

GEN – General – AYO Technology Solutions Limited

Censure and penalties imposed by the JSE on Mr Khalid Abdulla, the former director of AYO Technology Solutions Limited (“**Company**” or “**AYO**”)

The JSE hereby informs stakeholders of the following findings in respect of Mr Abdulla:

1. Stakeholders are referred to the SENS announcement dated 5 September 2023 wherein the JSE imposed a public censure and a financial penalty in the form of a fine of R2 million against Mr Abdulla as a result of his failure to comply with important provisions of the JSE’s Listings Requirements. We attach this announcement marked “**A**”.
2. Mr Abdulla disagreed with the JSE’s decisions, and on 20 March 2023, Mr Abdulla applied, in terms of section 230(1) of the Financial Sector Regulation Act (“**FSRA**”), to the Financial Services Tribunal (“**FST**”) for the reconsideration of the JSE’s decision (the “**Reconsideration Application**”). He also applied for an order suspending the decision of the JSE in terms of section 231 of the FSRA. On 25 April 2023, the FST dismissed the suspension application, other than in regard to the payment of the fine that the JSE imposed on Mr Abdulla, pending the outcome of the Reconsideration Application.
3. The Reconsideration Application was heard on 15 September 2023.
4. On 14 December 2023, the FST partially upheld the Reconsideration Application to the following extent:
 - 4.1 The JSE’s decision and finding that Mr Abdulla, in his capacity as a non-executive director of AYO, breached the provisions of paragraph 10.4 of the Listings Requirements for his role in facilitating and negotiating the payments directly into 3 Laws Capital (Pty) Ltd bank account in respect of PMA1 and PMA2 was set aside and substituted with a decision and finding that:

"Mr Abdulla, in his capacity as a non-executive director of AYO, is found to be in breach of the provisions of paragraph 10.7 of the Listings Requirements for his role in facilitating and negotiating the payments directly into 3 Laws Capital (Pty) Ltd bank account in respect of PMA1 and PMA2."

- 4.2 The JSE's decision to impose a fine in the amount of R2 million (two million rand) on Mr Abdulla was set aside and substituted with a decision to impose a fine in the amount of R1.2 million (one million, two hundred thousand rand) on Mr Abdulla.
5. Save for the above, the remainder of the Reconsideration Application was dismissed. The decision by the JSE that Mr Abdulla, in his capacity as a non-executive director of AYO at the time, failed to comply with the following important provisions of the Listings Requirements were therefore confirmed by the FST:
 - 5.1 Paragraph 8.57(a) as his instructions to make improper adjustments to certain line items in AYO's financial statements directly resulted and/or contributed to AYO breaching the Listings Requirements; and
 - 5.2 General Principle (v) which required him to ensure that all parties involved in the dissemination of information into the marketplace, whether directly to holders of relevant securities or to the public, observe the highest standards of care in doing so.
6. In the circumstances the JSE's decision to impose a public censure on Mr Abdulla has been confirmed by the FST and the fine in the amount of R 1.2 million as a result of his failure to comply with the Listings Requirements is immediately due and payable.

14 December 2023

GEN – General – Mr Khalid Abdulla – Director of AYO Technology Solutions Limited

Censure imposed by the JSE on Mr Khalid Abdulla in his capacity as a director of AYO Technology Solutions Limited (“**Company**” or “**AYO**”)

The JSE hereby informs stakeholders of the following findings in respect of Mr Abdulla:

