



Financial Sector  
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ENQUIRIES:	Ms Ziyanda Brukwe	D. DIALLING NO.:	(012) 367 7166
OUR REF:	FSP 45467	FAX:	(012) 422 2973
DATE:	4 May 2020	E-MAIL:	ziyanda.brukwe@fscsa.co.za

## EMPLOYEE BENEFITS INTERNATIONAL (PTY) LTD

For attention: Mrs Oliveira

102 Sea Cottage  
Dunblan Estate  
Bredell  
1500

By email: isabella@fs-ebi.com

Dear Mrs Oliveira

### NOTICE OF ADMINISTRATIVE SANCTION

1. The Financial Sector Conduct Authority (FSCA) is satisfied on available facts and information, in particular the factors mentioned in section 45C(2) of the Financial Intelligence Centre Act 38 of 2001 (FIC Act) and representations received, that Employee Benefit International (Pty) Ltd (EBI), an authorised financial services provider and an accountable institution as envisaged in terms of item 12 of schedule 1 of the 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 42(1) of the FIC Act, an accountable institution is required to develop, document, maintain and implement a RMCP. In terms of section 42(2) of the FIC Act, the RMCP must enable an accountable institution to identify, assess, monitor, mitigate and manage the risk that the provision by the accountable institution of products or services may involve or facilitate money laundering activities or the financing of terrorist and related activities. Guidance Note 7 issued by the Financial Intelligence Centre on 2 October 2017 further explains inter alia risk assessment, enhanced and simplified customer due diligence to be applied by accountable institutions.

2.2. EBI failed to comply with section 42(2) in that –

2.2.1. The document provided to the FSCA by EBI will not enable it to identify, assess, monitor, mitigate and manage money laundering and terrorist financial risk as it does not comply with all the requirements specified in section 42(2) of the FIC Act.

2.2.2. EBI's document failed to meet the requirements of section 42(2) as it does not address the manner in which the accountable institution will address the requirements that are as follows:

- *Section 42(2)(a) - risk-based approach of ML/TF risks identified;*
- *Section 42(2)(b) – manner of determining if a person is a prospective client in the process of establishing a business relationship or entering into a single transaction or a client who has established a business relationship or entered into a single transaction;*
- *Section 42(2)(c) – the manner in which it will comply with section 20A of the FIC Act;*
- *Section 42(2)(d) - the manner in which and the processes by which the AI will establish and verify the identity of clients in terms of section 21 of the FIC Act;*
- *Section 42(2)(e) – the manner in which the AI will determine whether future transactions that will be performed in the course of the business relationship will be consistent with the institution's knowledge of the prospective client in terms of section 21A of the FIC Act);*
- *Section 42(2)(f) – the manner in which and the processes by which additional due diligence will be conducted in terms of section 21B of the FIC Act;*
- *Sections 42(2)(g) and 42(2)(h) – the manner in which and the process by which ongoing due diligence and account monitoring in respect of business relationship will be conducted and the manner in which complex or unusually large transaction and unusual patterns of transaction will be examined, in terms of section 21C of the FIC Act;*
- *Section 42(2)(i) - the manner in which and processes by which the AI will confirm information relating to a client when there are doubts about the*

*veracity of previously obtained information in terms of section 21D of the FIC Act;*

- *Section 42(2)(j) – the manner in which and the processes by which the institution will perform the customer due diligence requirements when, during the course of a business relationship, the AI suspects that a transaction or activity is suspicious or unusual as contemplated in section 29 of the FIC Act;*
- *Section 42(2)(k) – the manner in which the AI will terminate an existing business relationship as contemplated in section 21E of the FIC Act;*
- *Section 42(2)(l) – the manner in which and the processes by which the AI will determine whether a prospective client is a foreign prominent public official or a domestic prominent influential person as contemplated in sections 21F and 21G of the FIC Act;*
- *Section 42(2)(m) – the manner in which and the processes by which enhanced due diligence is conducted for higher-risk business relationships and when simplified customer due diligence might be permitted;*
- *Section 42(2)(n) – the manner in which and place at which records are kept as contemplated in sections 22 to 24 of the FIC Act;*
- *Section 42(2)(o) – enabling the AI to determine when a transaction or activity is reportable to the FIC;*
- *Section 42(2)(p) – the processes for reporting to the FIC as contemplated in terms of sections 28, 28A and 29 of the FIC Act; and*
- *Section 42(2)(r) - the processes for implementation of the RMCP.*

2.3. In terms of section 43 of the FIC Act, an accountable institution must provide ongoing training to its employees to enable them to comply with the provisions of the FIC Act and the RMCP which are applicable to them.

2.4. EBI has failed to provide on-going training to its employees to enable them to comply with the provisions of the FIC Act and the RMCP which are applicable to them. EBI has not attended any FIC training since the amendments were gazetted.

### **3. Reasons for imposing the administrative sanction**

3.1. The FSCA provided EBI with a guideline to assist in the drafting of the RMCP on 06 September 2019. EBI did not follow the guidelines as the response that the FSCA

received from EBI on 21 October 2019 was a set of internal rules with no consideration for a risk based approach whereby the accountable institution can assess customers in respect of money laundering and terror financing risks and to conduct customer due diligence accordingly.

- 3.2. EBI was provided with another opportunity on 22 October 2019 to draft the risk management and compliance program (RMPC) by following the guidelines in compliance with section 42(2) and which is customised to the accountable institution's business. EBI did not provide any response.
- 3.3. EBI was sent a notice of intention to impose an administrative sanction on 16 February 2020 and no response has been received. Follow up was done after EBI failed to meet the deadline on 07 March 2020 and there has not been any response.

#### **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 EBI:
  - 4.1.1. EBI is directed to submit a RMCP, that complies with the requirements of section 42(2) of the FIC Act read with guidance note 7 issued by the FIC, to the FSCA on or before 1 July 2020.
  - 4.1.2. A financial penalty of R10 000 for failure to develop, document and implement a RMCP in non-compliance with section 42(1) read with section 42(2) of the FIC Act.
  - 4.1.3. A financial penalty of R5 000 for the failure to provide on-going training to the employees to enable them to comply with the provisions of the FIC Act and RMCP which are applicable to them.
- 4.2. EBI is directed to pay R5 000 of the financial penalty on or before 1 July 2020.

4.3. The payment of the remaining R10 000 of the total financial penalty is hereby suspended for a period of 3 years from the date of this Administrative Sanction, on condition that EBI remains fully compliant with section 42(2) of the FIC Act.

4.4. Should EBI be found to be non-compliant with section 42(2) within the 3 year suspension period, the suspended penalty of R10 000 becomes immediately payable.

4.5. 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 -EBI/2020

4.6. Proof of payment must be submitted to the FSCA on **03 July 2020**

## **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, EBI 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) and copy  
charl.geel@fsca.co.za

5.2. Mr Vongani Khoza, Secretary of the FIC Act Appeal Board, may be contacted at [Vongani.Khosa@fic.gov.a](mailto:Vongani.Khosa@fic.gov.a) and telephonically at (012) 641-6241 / 082 437 6371 should EBI 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 EBI 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.



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**Kedibone Dikokwe**

**For the Financial Sector Conduct Authority**