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# Anti-money laundering and counter-terrorist financing measures

## United Arab Emirates

### Mutual Evaluation Report

April 2020





The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CTF) standard.

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the FATF Secretariat, 2 rue André Pascal 75775 Paris Cedex 16, France

(fax: +33 1 44 30 61 37 or e-mail: [contact@fatf-gafi.org](mailto:contact@fatf-gafi.org)).

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## Executive Summary

### EXECUTIVE SUMMARY

1. This report summarises the anti-money laundering and counter-terrorist financing (AML/CFT) measures in place in the United Arab Emirates (UAE) as at the date of the on-site visit from 1 – 18 July 2019. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the UAE's AML/CFT system, and provides recommendations on how the system could be strengthened.

### Key Findings

a) In the past few years, the UAE has made significant improvements to its AML/CFT system including developing the National Risk Assessment (NRA), addressing technical deficiencies in legislation and regulation, strengthening co-ordination mechanisms across the Emirates, strengthening the Financial Intelligence Unit (FIU) and assigning supervisors for previously non-covered sectors. Many of these enhancements to the system are recent, and while they have a positive impact on the UAE's technical compliance, their impact on the effectiveness of the system was not fully evident at the time of the on-site visit.

b) The UAE has demonstrated a high-level commitment to better understand and mitigate its money laundering/terrorist financing (ML/TF) risk in a coordinated way and has an emerging understanding of its ML/TF risks. The NRA is a good starting point for expressing ML/TF threats and vulnerabilities at a national level. However, the NRA and other assessments provide only a basic description of the complex ML issues facing the jurisdiction. Issues identified with the methodology bring into question some conclusions authorities have made about TF risk. Authorities' ability to articulate relevant ML/TF risks beyond the NRA is varied. The National AML/CFT Committee has begun implementing an ambitious National AML Strategy to strengthen the UAE's overall AML/CFT framework. These are important steps in improving overall effectiveness, however, it is too early to assess their impact in mitigating sophisticated risks posed by, for example, professional ML networks or trade-based ML.

c) A strong feature of the UAE's financial intelligence framework is that authorities have access to a broad range of financial information sources to aid financial investigations. However, apart from in TF and fraud investigations, financial intelligence is not fully exploited in response to other significant risks, including ML, or in relation to the recovery of the proceeds of crime. Particular issues are the underutilisation of customs data and international cooperation and the absence of STR reporting by DNFPBs (real estate and DPMS) which limits the financial intelligence available in relation to high-risk sectors in the UAE. The limited role and capacity of the FIU has impacted the quality of financial intelligence available to investigators. The FIU has taken steps to address its resource needs and analytical capability, but the results of these measures are at early stages.

d) Following recent changes, the UAE has a sound statutory ML offence and a policy shift in 2018 seeks to prioritise ML. Although there are various opportunities to detect ML, LEAs are not routinely identifying and targeting significant ML cases in line with the UAE's risk profile. Across the Emirates, between 2013 and 2018, there were 282 ML cases identified by police and prosecutors of which 224 were further investigated by PPs, 50 prosecutions and 33 convictions for ML. The low number of ML prosecutions in Dubai is particularly concerning considering its recognised risk profile. A number of recent investigations, supported by increased coordination, training, awareness and resources, suggest that authorities are placing a stronger emphasis on sophisticated ML risks. However, many of these activities are at early stages and it has not been demonstrated that the component parts of the system (investigation, prosecution, conviction and sanctions) are functioning coherently to mitigate ML risks.

e) In line with the overarching policy shift in 2018, the National Committee and the newly formed ML Investigations Sub-Committee have identified confiscation as a key policy objective and overall the UAE's figures for domestic confiscation and fines, repatriation, sharing and restitution are large due to broad confiscation powers. While the UAE routinely removes instrumentalities of crime, it was not demonstrated this occurs for the proceeds of foreign predicate offences, which is acknowledged as a key crime risk. In relation to cross-border cash and precious metals movements, while penalties have been applied for false or lacking declarations, there is an absence of formal case adoption by the Police or State Security. Work is underway to improve the collection of statistics.

f) The UAE identifies and investigates TF activities to a large extent, and the role of the terrorist financier is generally identified. State Security has a robust array of tools, data sets and capabilities it can employ to investigate and analyse TF-related activity. Between 2013 and 2019, 92 persons have been prosecuted for TF and 75 have been convicted, yielding a conviction rate of 82%.

g) The UAE is implementing TF-related targeted financial sanctions (TFS) to some extent and PF-related TFS to a limited extent, and in both cases not without delay. The relatively new UNSCR Decision and accompanying new mechanism of automatic transposition and notification for TFS puts in place a far improved TFS framework. Currently neither the new obligations nor the mechanism are widely understood or implemented, particularly by the private sector. Awareness of the Local List (UNSCR 1373) is especially low amongst the private sector. The UAE has



applied focused and proportionate measures to NPOs identified as vulnerable to TF to a large extent.

h) The Dubai Financial Services Authority (DFSA), the Abu Dhabi Financial Services Regulatory Authority (FSRA), and the Insurance Authority (IA) in the mainland, have developed a detailed understanding of ML/TF risk in the areas they supervise and apply an effective risk based approach to supervision. The Central Bank, Banking Supervision Department (BSD) and the Securities and Commodities Authority (SCA) are developing an understanding of ML/TF risk at individual institution level, which BSD enhanced in 2017. This limits the effectiveness of the risk-based approach to supervision in the Mainland and the CFZs. Outside of the FFZs, sanctions are not effective, proportionate or dissuasive. It is a major concern that the UAE authorities do not recognise the importance of using the full range of sanctions (particularly fines and barring orders) to create a dissuasive environment.

i) Outside of the FFZs, DNFBP supervisors were recently established by virtue of Cabinet Resolutions. Very limited activity has occurred (only for some sectors) in terms of supervision beyond initial registration and planning for a supervisory regime to be in place for most sectors by 2021. The UAE has therefore not been able to demonstrate any notable effective supervision for DNFBPs outside of the FFZs, with the exception of some market entry controls in the CFZs. This is concerning given the risk and materiality of certain segments of this sector (i.e. DPMS and Real Estate agents) in the context of the UAE.

j) The UAE has 39 different company registries, many of which exist to promote economic growth in the various free zones. The risk of criminals being able to misuse legal persons in the UAE for ML/TF remains high, particularly through concealment of beneficial ownership information via complex structures or the use of informal nominees. Whilst the recent legislative changes represent significant progress by the UAE, the fragmented system of registries has given rise to different levels of understanding, implementation and application of measures to prevent the misuse of legal persons, creating regulatory arbitrage. In the DEDs, there is generally only basic knowledge of the concept of beneficial ownership, whereas a number of the CFZs and the FFZs demonstrated a good understanding. There is a wide divergence across the UAE registries as to how adequate, accurate and current beneficial ownership information is maintained. It was demonstrated that LEAs could obtain access to information through FIs if there was an established relationship with the legal entity/arrangement. The UAE has not implemented at national level a regime whereby sanctions for failing to provide information can be considered effective, proportionate and dissuasive.

k) Despite significant efforts by some authorities to provide informal international cooperation, it has not been demonstrated that the system for providing formal cooperation is working effectively. It could not be demonstrated that the UAE is routinely and consistently requesting and providing international cooperation so as to make it an unattractive location in which criminals could operate, maintain their illegal proceeds, or use as a safe haven.

## Risks and General Situation

2. The UAE is a major international and regional financial centre and trading hub. The full range of financial institutions and a large number of DNFBPs operate throughout the country to facilitate financial and business activities. The UAE presents significant complexity when considering ML/TF risk and materiality given the range of activity (e.g. financial, economic, corporate, trade) conducted in the country, its jurisdictional nature (7 Emirates, 2 financial free zones and 29 commercial free zones) and the fragmented supervision structure that could lead to regulatory arbitrage between the jurisdictions in the UAE.

3. The UAE is exposed to significant ML and TF risks and to proliferation financing. The UAE is considered a cash-intensive economy, which exposes the country to certain inherent ML/TF risks. As identified in the NRA, the large size and openness of the UAE's financial sector, large amount of remittances, cash in transactions, the highly active trade in gold and precious metals and stones, as well as the large proportion of foreign residents present in the UAE, and the country's geographic proximity to countries de-stabilised by conflict or terrorism, as well as countries subject to UN sanctions, present additional inherent vulnerabilities to ML/TF/PF abuse. The expansion of the FFZs and CFZs to reposition the country as an international financial centre and major international and regional trading hub also exposed the country to inherent risks such as trade based money laundering and laundering of foreign proceeds of crime.

4. The main risks faced by the UAE are: terrorist financing, and a range of ML activities including professional third-party money laundering, cash-based money laundering, abuse of legal persons, trade-based money laundering and the laundering of proceeds, particularly from foreign predicate offences including fraud, tax offences and organised crime.

5. According to the NRA, the highest sectoral vulnerabilities on the mainland are in banking, money service businesses/exchange houses and in dealers in precious metals and stones. The FFZs and CFZs present different areas of higher risk depending on their individual underlying activities.

## Overall Level of Compliance and Effectiveness

6. The UAE has taken some significant steps in strengthening its AML/CFT framework since its last evaluation, most notably by undertaking a NRA and with the enactment of the AML Law in 2018 and AML By-Law in 2019. In many respects, the elements of an effective AML/CFT system are in place but the required framework is relatively new and therefore it has not been possible to demonstrate the overall effectiveness of the system. The exception to this is that terrorist financing offences and activities are investigated and prosecuted to a large extent, and the role of the terrorist financier is generally identified. Generally, fundamental and major improvements are needed across the UAE in order to demonstrate that the system cannot be used for ML/TF and the financing of proliferation of weapons of mass destruction.

7. In terms of technical compliance, the legal framework has been significantly enhanced and is now comprehensive in a number of areas. However, a number of issues remain including: in risk assessment and mitigation (R.1), targeted financial



sanctions (R.6/7), higher risk countries (R.19), beneficial ownership requirements (R.25), and the analysis function of the FIU (R.29).

***Assessment of risk, co-ordination and policy setting (Chapter 2; IO.1, R.1, 2, 33 & 34)***

8. The UAE has an emerging understanding of its ML/TF risks. The NRA is a good starting point for expressing ML/TF threats and vulnerabilities at a national level. However, the NRA and other assessments provide only a basic description of key issues such as ML of foreign proceeds, trade-based ML, cash-based ML and the abuse of corporate structures. TF threats assessed separately to ML threats in the NRA, but issues identified with the methodology bring into question some conclusions authorities have made about TF risk.

9. While some agencies demonstrated a more developed understanding of specific ML/TF risks, many AML/CFT stakeholders could not detail these risks beyond the high-level findings in the NRA.

10. During and after the development of the NRA, the UAE has introduced a range of measures to strengthen its AML/CFT regime. This includes a suite of new laws and regulations to reinforce a risk-based approach, introduction of beneficial ownership requirements, appointment of DNFBP supervisors, enhanced interagency coordination, increased FIU capacity, and mechanisms to improve ML investigations and international cooperation. These are important first steps, particularly in closing gaps in technical compliance and improving overall effectiveness. However, it is too early to assess their impact in mitigating sophisticated risks posed by, for example, professional ML networks or trade-based ML, in the absence of more specific measures designed to address these risks.

11. The objectives of competent authorities are broadly consistent with the evolving national AML/CFT policies (the National AML Strategy and National Action Plan) and the UAE has put in place a range of committees to improve national coordination and cooperation on AML/CFT issues at the policy and operational levels. These mechanisms have built greater awareness of the roles of different agencies in different jurisdictions, but it was difficult to assess to what extent they were prioritising new policy and operational actions in delivering the ambitions of the UAE's AML Strategy.

12. While the NRA is confidential, high-level summaries of its results were provided to some private sector firms via their supervisors. Further engagement with the private sector is required to support a more detailed awareness of the risks.

***Financial intelligence, ML investigations, prosecutions and confiscation (Chapter 3; IO.6, 7, 8; R.1, 3, 4, 29–32)***

***Use of financial intelligence (Immediate Outcome 6)***

13. A strong feature of the UAE's financial intelligence framework is that authorities have access to a broad range of financial information sources to aid financial investigations. This information is used in TF and predicate offence (particularly fraud) investigations – both areas assessed as higher risk by the UAE. However, financial intelligence is not fully exploited in response to other significant risks, including ML, or in relation to tracing proceeds of crime. LEAs and the FIU are under-utilising customs data considering the significant risks of ML through cross-

border movements of cash and PMS. While there are increasing trends, overall, the frequency and the extent of the use of financial information and intelligence is limited in the context of the UAE's ML risks. The capacity and expertise of agencies to undertake financial investigations varies.

14. The FIU had a limited role and capacity, which reduced the quality of financial intelligence available to investigators. While it regularly supports LEA investigations by responding to specific requests, the FIU does not substantially add value to disseminations on high-risk issues. Recently, the FIU has taken significant positive steps (including improving its IT system) but the results of these measures are at early stages.

15. Once a case is identified, interagency cooperation works well to bring together relevant financial intelligence, either bilaterally or via ad-hoc inter-agency committees. There are further opportunities to bring together, and proactively exploit, financial intelligence in line with the UAE's ML/TF risks.

#### *ML offence (Immediate Outcome 7)*

16. The UAE has a sound statutory ML offence and due to a policy shift in 2018 to prioritise ML, targeted recruitment and increased capacity building across LEAs, there is an increase in the number of on-going investigations. Although there are various opportunities to detect ML (including FIU disseminations, FCA data, open and covert source reporting and international cooperation), LEAs are not routinely identifying and targeting significant ML cases in line with the UAE's risk profile.

17. Across the Emirates, between 2013 and 2018, there were 282 ML cases identified by police and prosecutors of which 224 were further investigated by PPs, 50 prosecutions and 33 convictions for ML. While these prosecutions address some of the UAE's predicate offence risks (forgery and fraud), there is a noticeable absence of consistent investigations and prosecutions of ML related to other high-risk predicate crimes (such as drug trafficking), professional third-party ML, and those involving higher-risk sectors (such as money value transfer services or dealers in precious metals or stones). The low number of ML prosecutions in Dubai (17 over a 5 year period) is particularly concerning considering its recognised risk profile.

18. While the UAE does impose a range of sanctions, including against legal and natural persons, it has not been fully demonstrated that these are effective, proportionate and dissuasive in the context of the UAE's risk profile. While the UAE does pursue alternative criminal justice outcomes, such as prosecution for predicate offences, a type of possession offence and deportation, it was not evidenced this only happened where an ML conviction was not possible.

#### *Confiscation (Immediate Outcome 8)*

19. In line with the overarching policy shift in 2018, the National Committee and the newly formed ML Investigations Sub-Committee have identified confiscation as a key policy objective.

20. Overall the UAE's figures for domestic confiscation, criminal fines, repatriation, sharing and restitution are large due to broad confiscation powers. The UAE routinely seizes and removes instrumentalities of crime. However, it was not demonstrated there is systematic or consistent confiscation work following formal international requests involving the proceeds of foreign predicate offences, which is acknowledged as a key crime risk.

21. Although the Federal Customs Authority has applied financial penalties for falsely declared or undeclared cross-border movements of currency, BNI and PMS the absence of formal case adoption by the Police or State Security suggests that in some cases, proceeds of crime is not ultimately confiscated.

22. Notwithstanding the large asset recovery / repatriation figures, the UAE acknowledged issues in the collection and presentation of statistics, particularly in relation to completed ML investigations. Work is underway, overseen by the MOJ, to improve case management systems across all PPs, which will improve the collection of relevant management information.

### ***Terrorist and proliferation financing (Chapter 4; IO.9, 10, 11; R. 1, 4, 5–8, 30, 31 & 39)***

#### ***TF offence (Immediate Outcome 9)***

23. UAE secures TF convictions to a large extent. Between 2013 and 2019, 92 persons have been prosecuted for TF and 75 have been convicted, yielding a conviction rate of 82%. However, there are inconsistencies in activity prosecuted and convicted with what can be ascertained about the country's TF risk profile, as prosecutions, convictions, and TF funds identified do not consistently correspond with the threat levels of terrorist organisations articulated by the UAE.

24. The UAE identifies and investigates TF activities to a large extent, and the role of the terrorist financier is generally identified. However, cases exhibited the exploitation of fairly unsophisticated channels and methods, given the range of inherent vulnerabilities identified by the UAE. There were also few complex cases, cases involving domestic use of funds or fundraising, or cases involving legal persons. But in general, authorities have investigated and identified a large amount of TF activity.

25. The UAE has been able to demonstrate that sentences have been proportionate and dissuasive. However, there have been no convictions of legal persons during the assessment period.

#### ***Preventing terrorist from raising, moving and using funds (Immediate Outcome 10)***

26. The UAE is implementing TF-related TFS to some extent, but not without delay. A relatively new regulation (the "UNSCR Decision"), combined with a new mechanism of automatic transposition and notification, puts in place a far improved TFS framework. But the effectiveness of this new mechanism was not able to be demonstrated at the time of the on-site visit, and there remain technical deficiencies with respect to the Local List (UNSCR 1373) provisions of the Decision which may also decrease its overall effectiveness in the future.

27. The authorities are in the process of educating reporting entities on the mechanism. However, currently neither the new obligations nor the mechanism are widely understood or implemented, particularly by the private sector. Awareness of the Local List (UNSCR 1373) is especially low amongst the private sector. No assets have been frozen pursuant to UN TF-related resolutions during the assessment period, and limited assets have been frozen pursuant to domestic designations (UNSCR 1373).

28. The UAE has applied focused and proportionate measures to NPOs identified as vulnerable to TF to a large extent. The UAE has completed an NPO risk assessment and has strong licensing and financial controls in place, combined with largely sufficient monitoring by supervisors, to help prevent their abuse by terrorist financiers. The main deficiency relates to the Ruler's Funds, which comprise 18 percent of NPOs deemed "high-risk" and were just beginning formal monitoring by the Ministry of Community Development at the time of the on-site visit.

29. Measures being implemented in the NPO sector appear largely in line with risks in that sector, though measures related to TFS and deprivation of terrorist financiers' assets are not consistent with the country's risk profile.

### *Proliferation financing (Immediate Outcome 11)*

30. The UAE is implementing PF-related TFS to a limited extent and not without delay. As noted above in IO.10, the new UNSCR Decision and accompanying new mechanism of automatic transposition and notification will improve the country's overall framework for implementing TFS; however, the effectiveness of this new mechanism was not able to be demonstrated at the time of the on-site, and there remain technical deficiencies with respect to Iran-related provisions of the Decision which may also decrease its overall effectiveness in the future.

31. As noted in IO.10, neither the new obligations stemming from the UNSCR Decision nor the mechanism for automatic transposition are widely understood or implemented, particularly by the private sector. In many instances, entities responded that accounts of designated individuals would merely be closed, which could lead to the funds being returned if a match was detected. This, coupled with significant deficiencies found in examinations regarding basic sanctions screening and a lack of meaningful enforcement action related to deficiencies in TFS controls, signals a substantial vulnerability in the area of PF.

### *Preventive measures (Chapter 5; IO.4; R.9–23)*

32. The UAE has extremely large and diverse financial and DNFBP sectors which vary in type between the FFZs, CFZs and the Mainland. The level and types of ML/TF risks affecting individual FIs and DNFBPs vary, as do the ML/TF risks facing particular sectors and jurisdictions within the UAE. All of the entities performing activities covered by the FATF Standards are required to apply a range of AML/CFT preventive measures under the 2018 AML Law and 2019 By-Law. However, these requirements are very recent for most DNFBPs and there is limited understanding of the obligations. These requirements are not yet implemented comprehensively and consistently across all sectors – particularly DNFBPs.

33. In general, financial institutions (FIs) were applying a range of preventative measures. Banks in the UAE have a good level of understanding of ML/TF risks and obligations, while other FIs (securities, insurance and MVTs) displayed a reasonably good understanding of risks and preventative measures in their sectors. The risk understanding among DNFBP sectors in mainland and CFZs is weak. AML/CFT obligations for DNFBPs are new, and supervisors were only recently appointed. On the other hand, DNFBPs in the FFZs have a more developed understanding of their ML/TF risks. There are concerns about the low level of STR reporting in many sectors, particularly the DPMS, and Real Estate and TCSP sectors. While some STRs submitted are of high quality, there remain concerns about the quality of STRs reported across sectors (even amongst banks, which submit 85% of STRs filed).

### *Supervision (Chapter 6; 10.3; R.26–28, 34, 35)*

34. All of the regulated activities covered in the FATF Standards are supervised for AML/CFT compliance under the UAE regime. For FIs, the fitness and propriety checks to prevent criminals from entering the market are comprehensive, however for DNFBPs outside of the FFZs and some CFZs, these controls are not particularly comprehensive or not yet fully in place, and do not adequately address the issue of foreign directors, shareholders or beneficial owners.

35. The DFSA, the FSRA and the IA have developed a detailed understanding of ML/TF risk in the areas they supervise, which extends to the individual institution level. BSD and SCA have a developing understanding of ML/TF risk at type and individual institutional level. For BSD, this has been enhanced since 2017 by the regular collection of ML/TF data points at institutional level, and a third party sector-wide risk assessment exercise, to establish a new baseline for ML/TF risk assessments. Supervisors' efforts have so far been focussed on designing the process of enhanced risk assessment and therefore detailed individual institution risk knowledge was not yet fully demonstrated. This currently limits the risk-based approach to supervision in the Mainland and the CFZs. Prior to 2017, the majority of supervisors included some elements of ML/TF risk in their supervision programme, however supervision was predominantly based on conduct of business and prudential risk indicators resulting in scheduled supervision cycles. The DFSA is the exception, having applied a risk-based approach since 2013 and has recently further developed this to enhance supervision activity based on ML/TF risk.

36. The DFSA has demonstrated the application of effective, proportionate and dissuasive sanctions against both firms and individuals, and the FSRA is demonstrating competence to achieve the same. The BSD, the IA and SCA have taken remedial actions and levied some very limited sanctions against firms; however, these have been limited to license revocation, license downgrades, warning letters or low-level fines. It is a major concern to the assessment team that the UAE authorities do not recognise the importance of using the full range of sanctions (particularly fines and barring orders) in a proportionate manner. Some more recent actions by supervisors, particularly around the requirement for entity-level risk assessments to be conducted and more risk-based supervision has started to demonstrate a change in compliance by FIs and DNFBPs.

37. Outside of the FFZs, DNFBP supervisors were only recently established by virtue of Cabinet Resolutions. Very limited activity has occurred in some sectors beyond initial registration and planning for a supervisory regime to be in place for most sectors by 2021. The UAE has therefore not been able to demonstrate any notable effective supervision for DNFBPs outside of the FFZs which is concerning given the risk and materiality of certain segments of this sector (i.e. DPMS and Real Estate agents) in the context of the UAE.

### *Transparency and beneficial ownership (Chapter 7; 10.5; R.24, 25)*

38. The UAE has 39 different company registries, many of which have been created to promote economic growth in the various free zones. The risk of criminals being able to misuse legal persons in the UAE for ML/TF remains high, particularly through concealment of beneficial ownership information via complex structures, which may be controlled by unidentified third parties, or the use of informal nominees. Whilst it is positive that the UAE has carried out an assessment of the vulnerabilities of legal persons, this understanding is generally limited to the inherent



risks of those entities. It is positive that some analysis has recently been conducted resulting through a typology report from the FIU, however this is limited to certain sectors and was not able to be demonstrated that this material had been used to develop understanding across the relevant UAE authorities.

39. Whilst the recent legislative changes represent significant progress by the UAE, the fragmented system of registries has given rise to different levels of understanding, implementation and application of measures to prevent the misuse of legal persons, creating regulatory arbitrage. In the DEDs, there is generally only a basic knowledge of the concept of beneficial ownership, whereas this is more developed in a number of the CFZs and the FFZs where they demonstrated a good understanding

40. The creation and implementation of the National Economic Register (NER) is a positive step, in the context of the UAE, and will significantly enhance information exchange in respect of basic information. It will also act as a mechanism to standardise the implementation of the new legislative provisions (when all Registers are connected).

41. There is a wide divergence across the UAE registries as to how adequate, accurate and current beneficial ownership information can be obtained by competent authorities. In respect of obtaining this information from registries, many implement different standards of verification, with high levels of verification being used in the FFZs and some CFZs. But generally (and particularly in the DEDs) there is not sufficient verification of the accuracy of information – beyond the use of Emirates ID (for citizens and residents only) and a criminal background check. This leaves a significant vulnerability in respect of non-resident beneficial owners.

42. UAE authorities, including LEAs, demonstrated the ability to access basic and BO information from FIs, where the FI had a relationship with the legal entity in the UAE. However, the UAE did not demonstrate that it was possible to get this information directly from legal entities and given the recent enactment of legislation, it was not clear they held suitable information.

43. The UAE has not implemented at national level a regime whereby sanctions for failing to provide information can be considered effective, proportionate and dissuasive.

### *International co-operation (Chapter 8; IO.2; R.36–40)*

44. While the UAE has a sound legislative basis for international cooperation, it has provided mutual legal assistance (MLA) and extradition to a minimal extent considering its exposure to foreign predicate offences and associated proceeds of crime. The UAE noted that requests did not always meet its legal requirements or that requesting countries did not complete all relevant paperwork. Feedback from delegations highlighted significant issues in the provision of formal cooperation, including limited responses to requests or extended delays in execution with little or no feedback.

45. The UAE has not demonstrated that it is routinely seeking outgoing legal assistance from foreign countries to pursue ML and TF, in line with identified risks. The UAE explained that a significant amount of effort is placed on informal cooperation, and while numbers of requests are extremely high for TF, there is not a corresponding emphasis on ML. However, recent case studies show a move towards more regular formal cooperation on ML cases.



46. In general, the UAE has demonstrated a better capacity to seek and provide informal cooperation than it has with formal cooperation, particularly with a recent, increased focus on ML and TF. On ML, in some police forces, and the MOI, there is a high level of regular and sustained informal cooperation. The FCA has started to increase its international engagement with key partners. On TF, informal cooperation is occurring with major partners, predominantly via State Security, to disrupt TF activity. Equally, access to beneficial ownership information is increasing, largely due to a policy change by the FIU to assist in this area.

## Priority Actions

- a) Deepen and refine the UAE's understanding of ML/TF residual risk at both a national and individual Emirate-level by assessing how threats are exploiting AML/CFT system vulnerabilities, while taking into account the impact of mitigating measures. In particular, enhance the UAE's understanding of the most immediate and pressing ML risks complex (such as professional ML networks and foreign proceeds of crime) utilising a broader base of available information sources, including via proactive engagement with international partners and update TF risks focusing on financing issues. Deepen private sector outreach on these issues.
- b) The National Committee and NRA Sub-Committee should use evolving risk analysis and stakeholder insight to inform the application of mitigation measures.
- c) Enhance the use of financial intelligence in the UAE by: identifying how it can identify and address significant ML threats; continuing to support the development of the FIU to ensure that it can provide complex operational analysis as well as strategic analysis in line with operational needs; mandating the systematic use of financial intelligence and financial investigations to better investigate ML, associated predicate offences, TF and trace assets across all LEAs; improving STR reporting awareness among new reporting entities, and improving and targeting intelligence on cross-border movements of cash and precious metals and stones.
- d) The ML Investigation Sub-Committee should refine its prioritisation criteria and embed these principles into any national and Emirate-level tasking and coordination process to ensure timely identification and significant ML risks and closely monitoring key cases to ensure they address the most pressing ML risks. The Ministry of Interior and Federal Customs Agency should agree a consistent referral mechanism to ensure suspicions of ML via cash or precious metals and stones movements are identified and assessed for investigation. All Public Prosecutions, but especially Dubai PP given its risk exposure, to prioritise the pursuit of money laundering charges, including complex or standalone prosecutions in cases of foreign predicate offending. Without compromising the independence of the judiciary, the National Committee, in coordination with relevant competent authorities, should

establish a dialogue with judges to communicate the aims of the national AML/CFT strategy.

- e) Continue to embed the high-level policy objective of routinely pursuing confiscation in all agency actions plans and procedures, with oversight provided by the ML Committee, who can coordinate and disseminate best practice to reinforce the policy objective. Improve the collection of confiscation statistics across the UAE, in order to assess these initiatives are addressing ML/TF risks. Build Customs intelligence capability, including profiling and detection resource, focused on cross-border currency, bearer negotiable instruments and precious metals and stones movements.
- f) Implement TFS for TF and PF without delay, including by conducting further awareness raising and outreach to both authorities and private sector entities on the mainland and the FFZs to make them aware of their obligations with respect to TFS and the Import/Export Committee's new website and mechanism. Work to build a better understanding of TFS and sanctions evasion among authorities and the private sector. Take more dissuasive enforcement or remedial action with respect to TFS-related deficiencies. Finally, rectify the key technical deficiencies in Recommendations 6 and 7 to help ensure better implementation.
- g) Enhance the monitoring of sectors' awareness of risk, mitigation measures and compliance, most notably ensuring that all DNFBPs are aware of their obligations. Supervisors should conduct full-scope examinations of institutions in line with the risk cycle and through the conduct of thematic reviews. This should notably focus on areas of particular weakness (TFS, EDD, hawaladars and high risk DNFBPs). This should be accompanied by enhanced guidance, education and outreach, to urge non-bank FIs & DNFBPs to strengthen their transaction-monitoring systems and ensure timely and quality reporting of STRs by all reporting entities.
- h) All supervisors should ensure the full implementation of RBAs and carefully monitor their implementation (particularly noting some are recently implemented) – focus should specifically be given to adequacy of supervisory resources to ensure they are sufficient. Meetings of the recently established Sub-Committee for FI supervisors should occur regularly to ensure alignment of the supervisors in the UAE and also to coordinate through regular meetings with the DNFBP supervisors. There should be regular discussion of High-level principles of AML/CFT supervision for FIs and DNFBPs with the outcomes communicated to the industry. Sanctions should be urgently reviewed to move to a position where they are used in an effective, proportionate and dissuasive manner.
- i) The UAE authorities should expedite the full and effective implementation of the requirements of the AML Law and AML By-Law across all company registries. The UAE should expedite the implementation of the NER across all registries in relation to basic information and the authorities should look to develop the understanding of beneficial ownership across the Registries through

guidance and training. The UAE should determine policy at a national level, there is an effective policy to ensure effective on implementation of sanctions for failing to comply with information requirements. The authorities should look to monitor this implementation to ensure that it is applied in a uniform manner effectively across all 39 registries.

- j) Make significantly greater use of formal international legal assistance processes (MLA, extradition and asset freezing and confiscation), prioritising Dubai given its increased exposure to ML/TF risks such as the laundering and placement of foreign proceeds. Conclude integration of the MOJ's new case management system and review current resources in the Ministry of Justice, Public Prosecutions and Police Forces to achieve this outcome. Increase international cooperation by the Federal Customs Agency on cross-border cash/precious metals & stones smuggling and TBML and increase resources available to the FIU to ensure that it can better seek and provide (on request and spontaneously) cooperation at a level commensurate to the UAE's ML/TF risk profile.

## Effectiveness & Technical Compliance Ratings

### Effectiveness Ratings<sup>1</sup>

|                                              |                                         |                                              |                                                             |                                              |                                      |
|----------------------------------------------|-----------------------------------------|----------------------------------------------|-------------------------------------------------------------|----------------------------------------------|--------------------------------------|
| <b>IO.1</b> - Risk, policy and coordination  | <b>IO.2</b> - International cooperation | <b>IO.3</b> - Supervision                    | <b>IO.4</b> - Preventive measures                           | <b>IO.5</b> - Legal persons and arrangements | <b>IO.6</b> - Financial intelligence |
| <b>Moderate</b>                              | <b>Low</b>                              | <b>Moderate</b>                              | <b>Moderate</b>                                             | <b>Low</b>                                   | <b>Moderate</b>                      |
| <b>IO.7</b> - ML investigation & prosecution | <b>IO.8</b> - Confiscation              | <b>IO.9</b> - TF investigation & prosecution | <b>IO.10</b> - TF preventive measures & financial sanctions | <b>IO.11</b> - PF financial sanctions        |                                      |
| <b>Low</b>                                   | <b>Moderate</b>                         | <b>Substantial</b>                           | <b>Moderate</b>                                             | <b>Low</b>                                   |                                      |

### Technical Compliance Ratings<sup>2</sup>

|                                                                       |                                                                    |                                                 |                                                        |                                            |                                                                                 |
|-----------------------------------------------------------------------|--------------------------------------------------------------------|-------------------------------------------------|--------------------------------------------------------|--------------------------------------------|---------------------------------------------------------------------------------|
| <b>R.1</b> - assessing risk & applying risk-based approach            | <b>R.2</b> - national cooperation and coordination                 | <b>R.3</b> - money laundering offence           | <b>R.4</b> - confiscation & provisional measures       | <b>R.5</b> - terrorist financing offence   | <b>R.6</b> - targeted financial sanctions – terrorism & terrorist financing     |
| <b>PC</b>                                                             | <b>LC</b>                                                          | <b>LC</b>                                       | <b>LC</b>                                              | <b>LC</b>                                  | <b>PC</b>                                                                       |
| <b>R.7</b> - targeted financial sanctions - proliferation             | <b>R.8</b> - non-profit organisations                              | <b>R.9</b> – financial institution secrecy laws | <b>R.10</b> – Customer due diligence                   | <b>R.11</b> – Record keeping               | <b>R.12</b> – Politically exposed persons                                       |
| <b>PC</b>                                                             | <b>LC</b>                                                          | <b>C</b>                                        | <b>LC</b>                                              | <b>LC</b>                                  | <b>LC</b>                                                                       |
| <b>R.13</b> – Correspondent banking                                   | <b>R.14</b> – Money or value transfer services                     | <b>R.15</b> – New technologies                  | <b>R.16</b> – Wire transfers                           | <b>R.17</b> – Reliance on third parties    | <b>R.18</b> – Internal controls and foreign branches and subsidiaries           |
| <b>C</b>                                                              | <b>LC</b>                                                          | <b>LC</b>                                       | <b>C</b>                                               | <b>LC</b>                                  | <b>LC</b>                                                                       |
| <b>R.19</b> – Higher-risk countries                                   | <b>R.20</b> – Reporting of suspicious transactions                 | <b>R.21</b> – Tipping-off and confidentiality   | <b>R.22</b> – DNFBPs: Customer due diligence           | <b>R.23</b> – DNFBPs: Other measures       | <b>R.24</b> – Transparency & BO of legal persons                                |
| <b>PC</b>                                                             | <b>C</b>                                                           | <b>LC</b>                                       | <b>LC</b>                                              | <b>LC</b>                                  | <b>LC</b>                                                                       |
| <b>R.25</b> – Transparency & BO of legal arrangements                 | <b>R.26</b> – Regulation and supervision of financial institutions | <b>R.27</b> – Powers of supervision             | <b>R.28</b> – Regulation and supervision of DNFBPs     | <b>R.29</b> – Financial intelligence units | <b>R.30</b> – Responsibilities of law enforcement and investigative authorities |
| <b>PC</b>                                                             | <b>C</b>                                                           | <b>C</b>                                        | <b>LC</b>                                              | <b>PC</b>                                  | <b>C</b>                                                                        |
| <b>R.31</b> – Powers of law enforcement and investigative authorities | <b>R.32</b> – Cash couriers                                        | <b>R.33</b> – Statistics                        | <b>R.34</b> – Guidance and feedback                    | <b>R.35</b> – Sanctions                    | <b>R.36</b> – International instruments                                         |
| <b>C</b>                                                              | <b>C</b>                                                           | <b>LC</b>                                       | <b>LC</b>                                              | <b>LC</b>                                  | <b>C</b>                                                                        |
| <b>R.37</b> – Mutual legal assistance                                 | <b>R.38</b> – Mutual legal assistance: freezing and confiscation   | <b>R.39</b> – Extradition                       | <b>R.40</b> – Other forms of international cooperation |                                            |                                                                                 |
| <b>LC</b>                                                             | <b>LC</b>                                                          | <b>C</b>                                        | <b>LC</b>                                              |                                            |                                                                                 |

1. Effectiveness ratings can be either a High – HE, Substantial – SE, Moderate – ME, or Low – LE, level of effectiveness.

2. Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – non compliant.

## MUTUAL EVALUATION REPORT

### Preface

This report summarises the AML/CFT measures in place as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system, and recommends how the system could be strengthened.

This joint FATF/MENAFATF evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from 1-18 July 2019.

The evaluation was conducted by an assessment team consisting of:

- Mr. Kamal Abou Nasr (Special Investigation Commission, Lebanon)
- Mr. Jérôme Cochard (TRACFIN, France)
- Ms. Ilknur Burçin Erisik Kekevi (Banking Regulation and Supervision Agency, Turkey)
- Mr. Kevin Newe (Her Majesty's Revenue and Customs, United Kingdom)
- Mr. Warren Ryan (Department of the Treasury, United States), and
- Mr. Kevin Vandergrift, Ms. Shana Krishnan and Mr. George Pearmain (FATF Secretariat); and Mr. Raid Alrawashdeh and Mrs. Maryam Aldhaen (MENAFATF Secretariat).

The report was reviewed by Ms. Alexandra Bobylkova (Russian Federation), Ms. Kathleen Kao (International Monetary Fund), and Mr. Fabio Teramo (Italy).

