FINANCIAL INTELLIGENCE ACT, 2012

(ACT NO.13 OF 2012) AS AMENDED

STATISTICAL FEEDBACK REPORT

REAL ESTATE AGENCIES/AGENTS

Date: January 2025

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1. Introduction

A person who is in private practice, or an estate agent as defined in the Estate Agents Act, 1976 (Act No. 112 of 1976), involved in the buying and selling of real estate for cash or otherwise is listed as an Accountable Institution in Items 1 and 2 of Schedule 1 of the FIA is required by the FIA to implement control measures aimed at Combatting Money Laundering, Terrorism Financing and Proliferation Financing (ML/TF/PF) activities. These controls include measures to enable timely detection of transactions/activities that may be suspicious and timely reporting such to the Financial Intelligence Centre (FIC). These reports are primarily Suspicious Transaction Reports (STRs), Suspicious Activity Reports (SARs) and Additional Information Files (AIFs). FIC analysis of such reports results in the production of value-adding intelligence which is shared with Law Enforcement Agencies (LEAs) and other relevant authorities in the ML/TF/PF combatting value chain.

The FIA also requires institutions to submit mandatory reports which may not necessarily be suspicious. Such reports include Cash Transaction Reports (CTRs), International Funds Transfers (IFTs) and Electronic Funds Transfers (EFTs). These reports form part of the FIC's database. This database is used by the FIC and various other relevant authorities to enhance ML/TF/PF combating efforts. The quality of reports filed can shape the outcomes of ML/TF/PF cases within the domains of the Namibia Revenue Agency (NAMRA), FIC, LEAs and the Office of the Prosecutor General (OPG). As a country, the finalization of ML/TF/PF cases (be it through asset forfeitures and/or criminal sanctions) is an essential element in demonstrating the level of Namibia's AML/CFT/CPF overall effectiveness. As such, all efforts should be made to enhance the quality of STRs/SARs reported to the FIC. It is therefore in furtherance of such national effectiveness objectives that the FIC avails this feedback to enable a reflection on areas that may need improvement.

The results of this analysis, as documented herein, should be used by Real Estate Agencies/Agents to guide the implementation of measures necessary to enhance reporting behavior.
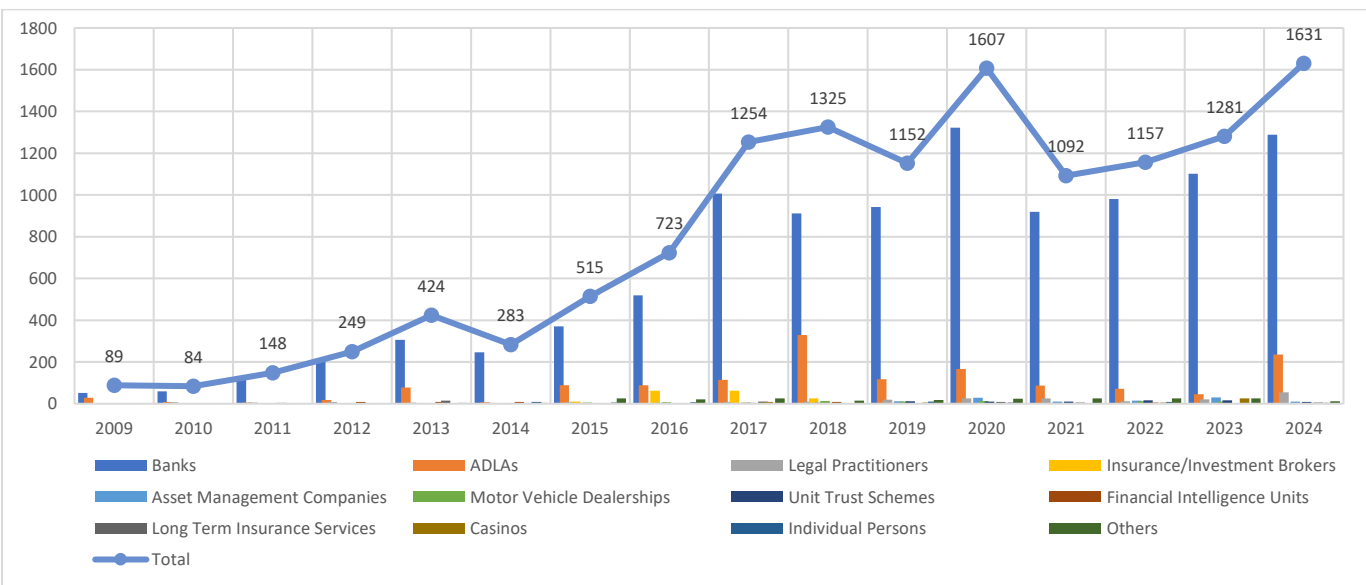
2. Summary of analysis and observations

