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DATE:	06 February 2020	E-MAIL:	Masakhe.Tshona@fsca.co.za

Mr Vijay Koselea  
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Dear Sir

## 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 ATISA Securities (Pty) Ltd (ATISA), 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 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. ATISA failed to comply with section 21 read with section 46 of the FIC Act, in that it was found that ATISA did not establish and verify the identity of

four clients (on-boarded post 2 October 2017) in accordance with its Risk Management and Compliance Programme (RMCP).

- 2.3. ATISA failed to comply with section 21 read with section 46 of the FIC Act, in that it was found not to have obtained and verified all the required client identification information for the non-controlled sub accounts belonging to the accountable institutions.

### **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. 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. ATISA has subsequent to the inspection taken action to ensure that the customer due diligence documents for all clients are in place and that trading activities are only conducted with compliant accounts. ATISA has further updated its Risk Management and Compliance Programme to ensure compliance with the FIC Act;
- 4.2. ATISA has cooperated with the JSE Limited, of which it is a member, during the inspection.

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

- 5.1. In terms of section 45C(1), read with sections 45C(3)(c), 45C(6)(a), 42(2C), 42(3) and 43, ATISA 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 ATISA's 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 a financial penalty in the amount of twenty thousand rand (R20 000) on ATISA for non-compliance with section 21 of the FIC Act. ATISA is directed to pay the financial penalty of ten thousand Rands (R10 000) immediately, with the balance of ten thousand Rands (R10 000) being suspended for a period of three (3) years on condition that ATISA does not contravene any of the FIC Act provisions within the specified period.

5.3. 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 – ATISA SA Financial Brokers (Pty) Ltd

5.4. Proof of payment must be submitted to the FSCA [Thembani.Ndlovu@fsc.co.za](mailto:Thembani.Ndlovu@fsc.co.za) and [Masakhe.Tshona@fsc.co.za](mailto:Masakhe.Tshona@fsc.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, ATISA 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.za](mailto:Vongani.Khosa@fic.gov.za) and telephonically at (012) 641-6241 / 082 437 6371 should ATISA 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).

## **7. Failure to comply with the administrative sanction**

7.1. In terms of section 45(C)(7)(b) of the FIC Act, should ATISA 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.

**8. Publication of sanction:**

8.1. 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 ATISA 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.

Yours sincerely,



**J.A. BOYD**  
**For Financial Sector Conduct Authority**