The United Arab Emirates previously underwent a Mutual Evaluation in 2008, conducted according to the 2004 FATF Methodology. The 2008 evaluation and 2014 follow-up report have been published and are available at <http://menafatf.org/>.

That Mutual Evaluation concluded that the country was compliant with five Recommendations; largely compliant with 15; partially compliant with 18; and non-compliant with 11. The UAE was rated compliant or largely compliant with 7 of the 16 Core and Key Recommendations.

The UAE was placed in the regular follow-up process following adopting of the MER. In November 2014, the UAE exited the follow-up process on the basis that it had reached a satisfactory level of compliance with all Core and Key Recommendations.





## CHAPTER 1. ML/TF RISKS AND CONTEXT

47. The UAE is located on a mostly desert stretch of land which is surrounded by the Arabian Gulf and the Arabian Sea. Its coastline is 1,318 kilometres long. It enjoys a unique strategic location, bordering the Gulf of Oman and overlooking the southern approach to the Strait of Hormuz, a vital transit point for world oil. It has a total land border of 867 kilometres, out of which it shares 410 kilometres with Oman and 457 kilometres with Saudi Arabia.

48. The UAE's population is approximately 9.3 million, with men making up 69% and women accounting for 31% of the total population. Expatriates account for more than 88% of the resident population, while citizens of the UAE (Emiratis or UAE Nationals) make up the remaining 11-12% of the population. South Asians, which include people from India, Bangladesh, Pakistan and other South Asian nations, compose approximately 59% of the population. A significant portion of UAE population remain in the country on a renewable 2- or 3-year working visa. The large percentage of diversified population contributes to a substantial part of the financial outflows as remittances from the UAE.

49. The UAE is a union of seven emirates: Abu Dhabi, Dubai, Sharjah, Ajman, Fujairah, Umm Al-Quwain, and Ras al-Khaimah. The UAE follows a federal government structure. As per the UAE Constitution, the Federal Government (Union) is empowered to legislate on the matters such as foreign affairs, defence and Federal Armed Forces, protection of the Union's security against internal or external threats; federal finance, taxes and fees (including cash and currency); major legislation relating to the criminal laws; and public health and education. The Federal authorities consist of: Federal Supreme Council of the Union (Supreme Council); President and Vice President of the Union; Federal Ministerial Council (Ministerial Council or Cabinet); Federal National Council (National Council or FNC) and the Federal Judiciary. The seven Emirates retain all other powers not allocated for the Union.

50. The UAE's judicial system is based on civil law, including its courts and prosecution services. The Constitution allows for a Federal judicial system and also grants the seven Emirates of the UAE the right to establish their own judicial systems. Three Emirates – Abu Dhabi, Dubai and Ras Al Khaimah – have opted to have their own judicial system and thus have their own police, prosecution authorities, and courts.

51. Due to the strategic priority of the UAE government in terms of leading the UAE's economy away from dependence on oil to a more robust and diversified base, the government created two Financial Free Zones (FFZs), and as of January 2019 the UAE had 29 Commercial Free Zones (CFZs). In terms of FFZs, the Dubai International Financial Centre (DIFC) was established in 2004, and the Abu Dhabi Global Market (ADGM) was established in 2013 and became operational in 2015. These are set up by Federal decree and are based on Common Law legal principles with their own independent commercial law, corporate registrars, and financial/DNFBP supervisors.

The CFZs are generally formed by the Rulers of each Emirate, and each is subject to a number of distinct rules and measures including company registration. Throughout this report, entities that are created and operate in the seven emirates but not in FFZs or CFZs are referred to as operating in the “mainland”.

52. The UAE has a GDP of about AED 1 405 billion (approximately EUR 340 billion). The UAE has an accessible financial system, a strategic geographic location between Asia, Europe, the Middle East and Africa and its well-developed international trading and financial hub. As a service-based economy and major business hub for the region, the UAE financial sector is one of the significant components of the country’s gross domestic product (GDP), economy and society. Since 2012, growth has also been led by the non-hydrocarbon sector, in particular by construction, retail, wholesale trade, tourism, and manufacturing.

53. Trading in precious metals (in particular, gold) and stones and high value goods is one of the most active sectors in the UAE. Whether for personal consumption, investment or re-export, the size of this sector is tens of billions of UAE Dirhams. Most of the activities related to this sector are located in Dubai – in particular the Dubai Multi-Commodities Centre (DMCC) and the Dubai Gold Souk where there are a significant number of traders.

## ML/TF Risks and Scoping of Higher Risk Issues

### *Overview of ML/TF Risks*

54. The UAE is exposed to significant ML and TF risks and to proliferation financing. The main risks faced by the UAE are: TF, and a range of ML activities including professional third party money laundering, cash-based money laundering, abuse of legal persons, trade-based money laundering and the laundering of proceeds, particularly from foreign predicate offences including fraud, tax offences and organised crime. The sectors considered most vulnerable are banks, followed by MVTs (including hawala), dealers in precious metals and stones and the real estate sector. The interplay of threats and vulnerabilities differs across the mainland, commercial free zones (CFZ) and financial free zones (FFZs), which are subject to different supervisory regimes, creating exposure to regulatory arbitrage. Lower risk sectors include finance companies, insurers, casinos (gambling is banned in the UAE), auditors & accountants, and notaries.

### *Country’s Risk Assessment & Scoping of Higher Risk Issues*

55. In October 2018, the UAE finalised its first national ML/TF risk assessment. The NRA was prepared by the NRA Sub-Committee, in consultation with a wide range of other relevant competent authorities and key stakeholders including law enforcement agencies (LEAs), government departments, supervisors, and regulated entities. Risk assessments were also undertaken on legal persons and the vulnerability of the NPO sector to TF. The risk assessments are not available publically, but a short NRA brief was made available to competent authorities and regulated entities via their supervisors in January 2019 and March 2019, respectively. An NRA update was produced in May 2019 which provides the same conclusions as the NRA but includes updated statistics.

56. The NRA assessed the UAE’s inherent ML/TF threats (21 predicate offences and professional third-party ML, and TF threats posed by eight terrorist organisations) and sectoral vulnerabilities. Sectoral vulnerabilities were considered

separately for the mainland (which includes the CFZ) and the FFZs. Threats and vulnerabilities were assessed separately and a rating of high, medium-high, medium or low assigned on the basis of consensus by competent authorities. The UAE national context and how this could lead to national ML/TF vulnerabilities were also considered.

57. The key findings of the NRA, and the legal person and NPO assessments, are that:

- The highest ML threats as those from fraud, professional third-party ML, drug trafficking and counterfeiting of products.
- TF poses a medium-high threat. One terrorist organisation poses a high TF threat and four groups pose a medium-high threat.
- The highest sectoral vulnerabilities on the mainland are in banking, MVTS and in dealers in precious metals and stones.
- The highest sectoral vulnerability in the FFZs is in MVTS.
- Vulnerability to the abuse of legal persons is highest: in the mainland for, Limited Liability Companies (LLCs) and Joint Liability Companies; in the CFZs, LLCs, branches of foreign companies and offshore companies; and in the FFZs, private companies limited by shares, branches of foreign companies, LLCs, limited special purpose companies, and limited investment companies.
- In terms of NPO risk, the NPOs that fall under the supervision of IACAD, MOCD and the Ruler's Funds pose greater vulnerability to TF abuse due to the nature of their activities.

58. As further explored under Immediate Outcome 1, the NRA is a good starting point for expressing ML/TF threats and vulnerabilities at a national level. The NRA assesses the vulnerabilities (financial and DNFBP sectors) and threats (analysis of the risks of the 21 predicate offences, including professional third-party ML and TF). The NRA Sub-Committee relied on information provided by competent authorities via self-assessment questionnaires and stakeholder workshops; reports from LEAs and supervisory bodies; international guidance and reports. Some of this information, both from a qualitative and quantitative perspective, is limited due to the newness of DNFBP supervision, limited complex ML investigations and issues with statistics. This is reflected in confidence scores prescribed to each of the ratings.

59. In deciding what issues to prioritise for increased focus, the assessors reviewed material provided by the UAE on their national ML/TF risks (as outlined above), and information from reliable third party sources (e.g. reports of other international organisations and open source reports). The assessors focused on the following priority issues:

- a) **International ML/TF risk, including foreign predicates:** The assessors focused on how international organised crime groups and third-party money launderers exploit the UAE and how the proceeds of domestic and foreign crimes are laundered through the UAE, as well as trade-based money-laundering (TBML).
- b) **Banking services provided on the Mainland (including CFZs) and in Financial Free Zones:** Assessors considered the magnitude of cross border transactions (through wire transfers) undertaken by mainland banks (which account for about 50% of assets held by FIs) and consider whether there are increased risks of TBML, abuse of legal persons/arrangements to conceal beneficial ownership and

politically exposed persons. The assessors also considered whether authorities and FIs/DNFBPs understand the risk profile of the business being conducted in the FFZs (DIFC and the ADGM); and to what extent these stakeholders mitigate against the abuse of the FFZs for ML/TF and sanctions evasion.

- c) **Money Value Transfer Services (MVTs):** The assessors focused on MVTs providers understanding of ML/TF risks, application of preventative measures and the regulation and supervision of the sector. In the UAE, currently there is a distinction between 'Exchange Houses' and 'Hawaladars', both of which fall under the FATF definition of an MVTs provider. However as of 2019, a change in the registration and licensing regime occurred to ensure Hawaladars are now registered and supervised under the same regime as other MVTs providers. For the purpose of this report, reference to MVTs includes Exchange Houses.
- d) **Cross-border movement of cash:** As the UAE is a cash-intensive economy and plays an important part in global trade, there are significant risks associated with the cross-border movement of cash and BNI, including bulk-cash smuggling, which is associated with third-party ML risks (also known as international controllers).
- e) **Misuse of legal persons/legal arrangements and transparency of beneficial ownership:** Different company formation procedures and compliance requirements across the UAE's different company registries, along with the competition for business in this area is likely to create unique vulnerabilities and challenges in the implementation of beneficial ownership and other AML/CFT requirements. Based on risk and materiality, the assessors focused on the regimes in place in the mainland (administered by the 8 DEDs<sup>3</sup>), the DIFC, ADGM, DMCC, JAFZA and RAKEZ.
- f) **Precious metals and stones sector:** The re-export of precious metals and stones account for a significant portion of economic activity in the UAE. The NRA categorises this sector at a high inherent risk in the mainland and medium-high risk for the FFZs. The Dubai Multi Commodities Centre (DMCC) specialises in providing services to metal dealers and exchanges, and a significant volume of transactions also goes through the Jebel Ali Free Zone. A significant amount of activity also occurs in the Dubai Gold Souk (mainland). The assessors paid particular attention to the understanding and mitigation of risks in this sector.
- g) **Terrorist financing:** The UAE recognises, and is responding to, TF threats, including by obtaining TF convictions. The assessors sought to better understand the specific TF methods and channels used, and focus on the UAE's investigation and prosecution of TF across all its jurisdictions and the implementation of targeted financial sanctions on TF.
- h) **Inter-agency co-ordination and information sharing:** In total, there are 105 relevant AML/CFT competent authorities in the UAE at the Federal, local (Emirate-level), and free zone levels. The government has created 29 CFZs and 2 FFZs, which in some cases have independent supervisory authorities. Each Emirate has its own customs agency, overseen by the Federal Customs Authority. Four of the emirates have agreed to be policed by the Federal police (Sharjah, Ajman, Umm Al Quwain, and Fujairah) and Abu Dhabi, Dubai, and Ras Al Khaimah

<sup>3</sup> In the case of Fujairah and Dibba, they are known as Municipalities. But for the purposes of this report, the term DED is used.

have their own local police departments and public prosecutions. The assessors explored how authorities in various jurisdictions in the UAE co-ordinate and share information to combat ML/TF.

## Materiality

60. The UAE is a major international and regional financial centre and trading hub. The full range of financial institutions and a large number of DNFBPs operate throughout the country to facilitate financial and business activities. The UAE presents significant complexity when considering risk and materiality as it relates to ML,TF and PF, given the range of activity (e.g. financial, economic, corporate, trade) conducted in the country, its jurisdictional nature and the fragmented supervision structure that could lead to regulatory arbitrage between the jurisdictions in the UAE. See section 1.4.3 for further detail on, and the assessment team's weighting of, the various sectors.

## Structural Elements

61. The UAE has all of the key structural elements required for an effective AML/CFT system including political and institutional stability, governmental accountability, rule of law, and a professional and independent legal profession and judiciary.

## Background and Other Contextual Factors

62. The UAE has a relatively mature AML/CFT legal framework. ML was first criminalised by Federal Law No. 4 of 2002. This law was significantly updated by Federal Law No. 9 of 2014, followed by Federal Law No. 20 of 2018. Corruption is not considered a significant domestic issue, and was rated as a medium ML threat in the country's NRA. In 2018, UAE had a corruption perception index (CPI) of 23 according to Transparency International. While financial exclusion is not an issue, the UAE is considered a cash-intensive economy, which exposes the country to certain inherent ML/TF risks. As also identified in the NRA, the large size and openness of the UAE's financial sector, large amount of remittances, cash in transactions, the highly active trade in gold and precious metals and stones, as well as the large proportion of foreign residents present in the UAE, and the country's geographic proximity to countries destabilised by conflict or terrorism, as well as countries subject to UN sanctions, present additional inherent vulnerabilities to ML/TF/PF abuse. The expansion of the FFZs and CFZs to reposition the country as an international financial centre and major international and regional trading hub also exposed the country to inherent risks such as trade based money laundering and laundering of foreign proceeds of crime.

## AML/CFT strategy

63. The national AML/CFT policy is articulated in the National AML/CFT Strategy 2019-2021 (approved on 6 January 2019) and is implemented through the National Action Plan 2018-2020. The National AML/CFT Strategy consists of 4 strategic pillars and 15 strategic priorities (illustrated below) with the broad objective to "improve and effectively implement a whole of government system to mitigate the UAE risks of ML/FT and illegal organisations".

Figure 1.1. AML/CFT Strategy – strategic pillars and priorities

| Domestic and International Co-operation                                                              | Legal and Supervisory Framework                                                                                                                                                                                                                                               | Information and Analysis                                                                                                                                                            | Investigations Prosecution and Confiscation                                                                                                               |
|------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Reformation of NAMLCFTC<br>Establishment of Sub-Committees<br>UNSCRs and local sanctions new process | Federal Decree no. (20) of 2018 and Cab. Res. no. (10) of 2019<br><br>Appointment of MOE and MOJ as AML regulators for DNFBPs<br><br>FIs and DNFBPs AML/CFT guidance<br><br>Training Program for MOE and MOJ<br><br>Requirements on Companies Registrars and NPOs Supervisors | Conduct NRA every two years<br><br>National Economic Registry – expanded scope<br><br>Adoption of 'GoAML' system for STR reporting<br><br>Further enhancement of FIU's capabilities | Establishment of Sub-Committee for ML/TF prosecutors<br><br>Regular meetings with Customs and FIU<br><br>Increase ML investigation training and expertise |

Source: UAE NRA Presentation, 16 July 2019.

64. The Nation Action Plan is a living document and contains tasks for all relevant stakeholders including the National Committee, PMO, FI and DNFBP supervisors, LEAs and PPs, the FIU, company registrars and other competent authorities.

### *Legal & institutional framework*

65. The UAE has significantly streamlined AML/CFT measures under the new Federal Decree-Law No. 20 of 2018 (the AML Law), and its by-law/executive regulation Cabinet Decision No. 10 of 2019, which came into force on 29 November 2018 and 8 January 2019, respectively. As a result, the AML/CFT legal framework applies equally across all Emirates, CFZs and FFZs in the UAE. The law and regulation expand the preventative measures obligations on FIs and DNFBPs and provide further powers to competent authorities. The AML Law and By-Law also contain key provisions in relation to the ML and TF offences, national coordination, the roles of agencies (including supervisors and the FIU), and international cooperation.

66. In total, there are 105 relevant AML/CFT competent authorities in the UAE at Federal, local (Emirate-level) and free zone level. The UAE's main institutional framework for AML/CFT encompasses the following ministries, institutions, and agencies:



*Ministries and Co-ordinating Bodies*

- a) The **Higher Committee** is a temporary, high-level body established in 2017 to oversee the mutual evaluation process and identify requirements that need to be taken by authorities in the UAE. It is chaired by the Minister of State and Financial Affairs and with representation from 12 other agencies at the level of Undersecretary or higher. Its mandate comes to an end with the conclusion of the mutual evaluation process.
- b) The **National AML/CFT Committee** (the National Committee) is the designated co-ordination mechanism responsible for national AML/CFT policies and is chaired by the Governor of the Central Bank. Its sub-committees include: (1) the **NRA Sub-committee** – established in 2016 and tasked with coordinating the NRA process; (2) the **Laws and Regulation Sub-Committee** – which was responsible for drafting the AML Law and By-Law; (3) the **Free Zones Sub-Committee** responsible for identifying AML/CFT compliance in the FFZ and CFZs; (4) the **Supervisors Committee**; and (5) the **ML Investigations Committee**.
- c) The **Supreme Council on National Security** coordinates with relevant authorities in regards to national risks and sets strategy and direction for the UAE's security-related actions. It is responsible for designating domestic terrorist organisations under UAE's TFS regime.
- d) The **Committee for Combatting Terrorism** is responsible for all aspects of combatting terrorism.
- e) The **Committee for Goods and Materials Subject to Import and Export Control** (The "Import/Export Committee") has the responsibility to ensure that all UN Security Council resolutions and sanctions are implemented in the UAE. Through its Executive Office, the Committee coordinates sanctions related to both TF and PF.
- f) The **Ministry of Finance** (MOF) is responsible for the formation of the National Committee, chairs the Higher Committee for supervising the mutual evaluation, and is responsible for AML/CFT policy making at the country level.
- g) The **Ministry of Economy** (MOE) licenses and regulates accountants and auditors in the mainland UAE and CFZs. In addition, pursuant to executive decrees following the new AML law and by-law, the MOE is the DNFBP supervisor for auditors and accountants, trust and company service providers, dealers in precious metals and stones, and real estate agents in the mainland and CFZs.
- h) The **Ministry of Justice** (MOJ) is the only authority authorised to license lawyers in all of UAE. Pursuant to a Cabinet Decision following the new AML law and by-law, the MOJ is now the designated supervisor for lawyers and other legal professionals throughout the UAE, including the mainland, FFZs and CFZs.
- i) The **Ministry of Community Development** (MOCD) is a federal competent authority that is responsible for the regulations of the NPO sector at the UAE Level. The MOCD licenses NPOs for UAE Nationals in all 7 Emirates, although the Rulers of the individual Emirates can license their own NPOs as per the Constitution (and they do so - see below).

### *Criminal Justice and Operational Agencies*

- a) The **Financial Intelligence Unit (FIU)** is an independent unit within the UAE Central Bank that is the exclusive recipient of STRs and information relating to predicate offences and their proceeds from all FIs, DNFBPs and Customs. The FIU examines and analyses those reports and relays them to the competent authorities spontaneously or upon request.
- b) The **Federal Police** in the UAE is part of the Ministry of Interior and includes the police department of the Emirates of Sharjah, Ajman, Umm Al Quwain and Fujairah, which have opted for the Federal System. Abu Dhabi, Dubai and Ras Al Khaimah have their own local police departments and have autonomy over structure, recruitment and the policing of any local regulations, but are linked to the MOI in terms of operating a unified IT system and delivering against key strategies and goals. The police are responsible for ML investigations within the jurisdiction of each Emirate and the role of the police in each emirate is to receive reports of crimes, to maintain security, to investigate and collect evidence of crimes and criminal reports, and to take statements from the victims, witnesses and accused persons.
- c) Similarly, the **Federal Public Prosecution** prosecutes all crimes, including ML, in the Emirates of Sharjah, Ajman, Umm Al Quwain and Fujairah, while **Abu Dhabi, Dubai and Ras Al Khaimah** each use their own Public Prosecution to pursue ML cases. All Public Prosecutions (PPs) are linked to the Ministry of Justice, which provides strategic oversight of justice matters, and supports international cooperation with the PPs.
- d) **State Security** is the designated law enforcement to investigate terrorism and TF throughout the country. **State Security Prosecution (SSP)** has exclusive jurisdiction to prosecute such cases.
- e) The **Federal Customs Authority (FCA)** is an umbrella agency covering and supervising the seven Emirate-level customs authorities. It undertakes strategic and tactical analysis of customs issues, including cross-border cash movements and potential links to ML/TF risks. The Emirate-level customs authorities are responsible for the implementation and operation of cash and bearer negotiable instruments declaration regulations in their emirate.

### *Financial Sector Supervisors*

- a) The **Banking Supervision Department (BSD)** at the UAE Central Bank licenses and supervises banks, MVTs providers, and finance companies in the mainland and CFZs.
- b) The **Insurance Authority (IA)**: Licenses and supervises insurance companies, insurance brokers, and other insurance-related professionals (e.g. actuaries, loss adjusters) in the mainland.
- c) The **Securities and Commodities Authority (SCA)**: Licenses and supervises securities and commodities derivatives companies, including brokerages, advisors, listed companies, Investment Managers, Fund Managers, custodians, Securities Consulting (Research and Financial planning) and the three domestic stock exchanges in the mainland and CFZs.

- d) The **Dubai Financial Services Authority** (DFSA) licenses and supervises the financial institutions that operate within the Dubai International Financial Centre (DIFC).
- e) The **Financial Services Regulatory Authority** (FSRA) licenses and supervises the financial institutions that operate within the Abu Dhabi Global Market (ADGM).

#### *DNFBP Licensing Authorities and Supervisors*

- a) As noted above, the **Ministry of Economy** (MOE) has been designated as the DNFBP supervisor for auditors and accountants, trust and company service providers, dealers in precious metals and stones, and real estate agents in the mainland and CFZs.
- b) The **Ministry of Justice** (MOJ) is now the designated supervisor for lawyers and other legal professionals throughout the UAE, including the mainland, FFZs and CFZs. At the time of the on-site visit, the MOJ was coordinating with the FFZs to take over supervision of lawyers which had been under the purview of DFSA and ADGM.
- c) The **Dubai Financial Services Authority** (DFSA) licenses and supervises the DNFBPs that operate within the Dubai International Financial Centre (DIFC) for AML/CFT compliance.
- d) The **Financial Services Regulatory Authority** (FSRA) licenses and supervises the DNFBPs that operate within the Abu Dhabi Global Market (ADGM) for AML/CFT compliance.
- e) The **Department of Economic Development** (DED) or Municipality of each Emirate, as well as the corporate registrar of each CFZ performs initial commercial licensing (through corporate registration and criminal background checks) of all business entities, including DNFBPs.
- f) The **Land Departments** or municipality of each emirate and CFZs also license real estate agents from an activity perspective.

#### *Financial sector and DNFBPs*

67. The UAE presents significant complexity when considering ML/TF risk and materiality given the jurisdictional nature of activity in the UAE. The UAE has established two financial free zones (FFZs) and the individual emirates have created 29 commercial free zones (CFZs) to increase the UAE's competitiveness in drawing foreign business. The factors increase the inherent risk of the UAE being used as a destination or transit location for foreign criminal proceeds.

68. The assessors ranked the sectors on the basis of their relative importance in the UAE context given their respective materiality and level of ML/TF risks. The assessors used these rankings to inform their conclusions throughout this report, weighting positive and negative implementation issues more heavily for important sectors than for less important sectors. This approach applies throughout the report, but is most evident in Chapter 6 on IO.3 and Chapter 5 on IO.4:

- a) **The banking sector is weighted as being the most important in the UAE context based on its materiality and risks.** The banking sector plays a predominant role in the UAE with aggregate assets of AED 3 441 billion

(approximately EUR 835 billion) which account for approximately 50 percent of assets held by FIs in the UAE. The majority of deposits are held in the Mainland. The sector size and its openness make it attractive to criminals seeking to hide the proceeds of crime abuse through legal persons/arrangements and thus concealing beneficial ownership and politically exposed persons. The banking sector is at increased risks of TBML. The NRA identified the banking sector as being at high risk for ML in mainland & High-medium Risk in the FFZs.

- b) **MVTS, DPMS and the real estate sectors are weighted as highly important in terms of risk and materiality in the UAE.** The inherent risk and materiality of these sectors has been notably increased by their exposure to cash transactions.
  - i. **MVTS:** As of 31 December 2018, there were 116 licensed/registered exchange houses, money service businesses and MVTS providers, including 7 registered Hawaladars. The UAE was not able to quantify the exact amount of Hawaladar activity given recent changes to the regulatory regime – there are also a significant amount of hawaladar continuing to operate outside of the regulatory regime. MVTS is therefore considered to be in the high category of risk and materiality given the volume of remittances to many foreign countries (given the UAE's large and varied population), and the ease of transacting in cash. MSBs' Outward remittances in 2018 was AED 225 billion (approximately EUR 54.5 billion) against AED 33 billion (approximately EUR 8 billion) total inward remittances (not including hawaladar transactions). The NRA rated MSBs/exchange house sector as high risk.
  - ii. **DPMS:** There are 7089 DPMS in UAE and this sector is one of the most active sectors in the UAE and is heavily exposed to cash transactions. In 2016, UAE ranked third globally in terms of gold exports with total value of USD 25.4 billion, which represent 7.8% of world total exports. After oil, gold (USD 20.2 billion) and diamonds (USD 8.22 billion) are the UAE's main exports. The NRA categorizes this sector as high-risk in the mainland and medium-high risk for the FFZs.
  - iii. **Real Estate:** The construction and real estate sectors in the UAE contributed 20% to GDP as of 2016. Dubai's high-end luxury real estate market has been exposed to transactions in cash, has a highly internationalised client base, and is therefore attractive to ML. People from 217 nationalities invested a total of AED 151 billion (EUR 37 billion) through 71 000 transactions in Dubai's real estate market in the 18 months up to end of June 2017. Third parties can be used to conduct the transactions and there remains a vulnerability where complex ownership structures can be used to obscure the beneficial owner and the source of funds used for the purchase. The NRA rated Real estate sector as medium-high risk in mainland/CFZs and FFZs.
- c) The securities sector along with lawyers and TCSPs are weighted as being of medium importance given its materiality and relative ML/TF risks in the UAE context:
  - i. **Securities sector:** The Securities sector in UAE is the 2nd largest sector in terms of assets size. UAE securities can be exchanged on the Abu Dhabi

Securities Exchange (ADX) and Dubai Financial Market (DFM), as well as through infrastructure in the Financial Free Zones (FFZs) and the Dubai Gold and Commodities Exchange (DGCX) in the Commercial Free Zone (CFZ). The DFM is the first financial market in the world to comply with Islamic Sharia rules. The NRA rated the mainland and FFZs securities sectors as medium-high risk (except for custodians in the mainland, which were medium risk).

- ii. **Lawyers:** There are around 1 572 lawyers in the UAE that offer a wide range of services. Both lawyers and legal consultants are entitled to practice the profession of providing legal assistance to those who request it, but only lawyers (litigators) are permitted to plead before courts, arbitral tribunals, and judicial and administrative committees. They must be a UAE national. The exposure of lawyers to advising on the formation of legal persons in the country along with their involvement of property transactions does increase their inherent risk, however not to a significant extent. The NRA rated the Mainland/CFZs & FFZs legal sectors as medium-high risk.
  - iii. **TCSPs:** The TCSP sector comprises 4 968 entities. However, The UAE had difficulty in providing accurate statistics on the numbers of entities undertaking TCSP activities due to the fact that the requirement for all TCSPs to be regulated was only confirmed in April 2019 and the supervisors have not yet fully compiled statistics on TCSP activities. Many may be providing general professional services to clients, not falling within the definition of TCSP – or the same exposure to ML/TF risk. The ease of incorporation of legal persons in a number of corporate registries in the UAE along with the fragmented regime for TCSP regulation and company incorporation does increase their inherent risk, however not to a significant extent. The NRA rated TCSP sectors as medium-high risk in mainland/CFZs and FFZs.
- d) Finance companies, Insurers, Casinos and Auditors & Accountants and notaries are weighted as being of low importance given their risk and materiality for ML/TF in the UAE:
- i. **Finance companies:** Finance companies, which may be conventional or Islamic institutions; they have the lowest consolidated assets size among FIs (AED 42 billion, approximately EUR 10 billion). They provide services such as extending advances, financing trade & business, opening credit and issuing guarantees in favour of customers, subscribing to the capital of projects and/or issuing stocks, bonds and/or certificates of deposit. The NRA rated the mainland finance companies' sector as medium-high risk.
  - ii. **Insurers:** There are 147 insurance companies in UAE, with aggregate assets size of around AED 107 billion (approximately EUR 29 billion). Many companies provide investments and Islamic Takaful insurance (life insurance). The NRA rated the mainland insurance sector as medium risk, and FFZs insurance sector as medium risk for life insurance and low risk for general insurance.
  - iii. **Auditors and Accountants:** There is a large auditors and accountants sector which comprises of 2 198 entities. The term accountant covers a

wide range of activities and these entities range from large firms offering multi-national businesses to much smaller book-keeping businesses. The NRA rated the mainland and FFZs auditors and accountant's sectors as medium risk.

- iv. **Notaries:** Notaries in the UAE, whether public or private, do not engage in any of the acts set out in R22.1 for the purchase and sale of real estate, the management of bank accounts and the establishment of legal persons. There are only 32 notaries in UAE.
- v. **Casinos:** It is illegal to operate casinos in the UAE.



Table 1.1. Financial institutions in the UAE

| Type of Entity - FIs         | Mainland (including some branches in CFZs) |                          |                                                                    | FFZs – DIFC (DFSA)/ ADGM (FSRA) |                          |                                         | Total                    |                                             |
|------------------------------|--------------------------------------------|--------------------------|--------------------------------------------------------------------|---------------------------------|--------------------------|-----------------------------------------|--------------------------|---------------------------------------------|
| Numbers as of Dec 31, 2018   | Regulated & Supervised By                  | No. Licensed/ Registered | Assets Size (Billions)                                             | Regulated & Supervised By       | No. Licensed/ Registered | Assets Size (AED Billion)               | No. Licensed/ Registered | Assets Size (Billions)                      |
| Banks (Total)                | Central Bank (BSD)                         | 60                       | AED 2,868 (EUR 696)                                                | DFSA/ FSRA                      | 33<br>5                  | AED 568 (EUR 138)<br>AED 4.8 (EUR 1.2)  | 98                       | AED 3 441 (EUR 835)                         |
| Domestic Banks               |                                            | 22                       | AED 2,514 (EUR 610)                                                |                                 | 5<br>3                   | AED 434 (EUR 105)/<br>AED 0.5 (EUR .12) | 30                       | AED 2 949 (EUR 717)                         |
| Foreign Banks                |                                            | 38                       | AED 354 (EUR 86)                                                   |                                 | 28<br>2                  | AED 135 (EUR 33)/<br>AED 4.29 (EUR 1)   | 68                       | AED 493 (EUR 120)                           |
| Finance Companies            | Central Bank (BSD)                         | 22                       | AED 42 (EUR 10)                                                    | --                              | 0                        | 0                                       | 22                       | AED 42                                      |
| MVTS - Exchange Houses       | Central Bank (BSD)                         | 107                      | AED 225 (EUR 55)<br>Outward & AED 33 (EUR 8)<br>Inward Remittances | FSRA                            | 2                        | 0                                       | 109                      | AED 225 Outward & AED 33 Inward Remittances |
| MVTS - (licensed) Hawaladars | Central Bank (BSD)                         | 7                        | n/a                                                                | DFSA FSRA                       | 0                        | 0                                       | 7                        | n/a                                         |
| Insurance                    | Insurance Authority (IA)                   | 62                       | AED 104* (EUR 25)                                                  | DFSA FSRA                       | 83<br>2                  | AED 3.3 (EUR .8)<br>AED 0               | 147                      | AED 107 (EUR 26)                            |
| Securities                   | Securities & Commodities Authority (SCA)   | 306                      | AED 3,130 (EUR 759)                                                | DFSA FSRA                       | 370<br>30                | AED 10.5 (EUR 2.5)<br>AED 82.8 (EUR 20) | 706                      | AED 3 223 (EUR 782)                         |
| Crypto Assets                | --                                         | --                       | --                                                                 | FSRA                            | 0                        | 0                                       | 0                        | 0                                           |
| Total FIs                    | BSD, SCA, IA                               | 564                      | AED 6,144 (EUR 1490)                                               | DFSA FSRA                       | 486<br>39                | AED 582 (EUR 141)<br>AED 87.6 (EUR 21)  | 1,089                    | AED 6 813 (EUR 1 673)                       |

Note: Statistics are current as at 31 December 2018.

Source: UAE.

Table 1.2. DNFBPs in the UAE

| DNFBPs                              | Mainland                  |                          |                           | Financial Free Zones      |                          |                           | Commercial Free Zones     |                          |                           | Total                    |                           |
|-------------------------------------|---------------------------|--------------------------|---------------------------|---------------------------|--------------------------|---------------------------|---------------------------|--------------------------|---------------------------|--------------------------|---------------------------|
|                                     | Regulated & Supervised By | No. Licensed/ Registered | Assets Size (AED Billion) | Regulated & Supervised By | No. Licensed/ Registered | Assets Size (AED Billion) | Regulated & Supervised By | No. Licensed/ Registered | Assets Size (AED Billion) | No. Licensed/ Registered | Assets Size (AED Billion) |
| Auditors & Accountants              | Ministry of Economy       | 1,766                    | n/a                       | DFSA, FSRA                | 14                       | n/a                       | Ministry of Economy       | 418                      | n/a                       | 2,198                    | n/a                       |
| Company and Trust Service Providers |                           | 717                      |                           |                           | 53                       |                           |                           | 4,198                    |                           | 4,968                    |                           |
| Dealers precious metals             |                           | 4,632                    |                           |                           | 2                        |                           |                           | 2,455                    |                           | 7,089                    |                           |
| Real Estate                         |                           | 12,009                   |                           |                           | 10                       |                           |                           | 288                      |                           | 12,307                   |                           |
| Other*                              |                           | --                       |                           |                           | 10                       |                           |                           | 0                        |                           | 10                       |                           |
| Lawyers and Notaries                | Ministry of Justice       | 1,361                    | n/a                       | Ministry of Justice       | 92                       | n/a                       | Ministry of Justice       | 119                      | n/a                       | 1,572                    | n/a                       |
| Total DNFBPs                        | As Above                  | 20,485                   |                           | As Above                  | 181                      |                           | As Above                  | 7,478                    |                           | 28,144                   |                           |

Note: Statistics are current as at 31 December 2018.

Source: UAE.

### Preventive measures

69. The UAE's preventive measures are set out in the 2018 AML Law and 2019 AML By-law. The law repealed and replaced Federal Law No. (4) of 2002, as amended. The new AML law and by-law consolidated and expanded the scope of preventive measures to the full range of FIs and DNFBPs covered by the FATF standards and operating in the whole of the UAE (including the FFZs and the CFZs). The AML by-law does not set out any exclusions from AML/CFT requirements but does allow for simplified due diligence in identified lower-risk situations and requires enhanced due diligence in identified higher-risk situations.

### Legal persons and arrangements

70. In the UAE, legal persons can be set up in mainland UAE, Commercial Free Zones (29) and Financial Free Zones (2). There are a total of 39 corporate registries in the UAE. The Departments of Economic Development (DEDs) or Authorities (Fujairah and Dibba) manage the registries for the Mainland Emirates, whereas each CFZ and FFZ registry is independent. Apart from the DEDs, where there is some collaboration in how they operate, most of the Registries operate independently without any particular coordination or collaboration. The vast majority of the 557 181 legal persons in the UAE are set up in the mainland (82%) with a significant number set up in the CFZs (17%) and a small number in the FFZs (1%).

71. The types of legal persons that can be formed in the mainland UAE are defined in the UAE's Commercial Companies Law, as revised in 2015. That includes Limited Liability Companies (LLCs), Joint Liability Companies (JLCs), Public Joint Stock Companies, Simple Partnership Companies and a Private Joint Stock Companies. It is

also possible to set up Non-Incorporated Sole Establishments (which are registered), cooperatives, as well as branches of foreign and UAE companies. In the Mainland 52% of legal entities are LLCs, with the next most significant being non-incorporated sole establishments (44%).

72. The FFZs have the ability to set up a wider range of legal entities which includes Private Companies Limited by Shares, Branches of Foreign Companies, LLCs (not in ADGM), Limited Special Purpose Companies, Restricted Scope Companies, Limited Liability Partnerships, Limited Investment Companies, Simple Partnership Companies, Private Companies limited by Guarantee, Foundations, Protected Cell Companies, General Partnerships and Limited Supra National Companies. Private Companies Limited by shares are most prevalent (77%) with Branches of Foreign Companies (7%) and Limited Special Purpose Companies (7.6%) having a significant number.

73. The CFZs offer formation of LLCs, Branches of Foreign Companies, Simple Partnership Companies, Offshore Companies, non-incorporated sole establishments, branches of UAE companies, private joint stock companies and public joint stock companies. LLCs are most prevalent (71%) with Private Companies Limited by Shares (11%) having a significant number.

