



Case No. **FSP48/2026**

In the matter between:

NOLUSINDISO LATYISI

Applicant

and

OLD MUTUAL FINANCE

Respondent

TRIBUNAL: Advocate S Mahabeer SC (Chairperson of the Panel); Advocate KD Magano & Professor M Sigwadi

Appearance for the Applicant: In person

Appearance for the Respondent: Mr L Mbolekwa

Date of Hearing: 23 September 2026

Date of Decision: 23 October 2026

Summary: *Application for reconsideration of a debarment under section 230 of the Financial Sector Regulation Act 9 of 2017. Condonation for late filing. Delay inadequately explained. Representative knowingly borrowed money from a client contrary to the financial services provider's policies. Conduct inconsistent with the requirements of honesty and integrity. No prospects of success. Condonation refused and debarment upheld.*

DECISION

A INTRODUCTION

1. The Respondent debarred the Applicant as a representative in terms of section 14(1) read with section 14(5) of the Financial Advisory and Intermediary Services Act 37 of 2002 (*“the FAIS Act”*).
2. The Applicant challenges the debarment and applies for the reconsideration of her debarment in terms of section 230 of the Financial Sector Regulation Act 9 of 2017 (*“the FSR Act”*).
3. This reconsideration application is made more than six months after the debarment decision, and therefore an application for condonation of this late filing must first be determined by the Tribunal. For context, the facts of the debarment are briefly summarised below.

B THE PARTIES

4. The Respondent is a Financial Services Provider (*“FSP”*), as defined in section 1 of the FAIS Act.
5. The Applicant was employed as a representative (Financial Consultant) by the Respondent from 1 June 2022 to 27 January 2025, when she resigned with immediate effect.
6. It is a common cause that at the time of her resignation, the Applicant occupied a position of trust as a Financial Consultant employed by the Respondent.

G FACTUAL BACKGROUND

7. The Respondent alleges that the Applicant does not comply with the requirements of honesty, integrity, and good standing in that:-

7.1. she contravened the employee's duty of good faith towards the employer - conflict of interest. On 2 July 2024, the Applicant assisted a client, Mrs P, with a loan application and the loan was subsequently disbursed to the value of R 100 000. She then borrowed R 4 000 from the same client and the money was handed over to her on 3 July 2024. The client thereafter filed a complaint with the Respondent on 30 September 2024, indicating that the Applicant had failed to repay the loaned amount despite undertaking to do so on or around 2 July 2024. The Respondent submits that the Applicant's conduct is in breach of its Disciplinary Code, Conflict of Interest and Gifts Policy and Maadili Charter;¹

7.2. the Applicant committed a dishonesty-related misconduct – dishonesty in that on 2 July 2024, after a loan from the Respondent was disbursed to the client, whom the Applicant had assisted in the course of the loan application, the Applicant received a cash amount of R 4 000 from the same client on 3 July 2024. This was a financial benefit which the Applicant accepted but failed to report to her line manager. The Respondent argues that this conduct is in breach of its Conflicts of Interest and Gifts Policy.

¹ The Old Mutual Maadili Charter is an ethical code of conduct that defines expected standards of behaviour for employees, board members, and business partners.

8. The Respondent investigated the Applicant after receiving the client's complaint that she borrowed the money. The investigation report is dated 10 October 2024. Here it is noted that the Applicant admitted borrowing the monies from the client, that she knew the Respondent's policies and procedures prohibiting such conduct and that she still owed the client R 2 000.
9. The Applicant resigned with immediate effect on 27 January 2025.
10. On 14 July 2025, the Respondent sent the Applicant a notice of her potential debarment in terms of section 14 of the FAIS Act.
11. The Respondent's reason for initiating the debarment process was that the Applicant does not comply with the fit and proper requirements of honesty, integrity, and good standing, based on the allegations stated above in paragraph 7.
12. The Applicant was invited to make written submissions by no later than 4 August 2025 as to why she should not be debarred. The Applicant was afforded an opportunity to indicate if she would require a formal hearing and was further warned that if she failed to make written submissions by the due date, her debarment would be considered in the absence thereof.
13. The Applicant submitted no representations.
14. The Respondent concluded that the Applicant no longer met the fit and proper requirements of honesty and integrity under the FAIS Act and proceeded to debar her on 19 August 2025. It notified her of the debarment on the same day.

