

THE FINANCIAL SERVICES TRIBUNAL

In the matter of:

**TRUSTCO GROUP HOLDINGS LIMITED**

Applicant

and

**JSE LIMITED**

Respondent

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**REPLYING AFFIDAVIT (IN SUSPENSION APPLICATION IN TERMS OF SECTION 231  
OF THE FINANCIAL SECTOR REGULATION ACT. 9 OF 2017)**

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I, the undersigned

**RIAAN BRUYNS**

do hereby make oath and state as follows:

1. I am an adult male employed as the internal legal adviser and general counsel of applicant (**Trustco**) at its principal place of business at Trustco House, 2 Keller Street, Windhoek, Namibia.
2. The facts herein contained are within my personal knowledge, save where otherwise stated or the context indicated to the contrary and are to the best of my knowledge and belief both true and correct.
3. I am the deponent to the affidavit in support of the application in terms of s 231 of the *Financial Sector Regulation Act, 2017 (FSR Act)* dated 18 February 2022 (the **Section 231 Application**). The respondent filed its answering submissions to the Section 231



Application on 28 February 2022 (the **Section 231 Answer**). This affidavit is filed in reply to the respondent's answering submissions.

4. To avoid prolixity and repetition, I do not respond *ad seriatum* to the Section 231 Answer. Any allegation not specifically traversed and that is inconsistent with what is stated in the Section 231 Application or this replying affidavit, should be deemed to be denied.
5. For ease of reading, I use the same abbreviations and terminology as used in the Section 231 Application and the Section 231 Answer, and I refer to the parties as "Trustco" and "the JSE". I refer to the reconsideration application to which this Section 231 Application relates as the **Suspension Reconsideration**.
6. I do not intend to address the merits of the Suspension Reconsideration as those should correctly be addressed during the Suspension Reconsideration itself.

#### **THE SECTION 231 ANSWER**

7. While suffering from erroneous factual assertions on which its legal submissions are then based, the JSE's Section 231 Answer can be summarized as follows:
  - 7.1. Whilst ignoring the factual assertions underpinning the strength and potency of the pending Review Application the JSE merely repeats that its Suspension Decision was indeed taken because Trustco refused to restate its financial statements, and because the Tribunal had refused the Initial Reconsideration Application;
  - 7.2. Knowing that it would be fatal to its case to ignore the existence and legal potency of the Review Application the JSE then takes issue with Trustco's institution of



interdict proceedings pending the outcome fo the Review Application and the urgency thereof;

7.3. Almost out of desperation, the JSE's then bases its opposition on an assertion that, prior to the release of Trustco's latest financial statements on 31 January 2022, Trustco actually and indeed gave the JSE an undertaking that it will restate its financial statements. With respect to the JSE, such an allegation is not true;

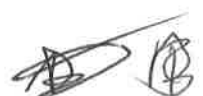
7.4. There is no real prejudice to Trustco if the Section 231 Application is not granted. In short, the JSE itself contends that, if a listed company is suspended from the JSE then that listed company does not suffer real prejudice. The incredulity of this position is so staggering that it is almost worth repeating in order for the impetuous and disingenuous nature thereof to be sufficiently exposed.

8. I deal with each of these in turn below.

## **THE SUSPENSION DECISION**

9. Throughout the Section 231 Answer, the JSE raises irrelevant allegations and issues which can only correctly be addressed either in the Review Application before the High Court or in the Suspension Reconsideration before this Tribunal. This is clearly done in an attempt to paint a picture of Trustco as a *mala fide* actor "*determined to litigate on every front to filibuster compliance with the Restatement Decision and the Tribunal's Order*". Such an approach by the JSE is unfortunate, and it indeed supports Trustco's Review Application to the hilt.