74. A number of the FFZs and CFZs are well developed and offer economic incentives such as exemption from corporate taxes and import/export duties, and full foreign ownership with 100% profit repatriation. New free zones also continue to be created to align with the UAEs ambitious economic growth strategy. This has therefore developed the free zones and, to an extent, the whole UAE centres of company incorporation. Whilst it is noted that the new AML Law/By-law introduces a new regime that applies AML/CFT requirements across the UAE, different company formation procedures and compliance requirements within the UAE's different registries, along with the competition for business in this area creates unique vulnerabilities and registry arbitrage in relation to information requirements and compliance with AML/CFT obligations. During the course of the on-site, it was not feasible for the assessors to review the laws and meet all registries, and the assessment team decided to focus on those that appeared to present higher inherent risks. The assessors focussed on the regimes in place in the mainland (administered by the 8 DEDs), the DIFC, ADGM, DMCC, JAFZA and RAKEZ.

75. Trusts can be established in the DIFC and ADGM under specific legislation, however trustees may also operate elsewhere in the UAE. There are very limited numbers of trusts established in the DIFC (under 50). In the ADGM, there is no requirement to register trusts, but there is a requirement for trust service providers to be licensed by the FSRA who must comply with AML/CFT requirements. Whilst some Trustee activity of foreign law trusts occurs in the FFZs, there is no evidence the assessment team found no significant evidence of trustee activity of foreign law trusts occurring in the UAE.

76. A waqf is a traditional, Islamic legal arrangement generally used for family, charity, or joint purposes, although it does not "raise funds" from the public and has many characteristics of a trust. Many waqf are managed by the Awqaf Competent Authority or a third party, and the proceeds are provided to the beneficiary. The endowed property is set up, managed and maintained by the Awqaf Competent Authority or a third party, and supervised by the Awqaf Competent Authority.

### *Supervisory arrangements*

77. The three AML/CFT financial supervisors for the mainland are the Central Bank, the Securities and Commodities Authority (SCA) and the Insurance Authorities. As noted above, the DFSA and FSRA supervise AML/CFT compliance for entities in the DIFC and ADGM, respectively. The powers to supervise and ensure compliance are set out in the various sectoral laws and rules for each authority and have been enhanced through the 2018 AML law. Similarly, the AML law and other subsequent decisions designated the MOJ for AML/CFT supervision of lawyers across the whole of the UAE, and the MOE for supervision of auditors and accountants, trust and company service providers, dealers in precious metals and stones, and real estate agents in the mainland and CFZs. See R.27 and 28.

78. Each Department of Economic Development (DED) or municipality of each emirate, and of the 2 FFZs and 29 CFZs maintain their own corporate register. They perform initial commercial licensing (through corporate registration and criminal background checks) of all business entities. The UAE created the National Economic Register in 2012. In 2018, the MOE connected the NER with the DEDs (and eventually FFZs and CFZs) with the aim of unifying information into a single registry. See IO.5 and R.24.

79. Awqaf on the federal level are supervised by the General Authority of Islamic Affairs and Endowments. In each of Dubai and Sharjah, there are two separate authorities responsible for Awqaf (Awqaf & Minor Affairs' Foundation (AMAF) and Awqaf Al Jaafariya-Dubai; Government of Sharjah Awqaf General Trust and Awqaf Al Jaafariya-Sharjah). See IO.5 and R.25.

### *International cooperation*

80. The UAE faces significant international ML risks, including through professional third-party ML and trade-based ML. As set out previously, the UAE is a major international and regional financial centre and trading and logistical hub and has a large proportion of foreign residents, particularly from South Asia. The UAE faces ML threats from international organised crime groups, and third-party money launderers, who may be exploiting the UAE to launder the proceeds of crimes such as drug trafficking, corruption, fraud, counterfeit goods and tax evasion. The UAE also faces significant TF risks due to: political disturbances in its region; large numbers of foreign residents from countries where there are active terrorist organisations; and its role as a regional financial and trade hub.

81. As a result of its risk exposure, the UAE receives requests from all regions of the world. In terms of informal cooperation, the UAE's major international partners on ML are: the United Kingdom and the United States. The UAE's major partners on TF are the United Kingdom, the United States, France, Spain, Italy, Jordan, Morocco, Australia, and Kazakhstan.

82. All formal incoming and outgoing requests for mutual legal assistance and extradition go through the Central Authority – the International Cooperation Department of the Ministry of Justice (MOJ). The MOJ receives and sends requests through diplomatic channels via the International Cooperation Unit at the Ministry of Foreign Affairs and International Cooperation (MOFAIC). The MOJ channels requests to the relevant Public Prosecutions to further process and execute the requests (see IO.2).

## CHAPTER 2. NATIONAL AML/CFT POLICIES AND CO-ORDINATION

### Key Findings and Recommended Actions

#### *Key Findings*

- a) The UAE has demonstrated a high-level commitment to better understand and mitigate its ML/TF risk in a coordinated way. The creation of a Higher Committee, chaired by the Minister of State and Financial Affairs, provided high-level support for recent AML/CFT reforms. The National Committee led the development of the NRA, which was a significant interagency effort, and has begun implementing an ambitious National AML Strategy to strengthen the UAE's overall AML/CFT framework.
- b) The UAE has an emerging understanding of its ML/TF risks. The NRA is a good starting point for expressing ML/TF threats and vulnerabilities at a national level. However, the NRA and other assessments provide only a basic description of key issues such as ML of foreign proceeds, trade-based ML, cash-based ML and the abuse of corporate structures. TF threats assessed separately to ML threats in the NRA, but issues identified with the methodology bring into question some conclusions authorities have made about TF risk.
- c) While some agencies demonstrated a more developed understanding of specific ML/TF risks, many AML/CFT stakeholders could not detail these risks beyond the high-level findings in the NRA. Authorities acknowledge that the level of understanding varies across agencies, and are using interagency committees to foster a deeper understanding of risk.
- d) During and after the development of the NRA, the UAE introduced a range of measures to strengthen its AML/CFT regime under the National AML Strategy and Action Plan. This included a suite of new laws and regulations to reinforce a risk-based approach, introduction of beneficial ownership requirements and appointment of DNFBP supervisors. These are important steps, particularly in closing gaps in technical compliance. Additional improvements included enhanced interagency coordination, FIU capacity increases, and new arrangements to improve ML investigations and international cooperation. It is too early to assess the impact of these measures in mitigating sophisticated risks posed by, for example, professional ML networks or trade-

based ML, in the absence of specific measures designed to address these risks.

- e) The objectives of competent authorities are broadly consistent with the evolving national AML/CFT policies. While the FI supervisors are in a transition process, the activities undertaken by the DNFBP supervisors to meet these requirements are, for the most part, at early stages.
- f) To complement the work of the National Committee, the UAE has put in place several additional policy and operationally focused committees or sub-committees to continue enhancing national coordination and cooperation on AML/CFT. These have built greater awareness of the roles of different AML/CFT stakeholders and overseen implementation of the new technical measures. However, given the recent refocus in remit of some of these committees, it was difficult to assess to what extent they were prioritising new policy and operational actions in delivering the ambitions of the UAE's AML Strategy.
- g) While the NRA is confidential, high-level summaries of its results were provided to some private sector firms via their supervisors. Further engagement with the private sector is required to support a more detailed awareness of the risks.

### *Recommended Actions*

- a) Deepen and refine the UAE's understanding of ML/TF residual risk at both a national and individual Emirate-level by assessing how threats are exploiting AML/CFT system vulnerabilities, while taking into account the impact of mitigating measures. Priority should be given to the most pressing ML risks (e.g. professional ML networks and foreign proceeds of crime), utilising a broader base of available information sources, including via proactive engagement with international partners.
- b) Involve, in a substantive way, a broader range of stakeholders in the process of updating TF risks and focus the assessment on financing issues (rather than terrorism risk), to include channels and methods used by terrorist financiers, as relevant to the UAE's context.
- c) The National Committee and NRA Sub-Committee should use evolving risk analysis and stakeholder insight to inform the application of mitigation measures, including by:
  - o Assessing the impact of existing ML/TF policy and operational risk-based mitigation measures,
  - o Identify and prioritise new policy and operational measures that mitigate the impact of sophisticated ML/TF risks, such as TBML, ML via cash and precious metals and stones and the abuse of shell/front companies.



- d) Support and develop newly established interagency coordination mechanisms such as the FI Supervisors and ML Investigations Sub-Committees to drive coordinated risk-based mitigation measures.
- e) Continue to develop systems to collect, collate and analyse relevant statistics relating to existing and planned AML/CFT activities. Use these increased inputs and analysis to continuously deepen risk understanding, and target priority actions and activities in delivering a systematic response to the risk.
- f) Increase and deepen outreach to the private sector to increase awareness of ML/TF risks so stakeholders can better design risk-based measures and controls to protect their institutions and by extension, the UAE financial system.

83. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant for the assessment of effectiveness under this section are R.1, 2, 33 and 34.

### Immediate Outcome 1 (Risk, Policy and Coordination)

#### *Country's understanding of its ML/TF risks*

84. The UAE has an emerging understanding of its ML/TF risks through a process of UAE-wide risk assessment leading to the development of its National Risk Assessment, and augmented by more sophisticated awareness within some but not all AML/CFT stakeholders. In reaching its current level of understanding, the UAE took a series of steps including an initial self-assessment of the capability of competent authorities against the FATF recommendations and immediate outcomes, developing threat profiles for the 21 predicate offences and professional ML, creating the NRA and establishing additional interagency committees to capture stakeholder input. However, both the analysis contained within the NRA and the level of understanding evidenced by key stakeholders often did not reflect a sophisticated understanding of how key threats and vulnerabilities identified interacted with one another (e.g., trade-based ML and how it interacts with corporate structures across the UAE, or how the TF threat actors identified might use different methods to exploit a range of channels beyond cash and MVTs to raise and move funds). While nearly all stakeholders endorsed the findings of the NRA, apart from some exceptions, few provided any further insight of specific ML/TF risks, either at the Emirate-level or across the UAE. The assessment team based its conclusions on: reviews of the confidential NRA and NRA Update and relevant methodology; interviews with all relevant agencies and with the NRA Sub-Committee; review of other relevant documents including NPO and legal person risk assessments and other risk work undertaken by individual agencies, threat profiles and self-assessments of selected agencies.

85. There is an integrated interagency approach to understanding ML/TF threats and inherent vulnerabilities, led by the National Committee for Combating Money Laundering and Countering Financing Terrorism (National Committee) and NRA Sub-committee, whose membership consists of a broad range of competent authorities involved in AML/CFT. The National Committee developed a methodology to capture interagency input on inherent ML/TF threats and vulnerabilities. This methodology

largely relies upon qualitative judgements of experts from respective agencies, as well as some limited quantitative data (analysis of some STR disseminations, numbers of ML cases and relevant predicate crimes in some Emirates, number of cases in which confiscation occurred). It also included limited outreach to private sector stakeholders, both FIs and DNFBPs. The National Committee arrived at the final ratings for threats/vulnerabilities by consensus.

86. A high-level summary of the results of the confidential NRA was distributed to competent authorities in January 2019, and regulated entities, via their supervisors, in March 2019. Separate assessments were undertaken on vulnerabilities related to legal persons (see IO.5) and vulnerabilities of NPOs to TF risk (IO.10), as well as additional statistics, which contributed to an NRA Update in May 2019 which was distributed to authorities and regulated entities in June 2019.

87. Notwithstanding the broader risk assessment process, many UAE stakeholders referenced the NRA results to demonstrate their understanding of risk. While the NRA highlights contextual issues, such as its geography, economy, financial system and demographics, which make the UAE an attractive place for illicit financial flows, it does not provide a detailed articulation of ML/TF risks. The NRA Sub-committee acknowledged continuous improvement is required to determine risk. This was partly exacerbated by limitations on the breadth of available statistics, but work is underway to improve the collection of relevant AML/CFT management information and performance data.

### *Money laundering*

88. As a result of the overall risk assessment process and law enforcement experience, there is a good understanding of the most significant predicate offences generating proceeds of crime – primarily fraud followed by drug trafficking and counterfeit goods. The MOI, Dubai and Abu Dhabi police expressed a good level of awareness of inherent vulnerabilities in FIs and DNFBPs. However, collectively, neither the predicate offence analysis nor authorities interviewed, clearly articulate how the proceeds of crime interact with these sectors, specifically in relation to identified ML methods. The NRA contained high-level references to trade-based ML, professional third-party ML and the laundering of proceeds from foreign predicate offences.

89. All AML/CFT stakeholders referred back to the NRA but, with exception of a few authorities, did not expand upon these issues to demonstrate a more nuanced understanding of ML as they relate to the UAE's current risk exposure. For example, in addition to the police, the financial sector, including supervisory bodies, some CFZ registrars and Dubai and Abu Dhabi police highlighted the contextual issues that make the UAE an attractive jurisdiction for licit and illicit financial flows, and specific examples of more complex money laundering methodologies, such as the abuse of legal persons. Other AML stakeholders, including Public Prosecutors and the FIU were building their understanding of these more complex ML risks, as evidenced by recently commenced investigations or strategic assessments. One of the CFZ registrars has undertaken a review of its companies in response to the 'Dubai Papers'<sup>4</sup>. During the on-site, the FIU finalised an assessment on ML vulnerabilities in

<sup>4</sup> A term coined by French media which exposed, in September 2018, a suspected tax evasion and ML international network utilising companies in Ras al-Khaimah based on the release of documents from the Helin Group (see

the real-estate sector and in companies established in free-trade zones. These are positive steps in deepening the understanding of ML risks, but it was not clear how they had impacted the collective understanding of sophisticated ML risks.

### *Terrorist financing*

90. In general, authorities have a strong appreciation for the fact that the UAE lies in a geographically precarious position amongst countries and areas with “political disturbances” or terrorism activities, and that the UAE’s financial system could be used to finance terrorism. However, both the NRA and the interviews with authorities lacked a more nuanced articulation of how these factors intersect and the effectiveness of mitigation measures.

91. Among UAE competent authorities, State Security has the most mature understanding of how TF threats manifest in the UAE. On the whole, however, UAE authorities experienced difficulty in clearly articulating a coherent overall understanding of TF risk. For example, there was a tendency to explain conclusions made regarding the relative TF threat level with respect to the absence of terrorist attacks in the UAE, thus conflating the assessment of terrorism risk with TF risk and the potential for the UAE to be used as a TF conduit to finance terrorism in other parts of the world, if not in the UAE. Further, it is unclear the extent to which the inter-agency NRA process augmented the UAE’s previous understanding of TF risk, considering the dominant role State Security and State Security Prosecution play in this area and whether other agencies (FIU, Customs and Central Bank) contributed new perspectives or analysis to guard against confirmation bias.

92. As the NRA process was intended to help authorities within the country to understand more comprehensively the ML/TF risks they face, it is possible that some underlying methodological issues may have contributed to authorities’ challenges in clearly articulating TF risk. For example, the eight terrorist organisations rated under the NRA were not fully consistent with the TF case studies presented by the UAE (both in terms of number of cases and TF funds transecting the UAE). Authorities explained that this is because the data in the NRA covered 2014 – 2016 and was therefore out-of-date, but also that some organisations were chosen due to their potential as terrorism, rather than TF, threats. Other issues included the selection of fundraising thresholds not properly adapted to the UAE context, as well as a lack of differentiation between assessed sectoral vulnerabilities for ML and TF.

### *National policies to address identified ML/TF risks*

93. To some extent, the UAE currently addresses its ML/TF risks through national policies and activities, such as the National AML/CFT Strategy 2019-2021 and National Action Plan 2018-2020. The AML/CFT Strategy’s objective of a whole-of-system approach is suitably ambitious to drive significant improvements in the UAE’s AML/CFT framework. While these activities reflect considerable progress in the context of the UAE, especially in addressing technical compliance, several were still in the process of being developed or delivered, so it was not possible to determine their impact on the overall system. Further, it was not clearly demonstrated how these broad changes are sufficiently targeted to address specific and complex ML/TF risks

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[www.nouvelobs.com/justice/dubai-papers/20180905.OBS1818/dubai-papers-revelations-sur-un-reseau-international-de-fraude-fiscale-et-de-blanchiment.html](http://www.nouvelobs.com/justice/dubai-papers/20180905.OBS1818/dubai-papers-revelations-sur-un-reseau-international-de-fraude-fiscale-et-de-blanchiment.html)).

in the UAE, for example on professional third-party ML or trade-based money laundering. The assessment team based its conclusions on: the National AML Strategy, the National Action Plan, some individual agency plans and interviews with authorities.

94. In preparation for the mutual evaluation, the UAE introduced its second AML/CFT Strategy (2019-2021) whose stated objective is to make the UAE a hostile environment for the proceeds of crime and terrorist financing by delivering a system wide response. The strategy is a five-page high-level document with four broad pillars: domestic & international cooperation, legal and supervisory framework, information and analysis and investigations, prosecutions and confiscations. The priorities under these pillars reflect the general aspects of an effective system under the FATF Standards.

95. The AML/CFT Strategy is supported by the National Action Plan, which is a living document and is managed by the National Committee. Some of the activities achieved under the National Action Plan include:

- Appointment of Ministry of Economy and Ministry of Justice as AML/CFT supervisors for DNFBPs, including high-risk sectors such as DPMS and real estate.
- The on-going development of a National Economic Register of basic ownership information on legal persons to address the fragmentation of company registration across 39 different registrars.
- Increased training, guidance and awareness building to increase the rate of ML investigations, improvements to MOI and FIU databases and IT systems, and the formation of an inter-agency ML investigation committee on 13 June 2019 to improve coordination, sharing of information and development of expertise.
- Advances in risk-based supervision (including in relation to MVTs) and the formation of a Supervision Committee on 13 June 2019 to improve coordination among multiple supervisors,<sup>5</sup> sharing of information and development of expertise.
- Development of a typology by the FIU on the abuse of legal persons in CFZs and the abuse of the real estate sector for ML purposes.
- Development of new mechanism for communicating targeted financial sanctions without delay.

96. As highlighted above, while these are positive steps, particularly on technical compliance, it was not demonstrated how these measures are addressing more specific ML/TF risks. For example, the NRA Committee determined the most effective policy response in mitigating the UAE's exposure to cash-based ML was to reduce the cash declaration threshold from AED 100,000 (EUR 25 000) to AED 60,000 (EUR15 000) in January 2019. This is compliant with the minimum standards in the FATF Recommendations but it is unclear the extent to which the UAE has considered specific policy or operational actions targeted at the most pressing ML/TF risks such as professional third-party ML. The expectation appears to be that such a response is an operational issue, delegated to appropriate authorities, but it was unclear which authority was responsible for progressing measures against these risks (see core

<sup>5</sup> After the on-site visit, DNFBPs supervisors have been included in this Committee.

issue 1.4). Another example, is the introduction of the National Economic Register which will provide some assistance in detecting the abuse of legal persons, but it is not clear how the FIU's strategic analysis about the abuse of legal persons will inform or influence future AML/CFT policies or activities.

97. With respect to TF, State Security is developing an Operational Plan governing its efforts, to include TF-related efforts. Based on the NRA, this Plan was amended to cover six "pillars" or focal areas to improved TF-related investigatory capabilities. While only limited details of the plan were shared with the assessment team, State Security noted that it will include a requirement to reassess TF risk on an annual basis, with quarterly updates, as well as efforts to review and develop internal polices and develop performance indicators. This process is fairly new, with the Operational Plan beginning in 2019, but it does represent the intent to articulate, at a high-level, operational changes based upon the NRA (and future reassessments).

### *Exemptions, Enhanced and Simplified Measures*

98. The UAE has not granted any exemptions from AML/CFT requirements,<sup>6</sup> and the overarching AML By-law requires regulated entities to apply enhanced and simplified measures in line with ML/TF risks. As set out below, supervisors have provided some additional guidance on implementing these obligations. The assessment team's conclusions are based on: the AML Law and By-Law; guidance issued by supervisors; and, interviews with supervisors and regulated entities.

99. The Central Bank requires its supervised population to apply enhanced measures to customers that are PEPs, from high risk countries, correspondent relationships, MVTs, dealers in precious metals and stones and high-risk NPOs.<sup>7</sup> The Central Bank allows simplified customer due diligence measures where the FI has identified low-risk customers and for customers that are listed companies on a regulated stock exchange subject to adequate disclosure and transparency requirements (Central Bank AML/CFT Guidelines for FIs, 23 June 2019).

100. The SCA also appears to also have some EDD requirements in place. The IA, has in presentations to its regulated population identified circumstances for 'special diligence' in dealing with life insurance or family takaful, marine insurance and jewellery and gemstone shops.

101. With respect to enhanced measures to be applied for higher-risk countries, some UAE authorities have issued guidance on high-risk jurisdictions, but they have not actively made the private sector aware of higher risk countries to which enhanced CDD must be applied. Generally, most FIs/DNFBPs adopt their own list of high-risk third countries. While, in some cases, the private sector appear to be applying enhanced measures in relation to cash transactions, there was an absence of a coordinated policy and national response to tackle cash-based ML or TF via enhanced measures.

102. While there are positive measures with supervisors providing more guidance to regulated entities, the understanding of risks by the supervisors is developing and

<sup>6</sup> Gambling (including online and on ships) is illegal in the UAE and is therefore not covered under the AML/CFT regime. But this is not considered an exemption.

<sup>7</sup> Addendum to the 2008 Regulations (CBUAE Notice Number 2922/2008).



thus their guidance to the private sector on implementing enhanced or simplified measures is either new or limited.

### *Objectives and activities of competent authorities*

103. The strategic objectives of competent authorities are broadly consistent with the evolving national AML/CFT policies (the AML Strategy and National Action Plan) to deliver system-wide enhancements to the UAE's AML/CFT framework. However, it is not always clear these objectives or enabling activities are tailored to mitigating the specific ML/TF risks facing the UAE, for example, professional third-party ML or international cooperation to mitigate the impact of foreign predicate offending. The assessment team's conclusions are based on: interviews with authorities and sighted agency action plans and strategies.

104. Under the National Action Plan, all relevant authorities are required to develop agency-level operational plans taking into account the NRA results and the NAP's strategic objectives (aligned to the AML Strategy's four pillars). Some of these agency plans were already being reviewed by the National Committee. This is a positive step that aims to enhance an integrated, multi-agency approach. Some of the activities under the NAP include:

- FIU has secured access to some MOI databases and produced a roadmap to get access to other relevant sources of information, increased its provision of beneficial ownership information on request from foreign FIUs, obtained Go-AML software to increase its analytic capabilities and has undertaken to increase its staffing.
- Police forces have increased staffing to ML-specific units, as well as developed training and guidance targeting other policing divisions. Both police forces and State Security have hired staff from financial institutions to build their financial analysis and investigation capability.
- The MOJ and public prosecutions are transitioning to a case management system and have committed to better processes and key performance indicators (KPIs) for delivery of formal international cooperation.
- The financial supervisors are in various stages of reshaping their supervision plans to ensure they are taking a risk-based approach. The BSD has developed a comprehensive risk matrix for supervision, with specific focus on ML/TF risk, after conducting an exercise of specific entity level ML/TF risk assessment. In the DIFC/ADGM, the supervisors have been carrying out risk-based supervision for some time, but have looked to ensure it is aligned to the NRA findings and the National Action Plan.
- The MOE is developing the NER and preparing to monitor a large number of DNFBPs in their capacity as supervisor. Similarly, the MOJ is conducting outreach to lawyers.

105. Notwithstanding the challenges of instigating systemic change across a broad change of stakeholders, in a broad sense, these actions will enable agencies to increase their competence and capability to better address ML/TF risks. However, some agencies activities are not articulated to address some of the specific and complex risks present in the jurisdiction.



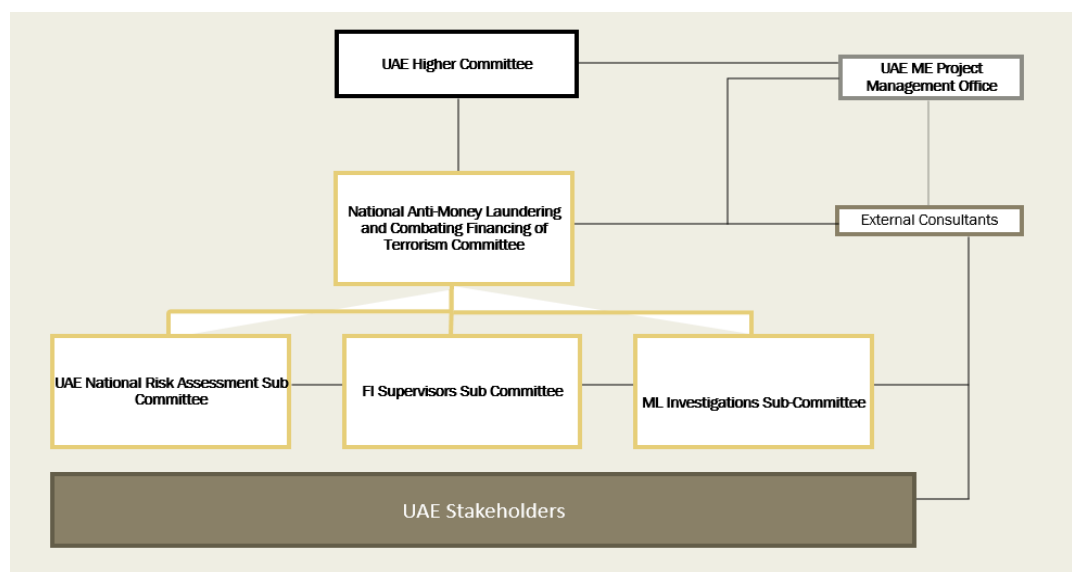
*National Coordination and Cooperation*

106. Authorities co-operate and co-ordinate to develop and implement broad AML/CFT policies and activities and, to some extent, on more specific ML, TF and PF issues. Prior to the introduction of the NRA, relevant competent authorities and some private sector stakeholders cooperated and coordinated, primarily in delivering operational outcomes. However, the development of the NRA, the self-assessment and the National Action Plan have instilled a need for more systematic cooperation across all relevant AML/CFT stakeholders. This deeper level of cooperation is at an early stage, with a significant focus on preparing for the mutual evaluation and identifying and delivering priority actions – e.g. extending the supervisory regime to cover relevant entities. The assessment team’s conclusions are based on: review of the objectives and membership of relevant inter-agency committees and relevant minutes/outcomes and interviews with authorities.

107. The key mechanism for national coordination is the National Committee. It includes 21 agencies that perform a range of AML/CFT activities. The National Committee’s mandate was extended to TF in 2015 and it was further strengthened in 2019 by adding more members. The Higher Committee was formed in 2017 to oversee the mutual evaluation process and provide the high-level support required to pass key AML/CFT reform. The Higher Committee established the Mutual Evaluation Project Management Office (PMO) in March 2018, which played an important role in improving coordination and advancing a number of reforms in preparation for the mutual evaluation. While the National Committee had a role in driving previous policy and operational coordination, it decided to create three additional sub-committees to address specific tasks: (1) NRA Sub-committee – conducting and updating the NRA which it concluded, (2) Legal Sub-committee – suggesting amendments to the legal framework for AML/CFT, which resulted in a programme of significant legislative change, and (3) Free zones Sub-committee – which oversees free zones and suggests necessary precautions with respect to free zones. These mechanisms are effective in co-ordinating multi-agency and multi-jurisdictional efforts. Authorities recognised that the development of the NRA assisted to develop a map of all key stakeholders in the AML/CFT regime, including over 100 government stakeholders in various jurisdictions.

108. The Legal Sub-committee and Free zones Sub-Committee were retired on completion of their assigned tasks. New committees/sub-committees have been established to bolster operational cooperation on supervision and ML investigations and had met once at the time of the on-site visit.

Figure 2.1. UAE's coordination committee structure



Source: UAE

109. On ML, in addition to the ML investigations committee, the MOI and FPP have established their own ML committees to prioritise ML investigations, develop guidance and progress cases. The MOI is the process of developing a ML information database to share information with among relevant LEAs.

110. On TF, State Security, and to some extent SSP, is the focal point of the UAE's national response to combatting TF. On operational issues, State Security has access to wide range of information and is well resourced and therefore fairly self-sufficient. Other agencies (FIU and FCA) provide analysis when requested, but their engagement on TF issues is limited, possibly due to State Security's ability to directly access information from other agencies. On policy issues, the Counter Terrorism Committee, which has a mandate to coordinate broader CT policy (including CFT), ensure that higher level strategies are produced and tested, and incorporate the views of various agencies' on terrorism-related issues, has a sub-plan on TF intended to help coordinate efforts, although limited information was provided on this.

111. On PF, the Import/Export Committee's Executive Office is the focal point for coordination. The Executive Office has broader CP responsibility, but implementing PF-related TFS falls within its mandate, and it held seven workshops in March – April 2019 to inform other authorities of the new mechanism for implementing TFS (the Import/Export Committee's new website and "portal"). With respect to broader operational coordination on CPF, it is the operational responsibility of individual agencies to investigate CPF related activities within their remit and coordinate across agencies accordingly, while the Import/Export Committee should be kept aware of these activities. This is an ad hoc process, and it was not demonstrated that there is a procedure in place for coordinating a response to a sanctions evasion case.

### *Private sector's awareness of risks*

112. The UAE has undertaken some outreach to the private sector to increase awareness of the confidential NRA, primarily via workshops and engagement with

supervisors. The assessment team based its conclusions on: interviews with the Project Management Office, private sector entities and relevant supervisors.

113. The PMO undertook outreach with supervisors on the NRA findings in December 2018. Some supervisors started engaging with private sector participants on the high-level findings of the NRA in March 2019. A sanitised version of the NRA Update was shared with the private sector through relevant supervisors after June 2019. While the private sector were aware of the high-level results of the NRA, further engagement is required, including with high-risk DNFBP sectors, to share government insight and develop a more nuanced understanding of risks in the private sector.

#### *Overall conclusions on IO.1*

114. **The UAE is rated as having a moderate level of effectiveness for IO.1.**



## CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

### Key Findings and Recommended Actions

#### *Key Findings*

##### *Immediate Outcome 6*

- a) A strong feature of the UAE's financial intelligence framework is that authorities have access to a broad range of financial information sources to aid financial investigations. This information is used in TF and predicate offence (particularly fraud) investigations – both areas assessed as higher risk by the UAE.
- b) However, financial intelligence is not fully exploited in response to other significant risks, including ML, or in relation to tracing proceeds of crime. LEAs and the FIU are under-utilising customs data considering the significant risks of ML through cross-border movements of cash and PMS. While there are increasing trends, overall, the frequency and the extent of the use of financial information and intelligence is limited in the context of the UAE's ML risks. The capacity and expertise of agencies to undertake financial investigations varies.
- c) The FIU receives, to some extent, STRs that contain relevant and accurate information that assist LEAs, PPs and State Security to perform their duties. The lack of STR reporting by DNFPBs (real estate and DPMS) limits the financial intelligence available in relation to high-risk sectors in the UAE.
- d) The FIU has a limited role and capacity, which has reduced the quality of financial intelligence available in the UAE. The FIU does provide regular and useful support to ongoing investigations, particularly in response to specific requests for information and, less frequently, detailed analysis on complex cases. Proactive disseminations by the FIU are limited in content and do not substantially add value on high risk issues. While the FIU is disseminating more reports to LEAs, 98% of the disseminations do not result in further investigations. Recently, the FIU has taken significant positive steps (including improving its IT system) but the results of these measures are at early stages.
- e) Once a case is identified, interagency cooperation works well to bring together relevant financial intelligence, either bilaterally or via ad-hoc inter-agency committees. There are further

opportunities to bring together, and proactively exploit, financial intelligence in line with the UAE's ML/TF risks.

#### *Immediate Outcome 7*

- a) Following recent legislative changes, the UAE has a sound statutory ML offence. Alongside a policy shift in 2018 to prioritise ML, targeted recruitment and increased capacity building across LEAs, there is an increase in the number of on-going investigations. This has been driven by enhanced coordination between key LEA stakeholders such as the FIU, MOI, Police forces and PPs.
- b) Although there are various opportunities to detect ML (including FIU disseminations, FCA data, open and covert source reporting and international cooperation), LEAs are not routinely identifying and targeting significant ML cases in line with the UAE's risk profile. The number of ML cases reclassified as predicate offence investigations, or discontinued completely, suggest that Federal/Emirate-level tasking processes are not systematically driving the adoption of ML cases in line with risk exposure.
- c) Where ML was pursued, the UAE has addressed predicate crime risks related to forgery and fraud (including as a foreign predicate). However, there is a noticeable absence of consistent investigations and prosecutions of ML related to other high-risk predicate crimes (such as drug trafficking), professional third-party ML, and those involving higher-risk sectors (such as MVTs or DPMS).
- d) The low number of ML prosecutions in Dubai is particularly concerning considering its recognised risk profile. Dubai PP recognised that there is room for improvement, and Dubai Police were able to speak to a number of ongoing investigations involving more complex ML methodologies, as well as involving businesses in higher risk sectors.
- e) While the UAE does impose a range of sanctions, including against legal and natural persons, it has not been fully demonstrated that these are effective, proportionate and dissuasive. The average length of sentences are between one and two years and there are limited examples of higher penalties, suggesting that sanctions are mostly applied in less serious cases.
- f) While the UAE does pursue alternative criminal justice outcomes, such as prosecution for predicate offences, a type of possession offence and deportation, it was not evidenced this only happened where ML was not justified. This is an issue under review by the multi-agency ML Investigations Sub-Committee, and is being addressed through training and awareness raising sessions within non-AML specialists in the Police and Public Prosecutors.



*Immediate Outcome 8*

- a) In line with the overarching policy shift in 2018, the National Committee and the newly formed ML Investigations Sub-Committee have identified confiscation as a key policy objective. To embed consistency of approach, the Sub-Committee members have overseen a number of training and awareness raising sessions about financial investigation and confiscation across all key LEA stakeholders.
- b) Overall the UAE's figures for domestic confiscation, criminal fines, repatriation, sharing and restitution are large due to broad confiscation powers. The UAE routinely seizes and removes instrumentalities of crime. However, it was not demonstrated there is systematic or consistent confiscation work following formal international requests involving the proceeds of foreign predicate offences, which is acknowledged as a key crime risk.
- c) The Federal Customs Authority has applied financial penalties for falsely declared or undeclared cross-border movements of currency, BNI and PMS. However, in the absence of formal case adoption by the Police or State Security, Customs can only apply a 10% penalty on the detected amount, with the rest returned to the passenger. The FCA referenced future work in tackling the threat posed by currently unregistered cash couriers linked to UAE-based MSBs.
- d) Notwithstanding the large asset recovery / repatriation figures, the UAE acknowledged issues in the collection and presentation of statistics, particularly in relation to completed ML investigations. Work is underway, overseen by the MOJ, to improve case management systems across all PPs, which will improve the collection of relevant management information.

*Recommended Actions**Immediate Outcome 6*

- a) LEAs and PPs should systematically use financial intelligence and financial investigations to better investigate ML, associated predicate offences and trace assets across all LEAs and implement measures to track progress against this objective.
- b) The ML Committee should identify how financial information or intelligence held by different agencies, or by international partners, can be developed to identify and address significant ML threats (e.g., professional third-party ML and international facilitators, trade-based ML and cash or PMS- based ML), other high-risk predicate offending and to follow the proceeds of crime.
- c) FCA, LEAs and the FIU should plan and implement a strategy to better harness customs information to target ML and TF via cross-

border movements of cash and precious metals and stones and TBML.

- d) The FIU should:
- o play a more proactive role in developing the content of STR disseminations to provide more comprehensive leads for LEAs, including by increasing co-operation with foreign counterparts to ensure a stronger focus on the proceeds of foreign predicate offending.
  - o use existing and planned databases to strengthen its ability to bring together intelligence across authorities in the UAE (including customs information) and provide more actionable intelligence.
  - o implement its roadmap for GoAML, ensuring the registration of all reporting entities, the access to priority information sources, better intelligence/investigative tools and staff training.
  - o raise awareness of ML/TF risks among new reporting entities (especially high-risk DNFBPs); providing regular feedback; and developing guidance in cooperation with supervisors.
  - o increase its human resources (both personnel and expertise) to ensure that it can provide complex operational analysis and strategic analysis.

#### *Immediate Outcome 7*

- a) The ML Investigations Sub-Committee to refine its prioritisation criteria, emphasising the importance of identifying cases linked to the most significant ML risks (professional ML networks) and/or featuring high-risk sectors (MVTs, DPMS), and embedding these principles into any national and Emirate-level tasking and coordination process, utilising the expertise of police AML Units to lead on key risk areas.
- b) The ML Investigations Sub-Committee to continue closely monitoring key cases, including supporting strategic and operational objectives to ensure they focus on the most relevant and pressing ML risks, and achieve appropriate judicial outcomes.
- c) The MOI should review informal and formal requests for international cooperation received, and agree a process for developing these into investigations of ML related to foreign predicate offending.
- d) The MOI should continue its work on UAE-wide capability building, with key stakeholders such as the Federal Customs Authority and the Federal Tax Authority. Specific risk factors for consideration include: cross-border cash and PMS movements and cash couriers linked to MSBs.
- e) MOI and FCA to agree a consistent referral mechanism to ensure suspicions of ML are identified and assessed for investigation. MOI

should consider placing ML experts in high-risk ports/airports to support the FCA.

