



Other matters involving failure to comply with the Capital Markets Regulatory Framework, for example failure to submit financial reports or breaches on rules of governance and conduct of business are handled administratively by the Authority.

The Authority is empowered to investigate and undertake enforcement/regulatory action. In respect of such breaches for a balance of probability for it to exercise its administrative mandate, the scope of actions include fines, censures and disqualifications of persons from holding positions in the industry.

Reporting Fraudulent Activity

Report abuses in the industry to the Capital Markets Fraud Investigation Unit using the contacts below:

Telephone numbers;

0714 693414/0714 693365,0731 544389,
0773 199622

E-mail: antifraudunit@cma.or.ke

For further information, please contact:



CAPITAL MARKETS AUTHORITY

Embankment Plaza, 3rd Floor, Upper Hill,
Longonot Road, Off Kilimanjaro Avenue
P.O Box 74800-00200, Nairobi Kenya
Tel: +254 20 2264900/ 2221869/
2221910/ 2226225
Cell: +254 722 207767
Fax: +254 20 342825
Email: corporate@cma.or.ke
Website: www.cma.or.ke

Disclaimer

This brochure is by no means a conclusive document. The Capital Markets Authority and The Kenya Police Service takes no responsibility for any consequences arising from decisions taken on the basis of the contents of this brochure. For more information or clarification on Capital Markets Fraud Investigation Unit, please refer to our website: www.cma.or.ke



CAPITAL MARKETS FRAUD INVESTIGATION UNIT

Background

The Capital Markets Authority (CMA) was set up in 1989 through an Act of Parliament Cap. 485A Laws of Kenya. The CMA is a statutory agency charged with the prime responsibility of regulating the development of orderly, fair and efficient capital markets in Kenya, with a view of promoting market integrity and investor confidence.

Capital Markets Fraud Defined

Fraud is defined as willful misrepresentation of the truth with intent to deceive by one party resulting in actual or potential loss to another party or illegitimate gain to the fraudster. This includes fraudulent sale of client shares, Insider trading, market manipulation, stealing of client funds, and manipulation of client records among other offences.

Capital Markets Fraud Investigation Unit (CMFIU)

The Capital Market Fraud Investigations Unit (CMFIU) was formed in May 2009 through collaboration by the Kenya Police and Capital

Markets Authority (CMA) with a view of consolidating the investigations of all securities related fraud cases under one roof.

Functions of the Capital Markets Fraud Investigation Unit.

1. Detection, prevention and apprehension of offenders perpetrating fraud within the Securities market.
2. Collection, analysis and dissemination of relevant criminal intelligence, within the market.
3. Investigation and prosecution of detected / reported cases relating to the Securities market.
4. Act as liaison unit between the Authority and other investigative agencies.
5. Co-ordinates with the Authority's Investigation and Enforcement Department whereby it takes up matters which have a criminal aspect for investigation and prosecution whilst the Authority's Investigation & Enforcement Department pursues compliance with the Capital Markets Regulatory framework.
6. Assist members of the public in the spirit of "**Utumishi kwa wote**" on relevant capital market issues.

Examples of Fraud Offences

1. Impersonation of investors and undertaking unauthorised transactions in their securities accounts.
2. Collection and encashment of sales proceeds by fraudsters posing as genuine investors.
3. Unauthorised variation of client details in securities accounts.
4. Conducting trade of securities on basis of information that has not yet been released to the market/general public. (Insider trading).

The Capital Markets Fraud Investigation Unit deals with matters which involve criminal aspects as per the examples set out above. Upon finalising investigations, the Capital Markets Fraud Investigation Unit pursues prosecution of identified suspects.

The standard of proof for sustaining successful prosecution of persons suspected of criminal offences is generally submission of proof beyond reasonable doubt by the prosecution. Penalties range from fines of up to Kshs. 15,000,000.00 or a jail term of up to 7 years.