



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$3.20

WINDHOEK - 23 October 2023

No. 8481

CONTENTS

Page

GENERAL NOTICE

No. 660 Namibian Competition Commission: Notice in terms of section 41 of the Competition Act, 2003..... 1

General Notice

NAMIBIAN COMPETITION COMMISSION

No. 660

2024

NOTICE IN TERMS OF SECTION 41 OF THE COMPETITION ACT, 2003

The Namibia Competition Commission, in terms of section 41 of the Competition Act, 2003 (Act No. 2 of 2003), herewith gives notice that it intends to submit to the Court for confirmation as an order of the Court, a consent agreement entered into with Momentum Short-Term Insurance Limited on 30 August 2024.

Section 40 of the Competition Act, 2003 mandates the Namibian Competition Commission to enter into settlement agreements with the undertaking or undertakings concerned, setting out the terms to be submitted by the Commission by application to the Court for confirmation as an order of the Court.

The Consent Agreement, upon confirmation as an order of the Court, shall be in full and final settlement of the Investigation under case number 2016OCT0008COMP in respect of Momentum Short-Term Insurance Limited.

V. NDALIKOKULE
CHIEF EXECUTIVE OFFICER AND
SECRETARY TO THE COMMISSION

NAMIBIAN COMPETITION COMMISSION**AMENDMENT OF GOVERNMENT GAZETTE NO. 8449, GENERAL NOTICE NO. 551:
NOTICE OF CONSENT AGREEMENT TO BE SUBMITTED TO COURT: NAMIBIAN
COMPETITION COMMISSION // OLD MUTUAL SHORT-TERM INSURANCE COMPANY
LIMITED**

(CASE NO.: 2016OCT0008COMP)

Competition Act, 2003
(Section 41, Rule 20(1))

1. The Commission on or about 24 November 2016 initiated an investigation against:
 - 1.1 Old Mutual Short-Term Insurance Company (“OMSIC”);
 - 1.2 Outsurance Insurance Company Limited (“Outsurance”);
 - 1.3 Phoenix Assurance Namibia Limited (“Phoenix”); and
 - 1.4 Momentum Short-Term Insurance Limited (“Momentum”);

(jointly referred to as “the Respondents”).
2. The Commission on or about 27 April 2018 gave notice of its preliminary decision (Form 6 Notice) that section 23(1) read with sections 23(2)(a) and 23(3)(a) of the Competition Act, 2003 (Act No. 2 of 2003) (“the Act”) have been contravened by the Respondents. On or about 21 August 2019, the Commission issued a Form 7 Notice advising the Respondents that it planned to take action in terms of section 38 of the Act and providing reasons for the Commission’s decision. The Form 7 Notice was published in the *Gazette* on 5 September 2019.
3. In settlement of the investigation by the Commission, the Commission and Momentum on 30 August 2024 entered into a Consent Agreement in terms of section 40 of the Act. The Commission accordingly gives notice that it intends to submit the attached Consent Agreement with Momentum to the High Court of Namibia for confirmation as an order of the Court as contemplated in section 40(1) of the Act.
4. The nature of the conduct that is the subject of the consent agreement is:
 - 4.1 The Commission’s Investigation found that Momentum has contravened section 23(1) read with sections 23(2)(a) and 23(3)(a) of the Act.
 - 4.2 Momentum denies that it has contravened the provisions of the Act by the Commission. However, for the purposes of settlement, Momentum will nevertheless ensure that its seniors are made aware of the Commission’s findings against other short-term insurers as part of its general competition law awareness training and have only agreed to settle case number HC-MD-CIV-ACT-OTH-2022/00404 to avoid incurring further costs on the following basis, which is in full and final settlement of the case.
 - 4.3 The Commission and Momentum have therefore agreed to settle the matter on the terms and conditions herein in full and final settlement.

**V. NDALIKOKULE
SECRETARY TO THE COMMISSION
NAMIBIAN COMPETITION COMMISSION**

THE HIGH COURT OF NAMIBIA
(Main Division)

Case No.: **HC-MD-CIV-ACT-OTH-2022/00404**

In the matter between:

NAMIBIAN COMPETITION COMMISSION Applicant

and

MOMENTUM SHORT-TERM INSURANCE LIMITED Respondent

**CONSENT AGREEMENT BETWEEN THE APPLICANT AND THE RESPONDENT IN
TERMS OF SECTION 40 OF THE COMPETITION ACT NO. 2 OF 2003**

Namibia in terms of section 40 read with section 52 of the Act in the terms set out below:

1. PREAMBLE

WHEREAS, the Commission and the Respondent have agreed to enter into this Consent Agreement in full and final settlement of case number HC-MD-CIV-ACT-OTH-2022/00404.