- f) All police forces and PPs to continue enhancing the specialist expertise of their ML units, including secondments or other mechanisms to bring in external expertise to assist with the investigation and prosecution of complex domestic and international ML risks.
- g) All Public Prosecutions (PPs), but especially Dubai PP given its risk exposure, to prioritise the pursuit of money laundering charges, including complex or standalone prosecutions in cases of foreign predicate offending.
- h) Without compromising the autonomy and independence of the judiciary, the National Committee, in coordination with relevant competent authorities, should establish a dialogue with them to:
  - o Communicate recent and future changes in ML-related policy (e.g. any new legislation).
  - o Promote the UAE's continued emphasis on investigating and prosecuting complex ML.
  - o Explore developing ML-related sentencing guidelines to ensure the application of proportionate and dissuasive sanctions.
- i) Clarify if the AML Law allows for the investigation and prosecution of the laundering of foreign direct and indirect tax offences, preferably via active case studies. If a legislative gap exists, the National Committee to address this as a matter of priority.

#### *Immediate Outcome 8*

- a) Continue to embed the high-level policy objective of routinely pursuing confiscation, ensuring it is implemented in all agency actions plans and procedures, with oversight provided by the ML Investigations Sub-Committee, which can coordinate and disseminate best practice to reinforce the policy objective.
- b) Identify and address any common or legislative issues that inhibit the consistent identification and confiscation of the proceeds of foreign predicate offences and increase the UAE's efforts in recovering proceeds that have moved to other countries.
- c) The FCA to continue building its intelligence capability, including profiling and detection resource, focused on cross-border currency, BNI and PMS movements. The FCA to deepen its cooperation with domestic and a full range of relevant international partners to ensure new methods of smuggling are identified and addressed in a timely fashion.
- d) To the extent it is consistent with the principles of its domestic law, the UAE should consider the introduction of non-conviction based asset recovery powers, including the ability to fully confiscate

currency, BNI or PMS it suspects is the proceeds of crime, or will be used in supporting criminal conduct.

- e) Continue improve the systematic collection of confiscation statistics across the UAE, in order to assess whether all asset recovery and denial activity, and proposed inter-agency initiatives are addressing ML risks.

115. The relevant Immediate Outcomes considered and assessed in this chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.1, R. 3, R.4 and R.29-32.

### Immediate Outcome 6 (Financial Intelligence ML/TF)

#### *Use of Financial Intelligence and Other Information*

116. Competent authorities have access to a wide variety of financial and other relevant information sources to aid financial investigations. This information is used in TF and predicate offence (particularly fraud) investigations – both areas assessed as higher risk by the UAE. However, financial intelligence is not fully exploited in response to other significant risks, including ML, or in relation to tracing proceeds of crime. LEAs and the FIU are under utilising customs data considering the significant risks of ML through cross-border movements of cash and PMS. While there are increasing trends, overall, the frequency and the extent of the use of financial information and intelligence is limited in the context of the UAE's ML risks. The capacity and expertise of agencies to undertake financial investigations is varied. The assessment team based its conclusions on: statistics on the STRs, cash declarations and seizures and requests for information by LEAs; interviews with the FIU, FCA, State Security, Federal, Dubai, Abu Dhabi and RAK Police and Public Prosecutions (PPs); and, review of procedures, case studies and STR disseminations.

117. Relevant authorities have access to a wide range of sources to access financial and other relevant information. This includes: a range of databases centralised by the FIU, Central Bank, Ministry of Interior (MOI), State Security and Federal Customs Authority (FCA) or directly from relevant authorities in a range of emirates, CFZs and the FFZs and by FIs and DNFBP via a production order. The full range of relevant sources of financial information are summarised in the analysis at c.29.3(b). Notable sources include:

- STR disseminations: Each LEA can access the disseminations made by the FIU to its police force via STR online. State Security can view disseminations to any police force (and from June 2019 all STRs via GoAML).
- The FIU's Remittance Reporting System (RRS) which has details of remittances uploaded by MVTs providers (over 377 million transactions uploaded by all exchange houses), available to LEAs by request to the FIU.
- The Central Bank's Customers' Account Database (CAD) – banks licenced by the Central Bank are required to provide details of their customers and accounts on a quarterly basis. The FIU and State Security have direct access to this database; other LEAs can obtain access via a production order.

- The MOI's Unified Criminal System (which contains criminal history, immigration records, addresses etc.) is available to all police forces and, on request, to the FIU.
- FCA's cross-border cash, BNI and precious metal and stone declaration system, directly accessible to LEAs and FIU.
- Property and Land Departments in each Emirate – available on request; cooperation is required between police/prosecutors in the Emirates to obtain relevant information in another Emirate.
- Companies' registries – basic information on legal persons and BO information where it is collected (see IO.5).

118. For TF matters, State Security has broad access to and routinely uses financial intelligence. It has access to all STRs, records of MVTs (exchange houses') remittances (RRS) and customer account details (from the mainland – CAD). State Security has hired financial analysts, including those that previously worked for financial institutions, to develop financial analysis. These analysts complete a comprehensive financial profile for each suspect or person of interest, which includes checking a broad set of databases and enables State Security to develop an understanding of the suspect's source of income, associates, investments, property and savings. State Security has made a relatively modest number of requests to the FIU (approx. 30 per year), potentially because it has stronger information access and analysis capacity, but was able to demonstrate that financial intelligence is used routinely in counter-terrorism and TF investigations.

119. In relation to ML, predicate offences and asset tracing, Financial intelligence is increasingly used in investigations but requests remain concentrated around a few recipients and do not specifically target high risk sectors. Over six years (2013-2018) police and public prosecutors made over 5000 requests for financial and other related information (see table below). Requests to financial institutions account for roughly 70% of all requests, followed by the DEDs (for information on companies registered in the mainland), the FIU and the Central Bank BSD (for KYC documentation, bank statements and details of financial activity). The statistics show that LEAs and PPs are not adequately seeking information from other stakeholders in high-risk sectors such as DPMS, real estate agents (or land departments) and TCSPs, thereby missing valuable information for ML and predicate offence investigations and identification of assets. Overall, the full range of financial intelligence is not being exploited in line with ML/TF risk profile.

**Table 3.1. Requests for financial intelligence made by Federal, Dubai and RAK Public Prosecutions in ML investigations**

|                                       | 2013 |    | 2014 |    | 2015 |     | 2016 |     | 2017  |     | 2018  |     | Total |
|---------------------------------------|------|----|------|----|------|-----|------|-----|-------|-----|-------|-----|-------|
| Requested authority                   | MOI  | PP | MOI  | PP | MOI  | PP  | MOI  | PP  | MOI   | PP  | MOI   | PP  |       |
| Financial institutions                | 195  | 2  | 281  | 20 | 387  | 112 | 482  | 127 | 613   | 580 | 356   | 620 | 3775  |
| FIU                                   | 15   | 22 | 50   | 5  | 70   | 15  | 96   | 2   | 169   | 4   | 140   | 2   | 590   |
| DEDs                                  | 1    | 0  | 6    | 3  | 14   | 32  | 22   | 34  | 41    | 43  | 35    | 80  | 311   |
| Commercial Free Zones                 | 1    | 0  | 2    | 3  | 7    | 14  | 6    | 19  | 10    | 9   | 11    | 17  | 99    |
| Central Bank BSD                      | 0    | 2  | 0    | 5  | 0    | 8   | 0    | 34  | 0     | 63  | 0     | 54  | 166   |
| Land Departments & Vehicles licensing | 1    | 0  | 6    | 3  | 14   | 4   | 22   | 2   | 40    | 4   | 32    | 1   | 129   |
| Customs                               | 0    | 0  | 1    | 3  | 1    | 16  | 3    | 23  | 5     | 16  | 7     | 16  | 91    |
| Others                                | 0    | 3  | 0    | 17 | 0    | 8   | 0    | 33  | 0     | 33  | 0     | 76  | 170   |
| Subtotal                              | 213  | 29 | 346  | 59 | 493  | 209 | 631  | 274 | 878   | 752 | 581   | 866 | 5 331 |
| Total                                 | 242  |    | 405  |    | 702  |     | 905  |     | 1 630 |     | 1 447 |     | 5 331 |

*Note: This data does not include statistics from the Abu Dhabi Public Prosecution. The 'others' category include Accountants & Financial Audit Authorities, Criminal Evidence and Investigations Departments, Financial FZ ADGM, Insurance Authority, Lawyers, Mutual Legal Assistance, MOJ, Police and LEAs, Postal and Communication Services*  
*Source: Federal, Dubai and RAK Public Prosecutions / MOI – tables 6.1.1 and 6.1.3 (July 2019 update)*

120. Financial intelligence on cross-border movements of cash, BNI and PMS, held by the FCA, is too rarely used in light of the UAE's risk profile. The FCA cross-border cash, BNI and PMS database is directly accessible to LEAs and FIU, but it is unclear to what extent this information is used to support ongoing investigation or disseminations to the LEAs, and further requests to FCA regarding this database are seldom (17 in 2018, 12 of which from State Security). The FCA also produces regular reports analysing trends in cross-border cash movements, including characteristics of passengers stopped, which is used for selected targeting at airports and land borders. These reports are shared with the FIU but are not used in its analysis. In parallel, potential cases of ML or TF are referred directly to the police or State Security, respectively. Criminal investigations referenced by Dubai and Abu Dhabi police, did note the use of Customs information and immigration data, including for the prosecution of an international ML network (see case study below). However, with the exception of the case below, there are only few examples of the use of cash movement information in the investigations referenced by the UAE. A similar observation can be made regarding precious metals and stone activity, despite the importance of this sector in the UAE.



**Box 3.1. Operation Welfic – Abu Dhabi Police**

A European was apprehended by customs at the international airport in the UAE with EUR 83 000 in undeclared cash and referred to the police. The police investigated the source of the funds, and cooperated with international counterparts to establish that the documentation provided by the suspect was forged. The UAE shared this information with relevant international partners. Coordination with relevant authorities (e.g., FIU, FCA, DEDs and Land registries) allowed the police to identify assets, track receipts, and identify associated companies. Relevant associates of the suspect were added to the 'early passenger checklist'. Investigations are also being undertaken in other jurisdictions based on the UAE's efforts. The suspect was charged with failing to have a declaration, issued a fine of AED 5 000, made to forfeit the cash and was thereafter deported.

121. All police forces and public prosecutions could provide examples of cases using a number of sources of financial and other information, but generally, their use was primarily to investigate predicate offences (particularly fraud) and associated proceeds of crime – see case study below). While these case studies were positive, they did not evidence a consistent and systematic use of financial intelligence across all UAE LEAs when investigating ML, associated predicate offences or tracing assets in line with the UAE's risk profile.

**Box 3.2. Interagency cooperation in obtaining financial intelligence from various sources**

A case of cheque fraud in the amount of AED 821 520 (EUR 199 300) was detected by a bank in the UAE which informed the victim company (a government-related entity). The suspects laundered the proceeds of the fraud by transferring and depositing funds between different bank accounts held by various companies, making investments in their names and the names of their relatives, and purchasing real estate, six cars and gold jewellery.

The Federal Public Prosecution (FPP) accessed a range of financial and other information sources to advance the investigation. The relevant banks provided the cheques and surveillance camera footage; Police work confirmed the forgery and revealed other false cheques; the Central Bank databases were accessed to identify relevant transactions; the FIU helped freezing the suspects' accounts (approx. AED 5 million or EUR 1.2 million); the Financial Audit Authority checked the financial accounts of a company involved in the fraud and provided a report of the total amounts embezzled by the suspects (AED 71.3 million or EUR 17.3 million); the Land Registry identified four apartments in the suspect's name, and eight apartments that had been previously sold by the suspect. The Vehicle Licensing Department helped to track the six vehicles involved.

Outcome: The case is ongoing which charges laid for ML, embezzlement, forgery and fraud. The relevant funds have been seized and bank account frozen as the proceedings continue.

Source: Ajman Case # 1101/2016

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122. While the use financial intelligence is encouraged, though the development of financial profiles (which contain information on a suspect's income, and assets, links with companies, etc.) and technical reports (which summarise the analysis of intelligence gathered during the course of an investigation), the capacity and expertise of agencies to undertake financial investigations is varied, with more expertise and experience concentrated in Dubai and Abu Dhabi Police, and State Security. The level of experience amongst public prosecutors also varies. There are a number of recent initiatives aimed at promoting the use of financial intelligence, across all LEAs. For example:

- The MOI has recently introduced a 'Parallel Financial Investigation Form' for police forces. It is a useful tool in prompting LEAs to routinely consider financial intelligence, but there is no explicit requirement for police forces to conduct financial investigations, regardless of the type of offence.
- In 2019, the Federal PP developed an ML investigations guide that it shared with other LEAs and PPs.
- The MOI has held a number of workshops and training events, primarily with partners from the United States and the United Kingdom, in developing a more systematic approach to financial investigation. It also is running joint training events with the FIU.
- LEAs are promoting academic qualifications in financial crime and undertaking targeted hiring, from the private sector, of subject matter experts such as former MLROs from FIs.

### *STRs received and requested by competent authorities<sup>8</sup>*

123. The FIU receives, to some extent, STRs that contain relevant and accurate information that assist LEAs, PPs and State Security to perform their duties. Banks filed the majority of STRs and are able to identify common indicators for ML, although detection of suspicions of TF is very low. While it is positive that MVTs providers contribute to roughly 20% of all STR reporting, authorities are not receiving information from a number of other high-risk sectors (DPMS, real estate and TCSPs), which limits the availability of financial intelligence in the jurisdiction. Declarations and suspicions related to cross-border cash and precious metals movements are increasingly recorded by the FCA but there is limited evidence of their use in investigations. The assessment team based its conclusions on: statistics of STRs and cash declarations, analysis of disseminations and interviews with the FIU, LEAs and the private sector.

<sup>8</sup> This section focuses on the quality of STRs received and requested by competent authorities. Analysis of the FIU disseminations and requests by LEAs is included in core issue 6.1 and 6.3 to avoid repetition.

124. Prior to introduction of GoAML at the end of June 2019, the FIU received STRs through its online STR system.<sup>9</sup> By the end of the on-site visit in July 2019, over 500 entities had signed up to reporting via GoAML. The FIU has a plan in place for extending its use to all reporting entities (of which there are over 29 000) and has provided training on the program, including to some DNFBPs.

125. The number of STRs received has increased over the past six years (from 2 766 in 2013 to over 9 000 in 2018), particularly due to increased filing by mainland banks and MVTs providers (exchange houses). The FIU's financial intelligence appears to be highly concentrated around a few sources. Most of the STRs originate from banks, with roughly 60% of STRs coming from five banks (three local banks and two foreign banks). Exchange houses also provide a significant proportion of reporting (approximately 20% of all STRs). About half of those STRs are from five exchange houses. In contrast, the limited level of reporting from high and medium-high risk DNFBPs (such as the real estate sector, DPMS and TCSPs) raises concerns about the financial intelligence available to authorities (see Table 5.1). While the UAE's AML/CFT framework has been in operation for several years, and despite the importance of these sectors, the number of STRs is very low, which limits the scope of FIU analysis.

126. The FIU highlighted that most STRs contain useful information although they can sometimes vary in quality. Reporting entities regularly attach useful information (e.g., CDD documentation, account statements etc.). While the FIU has an automatic process for providing feedback on STRs,<sup>10</sup> many FIs interviewed expressed an interest in receiving more feedback on the quality of their STRs. On one occasion, the FIU worked with the Central Bank, which issued a circular on the need to improve STR filing.

127. In terms of information on cross-border movements of cash, BNI and precious metal and stones, the detection of suspicious activity is low considering the likely amount of cross-border value movements. The FCA reports STRs in situations where non-reported or falsely reported data is detected or if there is a suspicion of ML/TF. Seven such reports have been filed in the past six years. Furthermore, while LEAs has direct access to the FCA database on cross-border declarations, apart from its use by State Security (see IO.9), it has not been demonstrated that these reports contain relevant and accurate information that are requested to assist the FIU and LEAs to perform their duties.

<sup>9</sup> A small percentage of entities (mostly DNFBPs) continue to submit STRs manually in a format paper (less than 2% of STRs received).

<sup>10</sup> This involves a number of standard responses: notifying the reporting entity whether the STR has been closed or forwarded to LEAs and providing feedback on the appropriateness of CDD measures.

**Table 3.2. Cross-border cash declarations broken down by Emirate**

|                     | 2014       | 2015       | 2016       | 2017       | 2018       | Total       |
|---------------------|------------|------------|------------|------------|------------|-------------|
| Abu Dhabi           | 227        | 942        | 1 843      | 1 307      | 2 143      | 6 462       |
| Dubai               | 22 786     | 33 576     | 37 467     | 39 366     | 41 118     | 174 313     |
| Sharjah             | 0          | 12         | 23         | 105        | 318        | 458         |
| Ajman               | 0          | 0          | 0          | 0          | 0          | 0           |
| Umm Al Quwain       | 0          | 0          | 0          | 0          | 0          | 0           |
| Fujairah            | 0          | 0          | 7          | 4          | 1          | 12          |
| RAK                 | 7          | 5          | 5          | 5          | 1          | 23          |
| Total               | 23 020     | 34 535     | 39 345     | 40 787     | 43 581     | 181 268     |
| Incoming passengers | 35 295 331 | 34 463 053 | 39 498 702 | 42 130 055 | 43 291 138 | 194 678 279 |
| Outgoing passengers | 33 818 006 | 37 344 786 | 40 055 926 | 41 028 661 | 42 384 157 | 194 631 536 |

Source: FCA, Table 8.3.1

### *Operational needs supported by FIU analysis and dissemination*

128. The FIU has a limited role and capacity, which reduces its ability to meet the operational needs of LEAs. The FIU does provide regular and useful support to ongoing investigations, particularly in response to specific requests for information and, less frequently, detailed analysis on complex cases. Proactive disseminations by the FIU are limited in content and do not substantially add value on high risk issues. While the FIU is disseminating more reports to LEAs, 98% of the disseminations do not result in further investigations. Since 2018, the FIU has identified the need to be more proactive in developing financial intelligence and has started to address its lack of resources (human and IT) and analytical capability, although the results of these measures are at early stages. The assessment team based its conclusions on: statistics of disseminations by the FIU and requests by LEAs, interviews with various FIU officials, LEAs and public prosecutors, a review of disseminations and strategic analysis and a demonstration of available IT resources.

### *Overview of FIU processes*

129. The FIU has draft procedures for undertaking analysis which acts as a manual for its staff. The following flowchart summarises its process for analysing STRs.

**Box 3.3. FIU's STR process flowchart**

**Step 1 – Receipt** of STRs from reporting entities (REs) (transitioning from STR online to GoAML).

**Step 2 – Priority Assessment:** STRs are automatically risk rated based on a risk matrix. High-risk reports are reviewed and any incomplete reports are returned to the RE for further information. The time taken to perform this task varies from case to case.

**Step 3 – Case Prioritisation and Allocation:** The case assessor individually inspects all high-risk reports to prioritise and allocates them to analysts based on urgency.

**Step 4 – Analysis:** The STR Analyst undertakes analysis and updates the tracking systems. The current STR analysis template includes the following fields: Background (customer); summary of transactions during the review period/Modus operandi; summary of transaction history and the period covered; counterparts / connected parties; database checks (searches with no results also to be mentioned); source of suspicions; and actions taken by the reporting entity.

**Step 5 – Action:** The Head of FIU reviews and authorises various possible actions:

- **Account freeze** - the FIU prepares letters to REs for approval by the Central Bank Governor.
- **Disclosure to LEAs:** The FIU prepares a summary report to accompany the dissemination.
- **Feedback to reporting entity and disclosure to supervisors:** If there are any concerns identified in the level of CDD or other preventative measures, the FIU can communicate this to the reporting entity and/or its supervisor.
- **ECDD request:** If more information is required from counterparty financial institutions identified in the STR, the FIU can recommend that these entities undertake enhanced due diligence on those customers/accounts.

130. The available databases include sources of information that are not directly available to LEAs (apart from State Security) including: the whole STR database and the Remittance Reporting System; Central Bank Customers Accounts database (direct access); Payment platforms' data (indirect access); Hawaladar Lists; Credit Information (Master/Visa) and Safe Deposit Lockers Information.

131. The FIU adds value to STRs by seeking additional information from reporting entities (V2 request), manually checking across available databases and identifying counterparties. It can also request that a related entity undertake enhanced due diligence (ECDD request), which can result in additional STRs being filed. However, it was not demonstrated that the FIU enhances the intelligence that it has obtained by

routinely seeking additional information from other reporting entities, or from foreign counterparts (see IO 2).

### *FIU staff and IT resources*

132. The FIU has 27 staff, including 10-11 STRs analysts (STR analysis), 8 staff in the domestic cooperation unit (responding to LEA requests and involved in joint committees), 2 staff in the international unit, 1 staff member in outreach assistance and research and 1 staff member in AML/CFT oversight. All areas of the FIU appear to be understaffed considering the number of requests and reports (including STRs) the FIU receives, but especially the international cooperation unit and the research unit which is responsible for strategic analysis. The lack of resources was exacerbated by an outdated IT system that requires a lot of manual querying by FIU analysts. While this system was replaced with GoAML in June 2019, the results of these enhancements were not yet tangible at the end of the on-site visit.

### *FIU's proactive dissemination of financial intelligence*

133. The FIU provides a significant amount of disseminations to LEAs. Over the years, the number of disseminations sent to police and public prosecutions, both in response to requests and proactively, went from 452 in 2014 to 2 984 in 2018. However, the number of cases rising to advanced investigations as a result of FIU disseminations is particularly low. Even with the increased disseminations to LEAs (a ten-fold increase from 2013 to 2018), the number of cases transferred to prosecution is relatively stable at approximately 25 cases a year. The remaining 98% disseminations are not further investigated due to insufficient evidence or the absence of detected criminal activity. According to the authorities, these cases are archived within the MOI database rather than closed and could therefore be used later on. Since 2016, only 36 cases have been re-opened and it is not clear what the outcome of these investigations are. These statistics reveal either low quality proactive dissemination, poor prioritisation of disseminations or insufficient consideration to these leads by competent authorities.

**Table 3.3. STR disseminations that lead to investigations**

| Year  | No of STRs disseminated by the FIU | Closed (due to no criminal activity detected) | Maintained (due to insufficient evidence) | Under investigation | Transferred to Public Prosecutions |
|-------|------------------------------------|-----------------------------------------------|-------------------------------------------|---------------------|------------------------------------|
| 2013  | 261                                | 169                                           | 58                                        | -                   | 34                                 |
| 2014  | 298                                | 250                                           | 25                                        | -                   | 23                                 |
| 2015  | 474                                | 402                                           | 35                                        | -                   | 37                                 |
| 2016  | 1207                               | 1135                                          | 48                                        | -                   | 24                                 |
| 2017  | 1092                               | 995                                           | 74                                        | -                   | 23                                 |
| 2018  | 2757                               | 869                                           | 38                                        | 1826                | 24                                 |
| Total | 6089                               | 3820                                          | 278                                       | 1826                | 165                                |

*Note: The increase in disseminations from 2016 correlates with the creation of Consolidated Financial Products (CFP). This table counts the number of STRs disseminated – multiple STRs are included in one CFP. Cases are transferred from the police forces to public prosecutions for investigations.*

*Source: MOI*

134. The FIU disseminations bring together information from its relevant databases, but it was not clear what additional analysis the FIU undertakes to build on the STR. The disseminations contains background information on the suspects



(such as ID and contact details of a natural person, or business license information) and some financial intelligence limited to basic data (e.g. account opening forms, current balance and statements) and main features of the financial activity. In some of the examples provided, the section on the features of the financial activity appeared to be a slightly improved synthesis of the STR content, coupled with the crosschecks of suspects' name with the databases accessible to the FIU. Since 2016, the FIU has also developed 'consolidated financial products' which gather intelligence pulled from between two and 100 STRs. While this is a positive attempt to link suspicious activity, there was no evidence to suggest that it has resulted in positive operational results, as the responses of LEAs to FIU disclosures has remained roughly the same.

135. There is no statistical data available regarding the breakdown of FIU disclosures by type of offences. According to the FIU officials and based on the cases provided, the disseminations focus on predicate offences, mainly fraud, forgery and counterfeit goods. In contrast, there was no indication of disseminations related to other high risk sectors or the laundering of the proceeds of foreign predicate crimes. As for the content of disseminations, the FIU does not identify complex ML schemes nor does it identify new leads or targets. The FIU does not consider it a priority task to identify and track criminal proceeds through land department registries, for example. The lack of data mining or visualisation tools inhibits the FIU's ability to contribute to such tasks.

136. The FIU plays a limited role in detecting TF as State Security has a direct access to the STR database and to the FIU's disseminations. There are limited number of STRs flagged as related to TF and only 6 disclosures to State Security and 27 requests from State Security in 2018.

137. The FIU also undertakes other tasks such as identifying deficiencies in CDD or transaction monitoring, sending instructions to block an account or to enhance monitoring measures, or participating in the licensing procedure of exchange houses. While this may be a useful function for the FIU in the context of the broader AML/CFT system, they require resources which are diverted from the core functions of the FIU of analysing financial intelligence and disseminating the results of this analysis.

#### *FIU's responses to LEA requests for assistance*

138. Upon request, the FIU regularly supports ongoing investigations by providing financial information (in the forms set out in the table below). This occurs mostly in response to LEA's specific requests, and, less frequently, via the production of detailed analysis.

**Table 3.4. Types of requests sent to the FIU for financial information**

| LEA                                                                                                                                                                                                                                                                                  | Public Prosecution                                                                                                                                                                                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>General searches of bank accounts connected to a subject suspected of money laundering</li> <li>Information on all wire transfers (internally/internationally) of subjects suspected to be involved in one of the predicate crimes</li> </ul> | <ul style="list-style-type: none"> <li>Bank account details</li> <li>Instruct financial institutions to freeze accounts of identified subjects</li> <li>Detailed analysis report on financial transactions of a subject</li> </ul> |

139. The FIU regularly responds to informal requests it receives from LEAs and less frequently from Public Prosecutions. Most requests are sent via email and result in a

database search (STR, CAD, and RRS) or the provision of financial information (such as account statements or any other banking documents). Between January 2017 and April 2019, the FIU received 233 requests, mostly from Dubai LEAs.

140. In addition, between 2013 and 2018, the FIU received and answered an annual average of 345 official requests from LEAs and PP. Based on FIU statistics, the number of LEA requests is increasing, mostly coming from Dubai and Abu Dhabi police.<sup>11</sup> The Dubai PP have increased their requests to the FIU from two in 2017 to 32 in 2018. The FCA has not made any requests to FIU.

**Table 3.5. Number of cases in which LEAs and Public Prosecutions made requests to the FIU**

| Year  | Number of Search Requests<br>of FIU database | No. of Freeze Instructions | No. of Other Requests | Total No. of Requests |
|-------|----------------------------------------------|----------------------------|-----------------------|-----------------------|
| 2013  | 236                                          | 20                         | 34                    | 290                   |
| 2014  | 250                                          | 10                         | 22                    | 282                   |
| 2015  | 370                                          | 15                         | 19                    | 404                   |
| 2016  | 343                                          | 19                         | 38                    | 400                   |
| 2017  | 220                                          | 64                         | 37                    | 321                   |
| 2018  | 329                                          | 32                         | 14                    | 375                   |
| Total | 1748                                         | 160                        | 164                   | 2072                  |

*Note: The statistics reflect the number of cases rather than the number of requests made. 'Freeze instructions' refer ability of the FIU to make a request to the Central Bank Governor to instruct a financial institution to freeze funds. 'Other requests' include requests to unfreeze or continue a request, requests that are referred to the Central Bank or another LEA, provision of additional information or reminders and further clarifications on STRs.*

*Source: IO.6 updated statistics, Table 6.1.4 (updated 2 July, Point 32 of additional information)*

141. LEAs and PPs recognised that information and analysis from the FIU was supporting their ongoing investigations. The majority of requests aims at obtaining targeted information or action (see table above), LEAs seek FIU assistance to identify the bank accounts of suspects as it has the ability to ask and receive timely answers from all financial institutions. It equally facilitates the freezing of suspicious accounts, and plays an active role in the repatriation of stolen funds. It is sometimes be used as an intermediary to collect intelligence from foreign countries. Apart from the FIU, the Central Bank BSD (supervisor of mainland banks and MVTs) plays a similar role to the FIU, and is regularly requested by LEAs to provide bank statements and KYC documents, particularly in predicate crime cases. There appeared to be some confusion between the role of the FIU and the BSD, both of whom are within the Central Bank, and it was not clear if requests are coordinated or shared to ensure a complete picture of relevant financial intelligence in the jurisdiction.

142. The FIU can also be requested to conduct more detailed financial analysis through bilateral committees and technical reports for PPs. These reports demonstrate the FIU's ability to provide more flexible, in-depth analysis, including complex ownership structures and associations between suspects. It was noted that, due to the nature of these products, not many technical reports could be developed as they can take several months of work. The table below reflects the relatively low number of such examples of complex analysis.

<sup>11</sup> For the concerned period, these two police forces account for over half of the requests made to the FIU.

**Table 3.6. FIU's development of complex analysis**

|                                               | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|-----------------------------------------------|------|------|------|------|------|------|
| Technical reports/Bilateral & Joint Committee | 15   | 15   | 8    | 10   | 9    | 13   |

Source: FIU

### Strategic analysis

143. While a couple of recent examples were provided, the FIU does not perform significant strategic analysis to help identify new trends and patterns. For example, the “X Laundromat” report compiled information related to a case uncovered three years prior. The “Money Laundering Vulnerabilities in the UAE Real Estate Sector and Commercial Free Zones” report, produced by the FIU in mid-July 2019, is the first promising example of detailed analysis identifying specific risks and mitigating measures in two sensitive sectors (real estate and CFZs). The FIU recognises the lack of strategic analysis as an issue, and is working to further develop its capabilities. More resources (staff and IT) would enable the FIU to provide more of this type of analysis in order to help to focus and drive forward operational outcomes.

### Recent developments

144. At the end of June 2019, the FIU introduced the new GoAML system, which includes modules with advanced analytical features and automated checks intended to improve the quality and quantity of the financial analysis disseminated to its partners:

145. The FIU is in the process of linking directly to a number of databases including the MOI's Unified Criminal System; property databases in each of the Emirates; and corporate registries to bring together basic information on legal persons in the UAE.

146. Building on the Customers' Account Database (CAD), the FIU can form an Internal Transaction Report (ITR) that contains transaction details – for the previous year only – of a specific target. This includes funds transfer, SWIFT information, cheque images, the wage payment system, point-of-sale and ATM information.

147. During the onsite visit, the FIU was implementing a new system called the Integrated Enquiries Management System (IEMS) to streamline requests for bank account information made to FIs in response to LEAs or Egmont requests. Via this system, the FIU can make requests to all reporting financial institutions simultaneously with the goal of processing requests and providing results to LEAs more efficiently. This should be particularly useful in order to identify bank accounts on behalf of LEAs.

148. While these are very positive developments, they largely did not have an impact on available financial intelligence for the period of this assessment.

### Cooperation and exchange of information/financial intelligence

149. Once a case is identified, interagency cooperation works well to bring together relevant financial intelligence, either bilaterally or via ad-hoc inter-agency committees. There are further opportunities to bring together, and proactively exploit, financial intelligence in line with the UAE's ML/TF risks. The assessment team

based these conclusions on various sources including discussions with LEAs, PPs, State Security, FCA and the FIU, review of recently formed committees and their outcomes and analysis of case studies.

### *Bilateral cooperation*

150. Generally, cooperation happens when dealing with a specific case or topic, which require different agencies to share their intelligence and expertise. This can be facilitated by MOUs, as in the case of the FIU which has signed MOUs with MOI (which covers State Security) and the LEAs of Abu Dhabi, Dubai, and Sharjah.

151. The FIU is in most cases asked to provide targeted information, take specific action or act as an expert witness in court. The FIU also holds meetings with supervisory authorities on an informal basis, and provide them feedback on reporting entities. More recently, it has committed itself in awareness actions aimed at LEAs, through the organisation of workshops on suspicious transactions for example. The FCA can also be requested to provide information to other agencies but there appears to be relatively little active engagement considering TBML is a significant risk in the UAE.

152. Joint committees are a way for two agencies to bring together resources (expertise, information sources, and powers) to develop an investigation, as shown in many cases referenced by the UAE. For the Federal PP, a joint committee is set-up depending on the level of complexity of the case, the risk of the perpetrators involved, breadth of the crime across the UAE, and/or the extent of its economic impact. The Dubai Public Prosecution orders the formation of a joint committee between the FIU and the ML Investigations Department at the Dubai Police for all ML cases in order to develop a technical report to determine whether ML has been committed. The FIU's domestic cooperation unit has staff committed to participating in these committees and is aiming to set-up secondments with LEAs.

153. A great deal of cooperation exists between police and public prosecutors in each jurisdiction (i.e. Federal, Dubai, AD and RAK). There is a good ongoing cooperation between the PPs and LEAs to speed up the procedures for obtaining production orders. The PPs, in cooperation with the MOI, created an electronic application (Al Mersal) through which LEAs can request and receive a production order (for information request or issue a search or arrest warrant) within a 15 minute period.

### *Multi-agency cooperation*

154. LEAs in the UAE also cooperate and exchange information across jurisdictions by way of Joint Committees (for specific investigations, see case study below) and other coordination committees. For example, the MOI ML Committee, FPP Committee and the UAE ML investigations Sub-committee, with the following authorities: FIU, MOI and police forces, Public Prosecutions, FCA, Executive Office, State Security and National Security Committee.

155. Systematic cross-emirates co-ordination is fairly new. The ML Investigations Sub-committee is intended to generate this cooperation, establish a model for information sharing, review relevant laws and undertake a collaborative intelligence-led approach to identify ML/TF. These committees are newly established and a positive step in bringing the resources across various jurisdictions together to identify and tackle key ML risks. However, it is too soon to judge their effectiveness.

Agencies like the FIU and the MOI also play a role in centralising and analysing information across the Emirates, however their roles as central points for coordination and generation of financial intelligence are also at fairly early stages.

#### Box 3.4. Fake Portfolios Joint Investigation (Operation Kirby)

In 2017, under the coordination of the MOI, the Funds Prosecution, LEAs and Abu Dhabi Police worked on a money-laundering case titled “Fake Portfolios” worth AED 1 billion (EUR 242.6 million). The case revolved around individuals managing a fake investment portfolio without authorisation from the relevant competent authority. The defendants offered victims unrealistic returns on their investments in the buying and selling of high-value cars. Several specialised teams were formed from members of police, PPs and the FIU to gather information. After that, investigation and seizures teams were set up and an action plan with key milestones developed, while coordinating with the PP to get the necessary approvals for the seizure actions.

Several individuals were convicted of ML and received prison sentences of 7 years. They were also charged with fraud and unlicensed activity, receiving 3 years and 6 months respectively. Individually they were all fined AED 500 000 (EUR 121 300) and the court ordered the confiscation of funds, vehicles, land and instrumentalities used to perpetrate the fraud, worth AED 62 million (EUR 15 million).

Source: UAE Case Nos. 10891/2018, 10894/2018, 10897/2018 and 10899/2018.

#### *Terrorist financing*

156. Cooperation in relation to terrorist financing is led by State Security and State Security Prosecution. Because of the robust framework and direct access to financial information available (see IO.9), these State Security and State Security Prosecution only seek additional information from other agencies on a case-by-case basis, to supplement their own findings. State Security, State Security Prosecution and the FCA appear to work effectively in sharing financing intelligence.

#### *Secure exchange of information*

157. The FIU and LEAs protect the information they exchange and use. Authorities did not report any breaches of security in information exchange. The FIU office is located in the Central Bank with restricted access and STR information with the FIU is in a further restricted area which FIU staff can access with an entry card and digital fingerprint access. Access to the FIU database requires dual authentication via two passwords. Dissemination of financial information was via a secure portal (and now via GoAML).

#### *Overall conclusions on IO.6*

158. **The UAE is rated as having a moderate level of effectiveness for IO.6.**

## Immediate Outcome 7 (ML investigation and prosecution)

### ML identification and investigation

159. Although there are various opportunities to detect ML, including FIU disseminations, open and covert source reporting, and incoming requests for international cooperation, LEAs were not routinely and consistently identifying and targeting significant ML cases in line with the UAE's risk profile. However, alongside a policy shift in 2018 to prioritise ML, targeted recruitment and increased capability building, there has been a recent increase in the number of ML investigations adopted, supported by new coordination mechanisms to ensure this focus is sustained. The assessment team based its conclusions on: case studies provided by the UAE; statistics on ML leads and resulting investigations; training agendas; demonstrations of how financial profiles are developed and other IT tools; policy documents setting out prioritisation and coordination of ML initiatives; and, discussions with LEAs and prosecution agencies from across the UAE jurisdictions,

160. LEAs and PPs identify ML cases from various sources: (1) FIU disseminations; (2) confidential sources and tip offs; (3) FCA data; and (4) investigations into predicate offences. The table below sets out the number of "leads" obtained from these various sources. The most significant source is FIU disseminations, which can include an aggregation of STRs on the same person, business, risk profile etc. However, as set out in IO.6, a large percentage of those disseminations are archived due to a lack of criminal activity detected. In addition, leads from other sources are relatively low. Over a 6 year period, only 7 leads came from cross-border cash reports, despite a) the identification of cross-border cash-based ML as a significant ML risk, and b) the Federal Custom Authority's performance in applying cash declaration penalties (see IO.8).

