

THE TAKEOVER REGULATION PANEL: STATEMENT OF THE TAKEOVER REGULATION PANEL ON NOVUS HOLDINGS LIMITED, NUMUS CAPITAL PROPRIETARY LIMITED AND MUSTEK LIMITED

1. Introduction

- 1.1. On 24 December 2025, the Takeover Regulation Panel (the "Panel") issued a ruling (the "Ruling") in relation to the mandatory offer for Mustek Limited ("Mustek") announced by Novus Holdings Limited ("Novus") on 15 November 2024.
- 1.2. The Ruling concludes an investigation initiated following complaints lodged in June 2025 regarding potential undisclosed concert party relationships in connection with the Novus mandatory offer. The Panel appointed an inspector under section 169 (read with section 209) of the Companies Act, No. 71 of 2008 (the "Act"), who reported findings under section 170(1).
- 1.3. During the investigation, certain respondents asserted that information provided to the Panel was confidential. The Panel considered these claims in accordance with section 212 of the Act and addressed them in the Ruling.
- 1.4. The Panel has determined, in terms of section 212(3), that the information in the Ruling is not confidential. The claims did not satisfy the requirements of section 212(2), which requires a written statement explaining why information is confidential.
- 1.5. Notwithstanding this determination, and in recognition of the statutory architecture of sections 212(6) and 212(7)—which afford parties claiming confidentiality an opportunity to seek court protection before publication of reasons—the Panel has deferred publication of the full Ruling pending the conclusion of the relevant statutory periods.
- 1.6. The Panel has further had regard to the respondents' indication, following delivery of the Ruling, that they intend to seek a hearing before the Takeover Special Committee (the "TSC") in terms of Regulation 118(8) of the Companies Regulations, 2011 (the "Regulations"). This merits review is a separate process from any confidentiality dispute.
- 1.7. The Panel has determined that the public interest in market integrity and shareholder protection requires the immediate publication of this statement, which summarises the Panel's determinations, findings, and orders.

- 1.8. The full Ruling will be published on the Panel's website, Mustek's website, and via SENS at such time as the Panel considers appropriate, having regard to:
 - 1.8.1. the conclusion of the statutory periods prescribed in sections 212(6) and 212(7);
 - 1.8.2. the conclusion of any TSC proceedings; and
 - 1.8.3. the interests of market transparency.
- 1.9. For the avoidance of doubt, the regulatory orders contained in the Ruling take immediate effect, as set out in paragraph 4 below. The deferral of publication applies only to the release of the full text of the Ruling; it does not suspend the operation of the orders.

2. **Background**

- 2.1. On 15 November 2024, Novus announced a mandatory offer for Mustek at R13.00 per share, triggered by Novus having acquired beneficial interests in securities such that it held more than 35% of the issued shares of Mustek.
- 2.2. Complaints were lodged with the Panel in June 2025 alleging that Numus, a licensed financial services provider operating as a broker and hedge fund manager, had acted in concert with Novus in relation to the mandatory offer without disclosure.
- 2.3. The Panel's investigation examined the relationship between Novus and Numus, the accumulation of Mustek shares and CFD positions, trading patterns, and the circumstances surrounding the mandatory offer.

3. **The Panel's Findings**

Following consideration of the inspector's report and comprehensive representations from the respondents over a three-month period, including sworn affidavits and supplementary submissions, the Panel has made the following determinations:

3.1. **Concert Party Determination**

The Panel has determined that Numus Capital Proprietary Limited acted in concert with Novus Holdings Limited in relation to the mandatory offer for Mustek, within the meaning of section 117(1)(b) of the Act.

3.1.1. **The Statutory Test**

3.1.1.1. Section 117(1)(b) defines "act in concert" as:

"any action pursuant to an agreement between or among two or more persons, in terms of which any of them co-operate for the purpose of entering into or proposing an affected transaction or offer."

3.1.1.2. The Panel applied a four-element test derived from this provision:

3.1.1.2.1. action pursuant to an agreement;

3.1.1.2.2. between or among two or more persons;

3.1.1.2.3. in terms of which any of them co-operate; and

3.1.1.2.4. for the purpose of proposing an affected transaction.

3.1.2. Factual Basis

The concert party determination rests on the following established facts:

3.1.2.1. Mustek-specific mandate

A brokerage mandate specifically concerning Mustek securities was established between Numus and a Novus subsidiary in August 2023, approximately 14 months before the mandatory offer announcement.

3.1.2.2. Structural integration

Novus's strategic controller routinely operated from Numus's premises at Suite 704, 76 Regent Road, Sea Point, pursuant to informal arrangements with an entity controlled by that individual.

3.1.2.3. Anticipatory positioning

The Numus hedge fund commenced accumulating Mustek shares in April 2024, 44 days before any documented instruction from Novus, using infrastructure established under the Mustek-specific mandate.