15. The notice of debarment also advised the Applicant of her right to appeal within thirty (30) days of the decision or where she was not provided with the statement of reasons, to appeal within 60 days of the date of debarment.
16. The Applicant firstly seeks condonation for the late filing of her application. This application for reconsideration is made more than six months after the debarment decision, and therefore an application for condonation of this late filing must first be determined by the Tribunal.

D CONDONATION

17. The Respondent opposes the application for condonation and made substantive submissions in opposition thereto.²
18. In terms of section 230(2) of the FSR Act, an application for reconsideration must be made-

“(a) if the applicant requested reasons in terms of section 229, within 30 days after the statement of reasons was given to the person; or (b) in all other cases, within 60 days after the applicant was notified of the decision, or such longer period as may on good cause be allowed.”

19. In terms of section 1(h) (Definitions) of the Tribunal's Rules:

“a day for purposes of the Act and these rules does not refer to court or business days but (in accordance with the Interpretation Act) to ordinary days and shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday”.

² See the discussion below under paragraph 44 dealing with grounds for the reconsideration application.

20. The Applicant did not request reasons for the decision in terms of section 229 of the FSR Act and therefore her application was required to be brought within 60 days of 19 August 2025 (which would have been around 18 October 2025) unless she can show good cause for filing the reconsideration later than that date. The prescribed period expired on or about 18 October 2025, her application is clearly late.
21. In support of the application for condonation, the Applicant filed affidavits with the secretariat and all other parties to the proceedings (Rule 30 of the Financial Services Tribunal Consolidated Rules issued in terms of section 227 of the FSR Act ("Tribunal Rules")).
22. For the Applicant to succeed in an application for condonation in terms of section 230(2) of the FSR Act, she must show good cause, which includes a demonstration of reasonable prospects of success. An application for condonation must be succinct and show good cause (Rule 31 of the Tribunal Rules) to condone the missing of the statutory deadline.
23. The legal principles relating to condonation and the factors to be considered in establishing good cause are set out in *Steenkamp and Others v Edcon Limited* (CCT29/18) [2019] ZACC 17 and *Grootboom v National Prosecuting Authority and Another* (CCT/08) [2013] ZACC 37. The essence of the exercise is to consider whether or not it is in the interest of justice to grant condonation in light of the following factors: -
 - 23.1. the nature of the relief sought,
 - 23.2. the extent and cause of delay,

- 23.3. the effect of the delay on the administration of justice,
- 23.4. the reasonableness of the explanation for the delay,
- 23.5. the importance of the issue to be raised, and
- 23.6. the prospects of success.

24. In considering an application for condonation, the Tribunal is guided by the above principles, which were succinctly and authoritatively enunciated in *Van Wyk v Unitas Hospital* [2007] ZACC 24; 2008 (2) SA 472 at 477A-B. The Constitutional Court stated that:

"This Court has held that the standard for considering an application for condonation is the interest of justice. Whether it is in the interest of justice to grant condonation depends on the facts and circumstance of each case."

25. Condonation is not there for the taking. The Supreme Court of Appeal pointed out in *Uitenhage Transitional Local Council v South African Revenue Services* 2004 (1) SA 292 (SCA) that:

"Condonation is not to be had merely for the asking; a full, detailed, and accurate account of the causes of the delay and their effects must be furnished so as to enable the court to understand clearly the reasons and to assess the responsibility. It must be obvious that if the non-compliance is time-related, then the date, duration, and extent of any obstacle on which reliance is placed must be spelled out."

26. In the above case of *Van Wyk v Unitas Hospital*, the Constitutional Court held that good cause for the delay should be shown to exist before condonation is granted. The interests of justice are detrimentally affected by delays in finalising legal

issues, especially where such delays are the result of parties not showing the necessary diligence to pursue and conclude their matters.

