

ENQUIRIES:	Avheani Nenguda	D. DIALLING NO.:	(012) 367 7296
OUR REF:	FSP 34853	FAX:	(012) 422 2973
DATE:	7 October 2020	E-MAIL:	avheani.nenguda@fscsa.co.za

Mr F M Kritzinger
Fortunate Brokers CC
458 Judith Street
Waterkloof Glen
0181

By email: fortunate@fortunatebrokers.co.za

Dear Mr Kritzinger,

NOTICE OF ADMINISTRATIVE SANCTION

1. The Financial Sector Conduct Authority (FSCA) is satisfied that Fortunate Brokers CC (Fortunate Brokers), an authorised financial services provider and an accountable institution as envisaged in terms of item 12 of schedule 1 to 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:

Risk Management and Compliance Programme

2.1. In terms of section 42(2)(a) of the FIC Act, a Risk Management and Compliance Programme (RMCP) must enable an accountable institution to identify, assess, monitor, mitigate and manage the risk that the provision by the accountable institution of products and services may involve or facilitate money laundering activities or the financing of terrorist and related activities.

2.2. Fortunate Brokers failed to comply with section 42(2)(a) of the FIC Act, in that -

- 2.2.1. during an inspection, the FSCA found that Fortunate Brokers' RMCP is generic and not customised to its business model.
- 2.2.2. After the inspection, it was brought to the FSP's attention that the RMCP is still not customised to its business model. The RMCP cites what the section requires instead of describing the following:
 - How and when the FSP will conduct ongoing due diligence;
 - How the FSP will deal with anonymous clients;
 - How to determine if a transaction or activity is reportable to the FIC i.e. Cash threshold, suspicious activities and property associated with terrorist and related activities;
 - What is the process for reporting information to the FIC; and
 - When and how training will be done.
- 2.2.3. The RMCP does not explain the process and procedure that the FSP will conduct in terms of section 42(2)(a) of the Act.

Training

- 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. Fortunate Brokers failed to comply with section 43 -
 - 2.4.1. Although Fortunate Brokers did provide training to its employees relating to its RMCP, it was found during the inspection that the employees of Fortunate Brokers had limited understanding of the entity's RMCP, they only signed a copy of the RMCP without understanding its contents and therefore would not be able to comply with the provisions of the FIC Act and the RMCP;
 - 2.4.2. Fortunate Brokers' RMCP does not make provision on how frequent the money laundering ongoing training will be conducted.

Directive 02/2014

- 2.5. In terms of Directive 02/2014, the login credentials issued by the Financial Intelligence Centre (FIC) registration system (goAML) may only be used by the person who registered on goAML.

2.6. Fortunate Brokers failed to comply with Directive 02/2014. The FSCA found that the Money Laundering Compliance Officer shares his goAML log in credentials with the external compliance officer and Fortunate Broker's internal manager.

3. Reasons for imposing the administrative sanction:

- 3.1. Non-compliance with the FIC Act is a serious contravention;
- 3.2. 3.3. Fortunate Brokers' RMCP does not meet the requirements of section 42 even after the notice of intention to sanction was issued.
- 3.4. Fortunate Brokers' RMCP does not make provision on how often training on the FIC Act and RMCP will be conducted.

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 Fortunate Brokers:

4.1.1 In terms of section 45C(3)(c) of the FIC Act, Fortunate Brokers is directed to:

- 4.1.1.1 Ensure that the goAML log in credentials are only used by the person who originally registered them on goAML.
- 4.1.1.2 Ensure that it provides effective training to employees on its RMCP and provide proof thereof to the FSCA on or before 31 August 2020. The training must be of such a nature that the employees will be able to comply with the FIC Act and RMCP at any given time.

4.2. In terms of section 45C(3)(b) of the FIC Act, Fortunate Brokers is reprimanded for sharing goAML log in credentials with external compliance officer and its internal manager.

4.3. In terms of section 45C(3)(e) of the FIC Act, the FSCA imposes a financial penalty of R10 000 on Fortunate Brokers as follows:

4.3.1. R10 000 for the RMCP which is non-compliant with the requirements of section 42(2)(a).

4.4. Fortunate Brokers has since addressed all the non-compliance identified above. The payment of the penalty is hereby suspended for a period of 3 years from the date of this Administrative Sanction, on condition that Fortunate Brokers remains fully compliant with section 42(2)(a) and section 43 of the FIC Act.

4.5. Should Fortunate Brokers be found to be non-compliant with section 42(2)(a) of the FIC Act 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, Fortunate Brokers 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: Adv C Geel (Charl.Geel@fsc.co.za)

5.2. Mr G Dudeni, Secretary of the FIC Act Appeal Board, may be contacted at GcinikhayaDudeni@fic.gov.za and telephonically at (012) 641-6243 should Fortunate Brokers 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)(1)(d) of the FIC Act, should Fortunate Brokers fail to comply with the directives issued by the FSCA, the FSCA may proceed to impose a financial penalty on Fortunate Brokers.

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