10. To be clear, Trustco has not "contemptuously refused" to restate its financial statements, Trustco is in the unenviable position where:



- 10.1. the JSE has taken issue with the presentation of Trustco's financial statements without identifying a single breach of law, regulation or IFRS standard. This resulted in the Restatement Decision which the Tribunal's Order upholds;
- 10.2. Trustco is genuinely aggrieved by the Tribunal's Order (in the Initial Reconsideration) and has launched a Review Application as a result;
- 10.3. the JSE is attempting to prematurely enforce the Restatement Decision through the Suspension Decision despite the JSE's approach being incorrect and highly prejudicial to Trustco, its 3 600 shareholders, including various international shareholders and its financiers.
11. As I have said, the merits of the Suspension Decision must be determined in the Suspension Reconsideration. I will confine my responses to only material and relevant aspects on the JSE's allegations below.
12. Firstly, the JSE alleges that "[t]he Suspension Decision accords with the General Principles of the Listings Requirements" and that "Trustco, by failing to implement the restatements, has failed to comply with IFRS" (which it is required to do in terms of the Listings Requirements).
13. In making these comments, the JSE fails to identify a single IFRS standard which Trustco breached – a failure which Trustco has repeatedly pointed out (see, for example, para 24.1 of the Suspension Reconsideration).
14. Secondly, whilst the JSE disputes Trustco's references to Section 236 of the FSR Act, at no point does the JSE engage properly with Trustco's actual complaint about its premature enforcement.
15. Section 236 provides as follows:

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***“236. Enforcement of Tribunal orders.—***

- (1) A party to proceedings on an application for reconsideration of a decision may file with the registrar of a competent court a certified copy of an order made in terms of section 234 if:*
- (a) no proceedings in relation to the making of the order have been commenced in a court by the end of the period for commencing such proceedings; or*
- (b) if such proceedings have been commenced, the proceedings have been finally disposed of.*
- (2) The order, on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in that court.”*

16. The JSE argues that it does not intend to enforce the Restatement Decision as a civil judgment and thus Section 236 of the FSR Act cannot have any application.
17. Regardless of whether the JSE applies to the registrar in terms of Section 236, Trustco is entitled to review the Tribunal's Order – the JSE does not dispute this. What the JSE studiously shies away from addressing is the practical question of what will happen if the Tribunal Order is set aside by the High Court in the Review Application and what the status of the Suspension will be in that instance.
18. On the JSE's logic:
- 18.1. Trustco, having restated its financials to the JSE's satisfaction, will then have to reverse and amend that restatement; and
- 18.2. Trustco will have had its listing suspended based on an incorrect decision and will have suffered all the disastrous effects of such a suspension (as traversed in the Section 231 Application).

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19. Such a result would be impractical and confusing to international investors, financiers and regulators – not to mention damaging to Trustco, its approximate 3 600 shareholders, its employees and contracting parties. The practical imperative to avoid absurd consequences of this sort is precisely why Section 236 finds application. It seeks to avoid a self-help situation – which is the process the JSE is busy embarking on. Trustco has at the very least, prima facie right, if not a clear right, to the relief as established within the ambit of Section 236.
20. Thirdly, on the issue of the authority of Mr Visser (again, an issue to be determined in the Suspension Reconsideration), I point out that:
- 20.1. the JSE's referral to the *Financial Markets Act, 2012 (FM Act)* does not assist. The wording of the FM Act does not obviate the JSE's obligations to comply with the *Companies Act, 2008 (Companies Act)* and its own MOI. The FM Act simply gives statutory permission – it does not mean that a delegation has in fact taken place and the FM Act certainly does not broaden the directors' powers under the MOI and it also does not validate ultra vires resolutions passed prior to its enactment; and
- 20.2. in the Section 231 Answer, the JSE refers to and attaches (RA5) the same resolution purporting to show Visser's authority that it provided previously (see A7 the grounds for the Suspension Reconsideration). Trustco has already addressed this resolution in the Suspension Reconsideration. I refer the Tribunal to what is said there but do not repeat it here.

## THE INTERDICTION

21. The JSE has now agreed not to implement the suspension of Trustco pending the outcome of this application and this ground of opposition has thus fallen away.



## **CORRESPONDENCE BEFORE THE JANUARY 2022 FINANCIAL STATEMENTS**

22. The JSE contends that it was misled by Trustco into believing during December 2021 and January 2022 that Trustco intended to restate its financial statements when it would published its financial statements in January 2022. This is not the case and is disingenuous on the part of the JSE.

