

**UNITED REPUBLIC OF TANZANIA**



**THE ANTI MONEY LAUNDERING, COUNTER FINANCING OF TERRORISM AND  
COUNTER FINANCING OF PROLIFERATION ENFORCEMENT STRATEGY FOR  
REAL ESTATE SECTOR**

**PREPARED IN COLLABORATION BETWEEN THE MINISTRY OF LANDS,  
HOUSING AND HUMAN SETTLEMENTS DEVELOPMENT OF TANZANIA  
MAINLAND AND MINISTRY OF LANDS AND HOUSING DEVELOPMENT OF THE  
REVOLUTIONARY GOVERNMENT OF ZANZIBAR**

**FEBRUARY, 2024**

## TABLE OF CONTENTS

|  |     |
|--|-----|
| LIST OF ABBREVIATIONS AND ACRONYMS .....                     | iii |
| Definitions of key terms.....                                | iv  |
| 1.0 INTRODUCTION .....                                       | 1   |
| 2.0 OBJECTIVES OF ENFORCEMENT STRATEGY .....                 | 1   |
| 3.0 PRINCIPLES OF STRATEGY .....                             | 1   |
| 3.1 Coordination, Cooperation and Communication .....        | 2   |
| 3.2 Accountability.....                                      | 2   |
| 3.4 Proportionality .....                                    | 2   |
| 3.5 Consistency .....  | 2   |
| 3.6 Behavior change.....                                     | 3   |
| 4.0 POWERS TO ADMINISTER REMEDIAL ACTION AND SANCTIONS ..... | 3   |
| 5.0 APPROACH TO ENFORCEMENT .....                            | 3   |
| 5.1 Understanding the Enforcement Process .....              | 4   |
| 5.1.1 Administrative Sanction.....                           | 4   |
| 5.1.2 Imposition of administrative penalty .....             | 5   |
| 6.0 ENFORCEMENT FOLLOW-UP ACTIONS .....                      | 5   |
| 6.1 Follow-up letters .....                                  | 5   |
| 6.2 Follow-up assessments.....                               | 5   |
| 6.3 Enhanced monitoring .....                                | 5   |
| 6.4 Follow-up reports.....                                   | 5   |
| 7.0 INDICATORS OF THE IMPACT OF ENFORCEMENT .....            | 6   |
| 8.0 RELATIONSHIP WITH EXISTING POLICIES OR MANUALS .....     | 6   |
| 9.0 COOPERATION WITH COMPETENT AUTHORITIES .....             | 6   |
| 10.0 REVIEW .....  | 7   |
| 11.0 EFFECTIVE DATE.....                                     | 7   |
| APPENDIX 1 .....   | 8   |

## **LIST OF ABBREVIATIONS AND ACRONYMS**

|         |   |
|---------|---|
| AML/CFT | Anti -Money Laundering and Counter Financing of Terrorism |
| AMLA    | Anti Money Laundering Act, Cap. 423, 2006                 |
| FATF    | Financial Action Task Force                               |
| FIU     | Financial Intelligence Unit                               |
| FT      | Financing of Terrorism                                    |
| ML      | Money Laundering  |

## **Definitions of key terms**

Unless the context requires otherwise, terms used in the AMLA and the regulations made under it have the same meaning in this Manual. In addition, for the purposes of this Manual, the following definitions apply:

“Authority” means Ministry of Land, Housing and Human Settlements Development both Mainland and Zanzibar and/ or Financial Intelligence Unit regarded as an authority responsible for supervising real estate sector;

“competent authorities” means any public entity with designated responsibilities for combatting money laundering, terrorist financing or proliferation financing including a regulator, customs authority, a law enforcement agency, licensing agency or authority, FIU and the National Committee;

“Strategy” means enforcement strategy.

## **1.0 INTRODUCTION**

The purpose of this strategy is to set out the practices and procedure to be followed by the authority when applying remedial action and sanctions to the real estate agents for failure to comply with the requirement of AML/CFT/CPF laws. The authority shall apply the range of sanctions proportionately to greater or lesser breaches of supervisory requirements. This range shall extend from taking informal remedial actions to taking formal supervisory actions. The sanctions shall seek to address the specific deficiencies identified, effective at ensuring future compliance by the sanctioned real estate agents and dissuasive of noncompliance.

