

ENGLISH TEXT BELOW\*

## MAANDELIKSE NUUSBRIEF: JANUARIE 2019

Geagte HSAG-belegger / Mnr. / Mev. / Mej. [Customer Name]

Hierdie nuusbrieff word aan u gerig as lid van die Hoëveld Sindikasie Aksiegroep (“HSAG”) op grond van u belegging in die Highveld Sindikasiemaatskappye 15-22 en/of u ondersteuning van die HSAG.

Hierdie e-pos is vertroulik en uitsluitlik vir die geadresseerde bedoel. As u dit per ongeluk ontvang het, stel asseblief die skrywer onmiddellik hiervan in kennis en vernietig dit. U mag nie 'n e-pos, of enige deel daarvan, wat verkeerdelik ontvang aan enigiemand anders stuur, kopieer of openbaar nie. HSAG se webmeester gebruik antivirusprogrammatuur om virusse en ander kwaadwillige kodes te voorkom. Hierdie sagteware kan egter nie so 'n kode voorkom of uitwis nie. Die HSAG of sy verteenwoordigers sal nie aanspreeklik wees vir enige verlies of skade wat voortspruit uit ontvangs of gebruik van hierdie e-pos of andersins, of dit voortspruit uit die nalatigheid van HSAG, sy lede, bestuurskomitee en agente of andersins nie.

Alhoewel e-posse, HSAG Nuusflitse en HSAG Inligtingsbrokkies van tyd tot tyd uitgestuur word, is die [www.hsaction.co.za](http://www.hsaction.co.za) webtuiste die primêre plek waar u HSAG finale inligting kan bekom.

Die verpligting rus op u as belegger om ons op hoogte van enige veranderinge van u persoonlike en/of kontakbesonderhede.

### 1. 'N NUWE JAAR, NUWE GELEENTHEDE

'n Voorspoedige nuwe jaar word aan elke HSAG-lid toegewens.

Die HSAG-bestuur glo en vertrou dat 2019 'n baie geseënde en voorspoedige jaar vir die HSAG sal wees.

Die regspan van die HSAG is tans besig om skouer aan die wiel te sit vir die uitdagings wat voorlê, maar kan u verseker wees van die regspan se voortgesette ondersteuning en verteenwoordiging ten einde HSAG-lede se eise suksesvol af te dwing.

### 2. OPSIE 2 & 3 VAN DIE ART 155 REËLINGSKEMA

Mnr Nic Georgiou het gedurende Desember 2018 'n skrywe, gedateer 13 Desember 2018, aan beleggers gestuur waarin daar nóg 'n opsie naamlik die “Genoteerde Aandele-opsie” ('n wysiging van die vorige Opsie 3) aan HS-beleggers voorgehou word.

Volgens hierdie skrywe het Mnr Georgiou 'n opsie verseker met 'n sterk en indrukwekkende genoteerde eiendomsmaatskappy, 'n eiendomsbeleggingstrust (REIT), wat op die JSE handel”.

Hierdie opsie maak voorsiening dat indien 'n HS-belegger hierdie opsie kies, 'n gedeelte van die aandele teen die netto batewaarde ontvang word in ruil vir al die belegger se eise.

Indien die aandele vir 'n tydperk van 36 maande gehou word, sal dit na die mening van Mnr Georgiou, "aansienlik in waarde groei".

Beleggers moet uiters versigtig wees om goedsmoeds sulke keuses uit te oefen, en is dit die advies van die HSAG se regspan dat u met 'n finansiële adviseur konsulteer ten einde u opsies te oorweeg.

Die vorige noteringsopsie het inteendeel misluk.

In 'n ander skrywe, gedateer 20 Desember 2018, het mnr Georgiou 'n skrywe aan HS-beleggers, wie destyds die noterings opsie van die Capital Growth Fund ("CGF") gekies het, meegedeel dat die belangstelling en aansoeke om hierdie opsie uit te oefen nie voldoende was om die betrokke maatskappy op die JSE te lys nie.

Die gewysigde "Genoteerde Aandele-opsie" word ook aan hierdie beleggers voorgehou.

Is hierdie gewysigde opsie nie maar net weereens 'n windeier nie?

### **3. HUIDIGE STAND VAN SAKE**

#### **3.1. Versnelde sertifikasie aansoek**

Die HSAG-regspan het reeds op 27 Julie 2018 'n Aansoek vir die Sertifisering van 'n klas-aksies ten opsigte van HS 21 & 22 op mnr Georgiou/Orthotouch en ander Respondente beteken waarin die HSAG die Hof vra dat sodanige Sertifisering toegestaan moet word.

