



Financial Sector
Conduct Authority

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ENQUIRIES:	Ziyanda Brukwe	D. DIALLING NO.:	(012) 366 7166
OUR REF:	37990	FAX:	
DATE:	04 June 2020	E-MAIL:	ziyanda.brukwe@fsca.co.za

ESTRET FINANCIAL SERVICES CC

For attention: Mr Muller

5 HAWTHORNE ROAD

EDLEEN

KEMPTON PARK

5201

By email: estretmannie@mail.net.za

Dear Mr Muller

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 FIC Act and representations received, that Estret Financial Services CC (Estret), 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 Financial Intelligence Centre Act 38 of 2001 (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 an 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 how accountable institutions should do a risk assessment in order to enhanced and simplified due diligence on clients.

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

2.1.1. The document provided to the FSCA by Estret 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.

2.1.2. Estret'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.*

3. Reasons for imposing an administrative sanction

- 3.1. The FSCA provided Estret with a guideline to assist in the drafting of the RMCP on 03 June 2019. Estret did not follow the guidelines as the response that the FSCA received from Estret on 24 June 2019 did not take into consideration the 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. Estret was provided with another opportunity on 17 September 2019 and again on 23 October 2019 to draft the risk management and compliance program by following the guidelines in compliance with section 42(2) and which is customised to the accountable institution's business. Estret provided a response with the RMCP attached. The RMCP however did not provide for the manner in which and the process by which Estret will conduct customer due diligence, ongoing due diligence and the risk rating of clients.
- 3.3. Estret 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 Estret failed to meet the deadline on 07 March 2020 and Estret has not provided the required RMCP that meets the requirements of the Act.

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 Estret:

4.1.1 A directive to implement a RMCP that is compliant with the provisions of section 42 of the FIC Act by 31 July 2020.

4.1.2 a financial penalty not exceeding R10 000 for failure to comply with all the requirements as set out in section 42(2) of the FIC Act read with Guidance Note 7 issued by the Financial Intelligence Centre.

4.2. The payment of the R10 000 penalty is hereby suspended for a period of 3 years from the date of this Administrative Sanction, on condition that Estret remains fully compliant with section 42(2) of the FIC Act. Should Estret be found to be non-compliant with section 42(2) within the 3 years suspension period, the suspended penalty of R10 000 becomes immediately payable.

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, Estret 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 and telephonically at (012) 641-6241 / 082 437 6371 should Estret 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.

6 Publication of sanction:

6.1 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



MS Kedibone Dikokwe

For the Financial Sector Conduct Authority