in any licensee of the FSC for a period not exceeding five (5) years.

5.3. She failed to make written representations to the EC.

5.4. Consequently, the EC has inferred that she does not dispute the contraventions as detailed in the notice dated 01 September 2020.

## 6. Decision of the EC

6.1. Hence, the EC has concluded that Mrs Rault no longer meets the fit and proper person requirements under section 20(1)(a)(iii) of the FSA to hold position as officer in any licensee of the FSC inasmuch as:

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- 6.1.1. She did not apprise the FSC that that she has been sentenced to a suspended imprisonment of 1 year for the offence of concealment of property obtained through a felony as per the judgment of the Angers Regional Court (Tribunal de Grande Instance) dated 30 June 2017. By wilfully dissimulating this information from the FSC, she has failed to act with honesty; and
  - 6.1.2. She was unable to perform her relevant functions as director of the Company properly and efficiently.
- 6.2. The EC has consequently disqualified her from holding position as officer in any licensee of the FSC for a period of five (5) years pursuant to sections 7(1) (c) (iv) and 52(3) of the FSA, on 23 December 2020.
7. The decision takes effect immediately after a period of 21 days from the date of the Decision Notice.
8. **Application to the Financial Services Review Panel (the “FSRP”)**  
Mrs Rault 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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