

ENQUIRIES:	Mrs Viloshnee Naidoo	DIALLING NO.:	012 422 2993
OUR REF:	FSP 45735	FAX:	012 346 6533
DATE:	17 February 2020	E-MAIL:	Viloshnee.Naidoo@fsca.co.za

Mr PFJ Pretorius
Money Laundering Compliance Officer
Credicover CC
P O Box 25775
MONUMENT PARK
0105

Per e-mail: frans@crediciover.co.za

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 Credicover CC (Credicover), 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 42(1) of the FIC Act read with Guidance Note 7, Credicover must develop, document, maintain and implement an anti-money laundering and counter-terrorist financing risk management and compliance programme (RMCP). In terms of section 42(2)(a) of the FIC Act, the RMCP must enable Credicover to identify, assess, monitor, mitigate and manage the risk that the provision by Credicover of products or services may involve or facilitate money laundering activities or the financing of terrorist and related activities. The FSCA established that Credicover failed to conduct a risk assessment to identify the ML/TF risks inherent in its business. Credicover also failed to document its risk rating methodology and the methods used to control or minimise these risks.

- 2.2. In terms of section 43 of the FIC Act Credicover must provide ongoing training to its employees to enable them to comply with the provisions of the FIC Act and RMCP applicable to them. Credicover has to date not provided ongoing training to enable the juristic representatives to comply with the provisions of the FIC Act and the RMCP which are applicable to them.
- 2.3. In terms of section 21 of the FIC Act Credicover must, in the course of concluding a single transaction or establishing a business relationship and in accordance with its RMCP, establish and identify clients and other persons. As Credicover did not conduct a risk assessment of its clients, Credicover did not discharge its duty in establishing and verifying the identity of its funeral clients.
- 2.4. In terms of section 22A of the FIC Act, Credicover must keep record of every transaction, whether the transaction is a single transaction or concluded in the course of a business relationship which Credicover has with a client, that are reasonably necessary to enable that transaction to be readily reconstructed. The FSCA found that Credicover failed to comply with the provisions of section 22A of the FIC Act.

3. Reasons for imposing the administrative sanction

- 3.1. The response received relating to developing, documenting, maintaining and implementing the RMCP is contradictory. The response was that *“the RMCP was not drawn up in the required format, but the identification of risk, assessment and mitigation were in place although the document, attached to the Notice received, was not considered as it was not in the correct format and wrong wordings was used.”*

Mr Pretorius referred to a FICA Risk Assessment Document that incorporated risk indicators as the RMCP. It was not an RMCP drafted in accordance with section 42 of FIC. This document identified certain risk indicators however Mr Pretorius could not explain how such indicators contributed to money laundering/ terrorist financing risk.

Further what is provided for on the RMCP and the documentation forwarded in support of a risk assessment done are also contradictory. The risk indicators as provided in Annexure A of the RMCP dated 01/11/2019 is not in accordance with the risk factors in the Provost Trust client file.

- 3.2. Credicover has to date not provided training to its employees on the provisions of the FIC Act and its RMCP. The response received by Credicover on the 15 January 2020

indicates *“The compulsory FICA training and assessment will be enforced during the meetings with JRs in the next 3 months. In the meantime, a communication was sent in January how to register and follow the process.”*;

- 3.3. The response received relating to not identifying the nineteen funeral insurance clients was not the explanation provided at the FIC inspection on 01 August 2019. Mr Pretorius’s response during the inspection was that Liberty Group Limited FSP 2409 (Liberty) advised him to not identify and verify such clients and that this should be done only at claims stage.
- 3.4. The response received about assistance sought from Liberty with regard to the obligation to keep records is confusing and unclear. It provides that *“although the documents were not in the correct format which was subsequently corrected”* and that *“he has been in communication with Liberty regarding the above and requested assistance from Liberty.”*
- 3.5. All accountable institutions were given a grace period of 18 months, since the amendments to the FIC Act, to implement the revised provisions;
- 3.6. Credicover has subsequent to the inspection drafted its RMCP. There is, however, interpretation and implementation flaws that were noted which are not aligned to its business operations.

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, Credicover is directed to:
 - 4.1.1. Review the RMCP to ensure it remains relevant to its operations and achievement of the requirements in section 42(2) of the FIC Act;
 - 4.1.2. Avail the RMCP to each employee involved in transactions to which the FIC Act applies by 15 February 2020; and
 - 4.1.3. Provide ongoing training to Credicover employees by 29 February 2020 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 R125 000 on Credicover

for non-compliance of section 42(1) read together with Guidance Note 7, section 43, section 21 and section 22A. The penalty amount is calculated as follows:

- 4.2.1. R10 000 for failure to develop, document, maintain and implement a RMCP in terms of section 42(1) of the FIC Act read with Guidance Note 7;
 - 4.2.2. R10 000 for failure to provide ongoing training to its employees to enable them to comply with the provisions of the FIC Act and RMCP applicable to them in terms of section 43 of the FIC Act;
 - 4.2.3. R95 000 for failure to conduct customer due diligence on its clients in terms of section 21 of the FIC Act;
 - 4.2.4. R10 000 for failure to keep record of every transaction, whether the transaction is a single transaction or concluded in the course of a business relationship which Credicover has with a client, that are reasonably necessary to enable that transaction to be readily reconstructed in terms of section 22A of the FIC Act.
- 4.3. Credicover is directed to pay the financial penalty of R125 000 on or before **Friday 20 March 2020**.
- 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 – Credicover CC |
- 4.5. Proof of payment must be submitted to the FSCA to Viloshnee.Naidoo@fsca.co.za and copy Charl.Geel@fsca.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, Credicover 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 Stefanus Rossouw (Stefanus.Rossouw@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 Credicover 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 Credicover 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.

For Financial Sector Conduct Authority