NOW THEREFORE, the Commission and the Respondent hereby agree that an application be made to the High Court of Namibia for confirmation of this Consent Agreement as an order of the High Court of Namibia in terms of section 40 read with section 52 of the Act in the terms set out below:

1. DEFINITIONS

In this Consent Agreement, unless the context indicates otherwise, the following definitions shall apply:

- 1.1 **“Act”** means the Competition Act, 2003 (Act No. 2 of 2003).
- 1.2 **“Commission”** means the Namibian Competition Commission, a juristic person as established in terms of section 4 of the Act.
- 1.3 **“Consent Agreement”** means this Consent Agreement, duly signed and concluded between the Commission and the Respondent, as contemplated in section 40(1) of the Act.
- 1.4 **“Day(s)”** means calendar days.
- 1.5 **“Respondent”** means **Momentum Short-Term Insurance Limited**, a company duly incorporated in accordance with the laws of the Republic of Namibia.

2. BACKGROUND

- 2.1 In February 2022, the Commission instituted proceedings in the High Court of Namibia under the above case number, following an investigation in which it had concluded that some short-term insurance companies had engaged in conduct that contravened section 23(1) of the Act (read with section 23(3)(a) of the Act). In May 2022, the Respondent filed a notice of intention to defend the matter.

- 2.2 The Respondent denies that it contravened the provisions of the Competition Act.
- 2.3 The Respondent will, nevertheless, ensure that its senior employees are made aware of the Commission's findings against other short-term insurers as part of its general competition law awareness training.
- 2.4 The parties have only agreed to settle case number HC-MD-CIV-ACT-OTH-2022/00404 to avoid incurring further costs on the following basis, which is in full and final settlement of the case.

3. SETTLEMENT AMOUNT

- 3.1 The Respondent agrees to pay a total settlement amount of **N\$1000 000.00** (One Million Namibian Dollars), which will be attributed as follows:
 - 3.1.1 N\$700,000.00 (Seven Hundred Thousand Namibian Dollars) which the Commission will pay into the State Revenue Fund;
 - 3.1.2 N\$300,000.00 (Three Hundred Thousand Namibian Dollars) as a contribution to the Commission's costs incurred in relation to this matter;
- 3.2 This amount becomes payable upon confirmation of this Consent Agreement as an order of the Court;
- 3.3 The Respondent shall remit payment of the penalty through an electronic funds transfer into the Applicant's bank account, of which the details are:

Name of Account holder:	NAMIBIAN COMPETITION COMMISSION
Bank Name:	BANK WINDHOEK
Account Number:	8001663543
Branch:	Main Branch
Branch code:	481972
Reference:	2016OCT0008COMP

4. COURT ORDER

- 4.1 The Consent Agreement is conditional upon it being confirmed as an order of the Court. Should the Court not confirm the Consent Agreement, all terms of the Consent Agreement shall lapse and have no force and effect and will not be used as evidence against either party in any proceeding whatsoever.

5. FULL AND FINAL SETTLEMENT

- 5.1 The Consent Agreement, upon confirmation as an order of the Court, shall be in full and final settlement of the disputes between the parties and shall conclude the proceedings under case number HC-MD-CIV-ACT-OTH-2022/00404.

FORM 10

**NAMIBIAN COMPETITION COMMISSION
NOTICE OF CONSENT AGREEMENT TO BE SUBMITTED TO COURT**

COMPETITION ACT, 2003
(Section 41, Rule 20(1))

NAMIBIAN COMPETITION COMMISSION //
MOMENTUM SHORT-TERM INSURANCE LTD

1. The Commission initiated an investigation against the above-named respondent on **29 August 2016** and has given notice of its proposed decision on 27 April 2018.
2. The Commission gives notice that it intends to submit the attached consent agreement with Momentum Short-Term Insurance Limited to the Court for confirmation as an order of the Court as contemplated in section 40(1) of the Act.
3. The nature of the conduct that is the subject of the consent agreement is alleged contraventions of sections 23(1), 23(2)(a) and 23(3)(a) of the Act by short-term insurance companies. Momentum Short-Term Insurance Limited denies any wrongdoing and has agreed to settle case number HC-MD-CIV-ACT-OTH-2022/0040 to avoid incurring further costs on the basis set out in the consent agreement, annexed hereto.

**V. NDALIKOKULE:
SECRETARY TO THE COMMISSION
NAMIBIAN COMPETITION COMMISSION**
