

**THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

CASE: 4305/18

In the matter between:

CENTRAL ENERGY FUND SOC LIMITED	First Applicant
STRATEGIC FUEL FUND ASSOCIATION NPC	Second Applicant

and

VENUS RAYS TRADE (PTY) LIMITED	First Respondent
GLENCORE ENERGY UK LIMITED	Second Respondent
TALEVERAS PETROLEUM TRADING DMCC	Third Respondent
CONTANGO TRADING SA	Fourth Respondent
NATIXIS SA	Fifth Respondent
VESQUIN TRADING (PTY) LIMITED	Sixth Respondent
VITOL ENERGY (SA) (PTY) LIMITED	Seventh Respondent
VITOL SA	Eighth Respondent
MINISTER OF ENERGY	Ninth Respondent
MINISTER OF FINANCE	Tenth Respondent

**SIXTH TO EIGHT RESPONDENTS' CONDITIONAL APPLICATION FOR LEAVE TO
CROSS APPEAL**

KINDLY TAKE NOTICE THAT if the applicants are granted leave to appeal paragraphs 15(b) to 17 of the High Court's order granted on 20 November 2020, then the Sixth to Eighth Respondents (**Vitol**) apply for leave to cross-appeal:

- (a) The High Court's order condoning the applicants' delay and granting them an extension of time under section 9 of the Promotion of Administrative Justice Act 3 of 2000 (**PAJA**) (paragraph 2 of the Order); and
- (b) All of the orders flowing from such grant of condonation (that is, paragraphs 3, 15, 16 and 17 of the Order).

TAKE NOTICE FURTHER that the grounds on which Vitol respectfully contends that condonation ought not to have been granted are set out in its heads of argument, as well as the "Note on Culprits" filed in advance of the hearing. Vitol submits that it has reasonable prospects of success in respect of its proposed appeal.


TAKE NOTICE FURTHER that Vitol contends that if the applicants are granted leave to appeal on the basis they contend for, then there are compelling reasons for leave to appeal to be granted in respect of the whole of the High Court's judgment and order since:

- (a) The facts underpinning the applicants' delay suggest serious misconduct or, at a minimum, negligence on their part. The question of whether the delay can (or should) be condoned in these circumstances raises important questions of law. Vitol also has reasonable prospects of success in persuading another court that the extension of time ought properly to have been refused.
- (b) In any event, the applicants seek leave to appeal in respect of the remedy granted by the High Court. What constitutes a just and equitable remedy in the circumstances of a particular case must be determined on a complete conspectus of the facts. That militates in favour of granting leave to appeal on

the judgment and order as a whole – and not on selective parts - as the applicants seek to procure.

- (c) Delay is a factor relevant to determining the just and equitable remedy. The facts relevant to delay will consequently have to be taken into account by the appeal court in any event.
- (d) It is thus in the interests of justice that an appeal is allowed, as contemplated in section 17(1)(a)(i) and (ii) of the Superior Courts Act 10 of 2013.

DATED at **ROSEBANK** on this 8th day of **DECEMBER 2020**.



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