CAPITAL MARKETS AUTHORITY
Promoting Capital Markets Integrity

Incentivized Whistleblowing Policy

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Purpose

The Capital Markets Authority (CMA) is committed to promoting ethical behavior and integrity in the market. The Authority therefore recognizes that any genuine commitment to detecting and preventing illegal and other undesirable conduct should include a mechanism whereby, market participants, intermediaries, and members of the public can report their concerns freely and without fear of reprisals or intimidation.

The Incentivized Whistleblowing Framework ('the Framework') aims to promote honest and ethical behavior within the Kenyan Capital Markets by motivating whistleblowers to come forward with high quality information. This will increase chances of early pro-active action to prevent or mitigate harm to investors that would result from misconduct or unethical behavior. It will also provide an opportunity for the Authority to receive detailed and focused information assisting in efficient investigations.

The framework is intended to foster the Authority's mandate to protect investors from unfair, improper or fraudulent practices and to nurture fair and efficient capital markets, key ingredients for maintaining confidence in the capital markets. To encourage and motivate persons to provide information capable of assisting the Authority to identify and address instances of unethical, fraudulent or other undesirable conduct/practices, this Framework sets out the requirements which should be met for someone to qualify for receipt of a monetary incentive.

This policy provides guidance on:

a. The practices to be followed by the Authority in administering the incentivized whistleblower framework;
b. The nature of the information that may be considered as reportable conduct; and,
c. Reportable conduct that may be considered to be eligible for the payment of a financial incentive (whistleblower award) and the criteria that would make an individual eligible for a whistleblower award.

Scope

This policy applies to all licensees, approved institutions, issuers, listed companies and the investing public.
The Framework is intended to support the Authority in addressing its enforcement priorities

- Enhancing prompt detection and deterrence of fraud and other forms of misconduct;
- Expanding the sources of fraud and market intelligence; and,
- Effectively investigating and prosecuting financial crimes as per the Authority's strategic objectives.

Examples of Reportable Misconduct include, but are not limited to:

- Accounting and financial statement fraud by Issuers and Market Intermediaries;
- Market manipulation including insider trading;
- Embezzlement of Investors' funds;
- Misappropriation of Client assets; and,
- Any misconduct that poses significant risks for investors.

Definitions

1. **Market Intermediary**- Entities regulated under the Capital Markets Act, and its subsidiary regulations.

2. **Original Information-** information that is not already known to the Authority from any other source, that the whistle-blower obtained from their independent knowledge, experiences, communications and observations in employment, business or social interactions. It also includes information from the whistle-blower's critical analysis of publicly available information, if the analysis reveals information that is not generally known or available to the public.

   This excludes information which is:

- Provided to the Authority in response to an inquiry, summons or request; and
- Required to be provided to the Authority by the whistle-blower.

3. **Personnel-** Any internal persons including but not limited to staff, directors, managers, board members, or external person including but not limited to, shareholders, and persons contracted by market intermediaries or securities issuers;

4. **Protected Disclosure-** means the disclosure of a reportable conduct in accordance with this policy. Protected disclosures shall be handled with utmost confidentiality by the Authority to protect Whistle-blowers;

5. **Reportable misconduct**- a genuine concern related to actual, suspected, or anticipated undesirable conduct or concealment by a market intermediary or securities issuer;

6. **Whistle-Blower**- A person who voluntarily makes a report in good faith regarding to misconduct on market practice, and/or governance of an entity issuing securities to the public or licensed by the Authority; and,

7. **Whistle-blower Award-** a financial award that the Authority determines should be paid to an eligible whistle-blower upon a successful recovery outcome through the Authority's administrative proceedings.

Policy Statement

The Capital Markets Authority is committed to the highest standards of integrity and expects all its licensees, issuers and listed entities to demonstrate the highest standards of conduct as guided by The Capital Markets (Corporate Governance)(Market Intermediaries) Regulations, 2011 and The Code Of Corporate Governance Practices For Issuers of Securities to the Public 2015 .

The Chief Executive of the Authority owns this Policy and the Authority's Board is responsible for reviewing and approving this Policy and overall compliance of the policy.

Whistleblower Award

Amount of whistleblower award

Whistleblowers who provide information and evidence leading to successful recovery of illicit gains amounting to more than Kshs. 10 Million will be eligible for a whistleblower award amounting to 3% of the net monetary recoveries made by the Authority for an award eligible outcome up to a maximum amount of Kshs 5 million.

The whistleblower award shall be deducted from recoveries payable to the Investor Compensation Fund.

Reporting in Good Faith

The Authority takes all reports of reportable conduct seriously and expects whistleblowers to raise concerns in good faith. For a report to be made in good faith, whistleblowers do not have to be certain that something is wrong, but they must be genuine in their concern, and have reasonable grounds for believing a reportable conduct has taken place or will occur. Making a report in good faith is a prerequisite to the incentives and protections afforded in this Policy. The Authority shall not tolerate reports made falsely, maliciously or in bad faith and such reports may be subject to the Authority's action.

The Capital Markets (Corporate Governance) (Market Intermediaries) Regulations, 2011 and the Code of Corporate Governance Practices for Issuers of Securities to the Public 2015 impose a duty to directors, chief executive officers and management of licensees and issuers of securities to report activity of the kind identified as reportable conduct.

Malicious Reports

The Authority shall not tolerate anyone who uses the above channels to seek revenge or act in bad faith, falsely or maliciously. Whistleblowers should be aware that reports of reportable conduct made maliciously or in bad faith will be subject to appropriate action by the Authority.

Immunity from enforcement action

The Authority shall retain the discretion to extend immunity to a Whistleblower who is complicit in violation of Capital Markets law in respect of which the whistleblower submits information to the Authority subject to the report being deemed made to the Authority in good faith.

Confidentiality of information

The Authority expects that whistleblowers will maintain as confidential any information provided to them by the Authority or of which the whistleblower becomes aware because of the whistleblower's ongoing participation in the investigation of a matter.

In exchange, the Authority shall endeavor to ensure that protected disclosures and any information relating to a whistleblower shall remain confidential. The identity of the whistleblower shall not be disclosed unless:

a. The whistleblower consents;
b. Disclosure is required by law; or,
c. Disclosure is necessary to prevent or lessen a serious threat to the whistleblower's safety or welfare.

No appeal

The Authority's determination whether or not to grant a whistleblower award and any amount awarded to a whistleblower are not subject to appeal.