Die HSAG-regspan en die prokureurs van mnr Georgiou het in November 2018 op 'n tydtafel (sien punt 4 van u Nuusbriëf) ooreengekom in terme waarvan die betekening van Hofstukke moet plaasvind.

Alle Hofstukke is tot op datum, op tyd beteken en geliasseer. Die enigste Hofstuk wat nog uitstaande is, is die Respondente se Hoofde van Betoog, welke dokument voor of op 25 Januarie 2019 beteken en geliasseer moet word.

Sodra die Respondente se Hoofde van Betoog beteken en geliasseer is, kan die HSAG se regspan die Hof nader vir 'n datum waarop die aansoek aangehoor sal word.

Die Kennisgewing van Mosie, asook die Verklaring ter ondersteuning van die Kennisgewing van Mosie is op die HSAG se webblad by [www.hsaction.co.za](http://www.hsaction.co.za) geplaas en nooi ons u uit om dit deur te lees.

### **3.2. Beleggers met eise in HS 15 tot 20**

Eise in ander HS-maatskappye is glad nie verlore of in gedrang nie en gaan die HSAG nog steeds voort met stappe ten einde die beleggers se eise af te dwing.

Die eiisoorsaak van HS 15 tot 20 berus op ander feite en omstandighede, nl. onder andere ook bedrog en wanvoorstellings, en is die roete wat met hierdie eise gevolg moet word anders as in die kontraktuele eise van die HS 21 & 22.

Soos hierbo gemeld gaan HS 15 – 22 se eise op grond van onregmatige dade ook voort teen al die Respondente. Die rede hiervoor is dat enige tekorte wat mag bestaan by vorderings, van sodanige partye gevorder sal word.

Beleggers in HS 19 – 20 se eise is reeds ingestel deur middel van die Sertifikasie-Aansoek en sluit hierdie Aansoek die verjaring van eise in.

Die tersydestelling van die Art 155 Reëlinskema is nodig vir hierdie eise om voortgesit te word.

Die HSAG se aansoek om tersydestelling van die Reëlinskema is hangend, en word daar beplan om binne die volgende paar weke verdere hofdokumente in te dien met die vertroue dat hierdie tersydestellings-aansoek in 2019 aangehoor sal word, waarna die res van die klas-aksies dan in die Pretoria hof kan voortgaan.

Alhoewel die HSAG van voorneme is om die Art 155-Reëlinskema (“Reëlinskema”) tersyde te stel, is Orthotouch in terme van die Reëlinskema verplig is om maandelikse rente aan HS-beleggers te betaal, minstens tot tyd en wyl gemelde skema tersyde gestel word, al dan nie.

## **4. BELANGRIKE DATUMS**

Die HSAG se prokureurs en die prokureurs van mnr Nic Georgiou het na afloop van die vergadering met Regter Tolmay op 8 November 2018 op ‘n tydtafel ooreengekom ingevolge waarvan sekere Hofdokumente beteken en geliasseer moet word.

Die HSAG bevestig die volgende datums:

Voor of op **7 Desember 2018** – Respondente moes Antwoordende Verklarings in antwoord op die HSAG se Hofstukke beteken en liasseer – reeds beteken en geliasseer;

Voor of op **21 Desember 2018** - Die HSAG moes/kon ‘n Repliserende Verklaring beteken en liasseer in repliek op die Respondente se Antwoordende Verklaring – reeds beteken en geliasseer;

- Voor of op **11 Januarie 2019** - Applikante moes hul Hoofde van Betoog beteken en liasseer – reeds beteken en geliasseer;
- Voor of op **25 Januarie 2019** - Die Respondente moet Hoofde van Betoog beteken en liasseer.
- Op **28 Januarie 2019** - Vergadering met Regter Siwendu (hooggeregshof, Johannesburg) in verband met die moontlike oorplasing van die aangeleentheid na die Kommersiële Hof in Johannesburg.

## **5. VERGADERING MET REGTER SIWENDU (HOOGGEREGSHOF, JOHANNESBURG)**

Regter Tolmay, die saakbestuurder wat in die Hooggeregshof in Pretoria aangestel is om die huidige Aansoek van die HSAG te bestuur, het tydens die vergadering tussen die HSAG se regsman en die Respondente in November 2018, voorgestel dat die partye die moontlikheid moet oorweeg om die “Fast Track” aansoek oor te plaas na die Kommersiële Hof in Johannesburg.