2.1 STRs and SARs

A suspicious transaction arises when an institution has knowledge of any suspicious transactions concluded by it or suspects that it has received or is about to receive the proceeds of unlawful activities or has been used or is about to be used in any other way for ML, TF or PF purposes. Importantly, an institution should report such a transaction to the FIC without delay, upon noticing such suspicion. Depending on the factors at hand, the institution may file a Suspicious Transaction Report.

A Suspicious Activity Report is different from a Suspicious Transaction Report described above in that a suspicious activity is not a transaction per se, but activities that may escalate to a future transaction or activities that give rise to reportable/suspicious matters.

The chart below presents a record of STRs received by the FIC from various reporting sectors since the FIA came into operation up to 31 December 2024.

Chart 1: STRs received from reporting sectors per annum[1]

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[1] The "Others" category in the chart above comprises of the following sectors: Foreign Financial Intelligence Units; Casinos; Short Term Insurance Firms; Accountants; Supervisory and Regulatory Bodies; Dealers in precious metals and stones ; Unit Trust Scheme Companies; Unit Trust Scheme Companies; Financial Intelligence Units; Public Prosecutors; Regional Governments; Asset Management Companies; Law Enforcement Agencies; Money and Value Transfers Service Providers; Auctioneers; Life Insurance Broker or Agents; Real Estate Agencies/Agent; Long Term Insurance Firms; Lending Institutions; Trust and Loan Companies; Pension Fund Administrators; Local Authorities; Individual Reporting Entities and Non-Profit Organizations.

The banking sector submitted the most reports in the period under review, filing 80% (or 10,362 reports) followed by the ADLAs filing 11% (or 1,493 reports) and then Legal practitioners with 2% (or 218 reports). The Real Estate Agencies/Agents filed a total of 16 STRs from 2017 to 2024.

Even though various potential predicate offences have been reported to the FIC, tax-related offences featured as the leading predicate offence from all sectors. While ADLAs submitted the second highest number of reports to the FIC, 99% of their reports were accorded "low priority" status due to various reasons such as lack of ML/TF and PF indicators in the reports, insignificant amounts involved and poorly articulated reasons for suspicion in reports filed, amongst others.

The 2023 National Risk Assessment (NRA), an update to the 2020 NRA indicates that Close Corporations (CCs) are most vulnerable to ML and TF abuse. The use of CCs to advance financial crimes is common in Namibia. According to the reports analyzed, the same trend continues to show overwhelming findings that suggest CCs as the most preferred vehicles employed in the advancement of ML and TF. As per the information provided by the Business and Intellectual Property Authority (BIPA), 85% of the involved CCs (reported to the FIC) are locally owned. Importantly, 76% of directors/beneficiaries of involved entities are Namibian nationals. Chinese nationals are the second highest beneficiaries at 7% followed by Indian nationals at 5% and then Zimbabweans at 3%.

The FIC has noted with concern some challenges associated with the analysis of reports filed by sectors. In some reports, there was no information provided for the involved subjects such as names, nationalities, professions and others. Neither potential ML/TF predicate offenses were indicated on some occasions. Such information could assist analysts in coming up with identifiable trends and typologies that would be helpful to sectors.