161. Similarly, the data showed that PPs were more likely to reclassify a ML investigation to one involving a predicate offence, than a predicate offence to focus on or include ML. This may be indicative of a previously inconsistent approach to parallel financial investigations or that prosecutors did not have the confidence to focus on ML only. In reality, many leads appear to focus on fraud and come directly from a victim or via an international partner approaching the Police, meaning the previous response to ML was more reactive than proactive.

**Table 3.7. ML activity leads by source**

| Source                                    | 2013 | 2014 | 2015 | 2016  | 2017  | 2018  | Total<br>(by source) |
|-------------------------------------------|------|------|------|-------|-------|-------|----------------------|
| FIU dissemination                         | 261  | 298  | 474  | 1 207 | 1 092 | 2 757 | 6 089                |
| FCA report of cross-border cash smuggling | 1    | 2    | 1    | 0     | 0     | 3     | 7                    |
| Third-party notifications                 | 16   | 16   | 18   | 21    | 21    | 26    | 118                  |
| Intelligence sources                      | 0    | 2    | 0    | 0     | 4     | 2     | 8                    |
| Predicate crime investigations            | 6    | 6    | 6    | 8     | 15    | 8     | 49                   |
| Total (by year)                           | 284  | 324  | 499  | 1 236 | 1 132 | 2 796 |                      |

*Note: 'Leads' do not always result in an investigation. Leads from third party sources are from individuals not involved in the crime (i.e. not the victims).*

*Source: IO.7 Statistics Update, Table 7.1.2 (17 July 2019).*

162. While the number of ML activity leads has increased substantially since 2013, the actual number of ML investigations is relatively low given the UAE's exposure to



a range of ML risks, with an inconsistent distribution across the Emirates. However, all stakeholders interviewed were keen to stress the impact of the 2018 policy shift in generating a new momentum and motivation to pursue ML, and there has been an increase in the number of live ML investigations undertaken by police from 44 in 2018 to 75 in 2019.

163. To bring rigour to the approach, the National Committee established the ML Investigations Sub-Committee, which is attended by all key stakeholders. The Sub-Committee members have overseen a number of key enabling actions such as:

- The MOI hosting workshops to ensure the Police and PPs approach ML investigations in a consistent and methodical manner, including focusing on the importance of parallel financial investigations.
- The Federal PP reviewing previously archived investigations, for a lack of evidence of criminality, and reopening 29 criminal investigations involving some form of ML activity.
- Revisions to templates holding financial intelligence (see IO.6) and the further integration of IT systems, such as the Unified Criminal Database, across all key stakeholders to better identify and prioritise ML.

164. In addition, during the on-site, Dubai and Abu Dhabi Police and the MOI presented live cases, generated from proactive identification of ML and working with international partners, which involved complex methodologies, including professional ML networks linked to UAE-based MSBs and the exploitation of legal persons.

165. However, such a cross-institutional change in focus is, understandably, taking time to drive a truly system-wide approach, as advocated in the National AML Strategy, and there remains a focus on proving and prosecuting the predicate offence. Although the Sub-Committee has introduced a list of 15 priority areas<sup>12</sup> to assist with ML case adoption, there was a lack of clarity as to how these influence the national or Emirate-level tasking and coordination processes, and ensuring that resources are targeted at the UAE's highest risk areas, including professional third-party ML, laundering of foreign proceeds or those involving high-risk sectors or businesses.

### *Resources and training*

166. As of 2018, all Emirates have a section dedicated to ML investigations. The numbers of police investigators dedicated to ML has more than doubled in 2018, highlighting the increased resources invested in supporting ML investigations and prosecutions across the Emirates. Furthermore, PP teams that prosecute other crime types can also investigate ML, although they have less expertise and experience. During the 18 months prior to the onsite, 242 prosecutors, from across all PPs, attended 25 training courses on ML investigations, and the Sub-Committee believes this awareness raising is helping drive the recent increase in live ML investigations. In fact, the Federal PP draw a direct correlation between their staff completing a

<sup>12</sup> Factors include: suspicion the predicate offence is a high-risk crime, value of suspicious funds, number of STRs received, and case is tied to information received from abroad among others.

course called ‘Parallel Financial Investigations Workshop’ and a significant jump in open ML investigations in 2019 and 2018 compared to previous years.<sup>13</sup>

167. Within the police, the MOI’s ML crimes section was restructured in 2018 and is now responsible for better coordination amongst the Emirate-level ML teams, preparing plans and policies and following up on ML cases. This will likely offset the previous need for Dubai Police’s AML Unit to provide technical reports to support investigations by other forces. To complement the strategic work of the ML Investigations Sub-Committee, the MOI has established a more tactically focused ML Committee with experts from 15 speciality areas,<sup>14</sup> to assist Emirate-level police with ML investigations. Dubai Police’s AML Unit is the most mature across all forces and is routinely called upon to provide technical reports or support the progression of cases investigation by other forces.

**Table 3.8. Dedicated police resources for ML investigations**

|                                                | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|------------------------------------------------|------|------|------|------|------|------|
| Number of staff dedicated to ML investigations | 22   | 15   | 15   | 21   | 22   | 54   |

*Note: These are MOI statistics that cover officers in the four individual police forces (Federal, Dubai, Abu Dhabi and RAK)*

*Source: IO.7 Statistics Update, Table 7.1.5 and comments on 2<sup>nd</sup> draft.*

168. As with the PPs, Police and the MOI are aiming to increase their capacity and capability to investigate ML. For example:

- **Recruitment:** both Dubai’s and Abu Dhabi’s specialist Money Laundering Units described their plans for further expansion, including recruiting AML specialists from financial institutions, while providing existing officers with opportunities for academic qualifications in complex financial crime.
- **Resources:** Dubai Police is developing their technical capacity to detect ML using virtual assets by developing a platform to track and trace crypto-enabled transactions, which they have identified as an emerging risk. The MOI mentioned its work across four key areas: increased use of FIU disseminations, international cooperation, enhancing capability to undertake more undercover work and closer cooperation with the Federal Customs Authority.
- **Training:** The MOI is overseeing a coordinated programme of AML training and development, including input from international partners such as the UK and US. This has covered high-risk ML typologies such as hawala banking, abuse of legal persons and potential abuses in free zones. In addition to police capability, the MOI is also cooperating with the FCA to assess their ML training needs, focusing on cross-border cash and PMS movements.

169. All stakeholders were keen to stress that all these measures would continue driving their focus on prioritising ML over predicate crime investigations, which is borne out by the number of new cases adopted in 2019. However, given the volume and value of cash and PMS cross-border movements and the extent to which the FCA

<sup>13</sup> The number of ML cases initiated by the Federal PPs went from 3 in 2017 to 28 in 2018 to 36 in 2019.

<sup>14</sup> The specialities include: Federal Investigations, Criminal Investigations, Economic Crime, Organised Crime, ML, International Cooperation, Security Information, IT Crimes, Field Information, Forgery and Fraud, Drug Trafficking, Violent Crimes, Human Trafficking, Theft and finally, Minor Crimes.

applies cash declaration penalties (see IO.8), there remains an inconsistent approach to how they refer suspicions of ML to the MOI or police forces.

### *Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies*

170. To some extent, the UAE has prosecuted ML in line with its predicate offence risks, especially when related to forgery and fraud, including as a foreign predicate. However, until recently, there was an absence of investigations and prosecutions of ML related to other high-risk predicate crimes (such as drug trafficking) and professional ML, and those involving high-risk sectors (such as MVTs). The low number of prosecutions in Dubai raises concerns considering its ML risk profile. The prosecutors recognised that there is room for improvement and these issues are being progressed by the ML Investigations Sub-Committee and Police in line with strategic priority 4.1 of the National AML/CFT Strategy.

171. The assessment team based its conclusions on: the NRA and their understanding of the UAE's ML risks, case studies provided by the UAE, statistics on ML investigations, prosecutions and convictions; discussions with LEAs and prosecution agencies from across the UAE jurisdictions; and relevant policy documents including the AML/CFT Strategy and MOJ Action Plan.

### *Number of ML investigations and prosecutions*

172. Notwithstanding the increasing number of ML leads, as per the table below, a relatively limited amount progressed to investigations sent to the PPs, compared with the acknowledged ML risk and context. Between 2013 and 2018, the police referred 231 ML investigations, while the PPs initiated 51 ML investigations following a review of the predicate offence. In the same period, of these 282 potential ML investigations, 58 were reclassified to focus on the predicate offence as the prosecutor deemed an absence of ML to continue. The year with the largest amount of cases reclassified (42) was 2017, which was also the year of the largest number of potential ML investigations referred by police (75). It is likely that year's performance, in addition to the start of the UAE's risk analysis and assessment process, influenced the 2018 policy shift to focus more specifically on ML, including increasing the number of training programmes focusing on financial investigation and ML. In 2018, the PPs initiated 33 ML investigations (which is more than the previous 5 years combined) to complement the 44 referred by the police. Only 11 were eventually reclassified, resulting in 66 ML investigations progressing beyond the police and PP triage process.

173. However, there are also a number of ML investigations that are "maintained due to insufficient evidence", which sees the prosecution halt but the police are expected to keep these investigations going in the event of new evidence arising. There does not appear to be an issue with a particular predicate offence or type of ML activity, but cases maintained due to insufficient evidence account for 55% of the 224 ML investigations taken forward by PPs. Work is underway, under the auspices of the ML Investigations Sub-Committee, in addition to case reviews conducted by the Attorney General of the Public Prosecutions, to assess the common issues impacting these investigations, and whether any new, or a review of existing intelligence would justify their reopening. This has resulted in 29 previously on-hold cases being reinvestigated by the Federal PP, of which 3 have been referred to court, while the rest are still under investigation.

174. Table 3.10 breaks down the statistics at an Emirate-level, highlighting the inconsistent approach to ML investigations carried forward by the relevant PPs. For example, between 2013 and 2018, the Federal PP conducted 98 ML investigations, more than three times as many as in Dubai (29). For additional comparison, the Abu Dhabi PP conducted 74 investigations and the RAK PP conducted 23 investigations. This difference is not immediately explained by Dubai PP handling especially more intricate or complicated ML investigations, as the summaries of cases provided and presented did not suggest a fundamental difference in complexity.

**Table 3.9. ML investigations and prosecutions across UAE**

| Year         | Stage 0 - Identification |           | Stage 1        | Stage 2                                 | Stage 3 – Investigation Outcomes |                      |                       |            | Stage 4 – Prosecution outcomes |           |                      |                         |                                  |
|--------------|--------------------------|-----------|----------------|-----------------------------------------|----------------------------------|----------------------|-----------------------|------------|--------------------------------|-----------|----------------------|-------------------------|----------------------------------|
|              |                          |           | Classification | Investigation                           |                                  |                      |                       |            |                                |           |                      |                         |                                  |
|              | By LEAs                  | By PPs    | Re-classified  | No. of ML activities investigated by PP | Ongoing                          | Referred to other PP | Insufficient Evidence | Prosecuted | Still In Trial                 | Acquitted | Convicted ML Charges | Convicted Other Charges | No. of offenders convicted of ML |
| 2013         | 30                       | 1         | 1              | 30                                      | 0                                | 1                    | 26                    | 3          | 0                              | 0         | 3                    | 0                       | 4                                |
| 2014         | 13                       | 4         | 0              | 17                                      | 0                                | 0                    | 9                     | 8          | 0                              | 0         | 6                    | 2                       | 57                               |
| 2015         | 34                       | 5         | 4              | 35                                      | 3                                | 2                    | 25                    | 5          | 0                              | 1         | 2                    | 2                       | 8                                |
| 2016         | 35                       | 5         | 0              | 40                                      | 2                                | 2                    | 24                    | 12         | 1                              | 1         | 6                    | 4                       | 37                               |
| 2017         | 75                       | 3         | 42             | 36                                      | 4                                | 9                    | 20                    | 3          | 0                              | 0         | 3                    | 0                       | 22                               |
| 2018         | 44                       | 33        | 11             | 66                                      | 22                               | 5                    | 20                    | 19         | 2                              | 3         | 13                   | 1                       | 28                               |
| <b>Total</b> | <b>231</b>               | <b>51</b> | <b>58</b>      | <b>224</b>                              | <b>31</b>                        | <b>19</b>            | <b>124</b>            | <b>50</b>  | <b>3</b>                       | <b>5</b>  | <b>33</b>            | <b>9</b>                | <b>156</b>                       |
|              |                          |           |                |                                         | 14%                              | 8%                   | 55%                   | 22%        | 6%                             | 10%       | 66%                  | 18%                     |                                  |

Source: IO7 – MER2 – Attachment 1 (updated December 2019)

**Table 3.10. ML investigations and prosecution by Emirate (2013 -2018)**

|                                                 | Dubai PP              | Abu Dhabi PP          | RAK PP              | Federal PP             | Total |
|-------------------------------------------------|-----------------------|-----------------------|---------------------|------------------------|-------|
| Cases referred to PP by LEAs                    | 45                    | 80                    | 20                  | 86                     | 231   |
| Cases initiated by PP                           | 10                    | 1                     | 4                   | 36                     | 51    |
| Cases re-classified from ML to another crime    | 26                    | 7                     | 1                   | 24                     | 58    |
| No. of ML investigations carried forward by PPs | 29                    | 74                    | 23                  | 98                     | 224   |
| Cases still under investigation                 | 6 (21%)               | 4 (5%)                | 10 (43%)            | 11 (11%)               | 31    |
| Cases referred to other PPs                     | 1 (3%)                | 7 (10%)               | 0                   | 11 (11%)               | 19    |
| Cases discontinued due to insufficient evidence | 5 (17%)               | 58 (78%)              | 12 (52%)            | 49 (50%)               | 124   |
| Cases prosecuted for ML                         | 17 (59%)              | 5 (7%)                | 1 (5%)              | 27 (28%)               | 50    |
| No. of convictions for ML                       | 15 (88% success rate) | 5 (100% success rate) | 0 (0% success rate) | 13* (48% success rate) | 33    |
| Number of offenders convicted                   | 44                    | 5                     | 0                   | 107                    |       |

Note: \*Nine additional cases were prosecuted by the FPP for ML but were ultimately convicted for non-disclosure only. Statistics for Abu Dhabi were only provided from 2015 to 2018.

Source: IO7 – MER2 – Attachment 1 (updated December 2019)

### Consistency of ML cases with predicate-crime risk

175. Under the NRA, the four highest proceeds generating crimes are fraud, drug trafficking, counterfeiting and professional ML. According to statistics provided on

the predicate offenses relating to the 33 ML convictions (see table below), more than half relate to fraud, reflecting the UAE's recognised risk profile. However, there were only three convictions related to drug trafficking and one related to counterfeiting currency, despite authorities presenting significant figures in relation to the value of the controlled delivery of drugs and these crimes being listed as high-risk predicate offences in the NRA. The UAE authorities secured six convictions for ML only, albeit the last four of those was in 2016. It was unclear how many related to professional ML, but the UAE pointed out that nearly all these convictions involved someone providing an accountancy service, while one ongoing case is in relation to legal consulting.

**Table 3.11. Predicate offences associated with ML convictions**

| Predicate Offences                       | 2013     | 2014      | 2015     | 2016     | 2017     | 2018      | Total     | %   |
|------------------------------------------|----------|-----------|----------|----------|----------|-----------|-----------|-----|
| Fraud & Forgery                          | 2        | 6         | 2        | 2        | 1        | 1         | 14        | 30% |
| Fraud                                    | 2        |           |          |          | 4        | 4         | 10        | 21% |
| ML only                                  |          | 2         |          | 4        |          |           | 6         | 13% |
| Fraud & Unlicensed Activity              |          |           |          |          |          |           | 4         | 9%  |
| Drug Trafficking                         |          |           | 1        |          |          | 2         | 3         | 7%  |
| Bribery                                  |          | 2         |          |          |          |           | 2         | 6%  |
| Forgery                                  |          | 1         |          |          |          | 1         | 2         | 4%  |
| Forgery, Embezzlement of public official |          |           |          | 2        |          |           | 2         | 4%  |
| Unlicensed Activity                      |          |           |          | 1        |          |           | 1         | 2%  |
| Counterfeiting Currency                  |          |           |          |          |          | 1         | 1         | 2%  |
| Prostitution                             |          |           |          |          |          | 1         | 1         | 2%  |
| Theft                                    |          |           |          |          |          | 1         | 1         | 2%  |
| <b>Total</b>                             | <b>4</b> | <b>11</b> | <b>3</b> | <b>9</b> | <b>5</b> | <b>15</b> | <b>47</b> |     |

*Note: There are a total of 41 predicate offences identified in 33 ML convictions (if the 6 ML only cases are removed) as some convictions involve more than one predicate offence.*

*Source: IO.7 Statistics Update (July 17, 2019), Table 7.2.4*

### *Consistency of ML cases with international risk exposure*

176. Foreign predicate offending was identified as a high-risk by all LEA stakeholders and of the 224 ML investigations progressed, 102 investigations (45%) involved some form of foreign predicate offending; and 20% of the 50 ML prosecutions involve foreign predicate offences (all related to fraud and forgery). No data was presented on successful investigations or prosecutions involving the laundering of the proceeds of crime from foreign direct or indirect tax offences, and whether any interpretation of the UAE's new tax law is inhibiting successful investigation, especially direct tax offences. Unlike the investigation and prosecution statistics that show an upturn in 2018, the table below shows no discernible pattern about increases of investigations or prosecutions of foreign predicate offending, despite an increase of incoming formal and informal requests over the same period (see IO.2).

**Table 3.12. Investigation and Prosecution of ML cases involving foreign predicate offences**

|       | Dubai |       | Abu Dhabi |       | RAK  |       | Federal |       | Total |       |
|-------|-------|-------|-----------|-------|------|-------|---------|-------|-------|-------|
|       | Inv.  | Pros. | Inv.      | Pros. | Inv. | Pros. | Inv.    | Pros. | Inv.  | Pros. |
| 2013  | 1     | -     | -         | -     | -    | -     | 23      | -     | 24    | -     |
| 2014  | 5     | -     | -         | -     | 1    | -     | 5       | -     | 11    | -     |
| 2015  | 1     | 1     | 8         | 0     | 4    | 0     | 8       | 0     | 21    | 1     |
| 2016  | 3     | 1     | 12        | 0     | 2    | 0     | 1       | 3     | 18    | 4     |
| 2017  | 2     | 2     | 7         | 0     | 5    | 0     | 1       | 0     | 15    | 2     |
| 2018  | 2     | 2     | 4         | 0     | 4    | 0     | -       | 1     | 10    | 3     |
| Total | 14    | 6     | 31        | 0     | 16   | 0     | 38      | 4     | 99    | 10    |

*Note: Inv. = Investigation; Pros. = Prosecution. Some of the pre-2015 prosecution statistics were not available.*

*Source: IO.7 Statistics Update, Table 7.3.1 and UAE's responses to requests for additional information, Point 80-83 plus responses to 1<sup>st</sup> Draft MER and 2<sup>nd</sup> draft MER. Further updated by UAE on 6 January 2020.*

### **Types of ML cases pursued (prosecution and conviction)**

177. Notwithstanding the relatively low total number of ML investigations and convictions given the UAE's risk and context, case studies do highlight the UAE's ability to prosecute and convict different types of ML cases including foreign predicate offences, third-party ML<sup>15</sup> and standalone ML,<sup>16</sup> albeit an inconsistent approach to adopting investigations with these characteristics, mean it has done so to a limited extent. Authorities have a strong legal basis and tools to pursue a variety of cases. Since 2005, laws have clearly indicated that a conviction for the predicate offence is not required for a ML prosecution. While an articulation of what the UAE's specialist ML resources want to focus on will give intelligence providers, such as the FIU, more clarity on the types of disseminations that will lead to operational outcomes, it was unclear to what extent the Sub-Committee's new prioritisation criteria was being routinely used as part of a national or Emirate-level tasking and coordination process. The assessment team based its conclusions on: case studies provided by the UAE, statistics on ML investigations, prosecutions and convictions, ML Investigations Sub-Committee priorities, and discussions with LEAs and prosecution agencies from across the UAE jurisdictions.

178. Between 2013 and 2018, across all Emirates, there were 99 investigations featuring foreign predicate offences but only 10 cases were prosecuted (see the table above). In all cases, the foreign predicate offence was fraud and forgery, and a case example is provided below. None of the cases involved TBML, even though it was referenced as a key ML risk by LEA stakeholders. The most common reasons why cases did not progress were a lack of crime or a lack of evidence, and issues around international cooperation are explored further in IO.2. The box below describes a successful prosecution by Dubai PP involving a foreign predicate offence, and cooperation with an international partner, in tackling fraud involving the abuse of a legal person. However, while the confiscation was successfully paid, the fines have not been paid and the defendant remains wanted in the UAE as extradition proceedings

<sup>15</sup> Laundering of proceeds by a person who was not involved in the commission of the predicate offence (as defined in the FATF Methodology, footnote 84).

<sup>16</sup> Prosecution of ML offences without prosecution of the predicate offence – the proceeds may have been laundered by the defendant (self-laundering) or a third party (third party money laundering)(as defined in the FATF Methodology, footnote 84).



have not commenced as the UAE has not been informed of the defendant's arrest in any foreign country.

**Box 3.5. Dubai – Prosecution of a natural and legal person for ML involving proceeds of a foreign fraud offence**

In 2016, a Romanian national (Mr. A) entered the UAE for a couple of days to establish a company (LX LTD) and open a bank account. In February 2017, LX LTD received a transfer of over USD 3 million from a company in the United States (EE LLC). When queried by the bank, Mr. A (the owner of LX LTD), explained that this payment was the first instalment of a loan for over USD 6 million. Immediately after the receipt of the funds, Mr. A made several transfers to bank accounts outside the UAE via online banking facilities. A week later, EE LLC's bank requested the return of the transfer which was the result of a fraud. LX LTD's bank disabled the online banking services and filed an STR with the UAE FIU.

In March 2017, the FBI contacted the Dubai Police with information about the fraud. The Dubai Police approached the FIU which discovered the STR that was filed by LX LTD's bank. In 2018, the Dubai PP achieved a conviction in absentia against Mr. A and LX LTD for ML. Mr. A received a 10-year prison sentence, a fine of AED 500 000 (EUR 121 300) and was ordered to forfeit USD 3 329 200; LX LTD was fined AED one million (EUR 242 600)). An international arrest warrant has been issued. The fines have not been recovered but the relevant funds in the bank account were forfeited.

*Source: UAE Case No. 50496/2018 DUBAI*

*Third-party and stand-alone ML*

179. The UAE identified professional third-party ML as a key risk, and Dubai police spoke of a live investigation in cooperation with the US and UK, targeting a substantial professional ML network. Dubai PP had prosecuted the most amount of cases involving third-party ML of all the other Emirates (13 cases, all before 2015 – see table below). The Federal PP was the only other prosecution to completed cases involving third-party ML. The UAE noted that some of these prosecutions related to a single co-conspirator laundering on behalf of another, rather than a professional ML network. However, the MOI pointed to the current case pipeline of live investigations, which includes 84 involving some form of third-party ML, including complex cases in Dubai and Abu Dhabi involving the abuse of higher risk sectors and legal persons. As already noted above, UAE authorities secured convictions for stand-alone ML in six cases (see Table 3.11).

**Table 3.13. Cases prosecuted involving third party ML**

| Year       | Dubai PP | Abu Dhabi PP | RAK PP | Federal PP | Total |
|------------|----------|--------------|--------|------------|-------|
| 2013       | 2        | -            | -      | 1          | 3     |
| 2014       | 7        | -            | -      | 1          | 8     |
| 2015       | 4        | 0            | 0      | 1          | 5     |
| 2016       | 0        | 0            | 0      | 3          | 3     |
| 2017       | 0        | 0            | 0      | 0          | 0     |
| 2018       | 0        | 0            | 0      | 0          | 0     |
| Total      | 13       | 0            | 0      | 6          | 19    |
| Live cases | 2        | 0            | 0      | 10         | 12    |

Source: IO.7 Statistics Update, Table 7.3.2 (updated by UAE on 6 January 2020).

### *Effectiveness, proportionality and dissuasiveness of sanctions*

180. While the UAE does impose a broad range of sanctions against both legal and natural persons, it has not been fully demonstrated these are always effective, proportionate and dissuasive. The assessment team reached its conclusions based on: case studies; statistics on convictions and penalties; and discussions with PPs.

181. While the AML Law allows for substantial judicial sanctions against natural persons (up to ten years), the majority of ML convictions are relatively low. For example, apart from in 2014, where 6 ML convictions resulted in 49 prison sentences with an average sentence of 7.9 years, the average prison sentences are below two years. All of the third party ML convictions secured by the Federal PP (referenced in the table above) resulted in sentences of less than six months at most (followed by deportation). As a comparison, the average length of prison sentences for other types of financial crime include: 2 years for fraud and forgery, 2.8 years for theft, 1 year for bribery and 3.6 years for IT fraud.

182. While the law allows for substantial judicial sanctions against natural persons, the majority of ML convictions are relatively low. For example, despite an outlier in 2014, where 6 ML convictions resulted in 49 prison sentences with an average sentence of 7.9 years, in all other years the average prison sentences does not get above two years. As a comparison, average length of custodial sentence for selected types of other financial crime include, 2 years for fraud and forgery, 2.79 years for theft, 1.01 years for bribery and 3.59 years for IT fraud.

183. The PPs noted that defendants routinely sought to challenge nearly all parts of the investigation, conviction and sentencing process, which can add lengthy delays to the prosecution timetable. It was unclear from conversations with PPs or the MOJ what factors a judge might consider when applying a sanction following a conviction for ML and whether they have guidance in law or procedures.

Table 3.14. Sanctions in ML Convictions

| Year  | No. of Cases | Total Crime Proceeds (AED) * | No. of Prison Sentences | Average Prison Sent. (Years) | No. of Fine Sentences | Total Value of Fines (AED) | Average Fines (AED) | No. of Confiscation Orders | Value of Confiscations (AED) |
|-------|--------------|------------------------------|-------------------------|------------------------------|-----------------------|----------------------------|---------------------|----------------------------|------------------------------|
| 2013  | 3            | 0                            | 6                       | 1.3                          | 0                     | 0                          | 0                   | 1                          | 467,000                      |
| 2014  | 6            | 11,760,000                   | 49                      | 7.9                          | 5                     | 5,385,000                  | 1,077,000           | 5                          | 12,380,000                   |
| 2015  | 2            | 0                            | 1                       | 1.0                          | 1                     | 0                          | 0                   | 1                          | 55,000                       |
| 2016  | 6            | 31,793,000                   | 16                      | 1.48                         | 10                    | 27,703,000                 | 2,770,300           | 3                          | 8,273,000                    |
| 2017  | 3            | 2,084,500                    | 16                      | 1.56                         | 8                     | 1,000,000                  | 125,000             | 3                          | 2,084,500                    |
| 2018  | 13           | 0                            | 22                      | 1.2                          | 18                    | 3,786,681                  | 248,333             | 11                         | 163,461,167                  |
| Total | 33           | 45,637,500                   | 110                     | 4.3                          | 42                    | 38,558,000                 | 4,220,633           | 24                         | 188,359,513                  |

Note: Not all proceeds of crime are provided for in this table.

Source: UAE, IO.7- MER2 – Attachment 3 (updated 19 December 2019)

184. During the on-site, and in line with 2018 policy shift, case studies were presented to show that some strong sanctions have been applied. Abu Dhabi recently concluded a prosecution, where the court issued a seven-year sentence for an ML offence, and lesser custodial sentences for fraud offences and operating without a licence (see Fake Portfolios Joint Investigation in IO.6). Box 3.5 is an example of where penalties were applied to both a natural person (in absentia) and a legal person.

185. In all cases involving the prosecution of a foreign national, the individual is also deported after his/her sentence is served, which the UAE considers an additional dissuasive outcome. While the cases reflect the ability of PPs to seek and achieve effective, proportionate and dissuasive sanctions, the limited number of cases suggests that, currently, sanctions are not fully effectively applied.

### Use of alternative measures

186. The UAE referenced several alternative criminal justice measures they apply, including prosecution of the predicate offence and an alternative Penal Code offence under Article 407, but it was not demonstrated that these alternative measures have been pursued in circumstances where it was justifiable not to secure a ML conviction. The UAE also pursues other measures including mandatory deportation of foreign offenders, the repatriation of stolen monies to victims (in cases of fraud, see IO.8) and disruption of ML related activity. The assessment team reached its conclusions based on: discussions with police and PPs and review of case studies.

187. Article 407 of the Penal Code applies when the PP cannot prove the ML crime completely, but an individual acquires or conceals the proceeds of crime without knowing what they are, but the circumstances in which they received them should lead them to believe their source is unlawful. Between 2013 and 2018, UAE PPs secured 802 convictions for this offence (far more than convictions for ML), which carries a maximum jail sentence of 6 months and/or a fine of not more than AED 20 000 (EUR 4 897). Despite being allowable under UAE law (see TC Annex, c.3.8), it was not made clear how many of these cases could have been prosecuted for ML by asking the judge to draw an inference about knowledge and intent from objective factual circumstances of how the property was acquired and links to any wider ML offences.

The PPs also noted that 58 out of 282 cases involving ML activity were re-classified as other crimes (see Table 3.9) or that some cases tried as ML cases but convicted for non-disclosure of cash/BNI/PMS declarations. Overall, it was not demonstrated that these alternative measures have been pursued in circumstances where it was justifiable not to secure a ML conviction.

188. The UAE also highlighted several other case studies involving additional alternative measures, including disruption of ML networks by working with international partners, or use of alternative investigation techniques to generate knowledge to new and emerging weaknesses in the UAE's AML/CFT system. The MOI spoke of their cooperation with international partners, including the establishment of joint investigation and intelligence sharing teams, and the provision of relevant intelligence and evidence, which is subsequently used by these partners to secure ML prosecutions in that country. In addition, the UAE also described several examples of coordinated disruption work. For example, Dubai Police spoke of their work, alongside US and UK counterparts, in dismantling the Khanani international ML network, including closure of the Khanani controlled MSB based in Dubai.

189. Dubai Police also spoke of their innovative work to evaluate the potential risk of laundering via cryptocurrencies, using alternative investigation measures to identify weaknesses or potential issues that can be addressed without a substantive money laundering investigation. Box 3.7 details Op Leprechaun, which has since developed into cooperation between the UK and UAE on developing an anti-crypto laundering platform, and further cross-Emirate capability building on the risks associated with cryptoassets.

#### Box 3.6. Operation Leprechaun

Dubai Police discovered, via social media and open source intelligence that a person was intending to install a bitcoin ATM in a hotel and marketing this product as a way to bypass AML safeguards. There were no laws or regulations in the UAE regulating virtual assets therefore the police were not able to pursue a prosecution. However, Dubai Police confiscated the machine, in addition to the suspect signing a letter of undertaking to desist from the activity. The suspect's name was added to the Prevention Crime Centre, as well as, communication letters sent to Dubai Tourism for all hotels and exhibition centres warning of potential action that could be taken against them if they allowed such machines to be installed without precautions. This case highlights how authorities can take alternative measures to prevent ML activity in cases when it is not possible to secure an ML conviction.

#### Overall conclusions on IO.7

190. **The UAE is rated as having a low level of effectiveness for IO.7.**

**Immediate Outcome 8 (Confiscation)*****Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective***

191. The National AML/CFT Strategy 2019-2021 and relevant co-ordination committees identify confiscation as a key policy objective.

192. Strategic objective 4.2 of the National AML/CFT Strategy requires authorities to prioritise and systematically pursue confiscations of the proceeds and instrumentalities of crimes. This ambition translated into a number of enabling policy actions in the National Action Plan and the MOJ's Action Plan, which had already been delivered by the time of the on-site visit:

- Review of previous asset identification and confiscation activities to identify opportunities for improving the freezing, recovering and confiscation of proceeds.
- In addition, learn from international best practice on asset recovery, and continue developing the overarching confiscation policy and process, including developing standard models for asset investigation and confiscation
- Hold quarterly meetings between all relevant stakeholders (PPs, LEAs, FIU) with the aim of raising coordination levels and enhanced information sharing.
- Develop and implement mechanism to establish and update databases and statistics online, with regards to ML/TF crimes (investigations, prosecutions, frozen and confiscated assets, MLA forms etc.).
- Issue of a circular and guidance to all PPs relating to the need to “follow the money”.

193. Additional oversight on delivery of these enabling actions is provided by the cross-Emirates ML Investigations Sub-committee. As such, there has been a demonstrable emphasis by the UAE on taking a more consistent approach to confiscation.

194. In addition, police and public prosecutors referenced work on revising pre-existing financial profiles (see IO.6), which they believe will improve the quality of the associated financial investigation and asset recovery activities.

195. However, despite these positive changes, in the absence of more specific actions about confiscation activity (e.g., the development of a tactical asset recovery strategy in all proceeds generating crimes), it was not immediately clear how the ML Investigations Sub-Committee will ensure a continued and consistent policy and operational commitment to confiscation across all relevant stakeholders.

***Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad***

196. Overall the UAE's figures for domestic confiscation, repatriation, sharing and restitution are large due to broad confiscation powers. The UAE routinely seizes and removes instrumentalities of crime. However, it was not demonstrated there is systematic or consistent confiscation work following formal international requests involving the proceeds of foreign predicate offences, which is acknowledged as a key crime risk. While they were enhanced during the assessment process, the lack of

consistent and comprehensive statistics presented a challenge in assessing the effectiveness of the UAE's confiscation regime. While the UAE has measures to identify and temporarily restrain assets, it was not demonstrated this occurs systematically in investigations involving proceeds-generating crimes or for assets that have moved offshore. The assessment team based its conclusions on: interviews with Police Forces and PPs, statistics on the number and value of confiscations and descriptions of items confiscated and case studies.

197. The value of UAE's overall confiscations and recoveries of court-order fines are considerable. From 2013 to 2018, the UAE PPs recovered around AED 625 million (EUR 151 million) in confiscations across a range of different crime types (see table below), with Dubai PP contributing approximately 70% of the total. In addition, the UAE notes that a significant amount of funds relating to domestic corruption have been retrieved by the government via fines (approximately AED 149 million or EUR 36 million) (see discussion on Funds Prosecution below).

**Table 3.15. Number and value of confiscations 2013 - 2018**

|                                 | Dubai PP                             | Federal PP                         | Abu Dhabi PP                          | RAK PP                         | Total                                               |
|---------------------------------|--------------------------------------|------------------------------------|---------------------------------------|--------------------------------|-----------------------------------------------------|
| No. of cases / number of orders | 7 989                                | 7 348                              | 8 029                                 | 4 633                          | 27 999                                              |
| Value of confiscations (AED)    | AED 435 241 530<br>(EUR 104 million) | AED 67 107 856<br>(EUR 16 million) | AED 119,823,210<br>(EUR 29.5 million) | AED 2 459 181<br>(EUR 584,848) | Approximately<br>AED 625 million<br>EUR 151 million |

Source: UAE, 10.7- MER2 – Attachment 3 (updated 19 December 2019).

198. Dubai PP provided an overall recovery value of AED 537 million (EUR 132 million), 81% of which came from 7 989 confiscation orders for both physical and monetary assets confiscations (AED 435 million) and the remaining 19% (AED 102 million) from court ordered fines. Statistics provided by the UAE could not easily be broken down into the instrumentalities, proceeds of crime and additional fines levied. In some cases, for example in domestic embezzlement cases, fines appear to be used to deprive the offender of both the initial benefit and any further proceeds (a case study was provided to explain how the assessment of the fine was made). However, apart from the embezzlement cases, while fines may deprive offenders of significant funds, no assessment of, or link to, the proceeds of crime have been illustrated by the authorities. As such, while the overall numbers appear to be considerable, it is difficult to assess their effectiveness in depriving offenders of the proceeds of crime.

199. It was not possible to break these figures down further, including into any specific predicate offence category. Although following a request to identify their top 10 highest value confiscation orders, Dubai PP noted a 2018 fraud case that led to the recovery of AED 113.5 million in cash (EUR 27.7 million).

200. Federal PP achieved confiscations of AED 67 million from 7 348 confiscation orders. They also provided additional information on the amount of instrumentalities seized, totalling 9 986 between 2013 and 2018. For the same period, and excluding the Funds Prosecution, the Federal PP ordered and recovered fines equal to AED 159 million (EUR 38 million). As with Dubai PP, the Federal PP referenced a conviction from 2017 which led to the recovery of AED 43.3 million (EUR 10.6 million) as their most noteworthy successfully enforced order.



201. RAK PP's figures are noteworthy in that the value of fines ordered by the court of AED 141.1 million (EUR 34.2 million), is significantly larger than the value of confiscations secured AED 2.4 million (EUR 584 848). 58% or AED 81.8 million (EUR 19.8 million) of those fines have been collected by the government. RAK PP's most noteworthy outcome was the recovery of AED 15.9 million (EUR 3.89 million) in relation to a successful prosecution for embezzlement of public funds and corruption – 50% of the funds was paid to the government in the form of fines and the other 50% was returned to the victim (a Government authority).