The Authority shall apply remedial actions with the aim to correct weaknesses in processes, procedures, systems or controls within the real estate sector, but also to influence and foster a corporate culture that contributes to effective risk management and compliance with Anti Money Laundering Laws.

The Authority shall impose remedial measures proportionate to the severity of the deficiency identified. These may include action plans, timelines and supervisory follow-up to ensure that the required measures are effectively implemented. These plans, timelines and follow-up may include sufficient detail in terms of required action, deadlines and the nature of supervisory follow-up.

## **2.0 OBJECTIVES OF ENFORCEMENT STRATEGY**

This strategy is developed to provide guidance to Authority on how to impose administrative sanctions to real estate agents for non-compliance with AML/CFT/CPF legislation. The strategy involves the following objectives:

- i. To protect the real estate sector from being abused by criminals for Money laundering and terrorism financing activities.
- ii. To enhance compliance with AML/CFT/CPF laws, regulations, guidelines and international standards (FATF Recommendations);
- iii. To enhance information sharing and cooperation with competent authorities to ensure joint enforcement actions on AML/CFT/CPF compliance; and
- iv. To set out the practices and procedures to be followed by the authority when applying remedial actions and sanctions.

## **3.0 PRINCIPLES OF STRATEGY**

In implementing this Strategy, the Authority shall be guided by the following key principles:

- i. Coordination, Cooperation and Communication
- ii. Accountability

- iii. Transparency
- iv. Proportionality
- v. Focused on changing behaviors
- vi. Consistency

### **3.1 Coordination, Cooperation and Communication**

The Authority adopts the principle that communicate with its real estate agents, so that the agents understand deficiencies and the required remedial actions. This principle is important in supervising AML/CFT/CPF compliance to real estate agents, so that they cooperate and coordinate to ensure a consistent approach is taken.

### **3.2 Accountability**

The Authority is accountable for enforcing Anti Money Laws and Regulations by providing guidance, conducting supervisions and take actions against real estate agents and any other actors in the sector involved in money laundering, terrorist financing and proliferation financing.

### **3.3 Transparency**

The Authority creates an environment where compliance is understood and actively pursued by setting forth accessible AML/CFT/CPF Guidelines for the real estate agents. It promotes open channels of communication that allow swift addressing of AML/CFT/CPF concerns and provide platform for real estate agent to seek guidance when needed. In addition, Authority conducts real estate stakeholder meetings annually to ensure members are aware with various AML/CFT/CPF issues.

### **3.4 Proportionality**

The Authority shall proportionately impose fair and consistent administrative sanctions to real estate agents for AML/CFT/CPF breaches. The administrative sanctions applied to each case will be determined by various factors, including the severity of the breach and the extent to which the behaviour was deliberate or reckless.

### **3.5 Consistency**

The Authority shall work closely with the real estate agents in order to be satisfied that the targets and deadlines of the remedial actions are well understood and capable of remediating the identified issues within acceptable timeframes. Involves ensuring uniform application of administrative sanctions to promote a fair and effective strategy to enhance coherent and consistency decisions. It emphasizes the need for consistent actions and decisions in combating ML/FT/TF within the real estate agents.

### **3.6 Behavior change**

The Authority adopts an approach that aims to modify the conduct of the real estate agents to align with regulatory requirements. This includes implementing targeted interventions, awareness campaigns and training programs aimed at influencing the behaviour of real estate agents to comply with AML/CFT/CPF requirements.

## **4.0 POWERS TO ADMINISTER REMEDIAL ACTION AND SANCTIONS**

The Authority is empowered by G.N 534 of July, 2021, Proceeds of Crime Act (Cap.256); the Anti-Money Laundering Act (Cap.423); the Anti-Money Laundering and Proceeds of Crime Act, No. 10 of 2009 of Zanzibar; and the Prevention of Terrorism Act (Cap.19) and their Regulations to administer remedial actions and sanctions to real estate agents whenever there is noncompliance.

In discharging AML/CTF/CPF mandate the Authority in collaboration with the FIU shall apply one or several of the following administrative sanctions depending on the severity of the non-compliance. These shall include; -

- i. warning or caution not to repeat the conduct which led to non-compliance;
- ii. reprimand;
- iii. directives to take remedial action or to make specific arrangement to remedy the default;
- iv. restriction or suspension of certain business activities;
- v. suspending a business licensee;
- vi. suspension or removal from office any member of staff who caused or failed to comply; or
- vii. payment of fine or imprisonment.

