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OUR REF:	FSP 42970	FAX:	
DATE:	12 August 2020	E-MAIL:	<a href="mailto:mpho.radebe@fsca.co.za">mpho.radebe@fsca.co.za</a>

Ms Debbie Barnard

Debbie Barnard Investments CC trading as Debbie Barnard Finansiele Dienste

8 Mimosa Avenue

Sederpark

Lichtenburg

2740

Per electronic mail: [barnard.debbie4@gmail.com](mailto:barnard.debbie4@gmail.com)

Dear Madam

## NOTICE OF ADMINISTRATIVE SANCTION

1. The Financial Services Conduct Authority (FSCA) is satisfied on available facts and information that Debbie Barnard Investments CC (Debbie Barnard Finansiele Dienste), an authorised financial services provider and an accountable institution as envisaged in terms of item 12 of schedule 1 of the FIC Act, has contravened the Financial Intelligence Centre Act 38 of 2001 (FIC Act). Accordingly, the FSCA hereby issues this Administrative Sanction Notice (the Notice).

### 2. Nature and Reasons of Non-compliance:

2.1. In terms of section 42(2)(a) of the FIC Act read with Guidance Note 7 issued by the Financial Intelligence Centre (FIC), an accountable institution's Risk Management and Compliance Programme (RMCP) must enable the 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 (ML) activities or the financing of terrorist (TF) and related activities. The RMCP must determine the processes by which enhanced due diligence is conducted for higher risk business relationships and when simplified customer due diligence might be permitted in the institution.

2.1.1. At the time of the inspection, Debbie Barnard Finansiële Dienste's RMCP did not comply with the requirements set out in section 42(2)(a) of the FIC Act read together with Guidance Note 7 issued by the FIC, in that the RMCP did not provide for:

- The ML/TF risks identified and how the risks could be realised;
- The effective risk scales to classify categories of clients in terms of the ML/TF risks;
- The customer due diligence that will be applied on different risk categories of clients based on the risk classification; and
- The RMCP was further not fully implemented at the time of the inspection as only 19 of 30 client files that were sampled had the identification documentation as outlined in its RMCP.

2.2. In terms of section 20A to 21H of the FIC Act, an accountable institution should use the findings from its risk assessment to decide on the appropriate level and type of customer due diligence it will apply to a client; its RMCP must describe the customer due diligence measures which it applies and how these measures are intensified on the basis of ML/TF risks.

2.2.1. Debbie Barnard Finansiële Dienste failed to comply with section 20A to 21H of the FIC Act, in that at the time of the inspection, the customer due diligence measures employed were not in accordance with its RMCP. In terms of the RMCP a copy of identification (e.g. green ID or ID card, valid passport, valid driver's license) together with copies of utility bills will be accepted as client identification documents. We sampled 30 client files during the inspection and 11 client files were non-compliant as follows:

- JJ Stander and Mariolene Trading (Pty) Ltd: the client files did not have a copy of identification and utility bill;
- ASJ Jacobs: the client file did not have an identification document
- JMY Burds, SJ Pretorius, AACC Oosthuizen, M Combrinck, CJB van der Westhuizen, E Steyn, Y van der Linde and M van Eck: the client files did not include copies of utility bills.

### **3. Particulars of the administrative sanction:**

3.1. When determining an appropriate administrative sanction, the FSCA must consider the factors described in section 45C (2) of the FIC Act to the extent that they apply:

#### **Nature, duration, seriousness and extent of the relevant non-compliance:**

- 3.1.1. The non-compliance as detailed above are serious violations of the provisions of the FIC Act and the directive issued by the FSCA.
- 3.1.2. All accountable institutions were given 18 months to implement the amendments to the FIC Act.
- 3.1.3. Debbie Barnard Finansiële Dienste confirmed in its response submitted on 3 August 2020 that there is outstanding risk rating and customer due diligence measures for some clients and that same will be completed by 30 September 2020.