Chart 2: SARs received from reporting sectors per annum

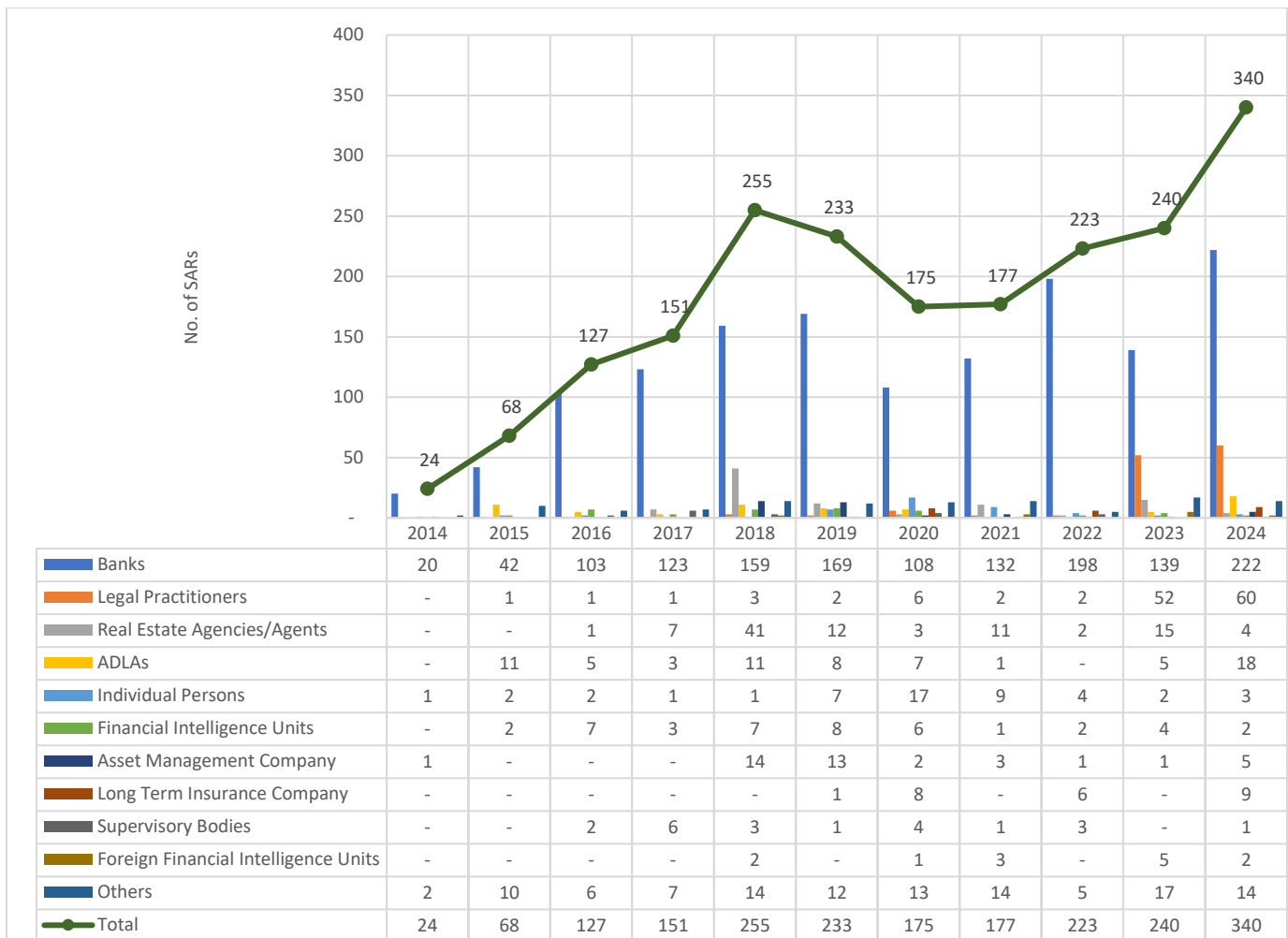|	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Banks	20	42	103	123	159	169	108	132	198	139	222
Legal Practitioners	-	1	1	1	3	2	6	2	2	52	60
Real Estate Agencies/Agents	-	-	1	7	41	12	3	11	2	15	4
ADLAs	-	11	5	3	11	8	7	1	-	5	18
Individual Persons	1	2	2	1	1	7	17	9	4	2	3
Financial Intelligence Units	-	2	7	3	7	8	6	1	2	4	2
Asset Management Company	1	-	-	-	14	13	2	3	1	1	5
Long Term Insurance Company	-	-	-	-	-	1	8	-	6	-	9
Supervisory Bodies	-	-	2	6	3	1	4	1	3	-	1
Foreign Financial Intelligence Units	-	-	-	-	2	-	1	3	-	5	2
Others	2	10	6	7	14	12	13	14	5	17	14
Total	24	68	127	151	255	233	175	177	223	240	340

Chart 2 above shows that the number of SARs filed by the reporting entities since the reporting obligation commenced totaled 2,103 reports at the end of the 2024 calendar year. It further shows that the banking sector collectively submitted a total of 1,415 SARs (70%), Legal Practitioners with 130 SARs (6%), and then Real Estate Agencies in third position with 96 SARs (5%). The ADLAs filed 69 SARs (3%) during the period under review.

