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South African Reserve Bank imposes administrative sanctions in terms of the Financial Intelligence Centre Act 38 of 2001, as amended

The South African Reserve Bank (SARB) has imposed administrative sanctions on two life insurers and directed them to take remedial action. The SARB found weaknesses in each of the life insurers' money laundering control measures following inspections conducted in terms of the Financial Intelligence Centre Act 38 of 2001, as amended (FIC Act) during 2019.

The life insurers are Sanlam Life Limited (Sanlam Life) and Fedgroup Life Limited (Fedgroup Life). The said life insurers are accountable institutions (AI) in terms of Schedule 1 of the FIC Act, whereas the South African Reserve Bank, and the Registrar of Banks [whose role was assumed by the Chief Executive Officer of the Prudential Authority (PA) since 1 April 2018] is a supervisory body in terms of Schedule 2 of the FIC Act.

In September 2018, the Prudential Authority (PA) and the Financial Sector Conduct Authority (FSCA) entered into a Memorandum of Understanding delegating the supervision and regulation of compliance obligations in respect of licensed life insurers with the FIC Act from the FSCA to the PA.

Section 45 of the FIC Act mandates the PA to supervise and enforce compliance with the provisions of the FIC Act for AIs it supervises. Flowing from these responsibilities, the PA, inter alia, inspects AIs to assess whether they have appropriate and adequate measures and money laundering and terrorist financing control measures in place that would enable them to effectively comply with the provisions of the FIC Act.

It should be noted that the administrative sanctions were imposed because of weaknesses identified with regards to compliance with the provisions of the FIC Act by the aforementioned insurers, and not because the said life insurers were found to have facilitated transactions involving money laundering or the financing of terrorism.

The administrative sanctions imposed in terms of section 45C (3) of the FIC Act are as follows:

Sanlam Life:

A total financial penalty of R1 million (excluding an amount of R500 000 which is suspended for three years from 28 July 2021). The financial penalty imposed on Sanlam Life stems from the following FIC Act breaches:

- a. Sanlam Life failed to comply with enhanced due diligence requirements in respect of domestic prominent influential persons in terms of section 21G of the FIC Act. The PA imposed a caution not to repeat the conduct which led to the non-compliance in terms of section 45C(3)(a) of the FIC Act and a financial penalty of R1 million in terms of section 45C(3)(e) of the FIC Act.
- b. Sanlam Life failed to comply with cash threshold reporting (CTR) requirements in terms of section 28 of the FIC Act. The PA imposed a caution not to repeat the conduct which led to the non-compliance in terms of section 45C(3)(a) of the FIC Act. In addition, a financial penalty of R500 000, suspended for three years, from 28 July 2021 was imposed on Sanlam Life in terms of section 45C(3)(e) of the FIC Act.
- c. Sanlam Life failed to comply with suspicious transaction reporting (STRs) requirements in terms of regulation 24(3) read with regulation 29(7) of the Money Laundering and Terrorist Financing Control Regulations. The PA imposed a caution not to repeat the conduct which led to the non-compliance in terms of section 45C(3)(a) of the FIC Act.

Sanlam Life has accepted the administrative sanctions issued by the PA, made payment of the financial penalty, and agreed to focus on enhancing its anti-money laundering and counter-terrorist financing compliance.

Fedgroup Life:

A total financial penalty of R140 000.00.

The financial penalty imposed on Fedgroup Life stems from the following FIC Act breaches:

- a. Fedgroup Life failed to comply with anti-money laundering and counter financing of terrorism compliance (AML/CFT) training requirements in terms of section 43 of the FIC Act. These failures are linked to deficiencies identified in Fedgroup Life's training material and its failure to adequately train employees.
- b. Fedgroup Life failed to comply with the governance of AML/CFT compliance requirements in terms of section 42A(2) of the FIC Act. This failure to comply is in respect of deficiencies linked to the lack of customisation of the risk management and compliance programme of Fedgroup Life as well as the failure to provide documentary evidence relating to adequate oversight and monitoring in respect of customer due diligence requirements in terms of section 21 of the FIC Act, the duty to keep record in terms of sections 22 to 24 of the FIC Act, and requisite reporting related obligations in terms of sections 28, 28A and 29 of the FIC Act.

Fedgroup Life lodged an appeal in terms of section 45D of the FIC Act at the Appeal Board established in terms of the FIC Act to review the decision of the PA insofar as it related to the quantum of the financial penalty imposed, however the matters of non-compliance were not in dispute. Following the hearing, the Appeal Board ruled that the initial penalties of R500 000 and R250 000 imposed by the PA for non-compliance

with sections 43 and 42A of the FIC Act be reduced to R80 000 and R60 000, respectively.

In addition to the financial penalties outlined above, a directive to take remedial action in terms of section 45C(3)(c) for the non-compliance with section 43 of the FIC Act as well as a caution not to repeat the conduct which led to the non-compliance in terms of section 45C(3)(a) of the FIC Act concerning non-compliance with section 42A of the FIC Act were imposed upon Fedgroup Life.

Fedgroup Life is cooperating with the SARB and has agreed to undertaking the necessary measures to address the identified compliance deficiencies and control weaknesses.

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