Application of Legal Principles to Facts

27. This application for reconsideration is late.
28. The Applicant was notified of the decision to debar her on 19 August 2025 as per the e-mail sent to her. The Applicant's application for reconsideration therefore was due on or before 18 October 2025. Instead, the Applicant filed her application for reconsideration on 23 April 2026.
29. It is noted that neither the Applicant's application documents nor the Tribunal records on this matter contain any plausible explanation from the Applicant for the late filing, except that in her affidavit dated 5 June 2026 supporting the application for condonation for late filing of the application for reconsideration, the reason the Applicant claims that she lodged the application late was that she lost email access until August 2025, and after she did and then learned of the debarment, did not receive a response to her query to the Respondent on where to lodge an appeal.
30. The Applicant states that the debarment notice that she received from the Respondent did not clearly set out her rights, and she only became aware much later that she could appeal the debarment from a friend that she spoke to.
31. The Applicant further confirmed that she received the notice of debarment via e-mail on 19 August 2025 (when her email access was restored) and responded by e-mail on the same day to the Respondent explaining the circumstances of her loan and attaching the client's statement. The Applicant reiterates that at the

time of sending her response she was uncertain about the correct procedure and the correct email address for submitting her representations. She acknowledges receipt of some emails from the Respondent before 19 August 2025, but states that she was unable to monitor or access them for 2 months. The Applicant submits that it was not her intention to ignore the process or act in bad faith. She is requesting the Tribunal to consider her late response and the client's purported withdrawal statement as part of her representations against the proposed debarment.

32. The Applicant further sent a WhatsApp message which she apparently uplifted from an e-mail from the client stating that the client was withdrawing the complaint against her.
33. The Tribunal finds it difficult to accept the explanation of the Applicant that she was not aware of the process because the debarment notice dated 19 August 2025 contained a clear explanation of the process if the Applicant was not satisfied with the decision of the Respondent to debar her.
34. The Applicant had sixty (60) days within which to apply. She knew of her rights on 19 August 2025 as per the e-mail that was sent to her. The delay is unexplained on its face and therefore inexcusable.
35. Furthermore, and as explained in the Respondent's Heads of Arguments, there is a period between the date of debarment - 19 August 2025 – and the date of this application of consideration – 23 April 2026 - that remains unexplained and unaccounted for by the Applicant. The application for condonation therefore lacks any factual basis.

36. Even if the Tribunal was to accept that the Applicant became aware of the appeal process from a friend on 18 February 2026, she would still have been expected to lodge the application within sixty (60) days from 18 February 2026, which would have been by or before 19 April 2026. However, the Applicant would still be out of time as this application for reconsideration was lodged on 23 April 2026. The Applicant explains neither the reason why she could not follow the process that was explained on the debarment letter of 19 August 2025 nor the details of the information she alleges that it was not clear on the letter.
37. Condonation is not readily granted without a compelling explanation.
38. The extent of the delay is more than six months, and the lack of plausible explanation by the Applicant makes it difficult to condone the delay.
39. The efficient administration of justice requires the timely and expeditious determination of reconsideration applications contemplated with the 60-daytime limit imposed by section 230(2). This objective is not achieved where applicants fail to comply with the set time limit and have no plausible explanation for the cause of the delay. The lack of plausible explanation for the delay weighs heavily against granting condonation.
40. In addition, this reconsideration application does not raise novel or unprecedented issues that require determination by the Tribunal.
41. Finally, the Tribunal must consider whether there are prospects of success on the merits of the reconsideration application that warrant the condonation of its late filing. The presence or absence of the prospects of success is an important consideration in the enquiry of whether or not to grant a condonation.

42. Where a wholly inadequate explanation for a delay is provided, as in this case, the Tribunal should still consider the prospects of success. If the prospects of success outweigh the inadequate explanation for the delay, the application for condonation should succeed. To address the issue of prospects of success, the Tribunal must examine the documents filed by both parties to ascertain the merits of the reconsideration application and the Applicant's prospects of success. We therefore turn to the merits of the reconsideration application.