According to the typology[2] report issued by the FIC on the vulnerability/rate of abuse of different types of legal persons and arrangements in the advancement of money laundering, the highest

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[2]https://www.fic.na/uploads/TrendsandTypologies/FICTrendsandTypologyReports/VULNERABILITYRATE%20OF%20ABUSE%20OF%20DIFFERENT%20TYPES%20OF%20LEGAL%20PERSONS%20AND%20ARRANGEMENTS%20IN%20THE%20ADVANCEMENT%20OF%20MONEY%20LAUNDERING.pdf

volume of SARs (reported to the FIC) involves Individual Persons at 65%, followed by Proprietary Limited Companies at 23% and then Trusts at 8%.

While the nature of AML/CFT/CPF is that there is no yardstick for indicating the volume of suspicious reports that should be detected and reported, the FIC is generally concerned about the low reporting behavior of some entities and sectors. Real Estate Agencies/Agents could be reporting more than they are currently reporting as reflected in FIC compliance assessment observations around poor ability to detect. It could thus be helpful for AML Compliance Officers to indicate any challenges experienced as far as identifying and filing various reports is concerned. If need be, interventions from the FIC's side can be considered to enhance reporting behavior. The challenges highlighted in chart 1 above also applied to SARs filed.
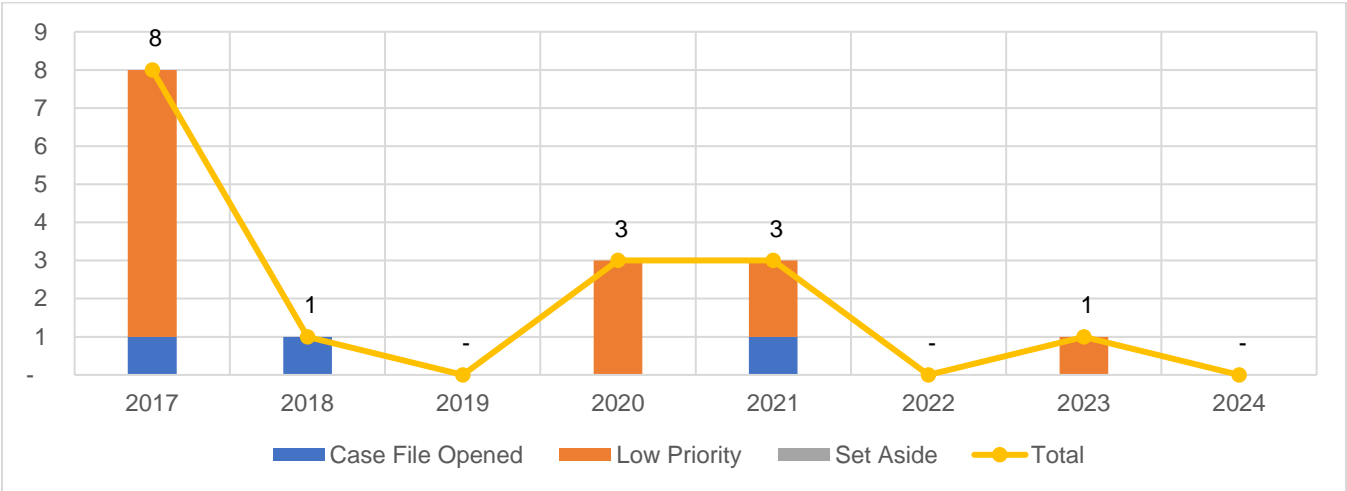
2.2 Level of prioritization of reports from the Real Estate Agencies/Agents

When reports are received, they go through a cleansing process which results in their prioritization. The FIC applies a risk-based approach in determining the prioritization level assigned to reports from all stakeholders. The cleansing due diligence entails an assessment of reports which results in assigning priority levels. Reports which are accorded a "low priority status" are not attended to immediately. Due to resource constraints and the risk-based approach (especially consideration of potential impacts), only reports which are accorded a "high priority status" are investigated and analyzed (case files opened). Amongst other factors, a report could be classified as low priority when the observed suspicion does not fall within law enforcement's priority areas of investigation. At times, the financial values involved could be negligible (or insignificant) in comparison to values in other reports. On the other hand, a report that meets certain requirements could eventually result in a case file being opened and escalated for further analysis/investigation within the FIC[3].