22.1. In respect of the letter of 17 December 2021 (annexure B to the Section 231 Application), the point made by Trustco was simply this: the JSE would only be in a position to see whether the Restatement Decision had been addressed when it saw Trustco's latest financial statements, but the JSE was so eager to "punish" Trustco that it did not even wait for Trustco's financial statements before it determined that the Restatement Decision had not been implemented.

22.2. In respect of the letter of 26 January 2022, it is quite correct that Trustco's January 2022 financial statements did not give effect to the restatements – as I have explained, these financials alerted stakeholders in a comprehensive note, in the audit report as well as in the financial directors' report to the outcome of the Initial Reconsideration Application as well as of the launching of Trustco's Review Application.

## **PREJUDICE**

23. The JSE does not adequately engage on the issue of prejudice. I do not repeat the various forms of prejudice as I have listed these in paragraph 17 of the Section 231 Application. In response to the very serious prejudice that Trustco raises, the JSE responds that:

23.1. the prejudice Trustco enumerates is "suggested" rather than actual;



- 23.2. the JSE will suffer prejudice related to the orderly functioning of markets, corporate governance and the rule of law being called into question; and
- 23.3. Trustco's failure to "spell out the actual financial effect" of the restatements is highly prejudicial to shareholders, the market and investors renders the comments in Trustco's January 2022 financial statements worthless.
24. I have already referred earlier to the incredulity of the JSE's position that a suspension of a listed entity does not lead to real prejudice. It is further unclear how the JSE can say that the prejudice is merely "suggested" when Trustco has pointed it to:
- 24.1. two current transactions that will be adversely effected;
- 24.2. another ongoing transaction which is the subject of a cautionary SENS;
- 24.3. the disruption that the Suspension Decision will cause to the distribution of Trustco's minority shareholder funds; and
- 24.4. the fact (not suggestion) that a listing suspension will constitute an event of default with certain investors.
25. It should be highlighted that Trustco is currently in a closed trading period and would in fact breach the JSE's Listing Requirements if it makes public the detail of the above-mentioned transactions and how a suspension will cause specific damage in respect thereof. The JSE is very well aware of this and it is startling that they would make the submissions it has in this regard.
26. I must again reiterate that all information in relation to how the JSE requires Trustco to restate its financial statements are public information and the market has been informed of this through SENS announcements and in the latest unqualified audited financial statements published on 31 January 2022, its annually published Integrated





Report published on 1 February 2022 and in the audit report. The difference in interpretation between the JSE and Trustco is made pertinently clear in a comprehensive note contained in the financial statements, in the auditor's report and the financial directors' report. It is also in exactly the same terms as the JSE communicated it to Trustco. As the JSE confirmed in their answering affidavit in the urgent application before the High Court - an investor will look at the financial statements of a company. In view of this statement it is therefore perplexing how the JSE cannot appreciate that an investor will then undoubtedly note this particular aspect in any one of the three parts of the financial statements and integrated report where the matter is highlighted.

27. Trustco's financial statements thus affords the public with both the JSE's views as well as the views of Trustco, the opinions of its expert accredited JSE auditors and its expert accredited JSE advisors to enable an investor to make an informed decision. Had Trustco simply restated its financial statements in the manner required by the JSE and the Tribunal and it succeeds with its Review Application, the restated financial statement will have misled the public and resulted in the public relying on such restated financial statements to their detriment. The manner in which Trustco disclosed the decision of the JSE and the ruling of the Tribunal allows the public to assess the impact on Trustco's financial statements should the JSE and the Tribunal ultimately be proved to be correct, while at the same time disclosing what the position will remain to be, should Trustco ultimately be proven to have been correct.
28. It should also be made clear in relation to the unsubstantiated and unfair comments in relation to Dr Van Rooyen and his purported resistance to any restatement that:
  - 28.1. Dr Van Rooyen will be entitled to be repaid the underlying loans together with interest which will in itself be a large amount of money and he is the one who is



likely to benefit most from a restatement – it is the minority shareholders and Trustco itself that will be placed in an untenable position.

