



Financial Sector
Conduct Authority

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ENQUIRIES:	Masakhe Tshona	D. DIALLING NO.:	012 422 2993
OUR REF:	BGC SA Financial Brokers (Pty) Ltd	FAX:	012 346 6533
DATE:	27 August 2019	E-MAIL:	Masakhe.Tshona@fsca.co.za

Ms Sandra van Niekerk
Compliance officer
BGC SA Financial Brokers (Pty) Ltd
Cube WS Building
9 The Straight Avenue
Pineslopes
Fourways
Johannesburg
2191

By email: sandi@bgcsa.co.za

Dear Madam

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 BGC SA Financial Brokers (Pty) Ltd (BGC), an authorised user of an exchange and an accountable institution as envisaged in terms of item 4 of schedule 1 of 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:**
 - 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 is required to develop, document, maintain and implement a programme for anti-money laundering and counter terrorist financing risk management and compliance programme (RMCP).

- 2.2. Further, in terms of section 42(2B) of the FIC Act, the Board of directors, senior management or other person or group of persons exercising the highest level of authority in an accountable institution must approve the RMCP of the institution.
- 2.3. BGC failed to comply with section 42(1) of the FIC Act, in that it was found that BGC had not developed and implemented a RMCP incorporating the requirements of the FIC Act that is applicable to its business entity on the date of inspection.

3. Reasons for imposing the administrative sanction

- 3.1. The failure to develop and implement a RMCP is a serious failure as all the compliance duties in terms of the FIC Act depend on the processes and policies specified to in the RMCP;
- 3.2. 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;
- 3.3. BGC has previously failed to comply with the FIC Act;
- 3.4. BGC has subsequent to the inspection drafted and implemented the RMCP which is aligned to the group's relevant policies;
- 3.5. BGC has cooperated with the JSE Limited, of which it is a member, during the inspection.

4. Particulars of the administrative sanction:

- 4.1. In terms of section 45C(1), read with sections 45C(3)(c), 45C(6)(a), 42(2C), 42(3) and 43, BGC is directed to:
 - 4.1.1. 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;

- 4.1.2. Make available the RMCP to each employee involved in transactions to which the FIC Act applies by 21 September 2019; and
- 4.1.3. Provide ongoing training to BGC's employees to enable them to comply with the provisions of the FIC Act and RMCP which are applicable to them.

4.2. In terms of section 45C(1), read with sections 45C(3)(e), and 45C(6)(a) of the FIC Act, the FSCA hereby imposes a financial penalty in the amount of ten thousand rand (R10 000) on BGC for failing to develop, document, maintain and implement a RMCP.

4.3. BGC is directed to pay the financial penalty of ten thousand rands (R10 000) on or before 21 September 2019.

4.4. 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 – BGC SA Financial Brokers (Pty) Ltd

4.5. Proof of payment must be submitted to the FSCA at Thembaneni. Ndlovu@fsca.co.za and Masakhe.Tshona@fsca.co.za or fax number (012) 346-6730.

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, BGC 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 N Tshombe (Nonkumbulo.Tshombe@fsca.co.za)

5.2. Mr Vongani Khoza, Secretary of the FIC Act Appeal Board, may be contacted at Vongani.Khosa@fic.gov.a and telephonically at (012) 641-6241 / 082 437 6371 should BGC 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)(7)(b) of the FIC Act, should BGC 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.

7. Publication of sanction:

7.1. The FSCA will after 30 days make public the decision and the nature of the sanction imposed in terms of section 45C(11) of the FIC Act. Should BGC be of the opinion that there are exceptional circumstances present that justify the preservation of confidentiality of the decision, you are invited to make a submission to the FSCA for consideration.


J.A. BOYD
For Financial Sector Conduct Authority