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[3] In summary, factors which collectively inform prioritization levels include, but are not limited to:

    a.   known ML, TF and/or PF indicators;
    b.   sanctions and watch lists [e.g. lists of high risk persons];;
    c.   prior reports on same subject/entity;
    d.   geographic risk areas involved;
    e.   duplicate/erroneous filing (which could result in the STR/SAR being set-aside);
    f.   risk of funds being placed out of reach of law enforcement;
    g.   human resource constraints within FIC's Financial Investigations and Analyses Division; and
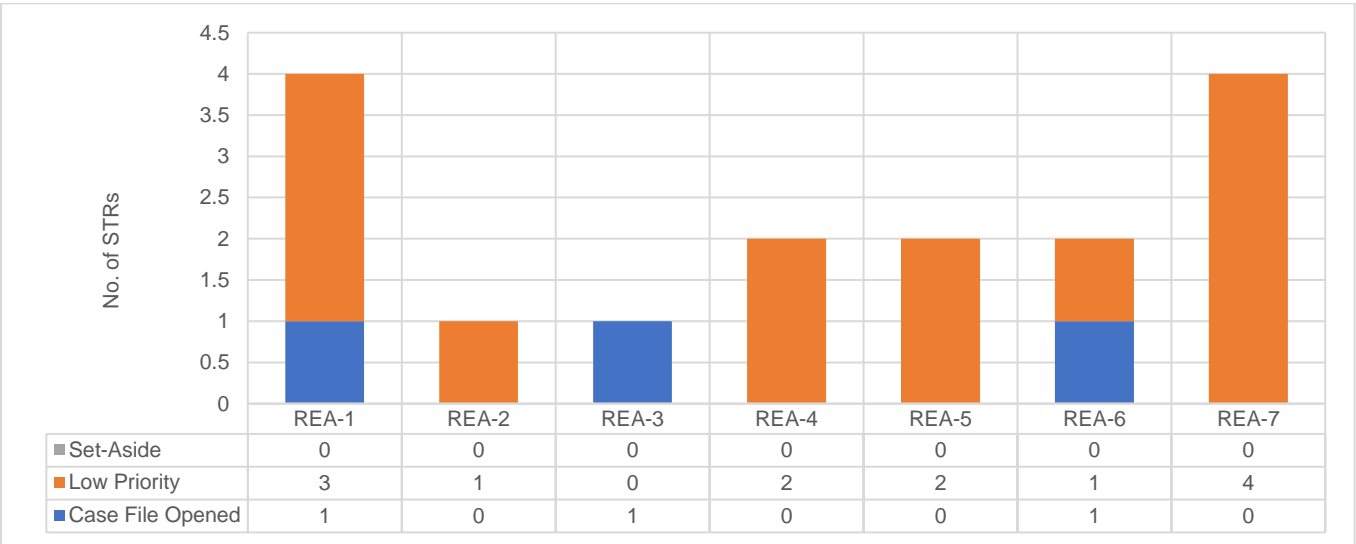   h.   consideration of the monetary, asset and other values or impacts associated with such report.

Chart 3: Categorization of STRs received from the Real Estate Agencies/Agents per annum

Worth noting is that 19% (or 3) reports from the Real Estate Agencies/Agents were accorded a 'high priority' status and escalated for further analysis. Such STRs were forwarded to relevant Law Enforcement Agencies and Investigating Authorities for further investigation.

A total of 81% (or 13) STRs reported were accorded a "low priority" status. Most of the STRs were accorded a "low priority" status primarily because of the insignificant amounts of money involved, human resource constraints within FIC's Financial Investigations and Analyses Division and lack of ML/TF and/or PF indicators in the reports filed, amongst other factors. The Sector did not file any STRs during the year 2024.