- 28.2. The matter must be seen in the context of the loan having been extended over a period of time and money had been paid to Trustco. Trustco always had the obligation to repay the loans with interest. The decision to waive the repayment of the loans was a unilateral decision of Dr Van Rooyen, who, through his investment entities, hold the majority of the shares in Trustco. Trustco's board of directors therefore welcomed the fact that Dr van Rooyen waived the loans as it provided a great deal of relief from a cash flow and liabilities perspective and improved Trustco's debt ratios.
- 28.3. The JSE clearly did not consider the consequences of a restatement and unsupported by facts, makes allegations which are incorrect and in fact wholly irrelevant to these proceedings. Dr Van Rooyen forgave a loan which was comprised of an aggregate of loans since 2011 in the amount of R 1,545,000,000 (One Billion Five Hundred and Forty Five Million Rand) in favour of Trustco. The amount of Trustco shares that Dr Van Rooyen received was 628,8000,8000 with a current value of approximately R 728,161,000.00 (Seven Hundred and Twenty-Eight Million One Hundred and Sixty-One Thousand Rand) at a share price of R1,30 as on close of business on Friday 4 March 2022. Trustco's Board of Directors do not want the responsibility and obligation to repay the loan together with accrued interest back to Dr Van Rooyen. In short, by reversing the transaction it will not only be to the detriment of Trustco but will also severely prejudice the minority shareholders of Trustco.



29. Moreover, the JSE seemingly puts forward its general obligations as a basis to contend for prejudice on its part – it is not stifled in performing these if it simply cannot suspend Trustco’s listing pending determination of the Suspension Reconsideration. The JSE’s purported prejudice is in fact suggested rather than actual. The JSE does not point to any actual concrete prejudice on its side. It merely offers abstract comments about corporate governance and the rule of law. The way Trustco addressed the difference in opinion between Trustco and the JSE was done in such a manner to avoid the proverbial unscrambling of the egg if the restatements are effected and Trustco is ultimately successful in its reconsideration and/or review application. Trustco is merely seeking to protect its constitutional rights to a just and fair administrative process which will be underpinned and rendered superfluous if the JSE is permitted to enforce its Suspension Decision in the interim.
30. The immovable stance that the JSE has adopted in respect of all of its dealings with Trustco stands in stark contrast to its treatment of other entities listed on the exchange. In particular, I refer to the JSE’s recent decision in respect of Oceana Group Limited. There, the JSE deemed it unnecessary to suspend Oceana Group’s listing, and opted not to do so on the basis that the relevant information in respect of the entity was in the public domain. A copy of the SENS announcement of 25 February 2022 is attached as “RA1”.
31. Finally, the JSE does not address the prejudice that will befall parties outside of Trustco – including the contractual counterparties, its international investors and current public shareholders. Taking into consideration that there was no element of fraud or malice but merely a difference of interpretation and application of IFRS accounting standards. All that Trustco seeks to do is to protect it and its stakeholders entrenched rights and have its dispute finally ventilated.

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32. As was highlighted in the urgent court proceedings, 73% of Trustco's roughly 3600 minority shareholders participated in a non-binding vote pursuant to which 99% of them endorsed Trustco's accounting treatment. A copy of the SENS announcement in this regard is attached as "RA2." The prejudice to the market that the JSE contends for, is artificial and devoid of reality.
33. It is also noteworthy that the JSE suggests that Trustco can simply bring further reconsideration and review applications after the suspension application has been ventilated – it is exactly this that Trustco is seeking to avoid. It wants the Review Application determined without interference with its rights pending that process. However, the JSE is the one who is forcing Trustco into these unnecessary continues reconsideration and review applications instead of allowing the Review Application to run its course to be determined in the High Court.

#### **DR VAN ROOYEN**

34. I do not intend to deal in detail with the background facts that were submitted but certain allegations requires a response.
35. It is denied that the switch from equity to liability was not disclosed to Trustco shareholders. The sale of shares agreement excluded the right to loan accounts. The documentation was approved by the JSE for release to shareholders. Thereafter the transaction was voted upon and approved by the shareholders of Trustco, prior to implementation of the transaction. It is important to note that Dr van Rooyen and his associates did not partake in voting on the transaction at the general meeting. Thereafter the accounting treatment of the transaction was approved by the shareholders of Trustco at the subsequent Annual General Meeting.