E GROUND'S RELIED UPON FOR THE APPLICATION

43. The Applicant submits the following grounds to support her application for reconsideration: -

- 43.1. that she had a legitimate agreement with the client, which was misunderstood by the Respondent;
- 43.2. she had repaid the loan amount in full, and the client subsequently withdrew the complaint;
- 43.3. the debarment process was flawed as it did not adequately consider the Applicant's evidence;
- 43.4. the reason she lodged the application late was because she did not get the full and timeous information of where to lodge the complaint.

44. The Respondent opposes the application for reconsideration on the following grounds:

- 44.1. the application for reconsideration is out of time and the Tribunal must refuse the request for condonation;

- 44.2. the Applicant has failed to discharge the burden of placing before this Tribunal a full, satisfactory and acceptable explanation for the delay, one that accounts for the entire period of non-compliance, together with evidence establishing prospects of success on the merits. The Respondent further submits that these are not discrete requirements but interrelated considerations that must be satisfied cumulatively;
- 44.3. that when the matter is viewed against the objective factual record, the Applicant does not enjoy prospects of success and her application is unsustainable. It follows that condonation ought to be refused;
- 44.4. the Applicant's conduct of soliciting and receipt of the R 4 000 loan from the client occurred in the context of a professional financial advisory relationship and is not incidental or peripheral to the Applicant's role but directly linked to it;
- 44.5. the Applicant does not dispute the core facts of the complaint, and she also concedes that she was aware that borrowing money from clients is expressly prohibited by the Respondent's policies. Notwithstanding that knowledge, the Applicant admits that she proceeded to borrow the money from the client and that she failed to disclose it to the manager. The failure to disclose is indicative of an awareness of wrongdoing and aggravates the seriousness of the misconduct;
- 44.6. the Applicant's conduct constitutes a clear and serious breach of her duty of good faith toward her employer, as well as her obligation to act with honesty, integrity, and professionalism in dealings with clients. The Respondent submits that its prohibition against borrowing from clients

exists precisely because of the inherent risk of undue influence, exploitation, and the blurring of professional boundaries, all of which are present in this case;

- 44.7. the Respondent classifies the Applicant's conduct as serious misconduct within its misconduct framework. It submits that this classification is not arbitrary but is grounded in the need to protect clients and preserve the integrity of financial services engagements, which depend fundamentally on trust;
- 44.8. the Applicant's conduct was neither accidental nor the result of a misunderstanding because she had recently attended fraud awareness training on 19 June 2024, during which it was expressly communicated that borrowing money from clients constitutes serious misconduct. Her conduct shortly thereafter must therefore be understood as deliberate and undertaken with full knowledge of its impropriety;
- 44.9. the Applicant's conduct exposed the Respondent to reputational and regulatory risk and is incompatible with the standards expected of representatives operating within the financial services industry; and
- 44.10. the Respondent argues that the Applicant must not be allowed to minimise her conduct or rely on personal circumstances as a basis for interference by the Tribunal. The material facts are admitted and objectively established, and the prohibition against the conduct in question is clear and unequivocal.

45. The Respondent accordingly submits that its decision to debar is rationally connected to the facts established during the investigation, the applicable internal policies, and the broader regulatory imperative of protecting clients and maintaining integrity within the financial services sector. The decision to debar the Applicant is not only justified, but necessary in the circumstances.
46. The Respondent requests the Tribunal to refuse the condonation (to the extent that is required) and dismiss the application for reconsideration.

F. THE DEBARMENT

47. In terms of section 14(1) of the FAIS Act, an FSP is statutorily obliged to debar a person from rendering financial services if the FSP is satisfied based on available facts and information that the person does not meet the fit and proper requirements referred to section 13(2)(a) of the FAIS Act.
48. Section 6A(2)(a) of the FAIS Act provides that:

“(2) Fit and proper requirements may include, but are not limited to, appropriate standards relating to –

(a) personal character qualities of honesty and integrity.”
49. Section 7(1) of Board Notice 194 of 2017 provides that fit and proper requirements relating to honesty, integrity and good standing apply to all FSPs like the Applicant who was an employed representative of the Respondent, a registered FSP.
50. Section 8(1)(a) of the Board Notice states that a person referred to in section 7(1) must be a person who is honest and has integrity.