202. The Public Funds Prosecution (a part of the Federal PP), which deals with embezzlement and theft of public funds, provided statistics for value of fines and value of funds ordered returned to the government as the victim of the fraud. For the period 2013 – 2019, discounting cases still under appeal, a total value of approximately AED 376 million (EUR 90 million) of fines and orders to return funds were secured of which AED 213 million (EUR 51 million) were recovered as fines or via confiscation (see table below). One case study was provided reflecting that fines had been determined on the basis of an assessment of proceeds of crime generated (thereby serving as a type of proceeds of crime or pecuniary penalty order) but could not be reconciled with the overall statistics. Overall, this information has been given limited weight considering (1) there is no clear assessment of proceeds of crime generated and where the fines aim to recover those proceeds, (2) it appears that a degree of double recovery is occurring, and (3) in the NRA, corruption is considered a medium-risk predicate offence, and recoveries, while impressive, do not address the high or medium-high risk predicate offences identified.

**Table 3.16. Federal Public Funds Prosecution –  
Value of fines and confiscations 2013 -2019**

|                               | Fines       | Amounts ordered to be returned to<br>govt (confiscation) | Total Fines &<br>Confiscations Ordered |
|-------------------------------|-------------|----------------------------------------------------------|----------------------------------------|
| Total Amount<br>Sentenced     | 856,651,854 | 855,349,243                                              | 1,712,001,097                          |
| Minus: Acquittals             | 34,550      | 34,550                                                   | 69,100                                 |
| Minus: Appeals                | 660,615,790 | 675,025,038                                              | 1,335,640,828                          |
| Net Amounts<br>Sentenced      | 196,001,514 | 180,289,655                                              | 376,291,169                            |
| Amounts<br>Recovered          | 149,352,265 | 63,631,423                                               | 212,983,688                            |
| % of Net Amounts<br>Recovered | 76%         | 35%                                                      | 57%                                    |

Source: IO8\_MER2\_Attachment 2\_Funds Prosecution Table (updated by UAE in December 2019).

203. In respect of money laundering, between 2013 and 2018, the total number of cases with a confiscation order was 24, against a total of 33 convictions (which involved 156 offenders – see Table 3.14). Of the 24 achieved, the estimated value was AED 188.3 million (EUR 45 million). A significant proportion of this amount (AED 163.4 million, 87% of the value of all ML confiscations) was generated from three fraud and unlicensed activity investigations pursued by Abu Dhabi Police and PP. Across the other investigations, it was clear PPs were mostly identifying and seizing instrumentalities of crime, including mobile phones, computers and vehicles, and these were included in the confiscation values.

204. Notwithstanding the successful recovery of the proceeds of crime from domestic predicate offences, one area that was not especially clear was how the PPs assessed an individual's benefit or profit from their criminal conduct. And within that assessment, whether it only represented the value of that particular criminal conduct, or if the PPs had the latitude to consider extended confiscation. As such, it was not always clear whether confiscation was commensurate to the proceeds of crime generated, but the UAE also noted that if no assets can be identified, the court will usually issue a fine of an equivalent value. In such circumstances, if no assets can be identified, it is likely the fine remains unpaid.

205. The MOJ has put in place new procedures on the management of confiscated assets, and both the Federal PP and Abu Dhabi PP spoke of their work in managing complex assets prior to realisation, including the high-value cars seized as part of the Fake Portfolios investigation (see IO.7). The Federal PP case included seizure of an ongoing business concern, and the appointment of professional asset managers to retain its value in advance of the asset realisation. In addition, the pipeline of live ML investigations suggests further opportunities for all PPs to test the new procedures on asset management. Certain types of instrumentalities, such as drugs or counterfeit goods are destroyed.

#### *Foreign proceeds of crime in the UAE*

206. Much of the UAE's work in tackling foreign proceeds of crime is via the successful repatriation of funds stolen from international victims, including individuals, businesses and government departments of international partners. For example, Op EURO was presented by Dubai's AML Unit, involving a multi-billion dollar Ponzi scheme involving cryptocurrency investment that promised unrealistic returns. FIU disseminations identified significant deposits from a bank in Asia, and with co-operation through Europol and Eurojust, AED 300 million (EUR 73.4 million) was identified, seized and successfully repatriated. Similar cases were presented by the MOI, including the repatriation of AED 12 million (EUR 2.9 million) to a US company and the repatriation of AED 3.69 million (EUR 903 975) to the UK government's Foreign and Commonwealth Office, both of whom were the victims of fraud. This is in addition to the work of the FIU, which works with financial institutions to return money to fraud victims where it can be identified, without the need for formal legal assistance.<sup>17</sup> Since 2014, financial institutions have repatriated AED 323.7 million (EUR 78.5 million) of fraudulently transferred funds.

207. However, the UAE's approach in supporting formal requests for asset identification and confiscation is not as consistent as its informal, repatriation activity. Often, if not always, the asset identification request is successfully completed but nearly all confiscation requests could not be executed because no funds could be identified, or remain ongoing with enquiries still underway.

#### *Proceeds located abroad*

208. Notwithstanding the UAE's assessment of the much bigger risk coming from foreign proceeds of crime, it was not demonstrated the PPs are routinely pursuing the confiscation of proceeds that have been moved to other jurisdictions. Dubai PP has

<sup>17</sup> Pursuant to Central Bank Guidelines on fraud recall instructions. Financial institutions block the funds and seek further instructions from the FIU.

received some assistance following its outgoing requests, although requests to China and the UK are still ongoing. Federal PP has made two request, with one still ongoing and reporting restrictions are in place. Abu Dhabi PP made one request but it was not executed and RAK PP has not made any requests for asset tracing, freezing or confiscation.

### *Confiscation of falsely or undeclared cross-border transaction of currency/BNI*

209. The Federal Customs Authority and relevant local customs agencies routinely apply penalties if they identify passengers who have falsely declared or not declared cross-border movements of currency, BNI and PMS. It appears customs has no power to confiscate the full amount if they know or suspect it represents the proceeds of crime or is intended in supporting criminal conduct, so it is difficult to assess whether the application of a 10% penalty is an effective, proportionate and dissuasive sanction given the UAE's recognised exposure to cash-based ML. The assessment team based its conclusions on: interviews with the FCA and local customs agency representatives, police agencies and State Security, statistics, analysis and case studies from the FCA.

210. Customs interventions are occurring mostly at airports, and to a lesser extent via mail and cargo. The FCA presented their analytical work, which included the separation of data by country of origin, the gender, ethnicity and age of those caught smuggling, the type and value of currency not declared and the method of concealment. As part of that analysis, the primary method of detection of undeclared cash is suspicion of the customs officer, accounting for 86% of the seizures (991 out of 1146), followed by targeting accounting for 6% (71 out of 1146), random inspection or a detection device for 2.6% each, and reporting 2%.

211. The inspection process allows for a passenger to make an accurate declaration if challenged by a customs officer. However, if they refuse, or any declaration they make is false, the officer inspects the passenger and their luggage to confirm the total amount falsely declared or undeclared. A seizure report is completed and the passenger is fined 10% of the total amount identified. Customs liaises with local police and State Security, and if they have an interest in the passenger, the person is detained and the full amount confiscated until any enquiries or investigations are concluded. If those authorities have no interest in the passenger, they are released subject to payment of the 10% fine. It would appear from material in IO.6 and IO.7, very few of these declaration interventions previously led to law enforcement agencies commencing an investigation into suspicions of money laundering. However, the MOI referenced the FCA's engagement as part of the ML Investigations Sub-Committee, and increased training and capability building amongst all stakeholders in addressing this issue (see IO.7).

212. In terms of performance, as per 3.17 below, there was a noticeable increase in the number and value of seizures year on year between 2014 and 2017, jumping from 49 to 476 seizures, and a commensurate value increase from AED 16 million to AED 233 million (EUR 56 million). However, figures for 2018 saw the number of cash seizures drop by 62% to 181, with a significant decrease in detections by Dubai customs from 365 in 2017 to 70 in 2018, and a similar drop in the overall value seized to AED 45 million. The UAE explained that during this period there were more seizures at land borders in Abu Dhabi based on intelligence received by customs, and they expect a further increase of seizures at land borders throughout 2019. The spike

in 2017 was linked with increased political instability in the Gulf region resulting in increased attempts to smuggle money during that period.

213. It was unclear to what extent the total value of cash seized compared with the total amount declared as this data was not provided, or any indicative assessment of amounts suspected of being smuggled across the UAE's borders. As such, and given the UAE's risk exposure to illicit cash movements, it is not clear current intervention work is fully effective, particularly as so much of the detection work is predicated on suspicion.

**Table 3.17. Number of seizures – cross-border movements of cash, precious metals and stones and BNI**

|                              | 2013      | 2014       | 2015       | 2016       | 2017        | 2018       |
|------------------------------|-----------|------------|------------|------------|-------------|------------|
| Cash                         | 19        | 49         | 163        | 277        | 476         | 181        |
| Value of cash seizures (AED) | 3 703 948 | 16 046 824 | 62 820 923 | 80 463 947 | 233 390 285 | 45 886 904 |
| Precious metals and stones   | 51        | 41         | 86         | 150        | 62          | 88         |
| Value of PMS seizures (KG)   | 54        | 25         | 129        | 310        | 47          | 128        |
| Financial instruments        | 83        | 82         | 62         | 52         | 50          | 34         |
| Counterfeit currency         | 6         | 3          | 6          | 13         | 12          | 11         |
| Cheques                      | 770       | 416        | 1450       | 1189       | 1328        | 535        |
| Credit Cards                 | 819       | 3705       | 1175       | 1412       | 101         | 46         |

Note: "Financial instruments" includes false/counterfeit money, cheques and credit cards.

Source: FCA Smuggled Money and Gold report, amalgamated statistics.

214. Between 2013 and 2018 the FCA made 478 seizures of precious metals and stones. As with cash, the pattern of seizures fluctuates, with a marked increase in the number of seizures between 2014 and 2016, from 41 to 150, before dropping in 2017 to 62 and increasing again in 2018 to 88. The value of seizures follows a similar pattern, from 25 kg in 2014 to 310 kg in 2016, dropping to 47 KG in 2017, before spiking again in 2018 to 128 kg. As with cash, the primary method of detection is suspicion, then random inspection, followed by reporting, detection device and finally targeting. In addition to the confiscation of seized items, fines have also been issued on gold smugglers (see table below), which highlights the diversity of sanctions available to the authorities.

215. Again it is difficult to assess the impact of these interventions versus the risk profile as data on total number and value of gold/PMS declarations was not provided, nor has any indicative assessment of risk been produced. The value of seizures is likely lower than would be expected in the UAE, which is one of the major transit points for gold internationally. While open sources report that gold is being smuggled from West Africa to the UAE, there were no seizures or confiscations in this regard.

**Table 3.18. Total value of fines on gold smugglers**

|             | 2013    | 2014    | 2015    | 2016      | 2017    | 2018    |
|-------------|---------|---------|---------|-----------|---------|---------|
| Value (AED) | 263 863 | 232 563 | 364 395 | 1 756 161 | 244 633 | 869 744 |

Source: FCA, UAE's responses to requests for additional information, Point 229

216. Non-declared cash has been detected in personal luggage, garments, vehicles and, to a much lesser extent, parcels and shipping containers.

217. There are 140 staff in customs intelligence departments across the Emirates, albeit only 5 in the FCA's intelligence department. Abu Dhabi and Dubai have the most customs inspectors, reflecting operational needs in these Emirates in line with the risks identified. It is not clear how active customs officers are in all CFZs or how many officers are dedicated to targeting the cross-border movement of cash and PMS. The UAE noted that 282 Customs Inspectors work in Jebel Ali port, and their role includes anything related to suspicions in the movement of value cross-border, as well as traditional inspection duties on goods entering the port. Notwithstanding the MOI-led capability building work on cash-based ML, it is not clear that FCA and local customs have enough resource to routinely target cross-border movements in line with the UAE's risk profile.

#### *Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities*

218. Estimates of the proceeds of crime and, where they were available, confiscation statistics were used as part of the UAE's risk analysis and assessment process, adding additional insight to complement other data sources.

219. The UAE has analysed the completed confiscation investigations in relation to money laundering and determined that 72% were linked to fraud and forgery, which are identified as high-risk predicate offences and are prioritised nationally. This means that confiscation outcomes relating to fraud and forgery are broadly consistent with ML/TF risks and national AML/CFT policies and priorities. However, due to lack of detail in statistics it was difficult to discern whether other confiscation outcomes are in line with significant ML/TF risks. In relation to cross-border movements of cash and PMS, it was not clear that confiscation results are in line with risks identified.

220. However, as noted above, due to the work of the National Committee and ML Investigation Sub-Committee, there has also been a cross-agency increase in the emphasis and focus on all aspects of financial investigation including confiscation, including cross-border currency, BNI and PMS movements. The resulting training and awareness raising sessions, in tandem with an increase in the number of live ML investigations and the introduction of new policies and procedures, all align with the ambition of prioritising and systematically pursuing confiscation as set out in strategic priority 4.2 in the National AML/CFT Strategy.

#### *Overall conclusions on IO.8*

221. **The UAE is rated as having a moderate level of effectiveness for IO.8.**





## CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

### Key Findings and Recommended Actions

#### *Key Findings*

##### *Immediate Outcome 9*

- a) UAE secures TF convictions to a large extent (securing an 82% conviction rate in recent years). However, there are inconsistencies in activity prosecuted and convicted with what can be ascertained about the country's TF risk profile, as prosecutions, convictions, and TF funds identified do not consistently correspond with the threat levels of terrorist organisations articulated by the UAE.
- b) While the UAE identifies and investigates TF activities to a large extent, and the role of the terrorist financier is generally identified, cases exhibited the exploitation of fairly unsophisticated channels and methods, given the range of inherent vulnerabilities identified by the UAE. There were also few complex cases, cases involving domestic use of funds or fundraising, or cases involving legal persons. But in general, authorities have investigated and identified a large amount of TF activity.
- c) Despite some co-mingling of sentences between TF and terrorism-charges, as it relates to natural persons, the UAE has been able to demonstrate that sentences have been proportionate and dissuasive. However, there have been no convictions of legal persons during the assessment period.
- d) The importance of TF investigation as a part of the UAE's broader national CT strategy was often emphasised, but authorities were not able to demonstrate more specifically how CFT efforts further that strategy. This should improve under the ongoing National Action Plan efforts, where State Security's forthcoming internal Operational Plan will help to reassess overall TF risk on a regular basis and help further develop internal policies and performance indicators.

##### *Immediate Outcome 10*

- a) The UAE is implementing TF-related TFS to some extent, but not without delay. A relatively new regulation (the "UNSCR Decision"), combined with a new mechanism of automatic transposition and

notification, puts in place a far improved TFS framework. But the effectiveness of this new mechanism was not able to be demonstrated at the time of the on-site visit, and there remain technical deficiencies with respect to the Local List (UNSCR 1373) provisions of the Decision which may also decrease its overall effectiveness in the future.

- b) The authorities are in the process of educating reporting entities on the mechanism. However, currently neither the new obligations stemming from the UNSCR Decision nor the mechanism for automatic transposition are widely understood or implemented, particularly by the private sector. Awareness of the Local List (UNSCR 1373) is especially low amongst the private sector, and general awareness of freezing and reporting obligations for all TFS was minimal.
- c) No assets have been frozen pursuant to UN TF-related resolutions during the assessment period, and limited assets have been frozen pursuant to domestic designations (UNSCR 1373). Temporary asset freezes pursuant to criminal investigations are more significant, but confiscations related to TF are have not yet materialised in line with the funds identified or assets frozen.
- d) The UAE has applied focused and proportionate measures to NPOs identified as vulnerable to TF to a large extent, although some high-risk NPOs (Ruler's Funds) are only recently receiving adequate oversight. The UAE has done an NPO risk assessment and has strong licensing and financial controls in place, combined with largely sufficient monitoring by supervisors, to help prevent their abuse by terrorist financiers. The main deficiency relates to the Ruler's Funds, which comprise 18 percent of NPOs deemed "high-risk" and were just beginning formal MOCD monitoring at the time of the on-site visit.
- e) Measures being implemented in the NPO sector appear largely in line with risks in that sector, though measures related to TFS and deprivation of terrorist financiers' assets are not consistent with the country's risk profile.

#### *Immediate Outcome 11*

- a) The UAE is implementing PF-related TFS to a limited extent and not without delay. As noted above in IO.10, the new UNSCR Decision and accompanying new mechanism of automatic transposition and notification will improve the country's overall framework for implementing TFS; however, the effectiveness of this new mechanism was not able to be demonstrated at the time of the on-site and there remain technical deficiencies with respect to Iran-related provisions of the Decision which may also decrease its overall effectiveness in the future.
- b) As noted in IO.10, neither the new obligations stemming from the UNSCR Decision nor the mechanism for automatic transposition

are widely understood or implemented, particularly by the private sector. In many instances, entities responded that accounts of designated individuals would merely be closed, which could lead to the funds being returned if a match was detected. This, coupled with a significant deficiencies found in examinations regarding basic sanctions screening and a lack of meaningful enforcement action related to deficiencies in TFS controls, signals a substantial vulnerability in the area of PF.

- c) Operational coordination on countering broader proliferation activity is occurring to some degree on export control issues, although uncovering the financing elements and connection to UN sanctions evasion seems to be absent from these efforts. Both the private sector and authorities evidence a limited understanding of how to identify and combat illicit financial activity of those potentially acting for or on behalf of designated entities.

### *Recommended Actions*

#### *Immediate Outcome 9*

- a) Based on an updated understanding of TF risks (as recommended under IO.1), tailor investigative and prosecutorial efforts to better align with the country's TF risk profile.
- b) Enhance measures to detect with greater precision all stages of TF (i.e., raising, moving, using), as well as a wider variety of channels (e.g., legal persons, banks, hawala) and the methods utilised by individuals and entities on behalf of terrorist organisations, to ensure that all types and complexities of TF cases can be identified and pursued.
- c) Increase monitoring of legal entities and coordinate with other competent authorities (e.g., supervisors, DEDs, etc.) to ensure the identification of any sophisticated terrorist networks and prosecute them accordingly.
- d) Ensure that TF investigations support and further the UAE's national CT strategy and that these efforts are integrated within the strategy in a clear and meaningful way.

#### *Immediate Outcome 10*

- a) Based on an updated understanding of TF risks (as recommended under IO.1), adjust asset recovery (e.g., conversion of freezing orders to actual confiscations) and TFS approach (e.g., use of Local List) to address priority areas of the country's TF risk profile.
- b) Implement TFS without delay, including by conducting further awareness raising and outreach to both authorities and private sector entities on the mainland and the FFZs to make them aware of their obligations with respect to TFS and the Import/Export Committee's new website and mechanism.

- c) Work to build a better understanding of sanctions evasion among authorities and the private sector and produce detailed guidance on the implementation of TFS to include obligations of reporting entities, as well as methods for recognising and combating sanctions evasion.
- d) Implement a focus on TFS screening separate from PEPs to better understand potential gaps in FI and MVTs controls and take more dissuasive enforcement or remedial action with respect to TFS-related deficiencies.
- e) Accelerate plans to bring the Ruler's Funds under appropriate risk-based MOCD monitoring.
- f) Work to improve conversion of freezing orders to actual confiscations when assets are identified in the course of an investigation.
- g) Rectify the technical deficiencies in relation to Recommendation 6, in particular related to the freezing obligations for the Local List.

#### *Immediate Outcome 11*

- a) Implement TFS without delay, including by conducting further awareness raising and outreach to both authorities and private sector entities on the mainland and the FFZs to make them aware of their obligations with respect to PF TFS and the Import/Export Committee's new website and mechanism.
- b) Produce detailed guidance on the implementation of TFS and obligations of reporting entities, as well as best practices and methods for recognising and combating sanctions evasion.
- c) Implement a focus on TFS screening separate from PEPs to better understand potential gaps in FI and MVTs controls and take more dissuasive enforcement or remedial action with respect to TFS-related deficiencies.
- d) Work to incorporate a focus on financing into interagency efforts to combat proliferation activity and formalise roles and channels of communication/coordination across authorities to make it clear respective roles in CPF and combatting sanctions evasion, versus export controls.
- e) Rectify the technical deficiencies in relation to Recommendation 7, in particular related to UNSCR 2231.

222. The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The Recommendations relevant for the assessment of effectiveness under this section are R. 1, 4, 5-8, 30, 31 and 39.

## Immediate Outcome 9 (TF investigation and prosecution)

### *Prosecution/conviction of types of TF activity consistent with the country's risk-profile*

223. UAE secures TF convictions to a large extent, although there are inconsistencies in activity prosecuted and convicted with what can be ascertained about the country's TF risk profile. Between 2013-2019, 92 persons have been prosecuted for TF and 75 have been convicted, yielding a conviction rate of 82%. As the UAE runs TF investigations in parallel with terrorism investigations, several of these suspects were also charged with, and convicted of, other terrorism (non-TF) related charges.

224. The majority of TF activity prosecuted largely related to the transfer or physical movement of TF-related funds and other assets overseas to support foreign terrorist organisations. This usually manifested in the form of individuals collecting or sending funds, providing materiel in kind (e.g., communications devices), and/or self-financing travel or the travel of close associates to join external terror groups. There were also several instances of collection or pooling of funds from other members of terrorist organisations or their associates. But instances of fundraising were rare, especially domestic fundraising, where no cases were identified other than those of individuals self-financing (i.e., foreign terrorist fighters). There was only one case of legal persons being utilised for TF, which is also the one relatively complex case displaying an extended TF-facilitation network (see case study in section 4.2.2 below).

**Table 4.1. TF investigations, prosecutions, and convictions<sup>18</sup>**

| Year   | Number of TF activities investigated by State Security | Number of TF activities Sent to Prosecution | Number of TF activities/offenses investigated by prosecutors | Number of TF Prosecution Cases | Number of TF Cases Securing Convictions | Number of offenders Prosecuted for TF | Number of individual offenders Convicted for TF |
|--------|--------------------------------------------------------|---------------------------------------------|--------------------------------------------------------------|--------------------------------|-----------------------------------------|---------------------------------------|-------------------------------------------------|
| 2013   | 12                                                     | 3                                           | 3                                                            | 3                              | 3                                       | 18                                    | 12                                              |
| 2014   | 18                                                     | 9                                           | 9                                                            | 8                              | 7                                       | 56                                    | 46                                              |
| 2015   | 27                                                     | 4                                           | 4                                                            | 4                              | 6                                       | 9                                     | 8                                               |
| 2016   | 36                                                     | 2                                           | 2                                                            | 2                              | 1                                       | 1                                     | 1                                               |
| 2017   | 62                                                     | 2                                           | 3                                                            | 2                              | 2                                       | 7                                     | 7                                               |
| 2018   | 49                                                     | 7                                           | 8                                                            | 3                              | 1                                       | 1                                     | 1                                               |
| 2019   |                                                        |                                             |                                                              |                                |                                         |                                       |                                                 |
| Totals | 204                                                    | 27                                          | 29                                                           | 22                             | 20                                      | 92                                    | 75                                              |

Source: State Security and State Security Prosecution.

225. While State Security appeared to have the most developed understanding of regional terrorist threats and how TF threats manifest in the UAE, authorities experienced difficulty in clearly articulating a coherent understanding of how these threats interacted with the range and complexity of products, channels, and services

<sup>18</sup> Figures in this table are given for the year in which the activity (investigation, prosecution, conviction) actually took place, which is why the numbers do not fully align with years indicated in the table in section 4.2.4 (TF Convictions and sentences), which is based on the year the case first went to prosecution.

available in the UAE, and corresponding vulnerabilities identified (see IO.1). Cases disclosed between 2013-2018 cover all but two of the eight organisations identified by the UAE as TF threats, but prosecutions and convictions as well as TF funds identified do not consistently correspond with the threat levels of terrorist organisations articulated by the UAE. For instance, one organisation identified as “medium-high” for overall threat had no convictions and no funds associated with it during the reporting period, while another organisation rated as “low” accounted for the most convictions and among the highest recorded total TF proceeds during the same reporting period. There are also cases of TF convictions and relatively large amounts of funds implicated for groups not designated as terrorist threats. It is positive that the UAE is detecting and prosecuting this type of activity, though further examination of these threats with respect to the country’s TF risk profile may be warranted.

#### Box 4.1. Case 151/2014: Financing ISIL

In 2014, 11 suspects were arrested for promoting the terrorist organisation ISIS through a messenger app. All of the suspects were convicted for a range of charges, including the following TF-related charges:

Defendant 6 was convicted for *providing* funds to a member of ISIS in Syria and helping defendants 2, 3, 4 and 5 join ISIS by providing them with guidance and introducing them to the 7th defendant to enable them to leave the country and join the group.

Specifically, Defendant 6’s TF activity is as follows:

- a) Provided funds (sending two instalments of AED 2 000 each, via bank transfer using an ATM) to a member of ISIS in Syria.
- b) Assisted the second, third and fourth defendants to join ISIS by guiding them to (a) the seventh defendant to enable them to leave the country to Turkey and (b) to another person in Turkey to assist them in entering Syria. He also assisted in the purchase of their airline tickets to Turkey to help them join the organisation and participate in the work of the organisation (all with knowledge of these facts and the purpose).

Defendant 7 was convicted for *providing* funds to a person belonging to a terrorist organisation (defendant 1) and assisting defendant 2, 3, 4 and 5 to join ISIS by providing them with ways and methods to join the organisation.

Specifically, Defendant 7’s TF activity is as follows:

- a) Provided funds (sending two transfers of AED 15 000 each through MVTs providers) to a person belonging to ISIS by providing the first suspect, a member of ISIS in Syria, with money.
- b) Assisted the second, third, fourth and fifth defendants to join ISIS by aiding them in exiting the state and enabling them through his



knowledge to go through state borders to Muscat, then to Turkey and participated in the preparation of their tickets to Turkey.

Defendant 8 was convicted for *transferring* funds to two persons belonging to a terrorist organisation (Defendant 6 and another individual, who is present in Syria and is a member of ISIS)

Specifically, Defendant 8's TF activity is as follows:

Transferred funds intended to finance two individuals belonging to ISIS in Syria by receiving from the sixth defendant money in two instalments of AED 4 000 via an MVTs provider in order to hand over to a member of ISIS. He also received funds by hand from another person and handed it to another member of ISIS.

The Federal Court sentenced defendants 6, 7, and 8 each to 10-year prison sentences, followed by deportation after serving the prison sentence.

#### Box 4.2. Case 150/2015: Financing Al-Qaeda

State Security received information from confidential sources about the presence of two UAE nationals who created accounts on social media sites and posted information promoting and recruiting for Al-Qaeda. Through social media connections, the defendants established links with members of Al-Qaeda and eventually provided funds (sending several instalments totalling AED 200 000 through two different MVTs providers) to members of Al-Qaeda, as well. They also provided Al-Qaeda with a computer to help the organisation and cooperated with it by transmitting encrypted messages through an on-line program.

The court's decision was to convict the first defendant of TF and contravention of the cybercrimes law. The person was sentenced to 10 years' imprisonment, confiscation of seized items. The second defendant was acquitted due to a lack of physical evidence to secure a conviction.

#### Box 4.3. Case 75/2017: Financing Boko Haram

State Security received information from secret sources and LEA intelligence that there were six individuals of Nigerian nationality suspected of supporting Boko Haram and transporting and transferring funds from the UAE to the terrorist group.

The suspicion began when the suspects transferred large sums of funds, which were not commensurate to the returns/salary they received from their jobs in the UAE. The suspects received the funds in cash (Nigerian

Naira) in Nigeria and transported the cash physically to the UAE. Once in the UAE, some of the funds were exchanged for U.S. dollars then re-exchanged to Naira and physically transported back to Nigeria, while other funds were transferred back to Nigeria through exchange houses in which some of the suspects were working.

These funds were from illegal sources including stolen funds from the Nigerian government. The funds were concealed and their source disguised when entering the UAE.

In April 2017, the suspects were arrested. They were prosecuted and all six convicted of TF (and other offences), with sanctions ranging from ten years to life imprisonment, as follows:

- Life imprisonment, confiscation of seized items (instrumentalities of the crime), and deportation (for two defendants No. 1 and 2)
- Ten year imprisonment, confiscation of seized items (instrumentalities of the crime), and deportation (for four defendant No. 3, 4, 5, 6)

### *TF identification and investigation*

226. UAE identifies and investigates TF activities to a large extent, and the specific role of the terrorist financier is generally identified. As noted above, the majority of TF activity identified and investigated largely deals with transfer and movement of funds to terrorist persons and organisations overseas, or by individuals self-financing. Exchange houses and physical movement of cash appear to be the main modalities/channels utilised, with some cases of bank transfers occurring. Use of TF funds does not seem to be prevalent in the UAE, with some cases of tools, equipment, or travel arrangements being purchased in country, for use outside of the country. Fundraising activity has not been identified domestically, though cases of external fundraising with funds being brought into the UAE have occurred. Therefore, terrorist financiers attempting to exploit the UAE system are mainly confined to the role of moving funds through the UAE system, using fairly unsophisticated channels and methods, to support activities abroad.

227. State Security has a robust array of tools, data sets, and capabilities it can employ to investigate and analyse TF-related activity. State Security builds financial profiles of suspects in TF cases, including through analysing the FIU's STR database (State Security is the only competent authority outside of the FIU with direct access), the Central Bank's bank account registry and hawaladar databases, property and company registries, and external databases. The need for co-operation and co-ordination on TF investigations with other agencies seems to be largely ad hoc and on an "as requested" basis by State Security. If local law enforcement or other competent authorities are investigating a case that subsequently identifies suspected TF, they will refer it directly to State Security.

228. As part of a country-wide prioritisation of countering terrorism, and consequently TF, State Security has a dedicated unit of over 500 personnel spread across the 7 Emirates (including headquarters in Abu Dhabi) specialising in terrorism and TF investigations. Within this department, approximately 90 officers are financial specialists focusing on TF. These officers often have specialised qualifications or

degrees in financial analysis or forensic accounting, and some worked in banks or other private sector institutions previously. Officers within this unit all receive specialised training on financial investigations or other relevant skill sets like data analysis, including training offered in cooperation with other countries' services in order to learn best practices and new skills. The department is well resourced and faces no apparent budgetary challenges.

229. The number of TF activities investigated by State Security is largely increasing year over year. While a relatively modest number of these investigations yield referrals to SSP (about 13% on average), UAE notes that the general uptick in investigative activity is due to both increases in terrorist organisations (e.g., founding of ISIS) and activities since 2013, as well as corresponding prioritisation of preventive and disruptive measures employed by authorities over that same period.

**Table 4.2. TF investigations and prosecutions**

| Year   | Number of TF activities investigated by State Security | Number of TF activities Sent to Prosecution |
|--------|--------------------------------------------------------|---------------------------------------------|
| 2013   | 12                                                     | 3                                           |
| 2014   | 18                                                     | 9                                           |
| 2015   | 27                                                     | 4                                           |
| 2016   | 36                                                     | 2                                           |
| 2017   | 62                                                     | 2                                           |
| 2018   | 49                                                     | 7                                           |
| Totals | 204                                                    | 27                                          |

Source: State Security

230. The vast majority of TF cases are initially identified by State Security. State Security identifies TF activities through a range of sources, with reports of suspected cross-border cash smuggling (mainly from high-risk countries), confidential sources, and STR disclosures generating the most leads. Regarding cash smuggling, there are examples of State Security and the FCA coordinating to identify and detain cash couriers linked to terrorist organisations/individuals smuggling large quantities of cash across the UAE border. While the co-ordination and targeting capabilities of UAE authorities are positive examples of initial identification, and in some cases State Security interrogations lead to the authorities learning the TF purpose/role of the courier, the end result of these types of cases appears to be deportation without UAE confiscating the funds (see IO.10). One reason given for this is a lack of evidence to bring a TF charge.

**Table 4.3. Identified TF activities broken down by source**

| Source                                                       | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | Total |
|--------------------------------------------------------------|------|------|------|------|------|------|-------|
| Leads from STR Disclosures                                   |      | 2    | 5    | 10   | 3    | 1    | 21    |
| Leads Resulting from Reported Smuggling of Cross-Border Cash | 7    | 11   | 15   | 11   | 30   | 29   | 103   |
| Leads from Third-Party Notifications                         |      | 1    | 3    |      | 2    |      | 6     |
| Confidential Sources                                         | 1    | 2    | 2    | 10   | 22   | 11   | 48    |
| Investigations into Terrorism Crimes                         | 4    | 2    | 2    | 1    | 1    | 3    | 13    |
| Foreign Counterparts                                         |      |      |      | 4    | 4    | 5    | 13    |
| Total TF Investigations                                      | 12   | 18   | 27   | 36   | 62   | 49   | 204   |

Source: State Security.

231. Cases referred by State Security to SSP appear to be taken up by SSP for prosecution in most instances, confirming that SSP's investigative efforts are mainly to validate the investigative work done by State Security, and SSP will rarely decide not to bring a case to prosecution after referral by State Security. SSP does have the ability to initiate cases or bring alternate charges on its own, but this is rare. For example, during the period of 2013-2018, SSP decided to bring TF charges in two cases where the referral from State Security was for terrorism only.

#### Box 4.4. TF using foreign NPOs and legal persons

A local UAE bank filed an STR relating to 2 companies – X and Y – which are two general trade companies licensed in a UAE free zone. Both companies received transfers and checks from foreign NPOs in Amsterdam, the UK and the US for about AED 20 million (approximately EUR 4.9 5.5 million) during the period from April 2016 to May 2017. This was the first suspicion whereby these two commercial companies received funds from third-party NPOs. The FIU requested additional information from the bank about the two companies and their activities inside the country.

From February 2015 until May 2017, amounts totalling AED 51 million (EUR 12.4 million) were transferred from the company accounts into other accounts via checks and cash withdrawals. It was also found that the same companies that received funds from company X received funds from company Y, as the transactions were authorised by the same owners or the same account signatories.

The FIU reported the case to the Central Bank, which ordered the freeze of the companies' accounts with all UAE banks, with whom the companies held accounts (49 accounts in 4 banks) totalling approximately AED 29 million (EUR 7 million).

The Central Bank appointed a committee to analyse the case. The committee found that the two companies were owned by the same individuals, and these individuals as well as the owners of the companies that were receiving the funds were from high-risk countries. In addition, the companies receiving the funds also had bank transactions that did not match their level of turnover. Finally, a link was found between the foreign NPOs and a terrorist organisation (Hamas) using WorldCheck, and an internet search conducted by the Central Bank showed a suspected relationship with the Muslim Brotherhood, which is a group included in the UAE terrorist list.

The report was transferred to the SSP, and the Public Prosecutor issued a decision to continue freezing the accounts of the two companies.

The Prosecution ordered the formation of a task force composed of the State Security Prosecution, State Security, other law enforcement agencies and the FIU to create an action plan, gather additional information, follow-up and track the funds transferred to the two

concerned companies as well as the companies and organisations they dealt with.

The case was in trial as of the time of the on-site visit. It involved 48 legal persons and 31 natural person, and included charges for TF. Travel bans were placed on the individuals, and there was Interpol coordination and international cooperation requests made by UAE to other countries on this case.

### *TF investigation integrated with – and supportive of – national strategies*

232. UAE has noted the importance of TF investigation as a part of its broader national CT strategy, but was not able to demonstrate more specifically how CFT efforts further that strategy. Measures have been taken to learn from the NRA and operationalise aspects of this into competent authorities' day-to-day activities and broader approach. However, as State Security and SSP were the main authorities contributing to the TF portions of the NRA, this reflects somewhat of a feedback loop.

233. UAE broadly describes TF investigation as an “integral part of [a] comprehensive strategy for combatting crime and terrorism” and notes that it has put in place “clear objectives, specified procedures, adequate resources” and will utilise training and legal tools. State Security is developing and will be implementing an internal Operational Plan that will cover these elements at a high level. Based off the NRA, this Plan was amended to cover six “pillars” or focal areas to improve TF-related investigatory capabilities. While the plan is still under development under the UAE's National Action Plan process and only limited details of the Plan were shared with the assessment team, UAE authorities have stated that the Plan will include a requirement to reassess overall TF risk on an annual basis, with quarterly check-ins, as well as efforts to review and develop internal policies and develop performance indicators. This process is fairly new, with the Operational Plan spanning 2019-2024, but it does represent a high-level articulation to implement operational changes based upon the NRA (and future reassessments).

234. UAE also notes that the high priority and focus it dedicates to CT and CFT has led to the establishment of a specialised TF analytical unit within State Security (see section 4.2.2 above), which has greatly increased the capability of the UAE to identify potential TF activity and also conduct parallel investigations in relation to other terrorism-related activities.

### *Effectiveness, proportionality and dissuasiveness of sanctions*

235. The UAE generally applies effective, proportionate, and dissuasive sanctions for TF offenses. As the UAE often runs TF investigations in parallel with terrorism investigations, many suspects are also charged with, and convicted of, other terrorism (non-TF) related charges, as well as other non-terrorism related crimes. The sentences issued are therefore often comingled with these other criminal charges, but the UAE indicated that, when sentences are combined, the judge will usually apply the sentence corresponding to the more severe punishment. Ultimately, the UAE has been able to demonstrate that for natural persons, in convictions where TF was the only charge or where the TF charge carried the more severe sentence, the sentence has been proportionate and dissuasive (see Table 4.4 below). In total, there were four cases where TF was the only charge and conviction for all the defendants, and five

cases where TF was the sole conviction for some of the defendants. The large majority of those convicted (over 70%) received sentences from 10 years to life imprisonment.