## **5.0 APPROACH TO ENFORCEMENT**

The Authority is responsible to determine the appropriate administrative measures in relation to AML/CFT breaches identified and to subsequently ensure, by engaging with the real estate agents, that the failures identified are remediated. The approach adopted by the Authority in the Enforcement Process is driven by its mandate to achieve compliance and promote a high standard of business conduct in real estate sector.

In the discharge of its functions, an array of sanctions is set out in the legislation to deal with real estate agents who are found to be in breach of the law and fail to take corrective measures to remediate deficiencies identified. The enforcement measures will consider several factors such that the enforcement actions are effective, proportionate and dissuasive. The application of these enforcement actions varies according to the severity of the offence. In some cases, the Authority may decide to impose two or more sanctions simultaneously as shown in Appendix 1.

Potential breaches of AML/CFT obligations referred to the Enforcement Unit may be the result of the following, amongst others:

- i. The real estate agents failed to conduct institutional risk assessment
- ii. The real estate agents failed to carry out CDD measures;
- iii. The real estate agents failed to register into the reporting systems (e.g. goAML);
- iv. The real estate agents failed to report STRs to FIU;
- v. The real estate agents failed to submit information requested by the Authority within the stipulated timeframe; and
- vi. The real estate agents failed to submit periodical reports including report on corrective measures and request for information by the Authority.

## **5.1 Understanding the Enforcement Process**

### **5.1.1 Administrative Sanction**

By virtue of their powers vested in Section 19A of the AMLA, and Section 14A of AMLPOCA the Authority may impose administrative sanctions to real estate agent who has intentionally and/or negligently committed an offence against the AML legislation.

In determining the appropriate enforcement action for breach of any AML/CFT obligation the following factors shall be considered:

- i. Nature, seriousness and duration of the failure, violation, or contravention;
- ii. Compliance history of the real estate agents;
- iii. Compliance history with regard to the failure, violation, or contravention;
- iv. Whether penalties have been paid for the same failure, violation or contravention;
- v. Previously disciplinary action taken against real estate agents;
- vi. Nature of corrective action taken against the real estate agents that committed the failure, violation or contravention;
- vii. Economic impact of the penalty to the real estate agents that committed the failure, violation or contravention;
- viii. Existence of concealment, fraud and/or intentional falsification;
- ix. Attitude of the real estate agents towards non-compliance; and
- x. any other factors as the enforcement process may, in the circumstances, deem necessary.

The list of factors stated above is not exhaustive and each breach will be assessed on a case-by-case basis. The Authority will treat each breach on its own merits and assess the facts to decide on an outcome that is fair and proportionate based on the nature of the breach and mitigating circumstances. The Authority may also levy a monetary penalty in conjunction with other sanctions as necessary and appropriate, in order to achieve compliance.

Where there is reasonable cause to believe that a real estate agent has committed, is committing or is likely to commit a breach of the AML legislations prior to impose any administrative sanction, the real estate agent shall be granted an opportunity to submit his defence in writing



within 14 days. In submission of his defence, the real estate agent shall show cause as to why regulatory action should not be taken against the identified breach. Where the Authority is satisfied with the defence for noncompliance presented, the Authority shall give a warning or caution pursuant to Section 19A (a) of the AMLA and Section 14A of the AMLPOCA to warn real estate agents that they came close to being subject to wider regulatory action. Failure to submit the defence within the stipulated time will attract administrative sanction(s).

Any administrative sanction imposed against a real estate agent will form part of his compliance history and shall therefore influence the Authority's decision as to whether to initiate other enforcement action in relation to future breaches.

#### **5.1.2 Imposition of administrative penalty**

An administrative penalty is a monetary penalty that can be imposed on real estate agents who failed to comply with the requirements of the relevant laws. A range of aggravating and mitigating factors are considered when assessing the quantum of the monetary penalty. In determining the administrative penalty, the Authority ensures that the sanction is proportionate, effective and dissuasive.

