



Financial Sector
Conduct Authority

P.O. Box 35655
Menlo Park
0102

Tel. +27 12 428 8000
Toll free. 0800 20 3722
Fax. +27 12 346 6941
Email. info@fsc.co.za
Website. www.fsc.co.za

ENQUIRIES:	Mrs V Naidoo	DIALLING NO.:	012 367 7126
OUR REF:	FSP 46510	FAX:	012 422 2973
DATE:	19 October 2020	E-MAIL:	Viloshnee.Naidoo@fsc.co.za

Mr. DJ Botha
BOT- AND INVESTMENT CC
26 Brighton Drive
Summerstrand
Port Elizabeth
6001

Per e-mail: dawie.ktm@gmail.com

Dear Sir

NOTICE OF ADMINISTRATIVE SANCTION

1. The Financial Sector Conduct Authority (FSCA) is satisfied, that BOT- AND INVESTMENTS CC (BOT), an authorised financial services provider (FSP) and an accountable institution as envisaged in terms of item 12 of schedule 1 of the FIC Act, 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 read with Guidance Note 7 issued by the Financial Intelligence Centre (the FIC), an accountable institution must develop, document, maintain and implement a programme for anti-money laundering and counter terrorist financing risk management compliance (RMCP).

2.2. The 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.

2.3. BOT did not develop, document, maintain and implement a programme for anti-money laundering and countering-terrorist financing risk management and compliance.

2.4. Therefore, BOT is in contravention section 42(1) of the FIC Act.

2.5. In terms of section 43 of the FIC Act, an accountable institution is required to 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.

2.6. BOT did not provide ongoing training to its employees to ensure compliance with the FIC Act and the RMCP that applies to BOT and its employees.

2.7. Therefore, BOT is in contravention of section 43 of the FIC Act.

2.8. In terms of section 42A(2)(a) of the FIC Act, a compliance function must be established to assist its senior management in discharging their obligations to ensure compliance by the accountable institution and its employees with the provisions of the FIC Act and RMCP.

2.9. BOT did not establish a compliance function to assist senior management in discharging its obligations in ensuring compliance with the FIC Act and its RMCP. There is no compliance function established at BOT.

2.10. Therefore, BOT is in contravention of section 42A(2)(a) and (b) of the FIC Act.

3. Reasons for imposing the administrative sanction:

3.1. The management of BOT had no knowledge of the FIC Act and Guidance Note 7.

3.2. There were no policies and procedures in place at BOT to combat ML and TF and related activities.

3.3. BOT did not provide any objections and/or representatives as to why sanctions should not be imposed.

4. Particulars of the administrative sanction:

4.1. In terms of section 45C(3)(e) of the FIC Act, the FSCA imposes the following sanctions on BOT:

4.1.1. A financial penalty of R 10 000.00 for non-compliance with section 42(1) read together with section 61(a) of the FIC Act and with Guidance Note 7, suspended for five (5) years on condition that BOT is not to have contravened section 42(1) of the FIC Act during the period of suspension;

4.2.2. a financial penalty not exceeding R 10 000.00 for non-compliance with section 43 of the FIC Act, suspended for five (5) years on condition that BOT is not to have contravened section 43 of the FIC Act during the period of suspension.

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, BOT 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)

5.2. Mr G Dudeni, Secretary of the FIC Act Appeal Board, may be contacted at Gcinikhaya.Dudeni@fic.gov.za and telephonically at (012) 641-6243 should BOT 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



**KEDIBONE DIKOKWE
DIVISIONAL EXECUTIVE: CONDUCT OF BUSINESS SUPERVISION
FOR THE FINANCIAL SECTOR CONDUCT AUTHORITY**