



Financial Sector
Conduct Authority

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ENQUIRIES:	Themba Manganyi	DIALLING NO.:	(012) 422 2908
OUR REF:	FSP 7598	E-MAIL:	Themba.manganyi@fsca.co.za
DATE:	28 November 2022		

Mr. VP Olsen
Overall Financial Services CC
No. 531 Ysterhout Avenue
Boskruin
Randburg
2158

By email: vincent@overall.co.za

Dear Mr. VP Olsen

NOTICE OF ADMINISTRATIVE SANCTION

1. The Financial Sector Conduct Authority (FSCA) is satisfied that Overall Financial Services CC (OFS), an authorised financial services provider and an accountable institution as envisaged in terms of item 12 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 21(1) of the FIC Act, when an accountable institution engages with a prospective client to enter into a single transaction or to establish a business relationship, the institution must, in the course of concluding that single transaction or establishing the business relationship and in accordance with its Risk Management and Compliance Programme (RMCP) establish and verify the identity of the client.

Executive Committee:

Commissioner: U. Kamlana | Deputy Commissioners: A. Ludin | K. Gibson | F. Badat

2.1.1. In terms of Control Procedure 2 (identification of client and other persons) of OFS's RMCP (concluded in April 2019), OFS needs to verify the identity of its clients by means of face-to-face verification, and by means of a certified copy of an identity document (ID). If someone is acting on behalf of another person, OFS also needs to request a certified copy of that person's ID as well as a letter, to establish the authority to act on behalf of the client.

2.1.2. OFS failed to perform customer due diligence (CDD) in accordance with its RMCP in that it did not obtain certified ID copies of two clients for business relationships concluded on 6 September 2019 and 12 November 2020 respectively.

2.2. In terms of section 28A(3) read with section 26A – 26C of the FIC Act and Guidance Note 7, accountable institutions are required to scrutinise (screen) client information to determine whether their clients are listed in terms of section 25 of the Protection of Constitution Democracy against Terrorist and Related Activities Act, 2004 (POCDATARA) and listed by the Security Council of the United Nations contemplated in a notice referred to in section 26A(1).

2.2.1. OFS has contravened section 28A read with section 26B of the FIC Act in that OFS did not screen the 12 sampled clients against the Targeted Financial Sanctions (TFS) lists as at the virtual inspection on 23 August 2021.

3. Reasons for imposing the administrative sanction

3.1. The non-compliance as detailed above are serious violations of the provisions of the FIC Act;

3.2. All accountable institutions were given a grace period of 18 months, since the amendments to the FIC Act, to implement the revised provisions;

3.3. The FSCA has no record of a previous non-compliance with any law on the part of OFS;

3.4. OFS has cooperated with the FSCA pre, during and subsequent to the virtual inspection. OFS acknowledged the aforementioned non-compliance and undertook to take remedial steps which have been noted by the FSCA:

3.4.1. On 26 November 2021 OFS submitted certified copies of IDs of two clients referred to in paragraph 2.1.2 above to the FSCA.

3.4.2. OFS indicated in its response that it has implemented a process that it will utilise the FIC “Targeted Financial Sanctions” search facility and no longer place reliance on a third party. OFS has submitted proof of screening performed against the Targeted Financial Sanctions list in respect of the 12 clients which were sampled during the inspection.

4. Particulars of the administrative sanction:

4.1. 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 administrative sanction on OFS:

4.1.1. a reprimand for non-compliance with section 21(1) of the FIC Act and Control Procedure 2 in its RMCP.

4.1.2. a financial penalty of R60 000 (R5 000 per sampled client file) for non-compliance with section 28A read with section 26B of the FIC Act.

4.2. OFS is directed to pay the financial penalty of R10 000 on or before **19 December 2022**.

4.3. The payment of the remaining R50 000 of the total financial penalty is hereby suspended for a period of 3 years from the date of this Administrative Sanction, on condition that OFS remains fully compliant with section 28A read with section 26B of the FIC Act.

4.4. Should OFS be found to be non-compliant with section 28A read with section 26B of the FIC Act within the 3 years suspension period, the suspended penalty of R50 000 becomes immediately payable.

4.5. 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	:	FIC Sanction – Overall Financial Services CC

4.6. Proof of payment must be submitted to the FSCA at Themba Manganyi (Themba.manganyi@fsc.co.za) and copy Charl Geel (Charl.geel@fsc.co.za).

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, OFS 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@fsc.co.za) or Charl Geel (Charl.geel@fsc.co.za).

5.2. The Secretary of the FIC Act Appeal Board may be contacted at AppealBoardSecretariat@fic.gov.za and telephonically at (012) 641-6241 / 082 437 6371 should OFS 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 OFS 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 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