51. The Respondent instituted the debarment proceedings within six months of the complaint as contemplated by section 14(5) of the FAIS Act.
52. In respect of debarment processes, section 14(2) (a) of the FAIS Act requires that before effecting a debarment, the provider must ensure that the debarment process is lawful, reasonable, and procedurally fair.
53. Section 14(3)(a) of the FAIS Act further requires that, before debarring a representative, an FSP is to give adequate notice in writing stating its intention to debar the person, the grounds, and the reasons for the debarment, and any terms attached thereto.

G ANALYSIS

54. The record and the evidence at the hearing before the Tribunal indicates that: -
 - 54.1. the debarment process was explained to the Applicant;
 - 54.2. the Respondent notified the Applicant by way of a letter dated 14 July 2025 of its intention to debar her and its reasons thereof;
 - 54.3. the Applicant was afforded a fair opportunity to make representations at the debarment enquiry;
 - 54.4. the Applicant did not deny that she borrowed money from a client of the Respondent;
 - 54.5. the Applicant was unable to provide plausible evidence to support that the loan that she got was because of a legitimate agreement with the client. But in any event, the loan was discussed and effected while the Applicant was assisting the client to apply for a loan from the Respondent. This, on

its own and at the very least, displays reckless and poor judgment on the part of the Applicant. When the Applicant failed to repay that which she had borrowed, the client reported the issue to the Respondent on 30 September 2024. As submitted by the Respondent, the conduct of the Applicant and the dissatisfaction of the client result in potentially damaging the reputation of the Respondent. It consequently matters not that the Applicant eventually repaid what she had borrowed from the client;

54.6. the Applicant was aware that any kind of financial relationship between a representative of the Respondent and a client was prohibited under the Respondent's policies and procedures. She nevertheless proceeded to borrow money from the client.

54.7. the Applicant could provide no plausible reason why if the loan was a private matter between her and the client, the discussions thereof were done at the Respondent's offices and during the time when she was assisting the client in her capacity as a Financial Consultant and the loaned amount of R 100 000 was being disbursed to the client;

54.8. the client's purported withdrawal of her complaint, communicated by way of an unsworn email sent from the Applicant's own email address, does not alter this assessment. The purported client email does not dispute, and is not capable of disputing, that the Applicant borrowed money from a client during the course of a transaction which she was handling in her capacity as a representative of the Respondent, and contrary to the Respondent's policies, of which the Applicant had been made fully aware.

The misconduct lies in the borrowing and non-disclosure, not in whether the client was ultimately satisfied or repaid; and

54.9. finally, the Applicant's contention that the debarment process was flawed because it did not adequately consider her evidence is not borne out by the record. The documents record that the Applicant was invited to submit representations and that she submitted no representations. The Applicant's 19 August 2025 explanation and the apparent email from the client was sent to the Respondent after the decision to debar her was taken and communicated to her.

55. The Tribunal agrees with the Respondent's submissions that the Applicant committed serious misconduct, which impugns her character in general and her honesty and integrity in particular. For these reasons, we agree that the Applicant does not comply with the fit and proper requirements of honesty and integrity, and that her debarment enhances the credibility of the financial services sector. The reconsideration application consequently has no prospects of success. This is a final reason to deny condonation for the late filing of the reconsideration application.

56. In all the circumstances, we find no reason to interfere with the Respondent's decision to debar the Applicant.

H CONCLUSION

57. Accordingly, and for the reasons set out above, no cause exists to grant condonation for the late filing of the reconsideration application, which is in turn determinative of the outcome of the reconsideration application.

I. ORDER

58. We therefore make the following order:

58.1. The application for condonation is refused.

58.2. The application for reconsideration is dismissed and the debarment is upheld.

SIGNED at **PRETORIA** on this 23rd day of **OCTOBER 2026**.

Signed on behalf of the Tribunal panel

___*Sgd Prof M Sigwadi*___

Professor M Sigwadi (Member)