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36. Dr Quinton van Rooyen and his associates did not partake in the voting for the transaction at the general meeting, because and due to the fact that this is a related party transaction and for that reason they were specifically excluded from voting on the transaction.
37. The JSE stipulate that neither Dr Quinton van Rooyen nor Trustco explained why Dr Quinton van Rooyen forgave the loan, which is devoid of any truth. Firstly, the JSE has never send any correspondence addressed directly to Dr Quinton van Rooyen. Secondly, all correspondence was addressed to Trustco and related not to the state of mind of Dr Quinton van Rooyen, but more to the accounting treatment thereof.
38. Trustco addressed the reasons for the forgiveness of the loans in various instances, but the JSE prefers to ignore the information in the format as it was presented. Albeit repetitive, I would again provide some of the reasons:
- 38.1. Dr Quinton van Rooyen and his associates are the majority owned shareholder of Trustco (latest published information confirmed shareholding at 63.97%).
- 38.2. It is normal practice that should a company require additional investment / funding / need to bolster the balance sheet, the shareholders would need to provide such investment in any form necessary or available, should third party investment not be available (whether in equity or debt). Dr Van Rooyen forgave the loan and no Trustco Board member even considered to ask Dr van Rooyen to renounce the position and to enforce his loan since that would not have been in the company's interest.
39. Fact of the matter is Dr Van Rooyen advanced loans to Trustco since 2011 and it increased incrementally over time. Trustco received the funds and incurred an obligation to repay the loans with interest. The waiver of the loans was welcomed by

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Trustco's Board of Directors. Trustco's Board of Directors had an obligation to reflect the transaction in its annual financial statements which it did after obtaining independent expert advice from its IFRS advisors and then audited by its JSE accredited auditors.

## CONCLUSION

40. In conclusion, I persist with the submission that Trustco has made out a proper case for the Suspension Decision not to be implemented pending the outcome of the Reconsideration Application.
41. I also reiterate that this matter must be seen in the context of:
- 41.1. Trustco's Board of Directors did not unilaterally decide how to reflect the loan forgiveness and transactions in its annual financial statements. It took expert advice from its JSE accredited advisors. When Trustco received the advice from its JSE accredited experts, the Board of Directors took the advice into consideration, made a business judgement decision based on the advice it received and implemented the decision in a bona fide manner. The Trustco board did not at the time have any contradictory opinions and thus followed the expert advice received from their JSE accredited advisors as any prudent board of directors would be expected to have done
- 41.2. the underlying issue to all of this therefore being a bona fide dispute relating to the application of complicated IFRS accounting standards of significant importance to Trustco and its minority shareholders which has now culminated in a Review Application – Trustco seeks to preserve the status quo pending determination of these matter.



42. The prejudice and irreparable damage that Trustco and its stakeholders will suffer is self-evident.
43. On the other hand the JSE or market will suffer no harm or prejudice. There is simply no imminent need for the Suspension Decision to be implemented.

  
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**RIAAN BRUYNS**

**SIGNED** and **SWORN** to before me at WINDHOEK on this the 07<sup>th</sup> day of **March 2022** by the deponent who has acknowledged that he knows and understands the contents of this affidavit; that he has no objection to taking the prescribed oath and that he considers the prescribed oath to be binding on his conscience.

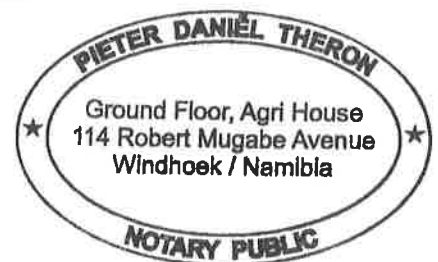
  
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**COMMISSIONER OF OATHS**

Full names:

Capacity:

Address:



Update Announcement Regarding Release Of Financial Results And Forensic Investigations

OCEANA GROUP LIMITED  
(Incorporated in the Republic of South Africa)  
(Registration number: 1939/001730/06)  
JSE share code: OCE  
NSX share code: OCG  
ISIN: ZAE00025284  
("Oceana" or "the Company")

UPDATE ANNOUNCEMENT REGARDING RELEASE OF FINANCIAL RESULTS AND FORENSIC INVESTIGATIONS

The Company advised shareholders through a SENS announcement on 10 February 2022 of a further delay in publishing the provisional annual financial statements of the Company for the year ended 30 September 2021 ("Provisional Report").

