



Financial Sector  
Conduct Authority

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ENQUIRIES:	Ms Pretty Tshuxeko Mathebula	D. DIALLING NO.:	(012) 367 7844
OUR REF:	FSP 11043	FAX:	
DATE:	14/01/2021	E-MAIL:	<a href="mailto:Pretty.mathebula@fsc.co.za">Pretty.mathebula@fsc.co.za</a>

Mr. Kobus Viljoen  
AFS Capital CC  
45C Sovereign Drive  
Route 21 Corporate Park  
Irene X30  
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By email: [kobus@afscapital.co.za](mailto:kobus@afscapital.co.za)

Dear Sir

## NOTICE OF ADMINISTRATIVE SANCTION

1. The Financial Sector Conduct Authority (FSCA) is satisfied that AFS Capital CC (AFS), an authorised financial services provider and an accountable institution as envisaged in terms of item 12 of schedule 1 of the Financial Intelligence Centre Act 38 of 2001 (FIC Act), has failed to comply with the FIC Act. Accordingly, the FSCA hereby issues this Administrative Sanction Notice (the Notice).

### 2. Nature of Non-compliance:

2.1. In terms of section 43B(4) of the FIC Act, an accountable institution is required to notify the Financial Intelligence Centre (the Centre), in writing of any changes to the particulars furnished to the Centre when it registered with it, within 90 days of such change.

2.1.1. AFS failed to comply with section 43B(4), in that AFS did not submit its name change (from Algerdon Financial Services CC to AFS Capital CC) to the Centre within the prescribed period.

2.2. In terms of Directive 02/2014, the sharing of the goAML login credentials is prohibited.

- 2.2.1. AFS failed to comply with the requirements of Directive 02/2014. During the inspection it was noted that the AFS goAML login credentials were shared with the members of the accountable institution.
- 2.3. In terms of section 42A(1) the senior management of an accountable institution must ensure compliance by the accountable institution and its employees with the provisions of the FIC Act and its risk management and compliance programme (RMCP).
- 2.3.1. AFS failed to comply with section 42A(1) of the FIC Act, in that AFS senior management delegated this responsibility to the anti-money laundering compliance officer.
- 2.4. In terms of section 43 of the FIC Act, accountable institutions are required to provide ongoing training to its employees and senior management to enable them to comply with the provisions of the FIC Act and the RMCP.
- 2.4.1. AFS failed to comply with section 43 of the FIC Act, in that it was found that AFS's employees and the senior management were not trained on the FIC Act and the RMCP.
- 2.5. In terms of section 20A to 21H of the FIC Act accountable institutions are required to perform customer due diligence in respect of its clients in terms of its RMCP.
- 2.5.1. AFS failed to comply with section 20A to 21H of the FIC Act, in that it AFS did not perform customer due diligence in line with its RMCP on two clients onboarded post 2 April 2019.
- 2.6. In terms of section 42(3) of the FIC Act an accountable institution is required to make the RMCP available to each employee involved in transactions to which the FIC Act applies. In terms of section 42(1) of the FIC Act, the accountable institutions are required to implement their RMCP.
- 2.6.1. AFS failed to comply with section 42(3) of the FIC Act, in that it was found during the inspection that the RMCP is not accessible to the AFS's staff members.

### 3. Reasons for imposing the administrative sanction

- 3.1. The non-compliance as detailed above are serious contraventions of the provisions of the FIC Act;
- 3.2. The accountable institutions were given 18 months since the amendments to the FIC Act, to implement the revised provisions and AFS was found to be non-compliant after that given period;
- 3.3. There are no records that AFS has previously failed to comply with the provisions of the FIC Act;
- 3.4. AFS has since the inspection remediated the areas of non-compliance which were identified during the inspection; and
- 3.5. AFS has co-operated with the FSCA during the inspection.

### 4. Particulars of the administrative sanction:

- 4.1. In terms of section 45C(1), read with sections 45C(3), and 45C(6)(a) of the FIC Act, the FSCA hereby imposes the following administrative sanction on AFS:
  - 4.1.1. A caution not to repeat the conduct which led to the non-compliance referred to in paragraph 2.1, 2.2, 2.3, and 2.6 above.
  - 4.1.2. A financial penalty of R10, 000.00 for non-compliance with section 20A to 21H of the FIC Act, read with Guidance Note 7.
  - 4.1.3. A financial penalty of R10, 000.00 for non-compliance with section 43 of the FIC Act.
- 4.2. AFS is directed to pay the financial penalty of **R20,000.00** on or before 15 February 2021.

4.3. The financial penalty is payable via electronic fund transfer to:

Account Name	:	NRF – FIC Act Sanctions
Account Holder	:	National Treasury
Account Number	:	80552749
Bank	:	South African Reserve Bank
Code	:	910145
Reference	:	FIC Sanction – AFS Capital

4.4. Proof of payment must be submitted to the FSCA at [pretty.mathebula@fsca.co.za](mailto:pretty.mathebula@fsca.co.za) and copy [charl.geel@fsca.co.za](mailto:charl.geel@fsca.co.za)

## 5. Right of appeal:

5.1. In terms of section 45D of the FIC Act, read with Regulation 27C of the Regulations promulgated in terms of GN R1595 in GG 24176 of 20 December 2002 as amended, AFS may lodge an appeal within 30 days, from the date of receipt of the Notice. The notice of appeal and proof of payment of the mandatory appeal fee must be-:

### 5.1.1. **hand delivered** to:

The Secretary: The FIC Act Appeal Board  
Byls Bridge Office Park, Building 11  
13 Candela Street  
Highveld Extension  
Centurion

### 5.1.2. **sent via electronic mail** to:

The HOD: Office of General Counsel  
FSCA  
Attention: Mr S Rossouw ([Stefanus.Rossouw@fsca.co.za](mailto:Stefanus.Rossouw@fsca.co.za) )

5.2. The Appeal Board secretary may be contacted at [AppealBoardSecretariat@fic.gov.za](mailto:AppealBoardSecretariat@fic.gov.za) and telephonically at (012) 641-6000 should AFS require further information regarding the appeal process. Details of the appeal process can also be found on the FIC's website at [www.fic.gov.za](http://www.fic.gov.za).

## 6. Failure to comply with the administrative sanction

6.1. In terms of section 45(C)(7)(b) of the FIC Act, should AFS fail to pay the prescribed financial penalty in accordance with this notice and an appeal has not been lodged within the prescribed period, the FSCA may forthwith file with the clerk or registrar of a competent court a certified copy of this notice, which shall thereupon have the effect of a civil judgement lawfully given in that court in favour of the FSCA.

**7. Publication of sanction:**

7.1. The FSCA will make public the decision and the nature of the sanction imposed in terms of section 45C(11) of the FIC Act.

Yours faithfully



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**KEDIBONE DIKOKWE**

**FOR THE FINANCIAL SECTOR CONDUCT AUTHORITY**