Chart 4: Categorization of STRs reported by the Real Estate Agencies/Agents per Entity

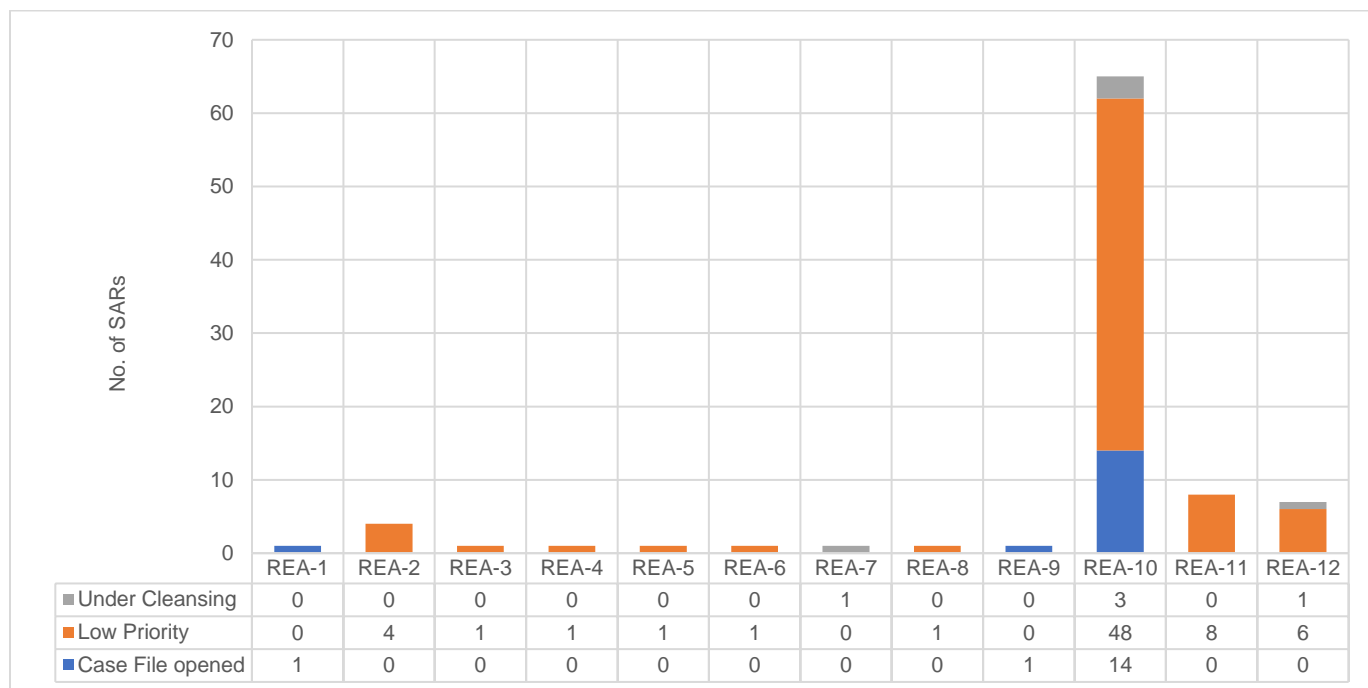|	REA-1	REA-2	REA-3	REA-4	REA-5	REA-6	REA-7
Set-Aside	0	0	0	0	0	0	0
Low Priority	3	1	0	2	2	1	4
Case File Opened	1	0	1	0	0	1	0

In the period under review, REA-1 and REA-7 filed the majority of STRs (each filing a total of 4 STRs or 25%) from the sector. It is however important to indicate that some Real Estate Agencies/Agents have filed a relatively very low number of STRs during the period under review and such low filing is below expectations.

Table 1: Categorization of SARs from the Real Estate Agencies/Agents per annum

	2016	2017	2018	2019	2020	2021	2022	2023	2024
Case File opened	1	4	8	3	-	-	-	-	-
Low Priority	-	3	33	9	3	11	2	10	4
Under Cleansing	-	-	-	-	-	-	-	5	-
Grand Total	1	7	41	12	3	11	2	15	4

In the period under review, only 17% of SARs filed from the sector were accorded a 'high priority' status and escalated for further analysis. Further, 78% of the reports were accorded a "low priority" status.

Chart 5: Categorization of SARs from the Real Estate Agencies/Agents per Entity

	REA-1	REA-2	REA-3	REA-4	REA-5	REA-6	REA-7	REA-8	REA-9	REA-10	REA-11	REA-12
▇ Under Cleansing	0	0	0	0	0	0	1	0	0	3	0	1
▇ Low Priority	0	4	1	1	1	1	0	1	0	48	8	6
▇ Case File opened	1	0	0	0	0	0	0	0	1	14	0	0

The Sector has submitted a total 96 reports. REA-10 filled the majority of SARs (with 69% or 66 reports).