ENSAfrica Forensics' independent forensic investigation referred to in the aforementioned announcement is expected to be completed on 4 March 2022. The Company is working closely and urgently with ENSAfrica Forensics to finalise the investigation in order for the auditors to complete the review and audit procedures. The board anticipates, following discussion with PwC, that the reviewed Provisional Report will be released by 9 March 2022 and that the annual financial statements of the Company for the year ended 30 September 2021 ("AFS") will be released by 25 March 2022.

The current CFO remains on precautionary suspension pending a disciplinary process. A grievance has been lodged by the CFO in relation to the suspension and a disciplinary process is also pending. The issues being addressed as part of the disciplinary process do not pertain to matters which are related to the financial information of the Company, nor do they include alleged complicity on the part of the CFO in respect of the subject matter of the investigation. So as not to jeopardise the pending process relating to the CFO and to respect the employment law rights and obligations of all concerned, the Company considers that it is not appropriate to provide further details at this stage.

As previously advised, the former CEO voluntarily resigned his employment with the Company in accordance with his contract of employment. When the CEO submitted his resignation, the Company had already commenced (but had not completed) a process with the CEO to deal with certain of the matters which related to the CEO's conduct and which had been investigated or arose during the investigations conducted by ENSAfrica Forensics. However, the CEO's reasons for resigning when he did are personal to the CEO and the Company cannot speak for him, but the Company is of the view that the CEO's actions and reasons for his resignation did not result in financial losses to the Company nor did it directly contribute to the inability of the Company to publish its financial information in a timely manner. The Company and the former CEO undertook mutual obligations of confidentiality in relation to the CEO's departure and, while the Company's obligations were qualified in this regard, the Company considers that it is not appropriate to provide further details at this stage.

The board wishes to advise, based on the preliminary feedback received from ENSAfrica Forensics, that no current or former employees and/or directors are likely to be implicated in any matters resulting in financial loss to the Company and furthermore that none of the matters considered as part of the ENSAfrica Forensics investigation is likely to result in a financial loss to the Company. The board confirms that based on the preliminary feedback, ENSAfrica Forensics did not identify any evidence of fraud or criminal conduct.

A detailed summary of the findings of the forensic investigation completed in December 2021, as well as a preliminary update on the forensic investigation pertaining to the insurance matter, is available on the Company's website at <https://oceana.co.za/investors/sens-announcements/>

The board confirms that the Group's operations and the operations of its various subsidiaries under the leadership of interim CEO Neville Brink remain unaffected by the matters described above.

Shareholders should however continue to exercise caution when trading in their Oceana shares, until a further announcement in relation to the Provisional Report is made.

Cape Town  
25 February 2022

Sponsor - South Africa  
The Standard Bank of South Africa Limited

Sponsor - Namibia  
Old Mutual Investment Services (Namibia) Proprietary Limited

Date: 25-02-2022 07:05:00

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**TRUSTCO GROUP HOLDINGS LIMITED****Incorporated in the Republic of Namibia****(Registration number 2003/058)****Registered as an external company in South Africa****(External registration number 2009/002634/10)****JSE share code: TTO****NSX share code: TUC****OTCQX share code: TSCHY****ISIN Number: NA000A0RF067****("Trustco" or "the Group")****UPDATE ON NON-BINDING ADVISORY VOTE**

Trustco Shareholders are referred to the announcements released on SENS on 1 December 2021 and 3 December 2021 in terms whereof minority shareholders were encouraged to cast their non-binding advisory votes on key matters. This non-binding advisory vote enabled Shareholders to express their views after an interactive online session with board members and the independent non-executive chairman of the board, Adv Raymond Heathcote SC. A large group of the minority Shareholders indicated that they obtained independent financial and legal advice before casting their vote.