3.1.2.4. Price engineering

Trading data evidenced a systematic shift from variable market pricing to purchasing systematically at R13.01 per share in the months preceding the offer, one cent above the eventual offer price of R13.00.

3.1.2.5. Coordination mechanism

All trading instructions originated verbally from Novus's strategic controller directly to Numus, bypassing the designated corporate representative specified in the brokerage mandate. Post-execution confirmations documented this coordination.

3.1.2.6. Absence of conflict management

Despite the obvious conflict of interest arising from proprietary trading in the same security being accumulated for a client, Numus produced no documentation of Chinese wall procedures, compliance monitoring, or information barrier protocols.

3.1.3. Evidentiary Basis

The determination rests on contemporaneous documentary evidence provided by the respondents themselves, including:

- 3.1.3.1. email correspondence dated 17 July 2024 recording an agreed strategy between Numus and the prime broker to cap CFD positions and convert excess holdings to physical shares, directly contradicting sworn testimony claiming ignorance of hedging arrangements;
- 3.1.3.2. a written instruction dated 12 November 2024 from Numus to the prime broker stating "please also convert all the MST to stock at cost", demonstrating operational control over underlying shares irrespective of ISDA documentation;
- 3.1.3.3. client mandates establishing that Numus's purported "independent client base" for Mustek trading comprised private investment vehicles of Novus's own directors; and

- 3.1.3.4. internal Novus board documents describing CFD positions as "shareholding," "23% of the equity," and "funding", proving contemporaneous understanding that CFDs created beneficial interests in Mustek securities.

3.1.4. Credibility Findings

- 3.1.4.1. The Panel found material contradictions between sworn testimony and objective documentary evidence. In particular:

- 3.1.4.1.1. A sworn statement that Numus "did not provide any input on timing, pricing, or stake-building strategy" was contradicted by email sequences documenting precise timing, price parameters, and strategic coordination.

- 3.1.4.1.2. A sworn statement of ignorance regarding the mandatory offer was contradicted by the Mustek-specific mandate established 14 months earlier and by public statements from Novus's chief executive confirming strategic intent from initial engagements.

- 3.1.4.1.3. A sworn statement of ignorance regarding hedging arrangements was directly contradicted by contemporaneous email correspondence detailing the arrangements.

- 3.1.4.2. Where objective documentary evidence contradicted sworn assertions, the Panel preferred the contemporaneous documentary record.

3.1.5. Interpretive Approach

- 3.1.5.1. The Panel applied the interpretive framework mandated by sections 5(1), 7, and 158 of the Act, which require purposive interpretation to give effect to the Act's objectives of transparency, market integrity, and shareholder protection.

- 3.1.5.2. The Panel held that "agreement" in section 117(1)(b) encompasses tacit understandings inferred from deliberate,

sustained, and mutually reinforcing patterns of conduct. Requiring explicit written documentation would defeat the statutory purpose and enable sophisticated circumvention of shareholder protection requirements.

3.2. Beneficial Interest Determination

The Panel has determined that Novus held a beneficial interest in the underlying Mustek securities acquired through contracts for difference ("CFDs"), notwithstanding the contractual cash-settlement provisions of those instruments.

3.2.1. Statutory Basis

The finding rests on two independent statutory foundations:

3.2.1.1. Section 1 of the Act (Direct Beneficial Interest)

Novus held a beneficial interest "through ownership, agreement, relationship or otherwise" by virtue of consistent control over the disposition of the underlying shares. The evidence established that Novus identified specific shareholders for solicitation, directed transfers between prime brokers, and acquired 100% of the hedge shares upon CFD termination.

3.2.1.2. Section 56(2)(c) of the Act (Deemed Beneficial Interest)

Novus held a deemed beneficial interest through "co-operation for acquisition" with the prime brokers, as evidenced by active solicitation at Novus's direction, coordinated transfers, and simultaneous exit transactions.

3.2.2. Substance Over Form

The Panel held that ISDA documentation describing CFDs as "cash-settled" does not determine beneficial interest for regulatory purposes. The statutory inquiry focuses on operational reality. Where evidence demonstrates consistent control over disposition, that control constitutes beneficial interest regardless of contractual characterisation.

3.2.3. The Respondents' Own Characterisation

3.2.3.1. The Panel placed significant weight on the respondents' context-dependent characterisations:

3.2.3.1.1. In internal board documents seeking strategic authority, CFD positions were described as "shares," "shareholding," and "23% of the equity."

3.2.3.1.2. In defence submissions to the Panel, the same positions were characterised as "mere derivatives" creating "no beneficial interest."

3.2.3.2. This context-dependent characterisation, ownership language internally, derivative language in defence, demonstrates consciousness of the regulatory significance and proves the respondents understood CFDs created beneficial interests.

3.3. Section 122 Disclosure Breach

3.3.1. The Panel has determined that Novus breached section 122 of the Act by failing to disclose its beneficial interests in Mustek securities at the prescribed thresholds of 5%, 10%, 15%, and 20%.