BACKGROUND

1. Stakeholders are referred to the JSE’s announcement published on SENS on 27 August 2020 wherein the JSE imposed a public censure and financial penalties amounting to R6.5 million against AYO as a result of its transgressions of the Listings Requirements.
2. Mr Khalid Abdulla was appointed as a non-executive director of AYO since its listing on the JSE on 21 December 2017 until August 2018 and he currently serves as the executive deputy chairman.
3. Pursuant to the JSE’s investigation into the conduct of certain individuals that presided at the Company during the periods in question, the JSE has concluded its investigation against Mr Abdulla as a director of AYO at the time of the transgressions referred to in paragraph 1 above.
4. AYO listed on the JSE on 21 December 2017. The day after its listing on the JSE, on 22 December 2017, AYO entered into the first of three performance management agreements (“**PMAs**”) with an asset manager, 3 Laws, in terms of which 3 Laws would manage funds invested for and on behalf of AYO to diversify AYO’s treasury risk function.
5. At the time of entering into the PMAs, the majority shareholder in 3 Laws was Sekunjalo Investment Holdings (Pty) Ltd which held 85% of 3 Laws. Sekunjalo Investment held 61% of African Equity Empowerment Investment Holdings Limited which in turn held 49% of AYO. Therefore, 3 Laws was a related party to AYO in terms of paragraph 10.1 of the JSE Listings Requirements.
6. In accordance with the provisions of section 10 of the Listings Requirements, a related party transaction means an acquisition or disposal, or other agreement, or any variation or novation of an existing agreement, between the issuer or any of its subsidiaries and a related party, as defined.

7. Related party transactions must be categorised to determine the percentage ratios calculated as a percentage of consideration to market capitalisation or dilution of number of shares in issue. Related party transactions with a percentage ratio of more than 5% requires a SENS announcement, circular to shareholders incorporating a fairness opinion, and shareholder approval of the transaction (votes of the related party and its associates excluded), prior to completion and/or implementation of the transaction. Small related party transactions are classified as transactions with a percentage ratio of more than 0.25% but less than or equal to 5% which requires that, prior to completing and/or implementing the transaction, an issuer must inform the JSE of the transaction in writing, provide the JSE with written confirmation from an independent professional expert that the terms of the transaction are fair as far as shareholders are concerned, publish details of the proposed transaction on SENS including the fairness thereof, and if the independent professional expert finds the transaction to be unfair, then the usual related party transaction requirements referred to above apply.

TRANSACTIONS WITH 3 LAWS CAPITAL (PTY) LTD (“3 LAWS”)

8. Details of the PMAs entered into by AYO and 3 Laws are set out hereunder:

PMA1

- Verbal agreement entered into on 22 December 2017
- R70 million advanced to 3 Laws on 22 December 2017 and returned to AYO on 22 February 2019

PMA2

- Written agreement entered into on 28 February 2018 in terms of a resolution of the board of directors of AYO subject to these funds being returned to AYO by 31 August 2018
- R400 million advanced to 3 Laws on 5 March 2018 and returned to AYO on 20 August 2018

PMA3

- Written agreement entered into on 27 November 2018 in terms of a resolution of the board of directors of AYO
- R400 million advanced to 3 Laws on 29 November 2018 and returned to AYO on 22 February 2019.

9. As confirmed by AYO and recorded as such in the PMAs, the salient terms of the PMAs highlighted the following:

- No funds may be transferred to 3 Laws or to any account in the name of 3 Laws in carrying out its duties in terms of the agreements.

- The funds must be placed in an AYO custodian account / AYO bank account with Nedbank for the benefit of AYO as are typical with such asset management agreements.
- 3 Laws is only entitled to earn a fee which is market related.
- Any investment made on behalf of AYO must be within the terms of the investment mandate set out in the PMAs.
- Any investment instruction given by 3 Laws must be made in the name of AYO and the value of the investment be recognised and recorded as part of AYO's assets in the financial statements.

10. On 12 March 2020, the Report of The Judicial Commission of Inquiry into Allegations of Impropriety at the Public Investment Corporation ("**PIC Report**") was released and published. The PIC Report included an analysis of 3 Laws' Nedbank current account indicating the movement of monies between AYO, Sekunjalo Capital (Pty) Ltd and 3 Laws. Based thereon and after robust investigation and engagement with AYO, the JSE discovered that the funds were not invested by AYO with 3 Laws in accordance with the terms and provisions of the PMAs and that the transfer of funds to 3 Laws therefore constituted related party transactions in terms of the Listings Requirements. This was evident from the following:

- All funds were transferred by AYO directly into 3 Laws' proprietary and current bank account ("**3 Laws' bank account**") held with Nedbank and Standard Bank and not paid into a separate and/or segregated banking account in the name of AYO, in conflict with the express provisions of the PMAs.
- AYO did not transfer an amount of R70 million to 3 Laws in terms of PMA1 on 22 December 2017. An amount of R35 million was transferred directly into 3 Laws' bank account and a further R35 million was transferred directly into the bank account of Sekunjalo Capital (Pty) Ltd on 3 Laws instruction.
- AYO's bank records reflect that on 31 August 2018 an amount of R400 million previously transferred to 3 Laws in terms of PMA2 was returned into AYO's bank account and referenced as "3 Laws Capital", however it was not returned to AYO by 3 Laws but by a different entity.
- 3 Laws returned an amount of R470 million to AYO on 22 February 2019 in terms of PMA1 and PMA3 in two separate payments. On the same day that 3 Laws returned the R470 million to 3 Laws, 3 Laws received payments of R35 million from Africa News Agency (ANA) and R30 million from SGB Securities. The total of R470 million returned by 3 Laws to AYO included the monies received from ANA and SGB Securities on the same day, further confirming that there was no segregation of funds or accounts for purposes of AYO's investment. This was also a direct result of AYO paying the funds directly into 3 Laws' bank account.

11. Mr Abdulla, in his capacity as a non-executive director of AYO at the time, facilitated the transactions with 3 Laws and negotiated with 3 Laws for the payments to be made directly into 3 Laws' bank account contrary to the prescripts and provisions of PMA1 and PMA2. AYO did not, prior to completing and/or implementing the transactions with 3 Laws, inform the JSE and the market through SENS of the details of the transactions, obtain the approval of shareholders where required or confirm to shareholders that the terms of the transactions were fair, as required. Mr Abdulla, through his role in these transactions, caused and/or contributed to AYO's breach of the JSE's Listings Requirements regarding related party transactions.
12. Accordingly and for these reasons, the JSE found Mr Abdulla, in his capacity as a non-executive director of AYO at the time, to be in breach of the provisions of paragraph 10.4 of the Listings Requirements for his role in facilitating and negotiating the payments directly into 3 Laws' bank account in respect of PMA1 and PMA2.

INTERIM FINANCIAL STATEMENTS FOR THE SIX MONTHS ENDED 28 FEBRUARY 2018

13. Ms Naahied Gamiendien, AYO's former Chief Financial Officer ("**former CFO**"), drafted AYO's maiden interim financial statements for the six months ended 28 February 2018 ("**unaudited 2018 interim results**"). On 26 April 2018, the former CFO emailed a copy of the draft unaudited 2018 interim results to Mr Abdulla and the Chief Investment Officer of African Equity Empowerment Investment Holdings Limited ("**AEEI**"), Mr Abdul Malick Salie, before going on leave. In the former CFO's absence, Mr Abdulla instructed Mr Salie, an employee and executive director of AEEI, a separately listed company on the JSE and parent company of AYO, to effect adjustments to specific line items of AYO's draft unaudited 2018 interim results, namely the sales commission, warranty provision, Sasol project salaries, certain legal fees/listing costs and the treatment of an IFRS 2 share-based payment charge. AYO management, including Mr Abdulla, approved the unaudited 2018 interim results for publication which contained these adjustments.
14. Mr Abdulla gave instructions to Mr Salie who was not a director or employee of AYO to amend specific line items in the draft unaudited 2018 interim results which were improper and not in accordance with the requirements of IFRS, culminating in AYO's misstated financial information that had to be corrected through restatement. Furthermore, Mr Abdulla was one of the AYO board members who approved the unaudited 2018 interim results which contained the improper adjustments for dissemination to

shareholders and the market. AYO's published unaudited 2018 interim results in respect of the adjustments were subsequently restated.