### **6.0 ENFORCEMENT FOLLOW-UP ACTIONS**

Refers to subsequent actions taken to ensure compliance on the identified AML/CFT/CPF violations or to enforce penalties after an initial sanction has been imposed. The follow-up actions include: -

#### **6.1 Follow-up letters**

This may include requirements to respond to the earlier request of making specific arrangement to remedy the breach or non-compliance. The follow-up letter may request additional information as the case may be.

#### **6.2 Follow-up assessments**

Where there is non-implementation of Authority's action plan to remedy the breach or non-compliance, a number of onsite follow-up inspection may be carried out on case-to-case basis.

#### **6.3 Enhanced monitoring**

Increased level of oversight by the Authority which includes increased frequency of site visits, meetings, submission of documents, increased record review and observations.

#### **6.4 Follow-up reports**

The real estate agents shall submit regular progress reports highlighting progress made towards implementation of remedial actions.

## **7.0 INDICATORS OF THE IMPACT OF ENFORCEMENT**

The Authority will measure the impact of the enforcement actions imposed using ratings categorized into four (4), namely compliant, largely compliant, partially compliant and non-compliant.

| <b>S/N</b> | <b>Ratings</b>           | <b>Enforcement actions</b> |
|------------|--------------------------|----------------------------|
| 1.         | Compliant (C)-           | No shortcomings            |
| 2.         | Largely Compliant (LC)   | Only minor shortcomings    |
| 3.         | Partially Compliant (PC) | Moderate shortcomings      |
| 4.         | Non-Compliant (NC)       | Major shortcomings         |

The Authority will be guided by the following factors in assessing the impact of enforcement:

- i. The positive findings of follow-up enforcement actions;
- ii. Change of a particular real estate agents risk profile from high to medium or low risk;
- iii. Improved compliance - the Authority will evaluate whether the enforcement actions led to improved compliance with AML/CFT/CPF requirements;
- iv. Deterrence effect - measure whether the action dissuades other real estate agent from similar violations, promoting a culture of adherence;
- v. Operational changes or improvement in processes to prevent future AML/CFT/CPF violations; and
- vi. Cooperation and remediation from real estate agents.

## **8.0 RELATIONSHIP WITH EXISTING POLICIES OR MANUALS**

This document shall be read together with other documents issued by Authority relating to enforcement of AML/CFT/CPF requirements.

## **9.0 COOPERATION WITH COMPETENT AUTHORITIES**

Money Laundering, Terrorist Financing, and Proliferation Financing (ML/TF/PF) are serious crimes which need cooperation with other competent authorities within the country and internationally in order to prevent and combat those crimes. This typically involves sharing of information, reporting STRs, and adhered to regulatory requirements to combat ML/TF/PF.

Where the Authority does not have appropriate enforcement measures against the real estate agents or where the Authority finds or assumes criminal offences in activities of the real estate agents, it shall notify the relevant law enforcement agencies to investigate, prosecute and impose a fine or imprisonment or both, upon conviction.

## **10.0 REVIEW**

This Enforcement strategy shall be reviewed annually or when need arises.

## **11.0 EFFECTIVE DATE**

This document comes into effect on April, 2024.

## APPENDIX 1

### SCHEDULE OF RISK BASED ENFORCEMENT ACTIONS

| Administrative Sanctions under the AMLA and POTA Legislations  |            |            |            |             |            |
|--|------------|------------|------------|-------------|------------|
| Sanctions  | Low        | Medium Low | Medium     | Medium High | High       |
| Directives to take remedial action or to make specific arrangement to remedy the default                 | Applicable | Applicable | Applicable | Applicable  | Applicable |
| Warning or caution not to repeat the conduct which led to non-compliance                                 | Applicable | Applicable | Applicable | Applicable  | Applicable |
| Reprimand  | Applicable | Applicable | Applicable | Applicable  | Applicable |
| Suspension or removal from office any member of staff who caused or failed to comply                     | N/A        | N/A        | N/A        | Applicable  | Applicable |
| Restriction or suspension of certain business activities   | N/A        | N/A        | N/A        | Applicable  | Applicable |
| Suspending a business licensee   | N/A        | N/A        | N/A        | Applicable  | Applicable |
| Failure to prohibit dealing in funds or other assets of designated party of Targeted Financial Sanctions | Applicable | Applicable | Applicable | Applicable  | Applicable |