Die moontlike voordeel daarvan is dat die aangeleentheid op ‘n bespoedigde basis aangehoor kan word.

Die HSAG het op 3 Desember 2018 ‘n skrywe aan die Regter-President van die Johannesburg Hooggeregshof gerig, waarin ons bogenoemde oorplasing versoek.

Ons bevestig dat die aangeleentheid deur gemelde Regter-President na Regter Siwendu verwys het en dat Regter Siwendu ‘n dringende vergadering tussen die partye versoek het.

Hierdie vergadering gaan op Maandag, 28 Januarie 2019 plaasvind.

Die HSAG sal in die volgende nuusbrieff meer hieroor berig.

## **6. OPVRAGING VIR BYDRAE TOT REGS- EN ADMINISTRASIEKOSTE – 2019**

Die HSAG-bestuur het tydens ‘n vergadering in 2018 besluit dat die jaarlikse bydrae tot regs- en administrasiekoste vir 2019 onveranderd sal bly en dat ‘n bedrag van R2000.00 per persoon gehef sal word.

Hierdie opvraging sal binne die volgende paar weke op die sisteem gelaai word en sal die R2000.00 opvraging ten aansien van regs- en administrasiekoste op u Februarie 2019 staat verskyn.

Ten einde die HSAG-saak suksesvol aan te voer, versoek ons u vriendelik om so spoedig as moontlik die jaarlikse opvraging op datum te bring.

## **7. BOEDEL NAVRAE**

Indien u 'n navraag het met betrekking tot boedels en die eise van HSAG-lede, is u welkom om 'n e-pos te stuur na [hsagestates@gmail.com](mailto:hsagestates@gmail.com) waarna die HSAG u sal bystaan.

## **8. LAAT- AANSOEKE VIR REGISTRASIE BY DIE HSAG**

Laat-aansoeke sal op 'n streng *ad hoc* basis oorweeg word. Die registrasievorms is op die webtuiste by [www.hsaction.co.za](http://www.hsaction.co.za) beskikbaar of in die alternatief kan u 'n e-pos na [hsagregister@gmail.com](mailto:hsagregister@gmail.com) stuur om 'n registrasievorm te versoek. Alle versoeke en voltooide registrasievorms moet gestuur word aan [hsagregister@gmail.com](mailto:hsagregister@gmail.com).

## **9. OPSKORTING VAN HSAG-LIDMAATSKAP**

Die HSAG-bestuur het tydens 'n vorige vergadering in 2018 besluit, welke besluit verwelkom was deur baie van die opbetaalde HSAG-lede, dat HSAG-lede wie nie hul **2014 / 2015 registrasiekoste** voor of op **31 Desember 2018** op datum bring nie, se lidmaatskap aan die HSAG ongelukkig onmiddellik opgeskort sal word.

Ons bevestig dat hierdie lede se lidmaatskap opgeskort is.

'n E-pos, waarin die opskorting bevestig word, sal aan die relevante partye gestuur word.

Die gevolge van hierdie opskorting is verreikend, en beteken dit ondermeer dat die HSAG-belegger se eis teen Orthotouch/Georgiou straks kon verjaar het. In die huidige bedeling van die klas-aksie aansoek kan dit ook beteken dat diegene wie se lidmaatskap opgeskort is, nie weer sondermeer sal deel vorm van die HSAG klas-aksie nie en hul ook nie kan aanspraak maak op enige voordele nie.

## **10. GEBRUIK VAN KORREKTE E-POS ADRESSE EN VERWYSINGS**

**Die korrekte gebruik van e-pos adresse (soos vervat op ons webtuiste en e-posse) asook HSAG lede se voorletters en van, sindikasiennommers en verwysingsnummers (bv. identiteitsnommer ens.) vir alle kommunikasie, is uiters noodsaaklik en verpligtend.**

Die amptelike en bestaande e-pos adresse vir die HSAG, is as volg:

- [hsactiongroup@gmail.com](mailto:hsactiongroup@gmail.com) vir alle Algemene Navrae (Byvoorbeeld – selfoon of adres veranderinge, betalingsbewyse, kennis van lede wie gesterf het, ensovoorts);
- [hsagenquiries@gmail.com](mailto:hsagenquiries@gmail.com) vir Spesifieke Navrae (Byvoorbeeld – navrae rakende besonderhede van 'n spesifieke belegger, navrae rakende kwytstelling van 'n spesifieke belegger, ensovoorts);
- [hsagregister@gmail.com](mailto:hsagregister@gmail.com) vir die Registrasie en Deregistrasie van HSAG- lede;

- [hsagwhistle@gmail.com](mailto:hsagwhistle@gmail.com) vir alle Vertroulike Inligting wat anoniem aan ons gestuur moet word;
- [hsagestates@gmail.com](mailto:hsagestates@gmail.com) vir alle Boedel navrae.