**Table 4.4. TF convictions and sentences<sup>19</sup>**

| Case No.  | No. of Offenders Prosecuted (TF & Other) | No. Offenders Prosecuted for TF | No. Offenders Convicted for TF & Other | No. of Offenders Convicted for TF Only or the TF Charge had the More Severe Sentence                             | Sentence for Offenders Convicted of TF                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Type of Terrorist Financing                                                                                                                      |
|-----------|------------------------------------------|---------------------------------|----------------------------------------|------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| 25 / 2013 | 8                                        | 3                               | 3                                      | 3<br>All 3 defendants charged for TF and other related crimes with <u>more severe sentence tied to TF crime.</u> | First Defendant: Imprisonment 7 years and 6 months<br>Second Defendant: Imprisonment 7 years<br>Third Defendant: Imprisonment 7 years and seizure of criminal instrumentalities                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Supplying Al Qaeda terrorist organisation in Yemen (Ansar Al Sharia) with funds and tools to carry out their purpose.                            |
| 71/ 2013  | 9                                        | 9                               | 7                                      | 7<br>All 7 defendants charged for TF and other related crimes with <u>more severe sentence tied to TF crime.</u> | First Defendant: Life imprisonment and deportation<br>Second Defendant: Imprisonment 7 years, deportation and seizure of instrumentalities<br>Third Defendant: Acquitted<br>Fourth Defendant: Imprisonment 7 years, fine of AED 1 million (EUR 242 600), deportation, and seizure of instrumentalities<br>Fifth Defendant: Imprisonment 7 years, deportation and seizure of instrumentalities<br>Sixth Defendant: Imprisonment 7 years, deportation and seizure of instrumentalities<br>Seventh Defendant: Imprisonment 7 years, fine of AED 1 million (EUR 242 600), deportation, and seizure of instrumentalities<br>Eight Defendant: Imprisonment 7 years, deportation and seizure of instrumentalities<br>Ninth Defendant: Acquitted | Raising funds and providing a terrorist organisation (al-Nasra Front) belonging to al-Qaeda for use in financing terrorist acts outside the UAE. |

<sup>19</sup> For the statistics in Table 4.4, UAE clarified that: 1) where deportation is part of the sentence, this occurs after the sentenced prison time is served, and 2) “life imprisonment” is a sentence of 25 years imprisonment.



| Case No.  | No. of Offenders Prosecuted (TF & Other) | No. Offenders Prosecuted for TF | No. Offenders Convicted for TF & Other | No. of Offenders Convicted for TF Only or the TF Charge had the More Severe Sentence                                                                               | Sentence for Offenders Convicted of TF                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Type of Terrorist Financing                                                                                                                                                                             |
|-----------|------------------------------------------|---------------------------------|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 147/ 2013 | 15                                       | 6                               | 2                                      | 2<br>First defendant charged for TF and other related crimes with <u>more severe sentence tied to TF crime.</u><br><br>Second defendant charged for TF crime only. | First Defendant: Imprisonment 15 years, fine of AED 1 million (EUR 242 600),, deportation and seizure of instrumentalities<br>Second Defendant: Imprisonment 15 years and deportation<br>Third to Sixth Defendants: Acquitted                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | They collected, moved and supplied funds to two terrorist organisations (Al-Nasserah Front, Ahrar al-Sham) belonging to al-Qaeda terrorist organisation to help them achieve their goals.               |
| 23/ 2014  | 41                                       | 41                              | 34                                     | 34<br>The sentence for all 34 offenders was <u>for TF crime only</u> with no other charges.                                                                        | -Life imprisonment + Confiscation of seized items (for seven defendants No. 1, 2, 3, 5, 14, 15, 16)<br>-Life imprisonment + deportation + confiscation of seized items (for two defendants No. 7 and 35)<br>-Life imprisonment (for two defendants No. 36 & 40)<br>-Ten years imprisonment + deportation + confiscation of seized items (for six defendants No. 8, 22, 26, 28, 31, and 32)<br>-Ten years imprisonment + confiscation of seized items (for seven defendants No. 4, 6, 9, 10, 11, 12, and 34)<br>-Five year imprisonment + confiscation of seized items (for three defendants No. 38, 39, 41)<br>-Five year imprisonment (for one defendant No. 37)<br>-Three year imprisonment + confiscation of seized items (for six defendants No. 13, 18, 24, 25, 29, 30)<br>-Acquittal (of seven defendants No. 17, 19, 20, 21, 23, 27, and 33) | Raising funds and providing them to terrorist organisations outside the state (the Nasra Front, the State of Iraq and the Shami Organisation) to support them in carrying out their terrorist purposes. |

| Case No. | No. of Offenders Prosecuted (TF & Other) | No. Offenders Prosecuted for TF | No. Offenders Convicted for TF & Other | No. of Offenders Convicted for TF Only or the TF Charge had the More Severe Sentence                                                                                                                                                                                                 | Sentence for Offenders Convicted of TF                                                                                                                                                        | Type of Terrorist Financing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|----------|------------------------------------------|---------------------------------|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 99/2014  | 3                                        | 3                               | 3                                      | 3<br>All 3 charged for <u>TF crime only</u> .                                                                                                                                                                                                                                        | -Ten year imprisonment + Confiscation of seized items for one defendant (Defendant 3)<br>-Three year imprisonment + deportation + Confiscation of seized items (for two defendants No. 1 & 2) | 1 – All three defendants convicted of providing two terrorist organisations (Nasra Front and Ahrar Sham) tools and means of communication to achieve their goals.<br>2 – Defendant 1 also charged/convicted for providing a terrorist organisation (Al Nasra Front and Ahrar Sham) funds to achieve their goals.<br>3- Defendants 1 and 2 also charged/convicted for moving funds for two terrorist organisations (Al Nasra Front and Ahrar al-Sham) for transfer to the two mentioned terrorist organisations. |
| 150/2014 | 1                                        | 1                               | 1                                      | 0                                                                                                                                                                                                                                                                                    | -Capital punishment and confiscation of seized items for one defendant                                                                                                                        | Providing funds to a terrorist organisation (al-Qaeda in Yemen) for use in terrorist crimes.                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 151/2014 | 11                                       | 3                               | 3                                      | 3<br>Defendant 6: Charged for TF and other related crimes with <u>more severe sentence tied to TF crime</u> .<br><br>Defendant 7: Charge for TF and other related crimes with <u>more severe sentence tied to TF crime</u> .<br><br>Defendant 8: Sentence for <u>TF crime only</u> . | -Ten year imprisonment + deportation (for all three defendant No. 6, 7 & 8)                                                                                                                   | 1. Providing funds to a person belonging to a terrorist organisation.<br>2. Transferring funds intended to finance two persons belonging to a terrorist organisation.                                                                                                                                                                                                                                                                                                                                           |

| Case No. | No. of Offenders Prosecuted (TF & Other) | No. Offenders Prosecuted for TF | No. Offenders Convicted for TF & Other | No. of Offenders Convicted for TF Only or the TF Charge had the More Severe Sentence                                                               | Sentence for Offenders Convicted of TF                                                                                                                                                                                                                                     | Type of Terrorist Financing                                                                                                                                                                                                                                                                               |
|----------|------------------------------------------|---------------------------------|----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 153/2014 | 1                                        | 1                               | 1                                      | 1<br>1<br>Charged for TF and other related crimes with <u>more severe sentence tied to TF crime.</u>                                               | - Ten year Imprisonment + Confiscation of Seized items (for one defendant No. 1)                                                                                                                                                                                           | Providing two terrorist organisations with funds (ISIS and Al Nasra Front) to help them achieve their goals.                                                                                                                                                                                              |
| 156/2014 | 6                                        | 6                               | 3                                      | 3<br>All three defendants Charged for TF and other related crimes with <u>more severe sentence tied to TF crime.</u>                               | -Ten year imprisonment + deportation (for two defendants No. 1 and 3)<br>-Ten year imprisonment + deportation + fine of AED 1 Million (EUR 242 600) (for one defendant No. 2)<br>-Acquittal (of three defendants No. 4, 5, 6)                                              | 1- Supplying terrorist organisation (Yemen Houthis movement) in Yemen with missions, chemicals, tools and communication means.<br>2. Managing funds belonging to a terrorist organisation (the Houthis movement in Yemen) and investing them in the activities of a company established for that purpose. |
| 160/2014 | 1                                        | 1                               | 1                                      | 1<br>1<br>Charged for TF and other related crimes with <u>more severe sentence tied to TF crime.</u>                                               | - Five year Imprisonment + Confiscation of Seized items + Fine (for one defendant No. 1)                                                                                                                                                                                   | Supplying a terrorist organisation with funds (organisation calling the terrorist in Iraq and Syria) to help him achieve his goals.                                                                                                                                                                       |
| 24/2015  | 1                                        | 1                               | 1                                      | 0                                                                                                                                                  | - Life Imprisonment + Confiscation of Seized items (for one defendant No. 1)                                                                                                                                                                                               | Providing funds to a terrorist organisation (al-Qaida terrorist organisation) through a member of al-Qaeda that handed over funds to use in committing terrorist crimes.                                                                                                                                  |
| 33/2015  | 3                                        | 3                               | 3                                      | 2<br>Defendant 2: Charged for TF and other related crimes with <u>more severe sentence tied to TF crime.</u><br>Defendant 3: <u>TF Crime only.</u> | -Capital Punishment (for one defendant No. 1)<br>-Ten year Imprisonment + Confiscation of Seized items + Confiscation of Seized Funds (for one defendant No. 2)<br>-Two year Imprisonment + Destruction of images extracted from airport cameras (for one defendant No. 3) | Knowingly disposing funds for a person belonging to a terrorist organisation (ISIS).                                                                                                                                                                                                                      |

| Case No. | No. of Offenders Prosecuted (TF & Other) | No. Offenders Prosecuted for TF | No. Offenders Convicted for TF & Other | No. of Offenders Convicted for TF Only or the TF Charge had the More Severe Sentence            | Sentence for Offenders Convicted of TF                                                                     | Type of Terrorist Financing                                                                                                                                                                                                                                                                              |
|----------|------------------------------------------|---------------------------------|----------------------------------------|-------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 107/2015 | 6                                        | 1                               | 1                                      | 1<br>Charged for TF and other related crimes with <u>more severe sentence tied to TF crime.</u> | -Five year imprisonment + deportation + Confiscation of Seized items (for one defendant No. 1)             | Providing a terrorist organisation (Nasra Front) with tools (Gabbro camera), knowing the reality of the organisation and its purpose.                                                                                                                                                                    |
| 150/2015 | 2                                        | 2                               | 1                                      | 1<br>Charged for TF and other related crimes with <u>more severe sentence tied to TF crime.</u> | -Ten year + Confiscation of Seized items (for one defendants No. 1)<br>-Acquittal (of one defendant No. 2) | 1. Providing funds to terrorist persons (members of al-Qaida terrorist organisation). 2. Providing two terrorists (members of Al-Qaida terrorist organisation) with tools.                                                                                                                               |
| 185/2015 | 1                                        | 1                               | 1                                      | 1<br>Charged for <u>TF crime only.</u>                                                          | -Ten year imprisonment + deportation (for one defendant No. 1)                                             | Transferring of funds to a terrorist (al-Qaeda terrorist).                                                                                                                                                                                                                                               |
| 48/2016  | 1                                        | 1                               | 1                                      | 1<br>Charged for TF and other related crimes with <u>more severe sentence tied to TF crime.</u> | -Five year Imprisonment + Confiscation of Seized items (for one defendant No. 1)                           | Providing funds to a terrorist who is a member of the ISIS terrorist organisation through the transfer of cash through a money exchange in the UAE while knowing the truth and purpose of the individual.                                                                                                |
| 55/2016  | 11                                       | 1                               | 1                                      | 1<br>Charged for TF and other related crimes with <u>more severe sentence tied to TF crime.</u> | -Ten year Imprisonment + Confiscation of Seized items + deportation (for one defendant No. 1)              | 1. Providing a terrorist organisation (Ahrar Al-Sham) funds to help it achieve its objectives, with knowledge of its purpose and objectives.<br>2 - Providing a terrorist organisation (Ahrar Al-Sham) communication means help it achieve its objectives, with knowledge of its purpose and objectives. |

| Case No. | No. of Offenders Prosecuted (TF & Other) | No. Offenders Prosecuted for TF | No. Offenders Convicted for TF & Other | No. of Offenders Convicted for TF Only or the TF Charge had the More Severe Sentence                                                                         | Sentence for Offenders Convicted of TF                                                                                                                                                                      | Type of Terrorist Financing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|----------|------------------------------------------|---------------------------------|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 75/2017  | 6                                        | 6                               | 6                                      | 6<br>Defendants 1-3: Charged for TF and other related crimes with <u>more severe sentence tied to TF crime.</u><br><br>Defendants 4-6: <u>TF Crime only.</u> | -Life Imprisonment + Confiscation of Seized items + deportation (for two defendants No. 1 and 2)<br>-Ten year Imprisonment + Confiscation of Seized items + deportation (for four defendant No. 3, 4, 5, 6) | 1. Moving and transferring of funds to finance a terrorist organisation (Boko Haram terrorist group in Nigeria) through transferring funds from one emirate in UAE to Nigeria for the Boko Haram terrorist group to help it achieve its purposes.                                                                                                                                                                                                                                                                      |
| 96/2017  | 1                                        | 1                               | 1                                      | 1<br><u>TF Charge Only</u>                                                                                                                                   | -15 year imprisonment for one defendant                                                                                                                                                                     | 1. Providing funds to two terrorist organisations (Al-Nasra Front and Al-Qaeda) by collecting cash from others affiliated with the organization and through self-finance.<br>2 - Collecting funds from charity and donations to send them to the terrorist organisations of the Al Nasra Front).                                                                                                                                                                                                                       |
| 61/2018  | 1                                        | 1                               | 1                                      | 1<br>TF Charge Only.                                                                                                                                         | -Life Imprisonment + Confiscation of Seized items + deportation (for one defendant No. 1)                                                                                                                   | 1. Providing funds to two terrorist organisations (Al-Nasra Front, Ahrar Al-Sham) by the collecting cash through his network on Facebook and transferring the funds to members of the organisations with knowledge that they will be used to finance their terrorist operations.<br>2 - Collecting funds from charity and donations to send them (to the organisations of the Al Nasra Front and Ahrar Al-Sham terrorists) using his network on Facebook and Telegram app, with knowledge of their truth and purposes. |
| 129      |                                          | 92                              | 75                                     |                                                                                                                                                              |                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

Source: State Security Prosecution.

### Box 4.5. Stand-alone TF convictions

#### Case 185/2015: Transferring funds to a terrorist organisation

Information received by the State Security Service from confidential sources revealed that AA, a Pakistani national, adopted the ideology of the Al-Qaeda terrorist organisation. He had a relationship with members of the organisation and had previously travelled to an Al-Qaeda controlled area to meet with the certain regional leaders.

The accused was arrested and admitted that he communicated with one Al-Qaeda member, who was located in the Maldives and aimed to send money to the organisation. The money was then sent from Maldives to the accused in the UAE via an MVTs provider as a money order, in amounts of around USD 2 000. The accused then transferred the money through the same MVTs provider to AB, an Al-Qaeda member in Pakistan.

The accused continued receiving money from that person and sending it to AB until he was arrested. The accused was referred to court on charges of transferring funds to a terrorist individual belonging to the Al-Qaeda terrorist organisation, knowing that the funds are intended for the terrorist organisation, in accordance with articles 29, paragraph 3 of Law No. 7 of 2014 on terrorist crimes.

The accused was convicted and sentenced with ten years' imprisonment, and deportation.

#### Case 96/2017: Providing funds to a terrorist organisation

Through investigations, it was found that the suspect has Jihadi ideologies belonging to Al Nusra Front and Al Qaeda, supporting their work and providing them with financial aids. The defendant provided an amount of AED 25 000 from his own funds by hand inside the UAE to an Al-Qaeda member, who visited the UAE to meet the accused, and receive the amounts from him. His presence in the UAE was in order to receive funds and donations.

He also raised funds from outside the State by traveling to a nearby country in the region, where members of Al-Qaeda were present, collected funds from them by hand, and then returned back to the UAE with the funds. He provided the amount raised of AED 30 000 by hand to the same member mentioned above inside the UAE.

At a later time, he received AED 100 000 from Al-Qaeda members in the same nearby country (in same way as above) to deliver it in the same way as above. Afterwards, he did the following:

- Provided AED 20 000 from his own funds by hand inside the UAE to a member of Qaeda to support the terrorist organisation.
- Received AED 165 000 by hand from persons belonging to Al-Qaeda inside the State;



- Received AED 120 000 by hand and delivered it in person to Al Nusra Front via a member of that organisation inside the UAE.
- He bought second-hand vehicles, sent them to a nearby country and then shipped them from there to Turkey by land to deliver them to Al Nusra Front fighters in Syria.
- He also financially supported Al Nusra front from his own funds for an amount of AED 115 000. While he was in the UAE, individuals in contact with him and associated with Al-Qaeda contacted him and they travelled to the UAE to receive the above funds by hand. He also provided funds by hand to individuals, who were leaving the country in order to join the organisation.
- He also raised funds through his relationship with a UAE charity, where he worked as an administrator and was exploiting people's trust and sympathy in order to collect donations for the needy in Syria, but instead he used that money and sent it to terrorist organisations.
- He sent AED 70 000 collected from fundraising (from people in the UAE affiliated with the organization) to support the Free Army in Syria and Al Nusra front.

The accused was referred to court on charges of providing funds for a terrorist organisation (Al-Nusra and Al-Qaeda) in accordance with articles 29 and 30 of Law No. 7 of 2014 on terrorist crimes. The accused was convicted, and was sentenced to fifteen years' imprisonment and confiscation of instrumentalities (electronic devices).

236. It appears that judges have used at times their judicial discretion to sentence suspects to fewer years than the 10 year minimum called for in the 2014 Terrorism Law. Judges often take into account mitigating factors, such as the age of the defendant, and in some cases may only sentence a defendant to one year for TF. State Security Prosecution did note that prosecutors had the right to appeal sentences they felt were unjust or inappropriate.

237. With respect to legal persons, authorities have noted one on-going case where legal persons are being prosecuted (the X/Y case), but no legal persons have been convicted of TF to date.

#### *Alternative measures used where TF conviction is not practicable (e.g. disruption)*

238. When unable to use the Terrorism Law of 2014, the UAE has utilised other laws – including a law on charities (i.e. Federal Law No. 2 of 2008) – to prosecute, convict, and confiscate funds of terrorist financiers. With respect to one case where this charities law was used to obtain a conviction and the most significant TF-adjacent confiscation (accounting for 99% of the UAE's total confiscations for TF-related crimes), the case related to the Muslim Brotherhood (MB) before the group was officially designated a terrorist organisation in the UAE. According to State Security Prosecution, the UAE did not have sufficient evidence to prosecute those raising funds on behalf of the MB under the Terrorism Law, so the UAE utilised the charities law.

SSP prosecuted the individuals on the basis of raising funds without permit from the regulator.

239. In cases with insufficient evidence and the suspect is a foreigner, the UAE will often deport the suspect back to his/her home country. This has been seen, in particular, in several cases of couriers carrying large amounts of cash (in the millions of AED range), where the individuals are often deported with the funds. The UAE notes that it will notify the receiving country of the deportation and will provide identifying information of the suspect and other background information to the receiving country, so it is likely that these individuals will be detained when they return home. While exact figures will not be cited here, these cases over the past four years are greater than the number of total prosecutions for TF over that time period.

240. In cases of returned terrorist fighters who are Emirati citizens where there is insufficient evidence to bring a terrorism or TF charge, the UAE has established counselling centres to rehabilitate the returnees. Each returnee receives a psychological evaluation and is subject to a temporary travel ban and constant monitoring by State Security.

241. BSD has noted that it has closed some exchange houses (and is in the process of taking other types of enforcement actions against some exchange houses) due to compliance deficiencies, some of which could facilitate TF. State Security also mentioned closure of businesses as a disruptive measure against unregistered hawaladars, but limited details were presented. In general, BSD has also limited the re-licensing of hawaladars from around 300 to about 20 (though there are plans to gradually re-license more), which the UAE contends is a preventive measure to reduce the risk of hawalas facilitating TF.

242. The use of TFS (either domestic list or proposal to the UN 1267 committee) as a disruption tool against those individuals convicted in absentia or other fugitives has not been employed by the UAE. This is surprising, especially in cases where there has been a conviction in absentia, as designations require a lower burden of proof (reasonable grounds) than a criminal conviction and could be a valuable disruptive/preventive measure against terrorist financiers who have fled justice.

#### *Overall conclusions on IO.9*

243. **The UAE is rated as having a substantial level of effectiveness for IO.9.**

### **Immediate Outcome 10 (TF preventive measures and financial sanctions)**

#### *Implementation of targeted financial sanctions for TF without delay*

244. The UAE is implementing TF-related TFS to some extent, as there are some asset freezes related to the Local List (UNSCR 1373), but generally targeted financial sanctions related to terrorist financing are not implemented without delay.

245. Through the NRA process, including self-assessment, the UAE recognised the need for major improvements to its TFS framework and began implementing important new measures. A new regulation – Cabinet Decision No. (20) of 2019 Concerning the Implementation of UNSCRs Relating to Countering and Preventing Terrorism and Terrorism Finance and Countering the Proliferation of Weapons of Mass Destruction and All Related Resolutions (the UNSCR Decision) – was adopted by the Cabinet in January 2019. This new regulation, combined with a new mechanism of automatic transposition and notification, puts in place a far improved framework

for implementing TFS. The new mechanism to implement the UNSCR Decision consists of an internal portal and a new, public-facing website, both maintained by the Committee for Commodities Subject to Import and Export Control (the Import/Export Committee). The portal provides a mechanism for the Executive Office of the Import/Export Committee to communicate new listings to UAE competent authorities and the website contains information relevant to the public, including: the UNSCR Decision, direct links to the UN consolidated list on the UN website (which includes all entities designated by the United Nations under all of its sanctions regimes), the UAE local list, and an explanation of de-listing procedures for both the UN and local lists. See Recommendation 6 for a more complete technical description of the new system.

246. The portal was internally piloted and tested with competent authorities approximately two months prior to the on-site, with the public website being launched the week prior to the on-site (i.e. end of June 2019). As a result, general awareness of new procedures among authorities and the private sector was still quite low, and awareness of the Local List (1373) and procedures concerning it were especially low. Therefore, the new mechanism has not yet been executed to an extent that can demonstrate any effectiveness.

247. As a result, as of the time of the on-site visit the UAE's TF-TFS system was in transition but being implemented under its previous system, which did not take place without delay. The system for UNSCRs 1267/1989/2253 was as follows:

- The UAE Mission at the UN office in New York is notified of a new UN Resolution or sanction. Using an electronic platform, the UAE Mission immediately notifies the Executive Office.
- Within 1-2 days, the Executive Office notifies the Central Bank and law enforcement authorities to freeze assets. This notification requires them to immediately implement the requirements and to respond to the Executive Office with their feedback within 10 days (in order to report back to the UNSC).
- The Central Bank communicates the listings to its supervised entities via circulars. These circulars request that entities check their databases for any matches, freeze any accounts discovered, and report back to the Central Bank. As it relates to other supervisors, there were various methods of notification in place. Reporting entities were required to comply with these notices, and compliance was assessed during the periodic review.
- The supervised entity checks its customers and accounts and reports back any matches to the Central Bank, along with any freezes made, within four working days.
- After receiving the response from the competent authorities, the Executive Office sends this feedback to the UN Security Council.

248. The authorities indicated that the last circulars communicating UNSCR listings were issued in April 2019. After that, up to the full rollout of the Executive Office's new website, the Executive Office focussed on registering supervised entities for its email lists and automatic notifications.

249. There are inherent delays in the previous system used to freeze pursuant to UNSCR 1267/1989/2253, and the UAE did not demonstrate that circulars pursuant to the system and subsequent checking by supervised entities occurred without delay. The previous system also only included one supervisor (the Central Bank) and other

security agencies (for purposes of the UN travel ban), so there were also gaps in notification to other reporting entities (e.g., securities firms, insurance firms).

250. Similarly, freezing measures pursuant to UNSCR 1373 occurred with delays. Pursuant to the authority provided in the Counter Terrorism Law of 2014, the UAE issued Cabinet Decision in November 2014 domestically designating 83 terrorist organisations, including the Muslim Brotherhood, Hezbollah, Houthis, Boko Haram, as well as Al-Qaida and ISIL. Six more Cabinet Decisions were issued in 2017 and 2018, designating an additional 27 organisations and 104 individuals.

**Table 4.5. Cabinet Resolutions and designated persons and entities/organisations**

|                                            | 2014 | 2015 | 2016 | 2017 | 2018 | Total |
|--------------------------------------------|------|------|------|------|------|-------|
| Number of Cabinet Resolutions              | 1    |      |      | 4    | 2    | 7     |
| Number of individuals                      |      |      |      | 89   | 15   | 104   |
| Number of terrorist entities/organisations | 83   |      |      | 24   | 3    | 110   |
| Total                                      | 83   |      |      | 113  | 18   | 214   |

*Source: Supreme Council for National Security.*

251. Nevertheless, these were not communicated to supervised entities without delay. Several regulatory authorities—SCA, IA, DFSA, and FSRA—issued notifications ranging from several days to several months after the UAE Cabinet issued the decision. Sometimes these regulators found out about the new designations via the media and would subsequently communicate with the Central Bank to obtain a copy of the circular issued.

252. In the event of a true match against the UN or local lists, most private sector entities are not fully aware of their obligation to freeze. Most reported that they would report the match to the Central Bank or simply close the account or reject the transaction. Partial matches that were reported almost always ended with account closing and assets being returned prior to reporting. This is true across sectors, size of institution, and mainland/FFZ.

253. During this assessment period (2013 to the first half of 2019), there have been no asset freezes with respect to the 1267/1989/2253 lists. (There were asset freezes prior to 2008). While there is some co-mingling of figures related to TFS asset freezes and asset freezes pursuant to criminal investigations, it appears that approximately AED 874 000 (EUR 212 000) were frozen pursuant to the local lists between 2013-2018, all of which was frozen in 2017.

254. Available statistics on sanctions screening compliance by banks and MVTs have been mixed, with the added complication that BSD does not separate their screening control examinations for TFS and PEPs and therefore statistics for compliance are co-mingled for TFS and PEPs. Initial statistics provided showed high rates of deficiency, particularly among mainland banks and non-FFZ institutions. However, later statistics that include foreign branches on the mainland and FFZ institutions display a marked improvement. While a lack of individual focus on TFS screening examination is problematic and could be contributing to a lack of broader awareness of appropriate TFS controls by FIs and MVTs, it is encouraging that general TFS and PEP screening statistics are trending upward. However, there have been no fines or other dissuasive enforcement actions taken for TF TFS-related deficiencies, and remedial actions have been limited to warning letters.

255. Written guidance on TFS is limited to a single chapter of an overarching AML/CFT guidance manual issued one week before the on-site visit. The chapter is largely a reiteration of the new obligations contained in the UNSCR Decision, AML Law, and AML By-law or otherwise reiterates obligations contained in relatively new laws and regulations. It does not provide any guidance in the way of detecting sanctions evasion or other red flags/indicators, and the private sector was almost entirely unaware of its existence. (Note: FSRA was doing a thematic review which included TFS, but this had not been completed as of the on-site visit; DFSA completed a trade finance thematic review that covers some aspects of TFS, but only peripherally). The fact that these efforts are relatively new and lacking in meaningful detail likely contributed to a relatively poor level of understanding of TFS among private sector entities.

256. Outreach on TFS by competent authorities and supervisors to the private sector has been minimal, and largely confined to checking screening systems during AML/CFT examinations. Some private sector entities were notified about the new Import-Export Committee website the week prior to the on-site (late June 2019), but demonstrated little knowledge of its contents or purpose.

257. The UAE has not proposed any designations to the United Nations.

#### *Targeted approach, outreach and oversight of at-risk non-profit organisations*

258. The UAE has applied focused and proportionate measures to NPOs identified as vulnerable to TF to a large extent, although some high-risk NPOs are only recently receiving adequate oversight. The UAE has done an NPO risk assessment and has strong licensing and financial controls in place, combined with largely sufficient monitoring by supervisors, to help prevent their abuse by terrorist financiers. The main deficiency relates to those NPOs licensed by the individual Emirs (Rulers' Funds), which were rated as high-risk for potential TF abuse and previously were not supervised. At the time of the on-site, the MOCD was beginning formal supervision of these NPOs.

259. The risk assessment identified the subset of NPOs that fall within the FATF definition, and assigned risk ratings to those groups of NPOs. The assessment concluded that the NPOs most at potential risk for abuse by terrorist financiers are those licensed by the Ministry of Community Development (MOCD – Federal jurisdiction), the Rulers of the individual emirates (Emirate-level Ruler's Funds), and the Islamic Affairs and Charitable Activities Department (IACAD – Dubai jurisdiction). NPOs in the International Humanitarian City (IHC – Dubai Free Zone jurisdiction) were judged to be lower risk given their nature and activities (e.g., internationally recognised foreign NGOs, UN agencies). See Recommendation 8 for further details. The types and numbers of those NPOs are as follows.

Table 4.6. NPOs as of 31 December 2018

| NPO Licensor                                       | Number of NPOs Licensed | Number of NPOs that conduct international activities | Types of NPOs (2018)                                                     | Risk Rating |
|----------------------------------------------------|-------------------------|------------------------------------------------------|--------------------------------------------------------------------------|-------------|
| MOCD                                               | 222                     | 10                                                   | 185 – Public Interest<br>20 – National Associations<br>17 – Social Funds | Higher      |
| NPOs licensed by the Rulers of the seven Emirates: | 51                      |                                                      |                                                                          | Higher      |
| Federal License                                    | 1                       | 1                                                    | Federal Charity (UAE Red Crescent)                                       |             |
| Dubai                                              | 23 <sup>20</sup>        | 15                                                   |                                                                          |             |
| Abu Dhabi                                          | 9                       | 5                                                    | Charity within Individual Emirates                                       |             |
| RAK                                                | 3                       | 1                                                    |                                                                          |             |
| UAQ                                                | 2                       | 0                                                    |                                                                          |             |
| Sharjah                                            | 5                       | 2                                                    |                                                                          |             |
| Fujairah                                           | 1                       | 1 (Bangladesh only)                                  |                                                                          |             |
| Ajman                                              | 7                       | 3                                                    |                                                                          |             |
| IACAD                                              | 15                      | 7                                                    | Charities                                                                | Higher      |
| IHC                                                | 64                      | 64                                                   | 64 organisations including 8 belonging to the UN                         | Lower       |
| TOTAL                                              | 354                     | 108                                                  |                                                                          |             |

Source: MOCD, IACAD, IHC.

260. There is good cooperation and open lines of communication with all NPO supervisors, the MOI and State Security/other LEAs. All supervisors have conducted at least some sort of outreach to their NPOs relating to AML/CFT.

#### *Licensing and financial controls*

261. There are strong licensing and financial controls in place to help prevent NPOs' abuse by terrorist financiers. These strong controls include the following. See Recommendation 8 for more details.

- MOI background checks for NPO founders and members/volunteers for all NPOs, as well as MOI licensing of new NPOs. MOI has rejected some applicants based on failed criminal background checks.
- MOCD must all issue a "certificate of no objection" for an NPO to be able to open an account for an NPO.
- All international funds transfers must be routed through the UAE Red Crescent.

262. For the years 2013-2018, MOCD approved 49 applications for NPO licenses and rejected 23; IHC considered 97 applications and rejected 40; and IACAD considered five applications and rejected four. These rejections were due to failed criminal background checks by the MOI or failure to provide requirements of licensing (e.g. attested documents, a lease agreement, paying licensing fees, insufficient capital). No TF issues were detected.

<sup>20</sup> Of these 23, three also have a license from MOCD.



*Focused and proportionate measures in line with the RBA*

263. Risk-based focused and proportionate measures applied to NPOs is slightly uneven, but is improving.

*MOCD*

264. MOCD licences and monitors the majority of NPOs in UAE. MOCD has created a comprehensive risk matrix to classify residual risk of individual NPOs using a number of criteria, including scope of business, financial capability, assessment of internal controls, source of funding, whether they send funds overseas, and other factors. MOCD's risk assessment concluded that most NPOs were low risk, seven were classified as medium risk, and none were classified as high risk. Factors that resulted in the vast majority being rated as low risk included that they: 1) conducted only domestic operations; 2) were of smaller size/scope; and 3) had strong internal controls and complied with all financial reporting obligations.

265. This risk matrix is new and was just sent to other supervisors during the on-site visit as a suggested guide for them to further risk assess their own NPOs. Given that MOCD supervises the majority of high-risk NPOs meeting the FATF definition, the matrix should improve risk-based assessment of NPOs and corresponding supervision in the future.

266. The MOCD applies a risk-based approach, taking into account a number of factors, including its risk assessment, the activities of NPOs and compliance findings. It uses this information to classify some NPOs as higher risk, which consequently informs its supervisory approach by focusing more attention on these organisations. MOCD focuses on "institutions of public interest" (since they are classified as charitable, carrying out international activities and relying primarily on financial resources for donations), which include 10 NPOs that conduct international activities and are eligible to raise funds. MOCD also focuses on national associations, whose main source of funding is the funds allocated by the founder himself and the majority of their activities are internal.

267. MOCD conducts on-site inspections of NPOs and uses off-site tools (desk-based reviews) to supervise NPOs. Supervisory procedures include a supervisory action plan, inspection report template, and follow-up documents and communications. The on-site inspections check all financial and administrative data, and activities conducted. This includes checking all records and data to ensure the NPOs are not dealing with any designated terrorist organisations.

268. For off-site supervision, the MOCD uses external auditors to examine quarterly reports filed by NPOs. The MOCD reviews the accounts of each NPO to ensure the allocation of funds and resources for the NPO's activities and projects are in line with its establishment documents. The MOCD also reviews administrative factors including board of directors' meeting minutes, procedures for accepting and removing members, external memberships of the NPO, administrative records and accounts, and procedures for hiring and dismissing employees.



Table 4.7. MOCD on-site and off-site monitoring

| Number of Inspections |                                 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | Total |
|-----------------------|---------------------------------|------|------|------|------|------|------|-------|
| On-site inspections   | Institutions of Public Interest | 3    | 3    | 3    | 3    | 5    | 3    | 20    |
|                       | National Associations           | 3    | 9    | 13   | 6    | 10   | 11   | 52    |
|                       | Social Funds                    |      | 1    |      | 1    | 1    | 1    | 4     |
| Off-site inspections  | Institutions of Public Interest | 150  | 158  | 162  | 166  | 175  | n/a  | 811   |
|                       | National Associations           | 11   | 12   | 14   | 14   | 19   | n/a  | 70    |
|                       | Social Funds                    | 17   | 17   | 17   | 17   | 17   | n/a  | 85    |

Source: MOCD.

269. Through these inspections the MOCD identified a total of 83 breaches, which resulted in 4 cases of removing a member from the board of directors and 20 letters for corrective action. Most breaches were minor, relating to financial and administrative requirements, and did not require further remediation. No issues identified related to TF.

270. MOCD has six inspectors, which come from its financial auditing and legal teams. Given MOCD's responsibilities, and that it must supervise 214 NPOs and soon all 51 Ruler's Funds (see below), it might be slightly under-resourced.

### *Rulers' Funds*

271. The Ruler's Funds were just beginning to be supervised at the time of the on-site visit. The Rulers' Funds comprise approximately 14 percent of the total NPOs in the country and 18 percent of those deemed inherently "high risk." While there appear to be sufficient licensing controls, these entities were never assessed for risk until the 2018 NRA. This represented a substantial potential vulnerability.

272. The UAE identified this vulnerability as part of its NRA process and assigned the MOCD to take over monitoring of these NPOs. MOCD began coordinating with the Rulers' Courts (which previously had jurisdiction, although did not actively supervise) and each of the individual Emirates to transfer supervision. MOCD then developed an on-site inspection form and began off-site and on-site monitoring. As of the time of the mutual evaluation on-site visit, the MOCD indicated that it had supervised 23 of the 51 Rulers' Funds, which demonstrates that the UAE is beginning to address this vulnerability. While this is important progress, over half of the Rulers' Funds had not received an on-site visit, which is a significant shortcoming. MOCD should complete its coordination with the Rulers' Courts/Emirates to accelerate supervision in this sector.

### *IACAD*

273. IACAD conducts off-site and on-site supervision of its 15 NPOs. Off-site procedures include reviewing annual financial reports, which are now transitioning to quarterly reports. IACAD also has a supervisory manual that includes on-site inspection procedures for NPOs. Currently, IACAD has two financial inspectors and three administrative inspectors for off-site inspections, and four inspectors for on-site inspections. It plans to have seven on-site inspectors by the end of 2019.

274. The on-site inspection plan covers each NPO at a minimum of once per year. As part of the inspections, IACAD reviews the NPO's financials (including sources of

income), ensures that funds are deposited in the correct accounts, and inspects how funds are spent to ensure they are spent as intended.

275. In addition, all activities for fundraising in Dubai must be reviewed and pre-approved by IACAD, which is a redundancy that further prevents potential abuse for TF.

