FSCA

Financial Sector
Conduct Authority

FSCA Press Release **23 August 2023**

FSCA Statement on Dismissal of Appeal against Penalty imposed under the Financial Intelligence Centre Act: Jannie Parsons Future Financials (Pty) Ltd

The Financial Sector Conduct Authority (FSCA) welcomes the decision of the Appeal Board of the Financial Intelligence Centre Act (Appeal Board) on 17 July 2023 to uphold the penalty imposed on Jannie Parsons Future Financials (Pty) Ltd (JPFF) for failing to comply with certain provisions of the Financial Intelligence Centre Act, No. 38 of 2001 (FIC Act).

The objective of the FIC Act is, among other things, to help combat money laundering, the financing of terrorism and other related activities. All accountable institutions designated under the FIC Act are obliged to comply fully with its requirements. JPFF is a licensed Financial Services Provider (FSP) (FSP Number 1013) under the Financial Advisory and Intermediary Services (FAIS) Act, No. 37 of 2002 and an accountable institution under the FIC Act. The FSCA is responsible for supervising and enforcing compliance of FSPs with the FIC Act.

On 14 December 2022, the FSCA imposed a financial penalty of R870 000.00 on JPFF for failing to comply with the following provisions of the FIC Act:

- Section 21(1): JPFF failed to verify the identity of 24 of 33 sampled clients.
- Section 28A read with sections 26A – 26C: JPFF failed to screen all 33 sampled clients against the relevant Targeted Financial Sanctions Lists.
- Section 42(1): JPFF failed to develop, document, maintain and implement a risk management and compliance programme (RMCP) for anti-money laundering and counter-terrorist financing.

- Section 42(2): JPFF failed to identify, assess, monitor, mitigate and manage the risks that the provision of its products or services may involve or facilitate money laundering, terrorist financing and related activities.

The administrative penalty was imposed after full consideration of the matter by the FSCA, including remedial steps taken by JPFF to address the various non-compliances. The FSCA agreed to suspend R470 000.00 of the penalty for 3 years, on condition that JPFF remains fully compliant with sections 42(1) and (2), section 21(1) and section 28A read with section 26 of the FIC Act during this period. JPPF was accordingly directed to pay the lesser penalty amount of R400 000.

JPPF subsequently lodged an appeal to set aside the FSCA's decision. The Appeal Board dismissed the appeal in its entirety and found in favour of the FSCA.

Accountable institutions are urged to take note of the guidance provided by the Appeal Board regarding the importance of the RMCP in helping identify and manage money laundering and terrorist financing risks. In particular, the failure of an accountable institution to develop, document, maintain and implement an RMCP cannot be regarded merely as a bureaucratic or technical breach of law. This requirement must be complied with irrespective of whether the institution believes that its clients and/or products are "low risk" in nature. The risk profile of an institution's client or product base is not a relevant factor for purposes of this requirement.

The Appeal Board further confirmed that, in terms of section 58(5)(c) of the Financial Sector Regulation Act, No. 9 of 2017, the FSCA must have regard to relevant international obligations when executing its supervisory functions. In the context of supervising compliance with the FIC Act, this includes due consideration of the standards set by the Financial Action Task Force (FATF). FATF is the global watchdog responsible for helping combat money laundering, terrorist financing and related activities. It requires its member countries to effectively implement measures to detect and prevent misuse of the financial system for such activities. This includes imposing penalties or sanctions for identified breaches that are effective, proportionate and dissuasive.

The Appeal Board's decision is a reminder to all accountable institutions that the development of an RMCP is the cornerstone of compliance with the FIC Act and is an important step towards effectively combatting money laundering, terrorist financing and related activities.

The FSCA remains committed to its supervisory efforts in helping South Africa strengthen its fight against financial crime. Any non-compliance with the FIC Act will be met with appropriate regulatory action.

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