**Indien 'n belegger of enige persoon 'n epos na die verkeerde adres sou stuur sal dit daartoe lei dat daardie e-pos níe spoedig of enigsins die nodige aandag geniet nie.**

**Indien u nie verder enige verdere e-posse wil ontvang nie, stel ons ook asseblief skriftelik in kennis daarvan.**

### **11. HSAG SE AMPTELIKE WHATSAPP-GROEPE**

Dit is 'n groot uitdaging om spoedige kennisgewings, nuusbrokkies of belangrike boodskappe aan bykans 7 000 individue oor te dra.

Ons versoek dus HSAG-lede om aan te sluit by die HSAG se amptelike WhatsApp-groepe om kennisgewings, nuusbrokkies of nuusflitse per WhatsApp te kan ontvang.

Deur by een van die HSAG se amptelike WhatsApp-groepe aan te sluit sal u gereeld op hoogte gehou word van die nuutste verwickelinge met betrekking tot u saak.

Stuur bloot u Selfoonnommer; Identiteitsnommer; Volle Naam en Van, na [hsactiongroup@gmail.com](mailto:hsactiongroup@gmail.com) waarna u op die groepe gelaai sal word.

Direkte kontak kan ook gemaak word met die Administrateurs van die onderskeie WhatsApp-groepe by 079 635 4165 (Afrikaans) en 082 450 8854 (Engels).

Die HSAG het ook 'n amptelike facebook-blad, en kan by [www.facebook.com/hsaction](http://www.facebook.com/hsaction) besigtig, ge-“like” en kommentaar op gelewer word.

### **12. LEDE BYDRAES EN REGISTRASIEKOSTE**

**Ignoreer asseblief hierdie punt indien u registrasie- en regskostes reeds ten volle vereffen is.**

Dit is van uiterste belang dat enige uitstaande registrasie- en regskostes, waarvan sommige sólank gelede as 2014 reeds uitstaande is, so spoedig moontlik op datum gebring moet word. Bykans vier jaar sedert die totstandkoming van die HSAG is dit uiters onbillik teenoor getroue lede van die HSAG dat persone wie regsverteenvoording verlang in 'n saak waar die gemiddelde eisbedrag R250 000.00 is, nie bereid of gewillig is om die nominale bydrae vir registrasie en/of regskostes te betaal nie.

Let asseblief op die volgende:

- i. 'n Eenmalige registrasiekoste van R1 000 **per sindikasie** was gehef tot Oktober 2015 en daarna is dit verhoog na R1 500 **per sindikasie** en behoort so op u staat te verskyn
- ii. Die aangevraagde opvraging vir 2016-regskoste was R1 000 **per sindikasie**;
- iii. In Mei 2017 was 'n verdere opvraging vir bydrae tot regs- en administrasiekoste van R2 000 **per persoon** gemaak;
- iv. In Februarie 2018/Maart 2018 was 'n verdere opvraging tot regs- en administrasiekoste van R2 000 **per persoon** gemaak;
- v. In November 2018/Desember 2018 was 'n spesiale opvraging tot regs- en administrasiekoste vir HSAG-lede wie in HS 21 & 22 belê het van R500 per persoon gemaak;
- vi. Indien daar enige uitstaande bedrae is, word u vriendelik versoek om dit so spoedig moontlik te betaal ten einde onnodige administrasie en/of verdere kostes te verhoed. Sodanige lede wie se registrasiekostes steeds agterstallig is, loop die gevaar dat hul lidmaatskap by die HSAG opgeskort gaan word;
- vii. Registrasieheffings is betaalbaar op alle nuwe en agterstallige (90 dae en ouer) registrasies. Registrasiekoste beloop tans R1 500,00 per sindikasie en, indien latere registrasies toegelaat word, mag daar 'n verdere heffing vir registrasiekoste per sindikasie vir alle nuwe registrasies gehef word ten einde finansiële bydraes deur huidige HSAG-lede te verlig;
- viii. Van die einde van Februarie 2019 word persone wie se bydraes op datum betaal is met 'n totale eiswaarde wat R60 000,00 of minder tesame met 'n skriftelike versoek aan Theron & Vennote, kwytsgekeld van die 2018 administratiewe- en regskostes.
- ix. Kwytskelding **is nie van toepassing nie** op vorige jare se registrasie / administrasie / regskostes / agterstallige fooie en die spesiale opvraging vir HS 21 & 22 lede nie en is steeds betaalbaar.
- x. **Geen registrasie, administratiewe of regsfooie is terugbetaalbaar nie.**