2.3 Sampled Case Studies

This section provides an overview of sampled case studies, illustrating the diverse methods criminals use to carry out financial crimes. These case studies highlight the complexities of ML and underscore the importance of robust, coordinated efforts to combat it.

	Scenario	Techniques Used	Key Red Flags	Remedial Actions
1. Overpaying for Property	*A businessman from Country X purchased four luxury apartments in City Y, paying 50% above market value. Payments were made via a shell company registered in the British Virgin Islands, funded through offshore accounts in multiple jurisdictions.*	*- **Overpayment**: The properties were bought at inflated prices, disguising large sums of illicit funds.* *- **Shell Companies**: The buyer used a BVI-registered entity to hide ownership.* *- **Offshore Accounts**: Transfers from high-risk jurisdictions obscured the funds' origins.*	*- Significant overpayment compared to market value.* *- Use of shell companies in secrecy jurisdictions.* *- Offshore funds from high-risk areas.*	*- Verify the source of funds for large transactions.* *- Flag transactions significantly above market value.* *- Request and verify details about beneficial ownership of corporate buyers.*
2. Using Nominees and Third Parties	*A criminal organization laundered $15M by purchasing residential properties using relatives and associates as nominal buyers. The properties were paid for in cash, avoiding the scrutiny of financial institutions.*	*- **Straw Buyers**: Used unrelated individuals to mask true ownership.* *- **Cash Transactions**: Avoided creating a paper trail.* *- **Ownership Concealment**: Ensured no direct links between the properties and the criminal group.*	*- Buyers lacked financial capacity to afford the properties.* *- High-value cash purchases.* *- Multiple related-party transactions involving low-income individuals.*	*- Perform robust KYC (Know Your Customer) checks on buyers.* *- Reject cash-based property purchases or report them as suspicious.* *- Ensure buyers' financial capacity aligns with property value.*
3. Purchase through Trust Accounts	*A government official received bribes and funneled the funds into a trust account managed by a law firm. The funds were used to buy several high-value properties. The official's name was hidden through the trust structure.*	*- **Professional Intermediaries**: The law firm acted as a shield, ensuring anonymity.* *- **Trust Accounts**: Provided an additional layer of concealment.* *- **No Reporting**: The law firm failed to flag suspicious activity despite the volume of transactions.*	*- Trust accounts used for high-value purchases.* *- Funds originating from sources tied to government contracts.* *- Lack of due diligence or reporting by legal intermediaries.*	*- Require disclosure of trust beneficiaries.* *- Ensure large transactions from trust accounts are accompanied by documented proof of source of funds.* *- Flag patterns involving public officials or government-linked funds.*

Real estate agents can play a critical role in preventing money laundering by:

1. **Implementing Know Your Customer (KYC) Procedures**: Ensuring the identity and financial capacity of clients are verified thoroughly.

2. **Requesting Proof of Funds**: Requesting legitimate documentation for the source of funds used in transactions.

3. **Training on AML Risks**: Regular training on recognizing red flags and complying with reporting obligations.

4. **Reporting Suspicious Transactions**: Notify authorities of any unusual activity, such as cash transactions or overly complex ownership structures.

5. **Monitoring Market Trends**: Stay vigilant about properties sold at prices significantly above or below market value.

This expanded table integrates actionable steps for real estate agents while detailing how law enforcement handles cases. Let me know if further refinement is needed!

2.4 Other reports received from the Real Estate Agencies/Agents

- **Additional Information File (AIF):** Refers to the filing of new or additional information related to a STR or SAR previously filed with the FIC;

- **Cash Transaction Report (CTR):** These are mandatory reports to be submitted to the FIC on all cash transactions above the threshold/limit of NAD 99,999.99, within five (5) working days of their occurrence;

- **Electronic Funds Transfers (EFT):** Refers to the movement of money from one account to another electronically;

- **International Funds Transfers (IFT):** Refers to the inward and outward remittance of funds electronically from one jurisdiction to another; and

- **Cross Border Movement of Cash Report (CBMCR):** Refers to any in-bound or out-bound physical transportation of currency or bearer negotiable instruments (BNIs) from one country to another.

