



Financial Sector
Conduct Authority

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ENQUIRIES:	Themba Manganyi	DIALLING NO.:	(012) 422 2908
OUR REF:	FSP 8403	FAX:	
DATE:	04 August 2020	E-MAIL:	Themba.manganyi@fsc.co.za

Central Motors Lichtenburg T/A Mia Motors
For Attention: Mr AMA Mia
Corner Melville and Republic
Lichtenburg
2740

By email: ama111@telkomsa.net

Dear Sir

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 Mia Motors, 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 28 of the FIC Act, an accountable institution and a reporting institution must, within the prescribed period, report to the Financial Intelligence Centre (the Centre) the prescribed particulars concerning a cash transaction that is in excess of R24 999.99.

2.2. Mia Motors failed to comply with section 28 of the FIC Act, in that whilst sampling the bank statements for FNB, Account Number 62023809081 held in the name of Mia Motors for a period dated 1 November 2016 to 31 October 2019 it was noticed that on 23 April 2019 and 24 June 2019 Mia Motors received cash deposits for R140 000 and R39 000 (aggregation) deposited by Mpungose ZN. These transactions were only reported to the Centre on 2

Transitional Management Committee:

AM Sithole (Commissioner) DP Tshidi CD da Silva JA Boyd MM du Toit LP Kekana K Gibson OB Makhubela P Mogase

November 2019. During the inspection Mr. Mia indicated that he did not report the above-mentioned cash threshold transactions timeously as the transaction was not concluded yet, it is in respect of a lay-buy, and the motor vehicle is still in the possession of Mia Motors.

- 2.3. Mia Motors, in their representations, repeated their explanation that these transactions were not reported to the Centre within the prescribed period as these transactions are in respect of a lay-buy. Mia Motors indicated that their transaction in respect of their primary business involved the selling of motor vehicles. Their treatment of a transaction is when a client purchases a vehicle, makes full payment and thereafter delivery of the vehicle is effected. It is then that their transaction is completed.
- 2.4. Mr. Mia indicated that on 1 November 2019, in preparation for the inspection, he consulted with a compliance practitioner to review their files, which was when he was made aware by the compliance practitioner, that the said cash deposits should have been reported to the Centre. Mia Motors indicated in their representation that as soon as they became aware that the above-mentioned transaction must be reported to the Centre, they reported it the next day (within 2 days of becoming aware).
- 2.5. In terms of section 24(4) of the Regulations a report under section 28 of the FIC Act must be submitted to the Centre as soon as possible but not later than 2 days after becoming aware of the fact that a cash transaction or series of cash transactions has exceeded the prescribed limit.
- 2.6. Mr Mia further explained in point 7 of the representation submitted in response to the notice of intention to sanction that the processes for reporting (as prescribed in sections 42(2)(o) and (p) of the FIC Act, will be included in the Risk Management and Compliance Programme (RMCP) so as to avoid a recurrence of the non-compliance. This was specifically in response to the directive in the notice of intention to sanction to amend the RMCP to incorporate the processes in respect of reporting as set out in sections 42(2)(o) and (p) of the FIC Act. A copy of the amended RMCP has not yet been received.

2.7. Finally, Mr Mia explained that imposing a financial penalty will cause financial hardship and publication of the sanction will negatively impact on the reputation of Mia Motors.

3. Reasons for imposing the administrative sanction

3.1. The non-compliance as detailed above are serious violations of the provisions of the Act;

3.2. There are no records that Mia Motors has previously failed to comply with the FIC and FAIS Act;

3.3. Mia Motors has remediated the non-compliance in respect of reporting in terms of section 28 of the FIC Act to the FIC;

3.4. Mia Motors has co-operated with the FSCA during the inspection.

3.5. A copy of the amended RMCP which includes processes as prescribed in section 42(2)(o) and (p) in respect of reporting obligations was not submitted as directed in the notice of intention to sanction.

3.6. The FSCA is of the view that Mia Motors' argument that it reported the transactions after becoming aware of the reporting obligation is not an excuse justifying the FSCA not imposing an administrative sanction.

4. Particulars of the administrative sanction:

4.1. In terms of section 45C(1), read with section 45C(3)(e) of the FIC Act, the FSCA imposes a financial penalty on Mia Motors in the amount of R17 980 for non-compliance with section 28(b) read with regulation 24(4) of the Regulations.

4.2. Mia Motors is directed to pay the financial penalty of R5 000 on or before **31 August 2020**.

- 4.3. The payment of the remaining R12 980 of the total financial penalty is hereby suspended for a period of 3 years from the date of this Administrative Sanction, on condition that Mia Motors remains fully compliant with section 28 of the FIC Act.
- 4.4. Should Mia Motors be found to be non-compliant with section 28 of the FIC Act within the 3-year suspension period, the suspended penalty of R12 980 becomes immediately payable.
- 4.5. Mia Motors is directed to amend its RMCP to include processes as prescribed in section 42(2)(o) and (p) of the FIC Act in respect of the reporting obligations and to submit the amended RMCP to the FSCA.
- 4.6. 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 – Central Motors Lichtenburg

- 4.7. Proof of payment must be submitted to the FSCA at Themba.manganyi@fsc.co.za and copy Charl.geel@fsc.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, Mia Motors 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. **via electronic mail to:**

The HOD: Office of General Counsel
FSCA

Attention: Stefanus Rossouw (Stefanus.Rossouw@fsca.co.za) or
Charl Geel (Charl.geel@fsca.co.za)

5.2. Mr Gcinikhaya Dudeni, Secretary of the FIC Act Appeal Board, may be contacted at Gcinikhaya.dudeni@fic.gov.za and telephonically at (012) 641-6243 should Mia Motors 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. Failure to comply with the administrative sanction

6.1. In terms of section 45(C)(7)(b) of the FIC Act, should Mia Motors 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



Kedibone Dikokwe
For the Financial Sector Conduct Authority