15. Mr Abdulla's role in instructing the adjustments to the specific line items in AYO's unaudited 2018 interim results caused and/or contributed to AYO breaching IFRS and the Listings Requirements for which the JSE imposed a financial penalty.
16. Accordingly and for these reasons, the JSE found Mr Abdulla, in his capacity as a non-executive director of AYO at the time, to be in breach of the following provisions of the Listings Requirements:
 - (a) Paragraph 8.57(a) as his instructions to make improper adjustments to certain line items in AYO's financial statements directly resulted and/or contributed to AYO breaching the Listings Requirements; and
 - (b) General Principle (v) which required him to ensure that all parties involved in the dissemination of information into the marketplace, whether directly to holders of relevant securities or to the public, observe the highest standards of care in doing so.

JSE'S DECISION TO CENSURE MR ABDULLA

17. Directors of issuers fulfil a critical role in ensuring that listed companies comply with the Listings Requirements. Issuers of securities listed on the JSE are only able to comply with the Listings Requirements if their directors take the appropriate actions to ensure that such issuers comply in all aspects with its provisions.
18. Directors of companies listed on the JSE are bound by and must comply with the JSE's Listings Requirements, as amended from time to time, and undertake and agree to discharge their duties in ensuring such compliance whilst they are directors.
19. The accuracy and reliability of financial information published by companies are of critical importance in ensuring a fair, efficient and transparent market. The provisions of the Listings Requirements, which impose various important obligations on listed companies in respect of the disclosure of financial information, contributes to the integrity of the market and promotes investor confidence.

20. For these reasons and with reference to the JSE's findings of breach, the JSE has decided to impose a public censure and a fine in the amount of R2 million (two million rand) on Mr Abdulla for his failure to comply with important provisions of the Listings Requirements.
21. The fine imposed against Mr Abdulla will be appropriated in accordance with section 11(4) of the Financial Markets Act, 19 of 2012 read with section 1.25 of the Listings Requirements which includes, inter alia the settlement of any external costs incurred by the JSE which may arise through the enforcement of the provisions of the Listings Requirements and/or in furtherance thereof.

MR ABDULLA'S APPLICATION FOR RECONSIDERATION OF THE JSE'S DECISION IN TERMS OF SECTION 230 OF THE FINANCIAL SECTOR REGULATION ACT ("FSRA"), MR ABDULLA'S APPLICATION FOR THE SUSPENSION OF THE JSE'S DECISION IN TERMS OF SECTION 231 OF THE FSRA, AND MR ABDULLA'S URGENT APPLICATION TO THE HIGH COURT

22. On 20 March 2023, Mr Abdulla applied to the Financial Services Tribunal ("**FST**") for the reconsideration of the JSE's decision in terms of section 230(1) of the FSRA, under reference number JSE3/2023 (the "**Reconsideration Application**"). On the same day, Mr Abdulla applied to the FST in terms of section 231 of the FSRA for an order suspending the JSE's decision, pending the outcome of the Reconsideration Application (the "**Suspension Application**").
23. The JSE opposed the Reconsideration Application and the Suspension Application. On 25 April 2023, Retired Judge Harms, the Deputy Chair of the FST, suspended the financial penalty imposed by the JSE on Mr Abdulla and dismissed Mr Abdulla's application for the suspension of the public censure imposed on him.
24. Mr Abdulla then launched an urgent application against the JSE in the Johannesburg division of the Gauteng High Court under case no. 2023-040885, in which he sought to review and set aside the ruling of Retired Judge Harms in the Suspension Application, and an interdict to prevent the JSE from publishing the ruling in the Suspension Application (the "**Urgent Application**"). The JSE opposed the Urgent Application and undertook not to impose its public censure and not to publish the ruling in the Suspension Application pending the outcome of the Urgent Application.

25. The Urgent Application was heard on 31 August 2023 and on 5 September 2023, Judge Wilson handed down his judgment in which he dismissed Mr Abdulla's Urgent Application, with costs, including the costs of two counsel.
26. The JSE's decision in respect of the public censure imposed on Mr Abdulla is therefore enforceable.
27. We await the outcome of Mr Abdulla's Reconsideration Application, which the JSE has opposed, and which will be heard by the FST on 15 September 2023.

5 September 2023