#### **Previous non-compliance with any law**

3.1.4. Debbie Barnard Finansiële Dienste has previously failed to comply with the FIC Act and a remediation letter was issued in this regard. Due to the failure to properly remediate these issues previously identified, the Authority decided to conduct another inspection to assess the accountable institutions remediated level of compliance which resulted in this Notice of Sanction.

#### **Remedial steps and mitigating factors**

- 3.1.5. Debbie Barnard Finansiële Dienste has cooperated with the FSCA during the inspection.
- 3.1.6. On 02 July 2020 Debbie Barnard Finansiële Dienste responded to the above non-compliance raised in the notice of intention to sanction by submitting a revised RMCP which demonstrated that the findings as set out in paragraph 2.1.1 above were remediated
- 3.1.7. Further Debbie Barnard Finansiële Dienste submitted copies of the 11 client files highlighted above (paragraph 2.2), which had been risk rated and the customer due diligence documentation was obtained in accordance with the revised RMCP.
- 3.1.8. Notwithstanding all the above, the FSCA is satisfied that the revised RMCP has materially improved and deemed it appropriate to partially suspend the financial penalty outlined in the notice of intention to sanction.

3.2. In terms of section 45C(1), read with sections 45C(3)(c), and 45C(6)(a) of the FIC Act, the FSCA hereby imposes the following administrative sanction on Debbie Barnard Finansiële Dienste:

3.2.1. A financial penalty of R10 000 for non-compliance with section 42(2)(a) of the FIC Act, read with Guidance Note 7 issued by the FIC.

The payment of the R10 000 is suspended for a period of 3 years from the date of this Administrative Sanction, on condition that Debbie Barnard Finansiële Dienste remains fully compliant with section 42(2)(a) of the FIC Act read together with Guidance Note 7 issued by the FIC.

Should Debbie Barnard Finansiële Dienste be found to be non-compliant with section 42(2)(a) of the FIC Act, read together with Guidance Note 7 issued by the FIC, within the 3year suspension period the suspended penalty of R10 000 becomes immediately payable.

3.2.2. A financial penalty of R55 000 for non-compliance with section 20A to 21H of the FIC Act.

Debbie Barnard Finansiële Dienste is directed to pay the financial penalty of R10 000 on or before 7 September 2020.

The payment of the remaining R45 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 Debbie Barnard Finansiële Dienste remains fully compliant with section 20A to 21H of the FIC Act.

Should Debbie Barnard Finansiële Dienste be found to be non-compliant with section 20A to 21H of the FIC Act within the 3year suspension period the suspended penalty of R45 000 becomes immediately payable.

3.3. The financial penalty of R10 000 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 – Debbie Barnard Investments CC

- 3.4. Proof of payment must be submitted to the FSCA at [mpho.radebe@fsca.co.za](mailto:mpho.radebe@fsca.co.za) and copy [charl.geel@fsca.co.za](mailto:charl.geel@fsca.co.za).

#### **4. Right of appeal:**

- 4.1. 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, Debbie Barnard Finansiële Dienste 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-:

**4.1.1. hand delivered to:**

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

**4.1.2. sent via electronic mail to:**

The HOD: Office of the General Counsel  
FSCA

Attention: Stefanus Rossouw ([Stefanus.Rossouw@fsca.co.za](mailto:Stefanus.Rossouw@fsca.co.za)) or Charl Geel ([charl.geel@fsca.co.za](mailto:charl.geel@fsca.co.za)).

- 4.2. Mr Gcinikhaya Dudeni, Secretary of the FIC Act Appeal Board, may be contacted at [Gcinikhaya.Dudeni@fic.gov.za](mailto:Gcinikhaya.Dudeni@fic.gov.za) and telephonically at (012) 641-6243 should Debbie Barnard Finansiële Dienste 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).

#### **5. Failure to comply with the administrative sanction**

In terms of section 45(C)(7)(b) of the FIC Act, should Debbie Barnard Finansiële Dienste 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.

**6. Publication of sanction:**

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**