The online session was for the benefit of the minority Shareholders, who would ordinarily only be able to engage the Chairman and the Board as a collective at an Annual General Meeting. The session was attended by 76.73% of all the minority shareholders.

The calculation of the percentage of non-binding advisory votes was determined by using the total issued shares (less treasury shares) and also excluding all shares held by the majority Shareholder and his associates (approximately 64% of the total issued shares). Of the total remaining shares, 73.13% of all minority Shareholders voted.

Of the Shareholders that voted before the deadline, the outcome of the non-binding advisory vote was as follows:

No	Key matter	For % of shares that voted	Against % of shares that voted	Abstain % of shares that voted
1.1	To endorse and confirm the accounting treatment of the NAD 546 million loan forgiveness transaction by the majority shareholder, Next Capital Limited as set out in the audited financial statements (Note 26, Page 65 of the March 2019 Annual Financial Statements).	99.25%	0%	0.75%
1.2	To endorse and confirm the accounting treatment of the NAD 1 billion loan forgiveness transaction by the majority shareholder, Next Capital Limited, as set out in the audited financial statements (Note 27, Page 153 of the September 2020 Financial Statements).	99.24%	0.01%	0.75%
1.3	To endorse the accounting treatment of the property reclassification as set out in the audited financial statements (Note 8, Page 49 of the March 2019 Annual Financial Statements)	99.24%	0.01%	0.75%
2.1	To confirm and endorse the auditors' opinions as contained in the audited financial statements for the financial year ending March 2019.	99.25%	0%	0.75%
2.2	To confirm and endorse the auditors' opinions as contained in the audited financial statements for the financial period ending September 2020.	99.25%	0%	0.75%
3	To confirm and agree that the Board followed due process and remains best placed to do so in the future, in recommending the financial statements to the shareholders for approval.	99.25%	0%	0.75%
4.1	To endorse that the loan write-offs set out in 1.1 and 1.2 above triggered a contractual earn-out clause in terms of the amended Huso Transaction as approved by Shareholders on 13 June 2017.	99.22%	0%	0.78%
4.2	To endorse that the share issue at NAD 4.69 was in line with the amended Huso Transaction as previously approved by Shareholders on 13 June 2017.	99.22%	0%	0.78%

4.3	To endorse the amended Huso Transaction as approved by Shareholders on 13 June 2017.	97.70%	0%	2.30%
4.4	To endorse the Related Party Loan Transaction (One Billion Namibia Dollar Loan) as approved by Shareholders on 22 January 2019.	97.70%	0%	2.30%
4.5	To confirm that the Board acted in the best interest of minority Shareholders by accepting the total of NAD1.546 billion loan write-offs by the majority shareholder to Trustco.	97.72%	0%	2.28%
5	To confirm that the information and disclosures (including pro forma financial information) presented to Shareholders in the Huso circular, the amended Huso circular and the audited financial statements were adequate to approve the Huso Transaction, the amended Huso Transaction and the Related Party Loan Transaction.	97.70%	0%	2.30%
6.1	The Board is considering its options regarding the benefits of Trustco's current listings. To move a listing to a more beneficial exchange, a majority vote from minority Shareholders is required. Should Trustco delist from the JSE, Trustco would also automatically delist from the NSX in Namibia and the OTCQX in the United States of America.  To support the Board's position that Trustco's current listings are not in the best interest of all Shareholders.	99.59%	0.36%	0.05%
6.2	To support the Board's position for Trustco to list on a business-friendly international exchange as soon as practical.	99.23%	0.02%	0.75%
7.1	To elect to remain as a Shareholder in an unlisted environment until Trustco relists on an international stock exchange within a period of not more than 36 (thirty-six) months from the date of delisting from the JSE ("Delisting Date")  Should Trustco fail to relist on an international exchange within 36 (thirty-six) months from the Delisting Date, Shareholders may give notice of their intention to sell their shares to Trustco at a price of 10% above the average VWAP price of the TTO Share between the 1 <sup>st</sup> of	99.94%	0.02%	0.04%

