

ENQUIRIES:	Masakhe Tshona	D. DIALLING NO.:	012 422 2993
OUR REF:	Sasfin Securities (Pty) Ltd	FAX:	012 346 6533
DATE:	03 June 2020	E-MAIL:	Masakhe.Tshona@fsc.co.za

Ms Phoolmathy Dookos  
Compliance officer  
Sasfin Securities (Pty) Ltd  
Waverley  
Johannesburg  
2090

Per electronic mail: : [phoolmathy.dookoo@sasfin.com](mailto:phoolmathy.dookoo@sasfin.com)  
CC: [Annamarie.Coetzee@sasfin.com](mailto:Annamarie.Coetzee@sasfin.com)

Dear Ms Dookos

## 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 FIC Act and representations received, that Sasfin Securities (Pty) Ltd (Sasfin), an authorised user of an exchange and an accountable institution as envisaged in terms of item 4 of schedule 1 of the Financial Intelligence Centre Act 38 of 2001 (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 21 of the FIC Act read with guidance note 7 issued by the Financial Intelligence Centre (FIC), an accountable institution may not establish a business relationship or conclude a single transaction with a client unless the accountable institution has taken the prescribed steps to establish and verify the identity of the client.

2.2. In terms of section 22 of the FIC Act, an accountable institution must keep record of information obtained to verify a client's identity, nature of the business relationship, intended purpose of the business relationship and the

source of funds which the client is expected to use in concluding transactions in the course of the business relationship.

- 2.3. Sasfin is found to have been non-compliant with sections 21 and/or 22 of the FIC Act read with Guidance Note 7 issued by the FIC in that SASFIN did not establish and verify clients in accordance with its Risk Management and Compliance Programme (RMCP) and/or did not keep records of verification information of customer due diligence records and/or source of funds which the client is expected to use in concluding transactions in the course of the business relationship in respect of 22 clients.
- 2.4. In terms of section 43 of the FIC Act, Sasfin must provide ongoing training to its employees to enable them to comply with the provisions of the FIC Act and risk management and compliance programme applicable to them.
- 2.5. Sasfin is found to have been non-compliant with section 43 of the FIC Act read with Guidance Note 7 issued by the FIC in that Sasfin did not provide ongoing training to its employees to enable them to comply with the provisions of the FIC Act and RMCP which are applicable to them.
- 2.6. Furthermore, Sasfin is also found to be non-compliant with section 42(3) of the FIC Act in that Sasfin did not make available its RMCP to each of its employees involved in transactions to which the FIC Act applies.

### **3. Reasons for imposing the administrative sanction**

- 3.1. The failure to identify and verify clients is a serious failure as it forms the basis to combat money laundering and the financing of terrorism in terms of the FIC Act.
- 3.2. Similarly, failure to provide training to employees is viewed in a serious light as it may potentially lead to non-reporting of suspicious transactions the resultant effect being a weakened anti-money laundering and the counter financing of terrorism framework for South Africa.

- 3.3. Sasfin disputed the findings made by the JSE review team in their section 45C(5)(d) representations dated 10 September 2019. The FSCA studied the letter and consulted the JSE to obtain clarity given the discrepancy between Sasfin's representations and the JSE findings.
  
- 3.4. The FSCA is satisfied that Sasfin failed to comply with section 21 and/or 22 of the FIC Act based on the following reasons:
  - 3.4.1. The JSE made the finding that Sasfin did not comply with sections 21 and/or 22 of the FIC Act in their inspection report;
  - 3.4.2. This finding was not disputed by Sasfin in the JSE's close out meeting held with Sasfin;
  - 3.4.3. In an e-mail from one of Sasfin's employees to the JSE dated 31 May 2019, the non-compliance with section 21 of the FIC Act was confirmed.
  
- 3.5. The FSCA is satisfied that Sasfin failed to comply with section 43 of the FIC Act based on the following reasons:
  - 3.5.1. The JSE made the finding that Sasfin did not comply with section 43 of the FIC Act;
  - 3.5.2. This finding was not disputed by Sasfin in the JSE's close out meeting held with Sasfin;
  - 3.5.3. In Sasfin's representations of 10 September 2019, they also do not dispute the finding, but merely indicated that their training material do include the risk-based approach in terms of their risk management and compliance programme and amended FIC Act legislation.
  
- 3.6. All accountable institutions were given a grace period of 18 months, since the amendments to the FIC Act effective 2 October 2017, to implement the revised provisions.

#### **4. Mitigating factors**

- 4.1. Sasfin has subsequent to the inspection begun a process of implementing and integrating consumer profile bureau (CPB) within its dynamic customer relationship management (CRM) system in order to enhance its FIC Act capabilities.
- 4.2. Sasfin has cooperated with the JSE Limited, of which it is a member, during the inspection.

**5. Particulars of the administrative sanction:**

- 5.1. Having regard to the reasons and mitigating factors stated above and in terms of section 45C(1), read with sections 45C(3)(c), 45C(6)(a), 42(2C), 42(3) and 43, Sasfin is directed to:
  - 5.1.1. Review the RMCP at regular intervals to ensure it remains relevant to its operations and achievement of the requirements in section 42(2) of the FIC Act;
  - 5.1.2. Make available the RMCP to each employee involved in transactions to which the FIC Act applies;
  - 5.1.3. Provide ongoing training to its employees to enable them to comply with the provisions of the FIC Act and RMCP which are applicable to them; and
  - 5.1.4. Ensure that the customer due diligence documents for client accounts that were found to be non-compliant are in place as a matter of urgency and that no further trading or other activity is performed on these accounts until such time that the accounts are compliant with the documentary requirements of FIC Act.
- 5.2. In terms of section 45C(1), read with sections 45C(3)(e), and 45C(6)(a) of the FIC Act, the FSCA hereby imposes the following financial penalty:
  - 5.2.1. Two hundred thousand rand (R200 000) for the failure to comply with section 21 and/or 22 of the FIC Act.
  - 5.2.2. Two hundred thousand rand (R200 000) for the failure to comply with section 43 of the FIC Act.

5.3. The penalty of R400 000 is payable within thirty days from the date of receipt of this Notice.

5.4. 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	:	FSCA Sanction – Sasfin Securities (Pty) Ltd

5.5. Proof of payment must be submitted to the FSCA [Thembani.Ndlovu@fsca.co.za](mailto:Thembani.Ndlovu@fsca.co.za) and [Masakhe.Tshona@fsca.co.za](mailto:Masakhe.Tshona@fsca.co.za) or fax number (012) 346-6730.

## 6. Right of appeal:

6.1. 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, Sasfin 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:-

### 6.1.1. hand delivered to:

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

### 6.1.2. sent via electronic mail to:

The HOD: Office of General Counsel  
FSCA  
Attention: Adv C Geel ([Charl.geel@fsca.co.za](mailto:Charl.geel@fsca.co.za))

6.2. Mr Vongani Khoza, Secretary of the FIC Act Appeal Board, may be contacted at [Vongani.Khosa@fic.gov.a](mailto:Vongani.Khosa@fic.gov.a) and telephonically at (012) 641-6241 / 082 437 6371 should Sasfin 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).