

## **GUIDANCE ON CUSTOMISING THE DRAFT RISK MANAGEMENT AND COMPLIANCE PROGRAMME AND EXPLANATORY NOTE**

### **Introduction**

Enclosed is a draft Risk Management and Compliance Programme (RMCP) developed for estate agencies, in accordance with the requirements of Public Compliance Communication (PCC) 53. An RMCP is a document that an accountable institution must update from time to time, as its perceptions and knowledge of money-laundering and terrorist financing risks change from time to time. It is therefore not a static document. Estate agencies must ensure to update and amend it from time to time. (See par 4 of the draft RMCP.)

In addition, each accountable institution must assess risk that is **unique to its clients and type of transactions**; there is no one-size-fits-all. In the attached RMCP (and the client Questionnaires attached thereto), the following was applied as a benchmark for risk rating for an estate agency:

#### **“23.2.1 Low Risk Transactions**

Transactions will be assessed as low risk for [INSERT AGENCY NAME] if:

- 23.2.2. In a property sale transaction, the entire purchase price is funded by means of a mortgage bond from a South African financial institution;
- 23.2.3. In a property sale transaction, the cash component in respect of the purchase price is wholly paid to the conveyancing firm involved in the transaction;
- 23.2.4. In a property sale transaction, the value of the funds paid to [INSERT AGENCY NAME] is less than R3,000,000.00 (or in a lease transaction the value is less than R1 million) and nothing unusual or suspicious exists in respect of either the clients or parties, the property or the funds;
- 23.2.5. In a property sale transaction, the entire value of the transaction is less than R5,000,000.00 (or in the case of a lease agreement, is less than R3,000,000.00) and nothing unusual or suspicious exists in respect of either the parties, clients, the property or the funds;
- 23.2.6. In a transaction one or both of the clients or parties is a legal person or a trust, if such legal person or trust is registered in South Africa and all relevant information is supplied as required by this RMCP and completed in the questionnaire;
- 23.2.7. In a property transaction or lease one or both of the parties is a natural person who is a citizen of South Africa and lives permanently in South Africa and all relevant information is supplied as required by this RMCP and completed in the questionnaire;

### 23.3 Medium Risk Transactions

Transactions will be assessed as medium risk for [INSERT AGENCY NAME] if:

- 23.3.1 One or both of the parties or clients in a property sale is a natural person who is not a citizen or permanent resident of South Africa and the value of the transaction exceeds R5,000,000.00, or R3,000,000.00 in the case of a lease;
- 23.3.2 One or both of the parties or clients is a Legal Person or a Trust or a Partnership which is not registered in South Africa or has no operations in South Africa;
- 23.3.3 The total value of the funds received through the [INSERT AGENCY NAME] trust account in the transaction exceeds R3,000,000.00;
- 23.3.4. A party or client is a not for profit Company or a charitable institution;
- 23.3.5 It is determined that either the parties, the client or the funds are suspicious or unusual;
- 23.3.6 [INSERT AGENCY NAME] determines the existence of any other factor which, in the opinion of the employee of [INSERT AGENCY NAME], could increase the money laundering or terrorist financing risk, but falls short of constituting a suspicious transaction.

### 23.4 High Risk Transactions

Transactions will be assessed as high risk for [INSERT AGENCY NAME] if:

- 23.4.1 A party or clients is identified as a PEP, or as a family member or associate of a PEP or a close associate of such PEP;
- 23.4.2. A client or party is identified on the UN1267 and TFS lists;
- 23.4.3. The total value of a transaction exceeds R15,000,000.00 and the source of the funds are indeterminable by [INSERT AGENCY NAME];
- 23.4.4 The source of funds or the source of wealth of any of the parties or clients is from a High Risk Jurisdiction.
- 23.4.5 [INSERT AGENCY NAME] forms a view in respect of any aspect of the transaction, the Parties, the geographic origin of the Party, the deal structure or any other tangible or intangible issue that raises a suspicion.”

Each estate agency should adapt these guidelines as necessary, **to address the specific risks of that agency**. The Annexure 3 Risk Assessment should then be adapted accordingly.

## **STAFF INVOLVED IN COMPLIANCE**

In paragraph 1 and 2 of the RMCP, certain staff/functions were highlighted. Depending on the size of the agency, more or less such positions will exist or be required. Agencies are invited to amend this as applicable and then to update the RMCP accordingly.

## **TRAINING**

It is important that staff and management of agencies are fully acquainted with their obligations under FICA and the RMCP that they adopt. Should you require assistance, you can contact the compiler hereof at [marynab@stbb.co.za](mailto:marynab@stbb.co.za).