Die HSAG geniet die beskerming van 'n regsplan wat bestaan uit prokureurs, junior en senior advokate wat reeds 'n vêr pad gestap het om voornemende eisers onder die sambreel van die HSAG te beskerm. In die lig van die feit dat die HSAG nou voortgaan met die sertifisering van 'n klas-aksie en die proses wat nou gevolg gaan word ten einde die Art 155-Reëlinskema tersyde te stel, versoek ons dat al die HSAG-lede hul kant te bring ten einde die aangeleenthede suksesvol af te handel. Almal se samewerking word vereis.

### **13 STAAT VIR DEELNAME AAN DIE HSAG**

Die HSAG en hul prokureurs, Theron & Vennote, wil u graag bedank vir u volgehoue en lojale ondersteuning aan die HSAG. Die HSAG-saak behoort aan elke individuele belegger, daarom wil ons u versoek om u eie saak te ondersteun ten einde die nagenoeg R4.6 miljard van Orthotouch en andere te eis.

Vind asseblief hiertoe aangeheg u bydraestaat vir u deelname aan die HSAG, let asseblief op die volgende:

- i. Indien geen opvraging ten aansien van registrasie-, regs- of administrasiekoste of 'n krediet op u staat verskyn nie, beteken dit dat u waarskynlik in 'n groep val wat nie geprosesseer en / of geallokeer is nie, en sal dit, indien dit onder ons aandag kom of gebring word, op 'n latere staat verskyn;
- ii. Indien 'n staat 'n kredietbedrag toon, is u 'n geregistreerde lid van die HSAG, maar het ons nog nie u voltooide aansoekvorm ontvang nie. Geliewe die aansoekvorm af te laai vanaf ons webwerf, of rig 'n versoek aan ons daarvoor per e-pos by [hsagregister@gmail.com](mailto:hsagregister@gmail.com)
- iii. Die HSAG-beleggers se inligting wat gebruik word was aanvanklik verkry vanaf die aansoekvorms wat HSAG-lede ingevul het. Indien u aansoekvorm gevolglik foutief, onduidelik of onvolledig is, sal u moontlik geen state of e-posse ontvang nie
- iv. Die verpligting rus op u as belegger om ons op hoogte van enige veranderinge van u persoonlike en/of kontakbesonderhede deur in te skakel of om 'n e-pos te stuur na [hsagregister@gmail.com](mailto:hsagregister@gmail.com)
- v. Weens die voortdurende groot hoeveelheid navrae, registrasies, wysigings van persoonlike besonderhede en allokasies, is dit moontlik dat sommige betalings en/of registrasies nie op die aangehegte Staat sal verskyn nie, maar eers op 'n latere Staat.
- vi. Kliek asseblief op die skakel om na die "Customer Zone" te gaan waar u die opvragings vir registrasie-, regskostes en u betalings kan sien, geoutomatiseerde state word van tyd tot tyd (gewoonlik gedurende 'n maand) uitgestuur word, maar u skakel na die "Customer Zone" sal deurentyd aktief bly en u kan ter enige tyd u betalings en transaksies daarop sien, soos wat dit geallokeer word.

**Vriendelike groete**

**HSAG-Bestuurskomitee**

Kontak die HSAG en prokureurs by:

Tel: (021) 887 7877

[hsactiongroup@gmail.com](mailto:hsactiongroup@gmail.com)



*\*AFRIKAANS HIERBO\**

## MONTHLY NEWSLETTER: JANUARY 2019

Dear HSAG Investor / Mr / Mrs / Ms [Customer Name]

This newsletter is addressed to you as a member of the Highveld Syndication Action Group ("HSAG") on account of you having made an investment in the Highveld Syndication Companies 15-22 and/or support of the HSAG.

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The [www.hsaction.co.za](http://www.hsaction.co.za) website is the primary place where you will find HSAG information although emails are also sent out from time to time.

Please keep us up to date with any changes to your personal and/or contact details.

### **1. A NEW YEAR, NEW OPPORTUNITIES**

We wish every HSAG member a happy new year.

The HSAG steering committee trusts that 2019 will be a very blessed and prosperous year for the HSAG.

The HSAG legal team is up for the challenges which lie ahead, and you can be assured of the legal team's continued support and representation in order to successfully enforce HSAG members' claims.