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	January 2021 to the 30 <sup>th</sup> of November 2021 plus 8.5% compound interest from the Delisting Date to the end of the 36 (thirty-six) month period.			
7.2	To elect not to remain a Shareholder after delisting, with Trustco acquiring the Shareholder's Trustco shares ("TTO Shares") within 36 (thirty-six) months from the Delisting Date at a price of 10% above the average VWAP price of the TTO Share between the 1 <sup>st</sup> of January 2021 to the 30 <sup>th</sup> of November 2021.	93.85%	6.08%	0.07%
8	As a minority Shareholder, to consent to a reduced timeframe for the above delisting transactions when a formal vote is required.	99.92%	0.04%	0.04%
9	To agree that any announced transactions currently in process be implemented subsequent to the potential delisting.	99.24%	0%	0.76%
10	To hold the responsible parties, jointly and severally, accountable for shareholder value destruction during the process.	98.08%	1.86%	0.06%

The Board welcomed the input as received from the minority Shareholders and noted the contents thereof. The minority Shareholders concurred that they benefitted from the loan write-offs by the majority Shareholder and therefore endorse it. The Shareholders further opined that they don't believe Trustco's current listings are in the best interest of all Shareholders.

"We take note of the direction minority Shareholders have indicated to us. The Board will consider the outcome of the votes to develop an optimal roadmap forward for all Trustco Shareholders. I thank each and every Shareholder who made their voice known in this non-binding advisory vote, despite inconvenient time zones. We listened, and any action resulting from the engagement with minority Shareholders, will be implemented in accordance with the Listings Requirements" said Chairman Heathcote.

Windhoek, Namibia,  
8 December 2021

**Komada Holdings (Pty) Ltd**  
**Company Secretary and Investor Relations Services to Trustco Group Holdings Limited**

**JSE Sponsor**

Vunani Corporate Finance – Johannesburg

**NSX Sponsor**

Simonis Storm Securities Proprietary Limited – Windhoek

**OTCQX Sponsor**

J.P Galda & Co – New York

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**THE FINANCIAL SERVICES TRIBUNAL**

In the matter of:

**TRUSTCO GROUP HOLDINGS LIMITED**

Applicant

and

**JSE LIMITED**

Respondent

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**SUPPLEMENTARY AFFIDAVIT (IN SUSPENSION APPLICATION IN TERMS OF  
SECTION 231 OF THE FINANCIAL SECTOR REGULATION ACT. 9 OF 2017)**

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I, the undersigned

**RIAAN BRUYNS**

do hereby make oath and state as follows:

1. I am an adult male employed as the internal legal adviser and general counsel of applicant at its principal place of business at Trustco House, 2 Keller Street, Windhoek, Namibia.
2. The facts herein contained are within my personal knowledge, save where otherwise stated or the context indicated to the contrary and are to the best of my knowledge and belief both true and correct.
3. I am the deponent to the replying affidavit in this application.
4. The purpose of this affidavit is to correct a typographical error made in the replying affidavit that could cause confusion on the part of the reader of the affidavit.


**BORRIS ERASMUS**  
Ground Floor, Agri House  
114 Robert Mugabe Avenue  
Windhoek, Namibia  
**NOTARY PUBLIC**



5. In paragraph 28.3 of the replying affidavit I mention that Dr van Rooyen was issued with 628,8000,8000 shares. This number is incorrect and should have been 628,800,000 shares.
6. I trust that the above clarification would remove any confusion that this might have created.

  
\_\_\_\_\_  
**RIAAN BRUYNS**

**SIGNED** and **SWORN** to before me at Windhoek on this the 8<sup>th</sup> day of **March 2022** by the deponent who has acknowledged that he knows and understands the contents of this affidavit; that he has no objection to taking the prescribed oath and that he considers the prescribed oath to be binding on his conscience.

  
\_\_\_\_\_  
**COMMISSIONER OF OATHS**

Full names: **BORRIS ERASMUS**

Capacity: \*

Address: **Ground Floor, Agri House  
114 Robert Mugabe Avenue  
Windhoek / Namibia** \*

**NOTARY PUBLIC**