The table below shows the number of other reports that Real Estate Agencies/Agents filed in the period under review.

Table 2. Total AIFs, CBMCRs, CTRs, EFTs and IFTs filed by the Real Estate Agencies/Agents

	AIFs	CBMCRs	CTRs	EFTs	IFTs
No. of Reports	0	0	17	11	0
No. of Transactions	0	0	18	11	0
Amounts Involved (NAD)	0	0	10,527,034.00	18,020,493.00	0

3. Potential indicators from cases under FIC

There are various predicate offenses of Money Laundering. For supervised institutions to be in a position to identify such activities, the essential foundation is having an effective Anti-Money Laundering policy and procedures, as per section 39 of the Financial Intelligence Act 2012. Based on reports from the sectors, the following have been identified as some of the most common potential indicators: tax-related offences, fraud, theft, wildlife crimes and corruption amongst others. When each indicator is viewed in isolation, it may not readily point to potentially suspicious ML, TF or PF activity or transaction, however when viewed with other indicators and relevant factors, it may highlight the presence of reportable suspicions. Importantly, Real Estate Agencies/Agents are advised to familiarize themselves with **Guidance Notes[4] and Directives** that explain high-risk scenarios of ML/TF/PF plus guidance on risk mitigation within various sectors. Equally, Real Estate Agencies/Agents are urged to familiarize themselves with indicators highlighted in such guidance notes[5].

Table 5: Summary of suspected predicate offenses, recipient agency and amounts

	Potential Predicate Offense	Total Disclosures
Namibian Police	Tax-Related Offense	1
NamRA	Tax-Related Offense	3
Total		**4**

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[4] https://www.fic.na/index.php?page=2023-guidance-notes
[5] https://www.fic.na/index.php?page=publications

In the period under review, a total of 4 spontaneous disclosures were disseminated to Law Enforcement Agencies as a result of STRs and SARs received from the Real Estate Agencies/Agents. The Namibia Revenue Agency received the highest number of disclosures. "Tax Related Offences" featured as the leading reason which informed the suspected potential offense with 4 such potential offenses recorded.

4. Summary of matters worth noting

Below is an overall summary of major irregularities observed in the quality of reports filed by reporting institutions in general including Real Estate Agencies/Agents:

a. **Lack of ML/TF and/or PF indicators in the reports:** It is helpful that upon reporting, such information is availed. If the internal risk assessment, Customer Due Diligence (CDD) and ongoing monitoring measures are effective, such should expose indicators that may inform the suspicion. AML Compliance Officers are encouraged to reach out to the FIC when uncertain of suspicions or their indicators;

b. **Poorly articulated "Reasons for Suspicion" in STRs/SARs:** Usually, when adequate CDD has been undertaken, it is easier to explain grounds for suspicion when making an analysis of flagged transactions. Regardless, attempts should be made to adequately explain why we find transactions or activities suspicious as such helps with FIC analysis of reports;

c. **Duplicate and erroneous filing of reports:** More care needs to be taken, especially by AML Compliance Officers to reduce erroneous and duplicate reporting. The initial cleansing processes of each report take from the valuable time that FIC analysis resources could deploy to other activities; and

d. **Filing of incomplete STRs/SARs:** More could be done to ensure the completeness of information shared in STRs/SARs. It helps with value addition from such reports. If the internal risk assessment, CDD and ongoing monitoring measures are effective, such should

expose indicators that inform the suspicion. AML Compliance Officers are encouraged to reach out to the FIC when uncertain.

The above shortcomings were also observed in other sectors. Real Estate Agencies/Agents are urged to consider the said shortcomings and device means to enhance CDD, monitoring and detection controls accordingly. The findings herein support the overall observations in the periodic FIA compliance assessment reports which point to a greater need to enhance activities that improve overall reporting behavior.

5. Conclusion

The FIC appreciates the Real Estate Agencies/Agents continuous efforts geared towards ML/TF/PF prevention and combatting. Such helps to safeguard the national and international financial system's integrity. Whilst encouraging that more be done to enhance reporting volumes, the FIC equally encourages that more be done to enhance overall reporting quality. Such can only happen if other controls such as CDD and transaction monitoring are operating as expected. This can lead to effective investigations, prosecutions, asset forfeitures and asset/tax recoveries for the combatting framework.

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