### **2. SCENARIO 2 & 3 OF THE SEC 155 SCHEME OF ARRANGEMENT**

During December 2018, Mr Nic Georgiou sent a letter dated 13 December 2018 to investors informing them of another option, namely the "Listed Share Option" (an amendment to the previous Option 3).

According to this letter, Mr Georgiou has "an option with a strong and impressive listed property company, a real estate investment trust (REIT), trading on the JSE".

This option makes provision for a HS investor who elects this option, to receive a portion of the shares at the net asset value in exchange for all investor's claims.

In the opinion of Mr Georgiou, it will "grow substantially in value", if these shares are held for a period of 36 months.

Investors should be extremely cautious to make this decision light heartedly, and it is the advice of the HSAG legal team that you should consult a financial advisor to consider your options.

The previous listing option ultimately failed.

In another letter, dated 20 December 2018, Mr. Georgiou wrote to HS investors who at that time opted for the Capital Growth Fund listing option ("CGF"), informing them that interest and applications for this option was not sufficient to list the company on the JSE.

The amended "Listing Share Option" is also offered to these investors.

Could this amended option be just another false offer?

### **3. CURRENT STATE OF LITIGATION**

#### **3.1. Fast Track Certification Application**

On 27 July 2018 the HSAG legal team served an application for the certification of a class action in respect of HS 21 & 22 on Mr Georgiou / Orthotouch and other Respondents in which the HSAG requested the Court for such certificate to be granted.

The HSAG legal team and the attorneys for Mr Georgiou recently agreed on a timetable (see point 4 of your Newsletter) in terms of which the service of court documents must be effected.

All court documents have been served and filed timeously. The only outstanding court document is the Respondents' Head of Argument, which has to be served and filed by 25 January 2019.

As soon as the Respondents have served and filed the Heads of Argument, the HSAG's legal team will approach the Court for a date for hearing of the Application.

The Notice of Motion, as well as the Supporting Affidavit and the letter to the Deputy Judge President, is posted on the HSAG's website at [www.hsaction.co.za](http://www.hsaction.co.za) and we invite you to read it.

#### **3.2. Investors with claims in HS 15 tot 20**

Claims for investments in other HS Companies are not lost or in jeopardy and the HSAG is still proceeding with steps to enforce investors' claims.

The claims of HS 15 to 20 are based on other facts and circumstances, amongst others including fraud and misrepresentation, and this route must be followed with these claims, which differ to the contractual claims of HS 21 & 22.

As stated above, HS 15-22 claims, based on unlawful acts will also proceed against all Respondents. The reason for this is that any shortfall that may exist in the claims will be recovered from such parties.

Investors with claims in HS 19-20 have already been instituted by way of the Application for Certification and this Application suspends the running or prescription of HSAG members' claims.

The rescission of the Sec 155 Scheme of Arrangement is a necessary step in order to proceed with these claims.

The HSAG's application for setting aside the Scheme is pending and further court documents intend to be filed shortly with the hope that this rescission application may be heard in 2019 after which the rest of the class actions may proceed in the Pretoria court.

Although the HSAG intends to set aside the Sec 155 Scheme of Arrangement, (SoA) Orthotouch is obliged, in terms of the SoA, to pay monthly interest to HS investors, at least until the SoA is set aside.

#### **4. IMPORTANT DATES**

After the meeting with Judge Tolmay on 8 November 2018 the HSAG' attorneys and the attorneys for Mr Nic Georgiou agreed on a time table in terms of which certain court documents are to be served and filed.

The HSAG confirms the following dates:

On or before **7 December 2018** – Respondents had to serve and file their answering Affidavits in response to the HSAG' court documents – already served and filed;

On or before **21 December 2018** - The HSAG had to serve and file a Replying Affidavit replying to the Respondents Answering Affidavit - already served and filed;

On or before **11 January 2019** - The Applicants had to serve and file their Heads of Argument - already served and filed;

On or before **25 January 2019** - The Respondents must serve and file its Heads of Argument.

On **28 January 2019** - Meeting with Judge Siwendu (High Court, Johannesburg) regarding the possibility of the

matter being transferred to the Commercial Court in Johannesburg.

## **5. MEETING WITH JUDGE SIWENDU (HIGH COURT, JOHANNESBURG)**

Judge Tolmay, the case manager who was appointed in Pretoria in order to manage the Application by the HSAG, suggested, during the meeting between the HSAG legal team and the Respondents in November 2018, that the parties consider the possibility to transfer the Fast Track application to the Commercial Court in Johannesburg.