3.3.2. The CFD structure operated as a vehicle for covert accumulation of beneficial interest, enabling Novus to build a position exceeding 23% while avoiding any disclosure. This constitutes a serious breach of the transparency principles fundamental to Chapter 5 of the Act.

3.4. Rejection of Respondents' Defences

The Panel considered and rejected the following defences:

3.4.1. The "Pure Agency" Defence

3.4.1.1. The respondents contended that Numus acted solely as a non-discretionary broker executing client instructions.

3.4.1.2. The Panel rejected this defence. Numus's activities constituted "additional steps" that transformed the relationship from service provision to collaborative participation, including anticipatory positioning prior to client instructions, systematic

price engineering, structural integration, and economic alignment with transaction success.

3.4.2. The "Independence" Defence

3.4.2.1. The respondents contended that the Numus hedge fund traded independently.

3.4.2.2. The Panel rejected this defence as commercially irrational. An independent broker competing with its largest client for shares in an illiquid stock would be engaging in self-destructive behaviour. The absence of any commercial rationale for such competition proves the characterisation is false.

3.4.3. The "Chinese Walls" Defence

3.4.3.1. The respondents contended that effective information barriers existed.

3.4.3.2. The Panel rejected this defence. No documentation of Chinese wall procedures or compliance monitoring was produced. The complete absence of conflict management documentation establishes that no genuine segregation existed.

3.4.4. The "Explicit Agreement" Defence

3.4.4.1. The respondents contended that concert party status requires an explicit written agreement.

3.4.4.2. The Panel rejected this defence. Such an interpretation would render the statutory scheme ineffective by enabling sophisticated parties to avoid documentation while maintaining operational coordination.

3.5. Regulation 111(6) Price Adjustment

The Panel has determined that the mandatory offer consideration must be increased from R13.00 to R15.41 per share.

3.5.1. The Trigger

On 28 November 2024, the Numus hedge fund purchased 3,000 Mustek shares at R15.41 per share, an 18.54% premium to the R13.00 offer price. This acquisition occurred during the offer period by a party determined to have been acting in concert with Novus.

3.5.2. The Statutory Mechanism

Regulation 111(6) of the Regulations provides that if the offeror or any person acting in concert with the offeror acquires securities above the offer price during the offer period, the offer consideration must be increased to match the highest price paid.

3.5.3. Retrospective Application

3.5.3.1. The Panel held that concert party status is factual, not constitutive. The determination declares a pre-existing relationship; it does not create one. Numus was factually acting in concert on 28 November 2024 when it acquired shares at R15.41, regardless of when that status was formally declared.

3.5.3.2. An interpretation limiting Regulation 111(6) to formally declared concert parties would reward concealment and create perverse incentives contradicting the transparency principles in sections 119(1) and 122 of the Act.

4. Regulatory Orders

In light of the above, the Panel has made the following orders, which take immediate effect:

4.1. Price Adjustment

Novus Holdings Limited is required to increase the offer consideration to R15.41 per share for all Mustek shareholders.

4.2. Announcement

Novus Holdings Limited and Numus Capital Proprietary Limited are required to announce this determination within 3 business days of receipt of the Ruling.

4.3. Amended Documentation

All historical disclosure documentation must be amended to reflect Numus's concert party status and Novus's beneficial interests throughout the accumulation period.

4.4. Publication

The full Ruling shall be published on the Panel's website, Mustek's website, and announced via SENS in due course, as set out in paragraph 1.8 above.

5. **Shareholder Information**

- 5.1. Shareholders who have not yet accepted the mandatory offer are advised that the offer consideration is now R15.41 per Mustek share in cash.
- 5.2. Shareholders who accepted the offer at R13.00 per share are entitled to receive the additional consideration of R2.41 per share in respect of shares already tendered.
- 5.3. Shareholders are advised to consult their CSDP, broker, or professional advisor regarding the implications of this determination.

6. **Appeal Rights**

- 6.1. The Ruling was delivered to the respondents on 24 December 2025. The period for applying to the Takeover Special Committee for a hearing accordingly runs from that date.
- 6.2. Any person affected by the Ruling may apply to the TSC for a hearing within:
 - 6.2.1. 5 business days after receiving the Ruling; or
 - 6.2.2. such longer period as may be allowed by the TSC on good cause shown, as provided in Regulation 118(8) of the Regulations.
- 6.3. For the avoidance of doubt, the deferral of public publication of the full Ruling does not affect the commencement or running of the period prescribed in Regulation 118(8). The respondents have received the Ruling in full.
- 6.4. The Panel notes that the respondents have indicated their intention to seek a TSC hearing.

7. Publication of Full Ruling

The full Ruling will be published on the Panel's website, Mustek's website, and via SENS at such time as the Panel considers appropriate, having regard to the factors set out in paragraph 1.8 above.

30 December 2025

Takeover Regulation Panel