

**Our Ref: CDR 150/2019**  
Date: 18 June 2023

**RE: PRELIMINARY INTER-REGULATOR INVESTIGATION UPDATE // NOVA PROPGROW  
GROUP HOLDINGS LTD**

Dear Mr. Deon Pienaar

Pursuant to your enquiry about the progress of the subject matter, kindly be advised of the following:

1. As stated in the Media Release published on 10 August 2022, the purpose of the inter-regulator investigation is the realisation of a legally accurate and equitable outcome for investors, the companies and directors.
2. The investigation should achieve point (1) above while maintaining regulatory integrity. While the process was aimed at expediting the approach was focused on direction rather than speed, that is; the process should not be hasty and lead to an incorrect outcome.
3. The process thus far has achieved the following in terms of the first two itemised objectives of the Media Release:
  - 3.1. *Objective 1: 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*

Significant evidence has been obtained from some of the regulators. There is some documentation yet to be obtained from other regulators to assist with affirming or expunging the allegations that were made against the then Sharemax Investments and the property syndications it promoted.

The evidence will further assist in ascertaining the validity or invalidity of various legal positions taken by some of the regulators at play. This would then be the premise of how itemised objectives three, four and five of the Media will be approached.

- 3.2. *Objective 2: assessing the requisite enforcement action to be taken by the rightful regulator (s), in the context of the regulatory parameters within which NOVA exists*

There seems to be areas that may require the consideration of criminal proceedings. This stems from the potential misrepresentation of facts identified in some of the evidence obtained thus far. Should other evidence be obtained to the contrary, the criminal proceedings aspects may be expunged. It should be noted that since the CIPC does not have jurisdiction over criminal matters, the portion of the investigation that falls outside of its legislative parameters will be referred to the relevant regulator(s), with the final report constituting the referral report.

4. Given the legal nature of the salient issues under investigation, areas which spill over into criminal proceedings will be referred to the relevant regulator(s) as part of the fourth itemised objective, per the Media Release; in line with Section 188(5)(d), which states that *the Commission may refer to any other regulatory authority any concerns regarding behaviour or conduct that may be prohibited or regulated in terms of legislation within the jurisdiction of that regulatory authority.*
5. A fundamental aspect of the aforementioned are the procedures and principles that ought to be adhered to. The processes and principles being alluded to are informed by Sections 40, 41 and 42 of the Constitution of the Republic of South Africa. The key focus areas in this regard are extracted and provided hereunder for ease of reference:

Section 40(2): *All spheres of government must observe and adhere to the principles in this Chapter and must conduct their activities within the parameters that the Chapter provides*

Sections 41(1): *All spheres of government and all organs of state within each sphere*

- (a) ....
- (b) ...
- (c) ...
- (d) ...
- (e) ...
- (f) **must** *not assume any power or function except those conferred on them in terms of the Constitution*
- (g) *exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere*
- (h) *co-operate with one another in mutual trust and good faith by—*
  - (i) *fostering friendly relations;*
  - (ii) *assisting and supporting one another;*
  - (iii) *informing one another of, and consulting one another on, matters of common interest;*
  - (iv) *co-ordinating their actions and legislation with one another;*
  - (v) *adhering to agreed procedures; and*
  - (vi) *avoiding legal proceedings against one another.*

Having regard to the above, you will appreciate the prudence we have to exercise to uphold the Constitutional rights of all stakeholders affected by the process.

6. Once the abovementioned has been exhausted, the CIPC will be in a position to produce a final report containing the findings, outputs and outcomes of the investigation and furnish the same to the involved regulators and stakeholders for consideration and further enforcement.

Furthermore, the said final report will form the basis of Senior - and Junior Counsel's core merits in the event that a court is approached to make a ruling on areas of impasse and/or differing legal opinions/positions among the regulators, regarding the legalities of the

contemplated remedial and enforcement actions that will stem from the outputs/outcomes of the investigation.

7. We trust you find the above in order.

Queries can be directed to [cmotloug@cipc.co.za](mailto:cmotloug@cipc.co.za)

**END:**

**Enquiries:**

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