The possible advantage thereof is that the matter may be heard on an expedited basis.

On 3 December 2018 the HSAG addressed a letter to the Judge President from the High Court in Johannesburg, requesting the abovementioned transfer.

We confirm that this matter was referred by the Judge President to Judge Siwendu and that Judge Siwendu called for an urgent meeting with the parties.

This meeting will take place on Monday, 28 January 2019.

The HSAG will elaborate on this point in the next newsletter.

## **6. CONTRIBUTION TOWARDS LEGAL AND ADMINISTRATIVE COSTS – 2019**

The HSAG Steering Committee decided at a previous meeting in 2018, that the annual contribution towards legal and administrative costs for 2019 would remain unchanged and that an amount of R2000.00 per person will be payable.

This contribution will be loaded onto the system within the next few weeks and the R2000.00 contribution towards legal and administrative costs will appear on your February 2019 statement.

We kindly request that you make your annual contribution in order for us to manage the HSAG's case successfully.

## **7. ESTATE ENQUIRIES**

If you have any estate related enquiries regarding the estates and claims of HSAG members, you are welcome to send an email to [hsagestates@gmail.com](mailto:hsagestates@gmail.com) whereafter the HSAG will assist you.

## **8. LATE APPLICATIONS FOR REGISTRATION WITH THE HSAG**

Late applications will be considered on a strictly *ad hoc* basis. Registration forms are available on our website at [www.hsaction.co.za](http://www.hsaction.co.za) or can be requested from us at [hsagregister@gmail.com](mailto:hsagregister@gmail.com). All requests and completed registration forms must be sent to [hsagregister@gmail.com](mailto:hsagregister@gmail.com).

## **9. SUSPENSION OF HSAG MEMBERSHIP**

The HSAG Steering Committee decided at a previous meeting in 2018, which decision was welcomed by many of the HSAG members who have settled all their fees and contributions, that membership to the HSAG would unfortunately be suspended immediately if such members do not settle their outstanding **2014 / 2015 registration costs by 31 December 2018**.

We confirm that these investors' membership have been suspended.

An email confirming the suspension will be sent to the relevant parties.

The consequences of a member of the HSAG membership being suspended has far-reaching consequences, and may mean, amongst other things, that the HSAG investor's claim against Orthotouch / Georgiou has prescribed. In the current scheme of the class action application, it may also mean that you may not be able to re-join the HSAG class action at a later stage and they will not be able to insist on any benefits.

## **10. USE OF CORRECT EMAIL ADDRESSES AND REFERENCES**

**The correct use of e-mail addresses (as contained on our website and e-mails) as well as HSAG members' initials and surnames, syndication numbers and reference numbers (e.g. identity number, etc.) for all communications are essential.**

The official and existing e-mail addresses for the HSAG are as follows:

- [hsactiongroup@gmail.com](mailto:hsactiongroup@gmail.com) for all General Enquiries; (For Example - to change contact details, Proof of Payments, Death of a Member etc)
- [hsagenquiries@gmail.com](mailto:hsagenquiries@gmail.com) for Specific Enquiries; (For Example requesting information/statements regarding a specific member, exemption queries for a specific member)
- [hsagregister@gmail.com](mailto:hsagregister@gmail.com) for the registration and deregistration of HSAG members;
- [hsagwhistle@gmail.com](mailto:hsagwhistle@gmail.com) for all Confidential Information that you would like to send to us anonymously or interest not paid;
- [hsagestates@gmail.com](mailto:hsagestates@gmail.com) for all estate related questions.

**If an investor or any person sends an email to the wrong address, it will result in the email not receiving the speedy or necessary attention, if any.**

**If you do not wish to receive any further emails, please inform us in writing thereof.**

## **11. HSAG'S OFFICIAL WHATSAPP GROUPS**

It is a huge challenge to promptly convey notices, news snippets or important messages to almost 7 000 individuals.

We therefore request HSAG members to join the HSAG's official WhatsApp Groups to receive notices, news snippets or news flashes per WhatsApp.

By joining one of the HSAG's official WhatsApp groups, you will be informed of the latest developments regarding your case on a regular basis.

Simply send your mobile number; identification number; full name and surname, to [hsactiongroup@gmail.com](mailto:hsactiongroup@gmail.com) after which you will be uploaded to the groups.

You can also contact the administrators of the respective WhatsApp groups directly at 079 635 4165 (Afrikaans) and 082 450 8854 (English).

The HSAG also has an official Facebook page, and can be viewed, "liked" and commented on at [www.facebook.com/hsaction](http://www.facebook.com/hsaction).

## **12. MEMBERSHIP CONTRIBUTIONS AND REGISTRATION COSTS**

**Please ignore this point if your registration and legal costs have already been settled up to date.**

It is of utmost importance that any outstanding registration and legal costs, of which some are outstanding as long ago as 2014 should be settled as soon as possible. Almost four years have elapsed since the HSAG came into being and it is extremely unfair towards loyal HSAG members that persons who seek legal representation in a case where the average claim amounts to R250 000.00 are not willing to make a nominal contribution towards registration and / or legal costs.

Kindly take note of the following:

- i. A once-off registration fee of R1 000 **per syndication** was also levied up to 2015, which then increased to R1 500 **per syndication** thereafter and should reflect on your statement accordingly;
- ii. The requested amount for 2016 legal costs was R1 000 **per syndication**;
- iii. In May 2017 a further requisition for a contribution towards legal and administration costs of R2 000 **per person** was made;
- iv. In February 2018/ March 2018 a further requisition of R2 000 **per person** towards legal and administrative costs was made;
- v. In November 2018/December 2018 there was a special contribution request of R 500.00 **per person** made towards legal- and administration costs for HSAG members who invested in HS 21 & 22;
- vi. If there are any outstanding amounts with reference to your registration and / or legal costs, you are kindly requested to pay such outstanding balances as soon as possible to prevent unnecessary administration and/or further costs, and also to prevent such members' membership from being suspended from the HSAG;
- vii. Registration surcharges are payable on all new and arrear (90 days and older) registrations. Registration costs currently amount to R1 500 per syndication and, if further registrations are allowed beyond the deadline, it is probable that

there will be a further requisition for registration costs per syndication for new registrations, in order to relieve the financial contributions made by our current HSAG members;

- viii. From the end of February 2019 persons whose contributions are paid up to date, with a total claim value of R60 000 or less, together with a prior written request to Theron & Partners, will be exempted during 2018 from administrative -and legal costs;
- ix. Exemption is **not applicable** to previous years registration / administration and legal costs and overdue fees are still payable;
- x. **No registration, administration or legal fees are refundable.**

The HSAG enjoys the protection by way of a legal team consisting of attorneys, junior and senior advocates who have already gone a long way towards protecting the prospective plaintiffs under the umbrella of the HSAG. In light of the fact that the HSAG will proceed with the certification of a class action for HS 21-22 and the recession of the Sec 155 Scheme of Arrangement, we request that all HSAG members to give their cooperation in order to successfully complete these matters. Everyone's cooperation is required.

### **13. STATEMENT FOR PARTICIPATION IN THE HSAG**

The HSAG and its attorneys, Theron & Partners, would like to thank you for your continued and loyal support of the HSAG. The HSAG's case belongs to each individual investor, and we would therefore like to ask you to support your own case in order to claim approximately R4.6 billion from Orthotouch and others.

Please find attached your contribution statement for participation in the HSAG, kindly take note of the following:

- i. If no trust requisition regarding registration, legal or administration costs, or if a credit appears on your statement, it means that you are in a group which has not yet been registered, processed and/or allocated and could the amount reflect on a later statement;
- ii. If a credit balance appears on your statement, it confirms that you are a registered member, but we have not received your completed application form. Kindly download same from our website or request same from [hsagregister@gmail.com](mailto:hsagregister@gmail.com);
- iii. The HSAG members' information on our records was gathered from the application forms completed by the HSAG members. If your application form is faulty, vague or incomplete, there is a possibility that you may not receive statements or emails from us
- iv. The obligation rests on you as investor to inform us of any changes to your personal and / or contact details either telephonically or by e-mail to [hsagregister@gmail.com](mailto:hsagregister@gmail.com);
- v. Due to the continuous high volume of enquiries, registrations, the amendment of personal information and allocations, it is possible that your payment/s and /

or registration/s will not yet appear on the attached statement but rather on a later statement.

- vi. Please click on the email link at the bottom of the newsletter to enter the “Customer Zone” where you will see all your trust requisitions for registration and legal costs, as well as all payments made, automated statements are sent from time to time (usually during a month), but your link to the “Customer Zone” will be continuously active, enabling you to view your payments and transactions, as it is allocated, at any time.

**Kind regards**

**HSAG Steering Committee**

Contact the HSAG Attorneys at:

Tel: (021) 887 7877

[hsactiongroup@gmail.com](mailto:hsactiongroup@gmail.com)