**Table 4.8. NPOs subject to supervision - IACAD**

| Number of NPOs & On-site Visits        | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | Total |
|----------------------------------------|------|------|------|------|------|------|-------|
| Number of NPOs Subject to Supervision* | 17   | 16   | 15   | 13   | 12   | 15   | --    |
| Number of On-site Visits               | 17   | 15   | 15   | 13   | 12   | 30   | 102   |

*\*IACAD has MOUs with MOCD to regulate certain NPOs. Therefore, some of the NPOs are regulated by MOCD and the number subject to supervision by IACAD are only 12 as of 2017 and 2018.*

276. These inspections revealed a total of 269 breaches from 2013-2018. All the breaches were administrative ones. Penalties included sending warning letters and confiscating funds when they were raised without IACAD approval. If an NPO continues to violate regulations, IACAD also recommends revoking the license of the NPO. Since 2014, the IACAD has revoked a total of 5 NPO licenses.

277. In order to pursue a more risk-based approach to supervision, the IACAD has recently developed a risk-based framework and as of the time of the on-site visit was in the process of piloting this framework. Those identified as higher risk are to be visited twice per year. For example, those that raise more money or deal with higher-risk countries will be visited more frequently.

### IHC

278. IHC recently revised its rules for licensing in 2018 to follow a risk-based approach for granting licenses to NPOs and for renewing the licenses, as well as for fundraising. Further revisions were made in 2019, to include a requirement to conduct funds transfers through the Red Crescent.

279. IHC does not conduct on-site inspection visits and instead supervises via off-site reviews. NPOs file activity and financial reports annually, or quarterly when IHC determines there is higher risk, and these reports are subsequently inspected by IHC staff. While IHC does not conduct on-site inspections, for all fundraising events conducted by IHC members, an IHC representative along with an IACAD officer are physically present to monitor the event. All fundraising campaigns by member NPOs must have donations directly deposited in an IHC account, which will then disburse the funds to NPOs.

280. From 2013-2018, IHC conducted one annual review of both financial and activity reports for each of its NPOs, which amounted to 30 reviews in 2013 increasing to 49 reviews in 2018. The reviews revealed a total of 145 breaches, most commonly for failing to submit financial or activity reports on time, failing to renew a licence prior to expiry, or not having insurance. Penalties applied included fines, enforceable undertakings, and warning letters. Between 2014 and 2017, IHC cancelled the licences of three NPOs due to failed criminal background checks.

*Deprivation of TF assets and instrumentalities*

281. Given the TF risk profile of the UAE, as well as the number of TF cases prosecuted and TF convictions secured, the UAE deprives terrorists, terrorist organisations and terrorist financiers of assets and instrumentalities to a relatively low extent.

282. Regarding TF TFS related asset freezes, the UAE has frozen no assets with respect to UNSCR 1267, UNSCR 1989 and successor resolutions within the assessment period. With respect to its Local List, the UAE has frozen a total of AED 874 000 (EUR 212 000), all of which occurred in 2017 (see 10.1 above). Other assets have also been frozen pursuant to criminal investigations, totalling AED 56 million (EUR 13.7 million) between 2013-2018.

283. The UAE also utilises temporary asset freezes for TF as a preventive measure, pending criminal adjudication. Between 2013-2018, a total of 112 freezing orders were issued by competent authorities to prevent asset flight. The UAE estimates that during this time period there was AED 206.85 million (EUR 50.2 million) related to TF-investigations, and approximately 27% of this total was successfully frozen (AED 56 million, or EUR 13.7 million).<sup>21</sup> These freezes all occurred in 2017 and 2018, across four separate cases and accounted for 75 of the 112 freezing orders issued by authorities during this period, while the remaining 37 freezing orders in the four years prior did not yield any frozen assets. The UAE notes that, in many cases, assets were already disposed of or had been transferred out of the country, sometimes prior to the investigation beginning.

<sup>21</sup> The UAE notes that the estimate for funds identified represents an estimation made by the Prosecution at the time of investigation on total amounts used to finance TF in a given case and can involve amounts often fully utilized prior to the investigation. The figure does not necessarily represent funds available in bank accounts.

**Table 4.9. Amounts identified and frozen and confiscated in criminal cases**

| Year  | Estimated amount identified*        | Freezing orders | Value of frozen assets (AED)       | Freezing Orders related to cases in IO.9                       | Confiscation Orders | Confiscation Values                             | Confiscation Relating to |
|-------|-------------------------------------|-----------------|------------------------------------|----------------------------------------------------------------|---------------------|-------------------------------------------------|--------------------------|
| 2013  | AED 236,500<br>(EUR 57 380)         | 0               | 0                                  | Case No. 147/2013                                              | 0                   | 0                                               |                          |
| 2014  | AED 7 713 600<br>(EUR 1 871 500)    | 35              | 0                                  | Cases No. 23/2014 and 150/2014                                 | 1                   | AED 3 000 000                                   | Case No. 59/2014         |
| 2015  | AED 1 215 740<br>(EUR 295 000)      | 0               | 0                                  | Cases No. 24/2014, 33/2015 and 150/2015                        | 6                   | 5700 USD<br>525 AED<br>(Eq to about AED 21,500) | Case No. 33/2015         |
| 2016  | AED 199,300<br>(EUR 48 355)         | 2               | 0                                  | Cases 48/2016 and 55/2016                                      | 2                   | 0                                               |                          |
| 2017  | AED 107 452 260<br>(EUR 26 064 000) | 71              | AED 32 452 260<br>(EUR 7 873 730)  | Cases No. 1/2017 and 75/2017                                   | 0 <sup>22</sup>     | 0 <sup>23</sup>                                 |                          |
| 2018  | AED 90 031 717<br>(EUR 21 844 000)  | 4               | AED 24 000 000<br>(EUR 5 823 000)  | Case No. 61/2018<br><br>Case No 138/2018 (under investigation) | 0                   | 0                                               |                          |
| Total | AED 206 849 111<br>(EUR 50 187 000) | 112             | AED 56 452 260<br>(EUR 13 696 700) |                                                                | 9                   | AED 3 021 500                                   | 2 cases                  |

284. Given the number of TF cases investigated and prosecuted, as well as the number of successful convictions for TF, the UAE has been comparatively unsuccessful in confiscating assets and instrumentalities of TF-related crimes (confiscating approximately one percent of the total proceeds of TF funds identified and about five percent of the funds frozen). Between 2013-2018, there have been two criminal cases where the UAE notes it has confiscated financial assets related to terrorism. There have also been several cases of terrorists' instrumentalities (e.g., mobile phones, laptops) being seized and ultimately confiscated, which authorities value at approximately AED 2 million during the same time period.

285. The UAE has also provided examples of State Security and the FCA coordinating to detain cash couriers linked to terrorist organisations at the UAE border. These cases involved the movement of many millions of AED each. While these are good examples of interagency coordination and identification of TF funds, each of the cases ended in deportation and one resulted in the return of about AED 3.7 million to the suspect before deportation. (Though the suspect did pay a fine, and presumably the host country, with which the UAE has a cooperative relationship, could detain the suspect and funds.) In this last case, the UAE cites a lack of evidence

22. The UAE reported that, after the on-site, State Security Prosecution won an appeal on Case No. 75/2017 and secured one confiscation order for this case totaling approximately AED 3 452 260.

23. The UAE reported that, after the on-site, State Security Prosecution won an appeal on Case No. 75/2017 and secured one confiscation order for this case totaling approximately AED 3 452 260.

in proving the funds were TF-related, and no other charges were brought against the individual (e.g., non-declaration of cash above the UAE's reporting threshold).

### *Consistency of measures with overall TF risk profile*

286. As set out in IO.1, there are some weaknesses in the UAE's understanding of TF risk and clear articulation of TF risk profile. In this respect, the UAE's efforts to implement TFS related to terrorism/TF, protect charities from the abuse of TF, and deprive terrorists and terrorist financiers of assets and instrumentalities are varied, but overall are not consistent with what can be ascertained about the UAE's TF risk profile.

287. With respect to UN sanctions, the UAE's response has been relatively minimal, given its TF threat and vulnerability profile. The country has just begun to implement TFS procedures and mechanisms that will improve its ability to implement UN sanctions without delay, but this system is nascent and there was little to no awareness among the private sector or even some authorities regarding TFS obligations or the new procedures at the time of the on-site visit. The UAE has not frozen any assets pursuant to UNSCRs pertaining to TF, and awareness of sanctions evasion methods or typologies from authorities and private sector entities is extremely low. The UAE has not proposed any designations to the United Nations.

288. With respect to local designations, the UAE has taken a number of actions and designated terrorist organisations that threaten its national security. However, statistics relating to the amount of assets frozen pursuant to the UAE local list have been difficult to confirm, and in the best case the total amount frozen was around EUR 7.4 million over five years. This seems to be a modest amount over a five-year period for a country that has rated itself as medium-high for TF threat/vulnerability, is considered a major regional financial hub, and where far greater sums of assets connected to terrorism/TF have been estimated by local authorities (around EUR 50.2 million over the same period). Thus, TFS appear to play a minimal role in the UAE's approach to disrupting TF.

289. UAE has done an NPO risk assessment and has strong licensing and financial controls in place to help prevent NPOs' abuse by terrorist financiers. Risk-based supervision is slightly uneven, but appears to be improving. The significant shortcoming is that the Ruler's Funds were just beginning to be supervised at the time of the on-site visit. The Rulers' funds comprise approximately 14 percent of the total NPOs in the country and 18 percent of those deemed inherently "high risk."

290. Given the number of TF cases investigated and prosecuted, as well as the number of successful convictions for TF, the UAE has been comparatively unsuccessful in confiscating assets and instrumentalities of TF-related crimes. Noting that UAE authorities have consistently maintained that cash is a major inherent vulnerability for ML/TF, it is somewhat problematic that major seizures of cash in cited cases of TF-related cash courier detentions have not occurred.

### *Overall conclusions on IO.10*

**291. The UAE is rated as having a moderate level of effectiveness for IO.10.**

## Immediate Outcome 11 (PF financial sanctions)

### *Implementation of targeted financial sanctions related to proliferation financing without delay*

292. The UAE is implementing PF-related TFS to a low extent, as measures are not implemented without delay.

293. The system for implementing PF-related TFS is the same as for TF TFS described in IO.10 above (see IO.10 for more details). The UNSCR Decision of January 2019, combined with a new mechanism of automatic transposition and notification, puts in place a far improved framework for implementing TFS, although there are still clear gaps in the Decision, including a lack of apparent freezing obligation with respect to those working on behalf of entities listed by UNSCR 2231 (Iran) (see Recommendation 7). The new mechanism was internally piloted and tested with competent authorities approximately two months prior to the on-site, with the public website being launched the week prior to the on-site. As a result, general awareness of the new procedures among authorities was still quite low, and almost non-existent among the private sector. Therefore, the new mechanism has not yet been executed to an extent that can demonstrate any effectiveness. As a result, as of the time of the on-site visit, the UAE's PF-TFS system was in transition but being implemented under its previous system, which did not take place without delay.

294. The previous system, which covered most of the assessment period (2013 to the first half of 2019), involved numerous steps between UN designation and communication to select private sector entities. This involved the Central Bank communicating the listings to its supervised entities (banks and MSBs) via Notices, which would request entities to check their databases for any matches, freeze any accounts discovered, and report back to the Central Bank. As it relates to other supervisors, there were various methods of notification in place, reporting entities were required to comply with these notices, and compliance was assessed during the periodic review. There was no public notification to all natural and legal persons.

**Table 4.10. UN designations and Central Bank Notices**

| Designation(s) in UNSCR  | Date of UNSCR/designations | Central Bank Notice | Date             | Delay (days) |
|--------------------------|----------------------------|---------------------|------------------|--------------|
| UNSCR 1737               | 23 December 2006           | Notice 2/2007       | 3 January 2007   | 11           |
| (pursuant to UNSCR 1718) | 28 July 2014               | none                | none             | N/A          |
| UNSCR 2270               | 2 March 2016               | Notice 190/2016     | 15 June 2016     | 105          |
| UNSCR 2321               | 30 November 2016           | Notice 354/2016     | 4 December 2016  | 4            |
| UNSCR 2356               | 2 June 2017                | none                | none             | N/A          |
| UNSCR 2375               | 11 September 2017          | Notice 343/2017     | 25 October 2017  | 44           |
| UNSCR 2397               | 22 December 2017           | Notice 22/2018      | 13 February 2018 | 53           |
| (pursuant to UNSCR 1718) | 30 March 2018              | none                | none             | N/A          |
| Average                  |                            |                     |                  | 43.4         |

295. The Central Bank Notices communicating UN designations included significant delays, averaging 43.4 days (approximately 1.5 months) following UN designation. In addition, the Notices state that entities are “requested to search and freeze,” which



may in part explain a lack of clarity among assessed entities regarding their legal obligations to freeze assets without delay. In practice, many FIs and DNFBPs use automated systems like WorldCheck to update them on UN and other sanctions lists, but this does not fully compensate for the lack of notification and understanding of a formal requirement to freeze.

296. The UAE has not proposed any designations to the United Nations.

#### *Identification of assets and funds held by designated persons/entities and prohibitions*

297. The UAE has not identified funds or other assets of designated persons and has not demonstrated it has prevented said persons from operating.

298. While the UAE has identified between 2015-2018 25 individuals and legal entities potentially connected with relevant DPRK and Iran UNSCRs, authorities did not identify and freeze any assets with respect to the PF-related TFS within the last five years. Cases cited include, for example, two designated North Korean diplomats potentially implicated in cash smuggling between Tehran and Dubai between 2015 and 2016.<sup>24</sup> The UAE also cites the example of closing an art gallery selling North Korean artwork after receiving a letter from the UN Panel of Experts for North Korea. Other cases cited involved Iranian-linked legal persons operating in the UAE that have been tied to export-control related cases, but no financial connections implicating UN TFS have been established to date.

299. There were limited instances where reporting entities detected potential matches with DPRK-related TFS. In these instances, the reporting entities filed STRs and accounts were sometimes closed, but no assets were frozen. The FIU notes that the STR database does not differentiate between UN and other sanctions programs, and further information was not available to ascertain whether the potential matches were UN-related. In some instances, the FIU disclosed STRs to LEAs but the main supervisor was not made aware that potential TFS detections had occurred. BSD notes that this is not a common practice in the UAE, so examiner follow-up to regulated entities on potential detections in order to provide guidance or better understand the sanctions evasion risk to the sector does not occur.

300. Understanding of PF sanctions evasion methods appears uniformly low across both government authorities and private sector participants of all types and domicile (mainland or FFZ). While there are a few cases of interagency cooperation dealing with dual-use goods smuggling or transshipment, authorities were unable to identify any financial arrangements exploited and the cases are export-control focused. Further, while these cases implicate Iranian persons, authorities were unable to demonstrate the activity is covered under the FATF standards.

<sup>24</sup> UAE cites the March 2019 DPRK Panel of Experts Report (S/2019/171), paragraph 72, which notes a pattern of North Korean nationals based in Iran flying between Tehran and Dubai and boarding a return flight to Tehran within a few hours of their arrival in the UAE, indicative of cash couriers. The report also documents 282 flights flown by North Korean diplomats Kim Yong Chol and Jang Jong Son between Tehran and Dubai between 2015-2016. Kim and Jang were designated by the UN in 2016 as Korea Mining Development Trading Corporation (KOMID) representatives in Iran. Despite this example, authorities note that there have been other designated individuals who have been denied entry at UAE airports, though further details were not provided.



*FIs and DNFBPs' understanding of and compliance with obligations*

301. UAE FIs and DNFBPs comply with and understand their obligations related to PF TFS to a low extent.

302. In the event of a true match against the UN lists, a large number of private sector entities were not fully aware of their obligation to freeze and report, and many indicated that they would simply close the account or reject the transaction. Partial matches that were reported almost always ended with account closing and assets being returned prior to reporting. This is the case across sectors (e.g., banking, MSBs, etc.), size of institution, and mainland/FFZ. This, coupled with a large percentage of deficiencies found in examinations regarding basic sanctions screening for mainland domestic banks and MVTs and a lack of meaningful enforcement action related to deficiencies in TFS controls, signals a substantial vulnerability in the area of PF. While many FIs and DNFBPs use automated systems like WorldCheck to update them on sanctions lists, this appeared to lead to an over-reliance on these systems as a substitute for government notification and guidance, as well as a lack of understanding regarding how controls could be evaded.

303. Written guidance from authorities on TFS is limited and mainly confined to one high-level chapter in the broader AML/CFT guidance document issued one week before the on-site visit (see next section for more detail). Regulators in the FFZs have conducted, or were in the process of conducting at the time of the on-site, thematic reviews that peripherally touch upon TFS. For example, DFSA completed a trade finance thematic review in 2016 that covers some aspects of TFS, and the FSRA had begun an AML thematic review that includes a review of TFS, although this work had not yet been completed at the time of the on-site.

*Competent authorities ensuring and monitoring compliance*

304. UAE competent authorities monitor and ensure compliance of PF TFS obligations by FIs and DNFBPs to a limited extent.

305. Available statistics on sanctions screening compliance by banks and MVTs have been mixed, with the added complication that BSD does not separate their screening control examinations for TFS and PEPs and therefore statistics for compliance with these obligations are co-mingled. Initial statistics provided showed high rates of deficiency, particularly among mainland banks and non-FFZ institutions. However, later statistics that include foreign branches on the mainland and FFZ institutions display a marked improvement. While a lack of individual focus on TFS screening examination is problematic and could be contributing to a lack of broader awareness of appropriate TFS controls by FIs and MVTs providers, it is encouraging that general TFS and PEP screening statistics are trending upward.

306. Regarding enforcement actions taken for non-compliance, the Central Bank cites cases of exchange house licenses being revoked for non-compliance with a number of AML/CFT provisions. It is not clear the extent to which TFS obligations under the FATF standards were breached. However this is a positive step taken by authorities to limit exposure potentially related to UN sanctions.

307. Written guidance on TFS is limited to a single chapter of an overarching AML/CFT guidance manual issued one week before the on-site visit. The chapter largely transposes passages from the UNSCR Decision, AML Law, and AML By-law or otherwise reiterates obligations contained in relatively new laws and regulations. It does not provide any guidance in the way of detecting sanctions evasion or other red

flags/indicators, and the private sector was almost entirely unaware of its existence. As noted above, DFSA and FSRA have sought to cover aspects of TFS implementation in select thematic reviews. The fact that these efforts are relatively new and lacking in meaningful detail likely contributed to a relatively poor level of understanding of TFS among private sector entities.

308. Outreach on TFS by competent authorities and supervisors to the private sector has been minimal, and largely confined to checking screening systems during AML/CFT examinations. Some private sector entities were recently told about the new website of the Import/Export Committee implementing the new notification mechanism on TFS, but it was not yet being utilised by private sector entities as of the on-site visit. As noted above, many private sector actors rely upon third-party screening software such as WorldCheck for their sanctions screening needs, and tend not to rely upon notification from competent authorities regarding updates to the sanctions lists, which have been historically late. The new mechanism, once fully implemented, will significantly improve the system.

#### *Overall conclusions on IO.11*

309. **UAE is rated as having a low level of effectiveness for IO.11.**

## CHAPTER 5. PREVENTIVE MEASURES

### Key Findings and Recommended Actions

#### *Key Findings*

- a) All the entities performing activities covered by the FATF Standards are required to apply a range of AML/CFT preventive measures under the 2018 AML Law and 2019 By-Law. In general, financial institutions (FIs) were applying a range of preventative measures but there are serious concerns in their application of targeted financial sanctions.
- b) Banks in the UAE have a good level of understanding of ML/TF risks and obligations, while other FIs (securities, insurance and MVTs) displayed a reasonably good understanding of risks and preventative measures in their sectors but to a lesser extent.
- c) The UAE has large and diverse financial and DNFBP sectors. The level and types of ML/TF risks affecting individual financial institutions (FIs) and DNFBPs vary greatly, as do the ML/TF risks facing particular sectors. The banking, MVTs, real estate and DPMS sectors are materially important and exposed to the greatest risks for ML/TF.
- d) The risk understanding among DNFBP sectors in mainland and CFZs is weak. AML/CFT obligations for DNFBPs are new, and supervisors were only recently appointed. On the other hand, DNFBPs in the FFZs have a more developed understanding of their ML/TF risks
- e) There are concerns about the low level of STR reporting in many sectors, particularly the DPMS, and Real Estate and TCSP sectors. While some STRs are submitted are of high-quality, there remain concerns about the quality of STRs reported across sectors (even amongst banks, which submit 85% of STRs filed).

#### *Recommended Actions*

- a) The UAE should enhance the monitoring of sectors' awareness of risk, mitigation measures and compliance. Supervisors should continue to conduct full-scope examinations of institutions in line with the risk cycle and through the conduct of thematic reviews. This should include firms which have not been subject to supervisory attention, and in areas of particular weakness (TFS, EDD, hawaladars and high risk DNFBPs).

- b) UAE needs to increase the awareness and understanding of AML/CFT obligations and the implementation of risk-based approach especially among hawaladars and DNFBPs in the mainland.
- c) Supervisors and the FIU should take more rigorous measures including supervisory actions, education and outreach, to urge non-bank FIs and DNFBPs to strengthen their transaction-monitoring systems and ensure timely and quality reporting of STRs by all reporting entities.
- d) UAE should provide more specific guidance, tailored by sector, on implementing preventive measures, including identifying and applying measures specific to Targeted Financial Sanction (TFS) relating to TF, to FIs and DNFBPs in order to improve the EDD measures.

310. The relevant Immediate Outcome considered and assessed in this chapter is IO.4<sup>25</sup>. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23.

#### Immediate Outcome 4 (Preventive Measures)

311. For the reasons of their relative materiality and risk in the UAE context, implementation issues were weighted most heavily for the banking sector, heavily for important sectors (MVTs, Real Estate and DPMS), moderately heavy for the securities sector, lawyers and TCSPs and less heavily for less important sectors (insurance, finance companies, accountants and auditors and notaries. This is explained above in Chapter 1 (section 1.4.3). Overall, the assessors concluded that:

- a) **Most heavily weighted:** Large banks in the mainland and FZs appear to be implementing preventive measures effectively and engaging proactively with authorities. Smaller banks have a good understanding but to a lesser extent.
- b) **Heavily weighted:** Implementation of preventive measures in the MVTs in mainland and FZs appears good, while it is weak among the Real Estate and DPMS sectors.
- c) **Medium weight:** The securities sector generally appears to be implementing preventive measures effectively. However, there is no evidence of good understanding of ML/TF risks among lawyers and TCSPs.
- d) **Low weight:** Insurance and finance companies appear to have a good understanding of their risks and are applying sufficient preventive measures. Accountants and auditors do not have a sufficient understanding of their risks or how to effectively

<sup>25</sup> When assessing effectiveness under Immediate Outcome 4, assessors should take into consideration the risk, context and materiality of the country being assessed. Assessors should clearly explain these factors in Chapter One of the mutual evaluation report under the heading of Financial Institutions and DNFBPs, as required by page 131 of the Methodology.

mitigate them. Notaries in UAE are not performing any of the activities mentioned in the FATF Methodology. It is illegal to operate casinos in UAE.

312. Assessors' findings on Immediate Outcome 4 are based on: interviews with a range of private sector representatives, findings from enforcement actions, input from supervisors and information from the UAE authorities (including the NRA) concerning the relative materiality and risks of each sector. Meetings with FIs revealed robust implementation of requirements related to CDD, record-keeping, PEPs, correspondent banking, wire transfers, internal controls. However, there are serious concerns for applying the specific measures for Targeted Financial Sanctions (TFS) relating to TF among all sectors.

### *Understanding of ML/TF risks and AML/CFT obligations*

313. Since the last mutual evaluation, risk understanding across all sectors has improved, although deficiencies continue to exist. Across all sectors, it is noted that larger firms have a better understanding of risks and their AML/CFT obligations and are able to allocate adequate resources to doing so. Whilst it is positive that this risk understanding has improved, the assessment team observed that in large institutions, this development had come predominantly from the implementation of global policies around AML/CFT, rather than domestic policies driven from the UAE.

314. The AML law issued in October 2018 and AML By-law issued in February 2019 introduced detailed obligations for all FIs and DNFBPs to identify, assess and review ML/TF risks. The BSD in the mainland has only recently moved from a rules-based to a risk-based approach in applying compliance and AML/CFT supervisions for banks. The introduction of the Risk Based Approach and the third party risk assessment reports which have been required to be conducted (by the BSD for mainland banks) from 2018 has increased risk understanding significantly and caused banks to look in more detail at specific areas of ML/TF risk that their institutions are exposed to and their mitigating measures. The on-site examinations by the supervisor reported that FIs are increasingly following the RBA as shown in their policies and procedures.

### *FIs in the mainland*

315. Large banks in the mainland showed a good understanding of ML / TF risks. Smaller banks, securities firms, insurance companies, and MVTs appeared to have a good understanding in some areas but generally to a lesser extent. Most FIs were recently informed of the NRA results although they were not involved in the NRA process. In the vast majority of institutions, the NRA results confirmed their previous understanding of inherent ML/TF risks that they faced, rather than developing that significantly.

316. Through the third-party risk assessment reports and BSD reports, majority of examined banks in the mainland exhibited deficiencies at the level of risk assessment. The BSD followed-up with the banks in order to remedy identified gaps; this had contributed in improving the BSD average classification of the banking sector to substantially compliant by the end of 2018.

317. The risk assessment concept is a relatively new in the MVTs sector. The supervisor reviewed 33 MVTs in the mainland in 2018 out of total 107 where deficiencies were reported. The larger MVTs with higher numbers of transactions and offered products demonstrated more comprehensiveness at the level of risk

assessment and understanding. It was not possible to determine whether this level of risk understanding was maintained across the smaller MVTs and hawaladars, in what is a relatively large sector. In 2019, BSD inspected only a very limited number of hawaladars having only a small number of hawaladars with renewed licenses, following the change in policy (7 in 2018 versus 20 in 2017) out of total 309 registered. Reportedly, some of the registered non-renewed hawaladars are still operating, raising concerns about their understanding of their ML/TF risks and obligations. However, increased supervision of the sector, remedial actions taken by the supervisor and some consolidation of the sector appears to have resulted in greater risk understanding.

318. The SCA assisted the securities and brokerage sector through providing them with a guidance document to classify their clients according to a risk-based approach. It also keeps on following up said entities to maintain and raise awareness. SCA reviewed 103 out of total 306 securities and brokerages firms in the mainland during 2017 and 2018 where they generally demonstrated an understanding of the ML/TF risks and their AML/CFT obligations. Generally, the assessment team found the securities sector to have a comprehensive understanding of ML/TF risks and their obligations.

319. The IA reviewed 20 FIs in the insurance sector in the mainland out of total 62 in 2018; insurance companies were found to be moderately or not effective in client risk assessment, and their quarterly internal control reports submitted to IA were found to be generally weak. Generally, the assessment team found the larger insurers to have a comprehensive understanding of ML/TF risks (and specific insurance product risk) and their obligations. Given the findings of the IA through on-site examinations, this understanding appears to be not as comprehensive across the whole sector.

#### *DNFBPs in the mainland and CFZs*

320. DNFBP supervisors were only recently established by virtue of Cabinet Resolutions. Accordingly, the supervisors consider that the current understanding by these entities of their ML/TF risks and AML/CFT obligations is likely to be low. Generally, the assessment team found that certain larger DNFBPs (particularly lawyers/accountants) have a comprehensive understanding of ML/TF risks and their obligations, whereas smaller DNFBPs were on a number of occasions, unaware of the specific risks of their sectors or their obligations – this is also the case for Real Estate/DPMS.

#### *FIs and DNFBPs in ADGM*

321. There is no sufficient data to enable supervisors to assess the risk assessment capabilities of the FIs and DNFBPs in the ADGM. Nevertheless the FSRA requests various documents in advance of its onsite review of the reporting FIs in order to ensure that reporting FIs are applying effective measures to mitigate their ML/TF risks. Interviewed FI demonstrated a good understanding of ML/TF risks and obligations whereas DNFBPs have an acceptable level of understanding.

#### *FIs and DNFBPs in DIFC*

322. The number of DNFBPs located in the DIFC accounts for less than 1% of the total DNFBPs in the UAE. Therefore, the assessment team are of the view that this does not provide an indicator for risk assessment effectiveness by the majority of



DNFBPs in the UAE. The DFSA considers that majority of DNFBPs understand their ML/TF risks and their AML/CFT obligations. Whilst the assessment team considered that certain DNFBPs demonstrated a good understanding of ML/TF risk (particularly CSPs) there were certain sectors that are less developed (lawyers). This resulted in a finding that there was still work being done to apply the concept of completing a business risk assessment that formed the basis of their policies and procedures. The assessment team considered that this may be due to a developing understanding on how ML/TF risk can affect the DNFBP sector.

323. The FIs demonstrated a stronger understanding of ML/TF risks and their obligations. The DFSA considers that FIs are generally aware and understand the essence of rationale for their regulatory obligations in regard to managing ML/TF risks in line with their customer base, products and services offered, country of operations, distribution channels and transactions. Large, well-established financial institutions, having more resources and greater experience in the AML/CFT domain demonstrated a good understanding. Except for the international banks that operate DIFC branches, the FIs' risk analysis often lacked objectivity whether this was based around considering risks from neighbouring countries or rating products or even clients. The DFSA reported that TF risks are incorporated by FIs as part of the overall AML assessment instead of being considered on a standalone basis. Generally, the assessment team considered that the TF risk was less well understood than ML risks.

324. It was not possible to fully assess to what extent banks in the DIFC still focus more on credit risk and operational risk compared to ML risk in their risk assessments. In 2016-17, a trade-finance thematic review found that DIFC banks involved in such business activities started shifting their focus to TBML risks. A large bank met during the onsite demonstrated that ML/TF risk assessment and risk controls were a significant part of their risk model. The DFSA requires that banks identify their ML/TF risks and develop documented risk controls for such risks. This was demonstrated to be changing, with a greater focus by the DFSA on ML/TF risk based supervision but the changes were not yet demonstrated at entity level.

325. Securities trading is generally of wholesale nature, rendering the entities assigning low ML risks to their clients except for trusts and foundations or any NPO. Financial advisory firms rate ML risks as low given the lack of deposits and assets' flow. However, the brokerage sector appeared to be not fully aware of the higher risks associated with third party introducers. Generally, they demonstrated a reasonable knowledge of their obligations, mainly due to significant contact with the DFSA.

### *Application of risk mitigating measures*

#### *FIs in the mainland and CFZs*

326. Generally, the assessment team found that FIs of all sizes have AML programmes designed to mitigate ML/TF risks. Most demonstrated a good knowledge of the AML/CFT requirements as they apply to their context and a strong commitment to apply these measures effectively. Many of the FIs interviewed had established significant departments to manage ML/TF risk and to ensure the effective implementation of AML/CFT measures. Banks and the securities industry are implementing this to a good extent, whereas the MVTs sector and the insurance sector are implanting this to some extent.

327. BSD's examination reports and third-party assessments confirmed that banks are applying the RBA and using mitigation measures commensurate with their risks.



2018 review by BSD showed that among the different measures, policies and procedures was the compliance area with least deficiencies in banks.

328. The MVTs sector generally have reasonable systems in place to mitigate ML/TF risks. This ranges across the sector but generally, all apply reasonable CDD measures with the use of third party systems (e.g. World Check, Fiserve...) for sanctions screening and transactions monitoring. The BSD reported that most MVTs providers have robust mitigation measures commensurate with their risks. However, the significant number of enforcement actions, including a number of notices in 2016, indicate that the compliance levels across the sector may not be as comprehensive as expected.

329. Generally, securities and brokerage firms have advanced measures in place commensurate with their risks tools while others use manual tools for clients' risk assessment. SCA conducted an examination in 2017 and 2018, which demonstrated effective in documented policies and procedures.

330. The regulatory framework of the insurance sector imposes developing a risk management system and implementing internal control systems in order to minimize their risks. Generally the level of mitigation measures demonstrated was not as high as other FIs which matched inspections undertaken by the IA during 2018 which showed deficiencies at the level of documented policies and procedures. DNFBPs in the mainland and CFZs

331. DNFBPs have only recently had AML/CFT obligations imposed on them by recent legislation and supervisors appointed by virtue of Cabinet Resolutions. No reviews were conducted by the supervisor. Whilst some DNFBPs, particularly those that are part of larger national or international groups (particularly lawyers and accountants) may have been applying some measures by virtue of group policy, it was not possible to demonstrate that mitigating measures were being comprehensively applied across the UAE.

#### *FIs and DNFBPs in ADGM*

332. FIs and DNFBPs in ADGM have developed tools and controls such as AML/CFT manuals, policies and procedures, business & customer risk assessment, compliance and AML internal reviews/audit, appointment of MLRO and AML training. The ADGM conducted five on-site reviews in 2017 and sixteen in 2018 (as of December 31). Four of these on-site were of banks, thirteen were of other financial institutions and four were DNFBPs. The assessment team concluded that entities in the ADGM were implementing a range of mitigating measures that appeared to be commensurate with the risks faced. This particularly extended to one MVTs business out of 2 registered in the ADGM who had particular mitigating measures in place relevant to their enhanced risk by conducting MVTs business. Whilst inspections by the FSRA are at an early stage, indications from those inspections show that mitigating measures are applied to a good extent.

#### *FIs and DNFBPs in DIFC*

333. FIs demonstrated that they are capable of producing comprehensive policies and procedures which address the risks faced in the DIFC. Well-resourced FIs put in place proportional systems and controls to mitigate their identified ML/TF risks. Across all sectors, good mitigation measures included adequate human and IT resources, appropriate customer due diligence process, robust transaction

monitoring, meaningful periodic AML reviews and detailed and up-to-date policies and procedures are in place. However, the DFSA identified that most financial institutions were deemed to have one or more weaknesses regarding mitigating measures. However, generally the implementation of mitigating measures is comprehensive.

334. DNFBPs in the DIFC are effective in applying mitigation measures commensurate with their risk but with varying degrees among sectors. The TCSP sector demonstrated the highest compliance level and the accountant sector the least. The assessment team noted positively that the higher risk DNFBP sectors appear to apply stronger mitigating controls in line with their risks

### *Application of CDD and record-keeping requirements*

335. Most interviewed FIs in the UAE demonstrated robust CDD and record-keeping measures. Larger banks have the most robust CDD measures. Based on the supervisor's findings, DNFBPs in the DIFC are substantially effective in executing their CDD and record keeping obligations

### *FIs in the mainland and CFZs*

336. The expatriate nature of the major residents in the UAE is imposing a permanent systemic problem where main deficiencies in CDD requirements are identified at the level of KYC documentation in mainland banks. On the other hand, FIs will not on-board a customer where they do not meet KYC requirements and it was demonstrated that accounts are frozen when identification documents are not updated at their expiry.

337. BSD reported that deficiencies related to CDD measures under the MVTs sector were mostly related to KYC.

338. Securities and brokerage firms demonstrated robust CDD measures, while Insurance firms have relatively high incidence of deficient CDD and record keeping.

### *DNFBPs in the mainland and CFZs*

339. DNFBPs have only recently had AML/CFT obligations imposed on them by recent legislation and supervisors appointed by virtue of Cabinet Resolutions. No reviews were conducted by the supervisors. Whilst some DNFBPs, particularly those that are part of larger national or international groups (particularly lawyers and accountants) may have been applying some measures by virtue of group policy, it was not possible to demonstrate that CDD and record keeping measures being comprehensively applied across the UAE.

### *FIs and DNFBPs in ADGM*

340. Most examined entities by FSRA have relevant procedure in place to reject customers who fail to provide all required customers due diligence information, noting that 50% of examined entities are using third parties to conduct CDD.

### *FIs and DNFBPs in DIFC*

341. FIs continue to place significant focus on CDD given that some of their clients are high net worth individuals (HNWI) and PEPs. Supervisors have observed some gradual improvement at the level of policies and procedures, risk-rating

methodology, clients' educating and have therefore noted a general increase in the standards applied around CDD. However, some challenges still persist when dealing with HNWIs. It has been noted that FIs and MLROs in particular should apply more critical thinking on submitted information when building plausible customer profiles as part of the customer risk assessment process which drives the CDD process.

342. FIs rely on comprehensive tools and systems for CDD and sanctions screening. However, effectiveness of their usage depends on the skills of the compliance team. In this regard, it has been identified that institutions are challenged to find capable human resource in the UAE marketplace. Small institutions are regularly outsourcing this function to external consultancies.

343. All FIs and most MLROs are aware of their obligations to establish beneficial ownership. Compliance and MLROs use independent sources provided by third party vendors to verify the information provided by client and identify alerts, if any. However, a common deficiency is observed at the level of analysis in that certain hits are easily dismissed. This may be due to skill gap in the MLRO teams, low levels of risk awareness, insufficient resources versus volume of false positives and sometime poor compliance culture.

344. If a customer does not respond in a timely manner and CDD file is not completed by the deadline, most FIs stated that they would not proceed with a transaction or provision of service. In some cases, STRs related to non-cooperative clients are considered and submitted. On the other hand, in some specific cases, FIs come up with certain control measures to mitigate the risk until CDD is complete.

345. The DFSA conducts outreach sessions with reviewed DNFBPs and is planning to assess other DNFBPs in the second half of 2019. Generally, the implementation of CDD and record keeping measures is substantially effective in the DIFC.

### *Application of EDD measures*

346. Banks and insurance companies in the mainland showed deficiencies at the level of EDD measures. Remaining FIs sectors in the mainland and the FFZs demonstrated an effectiveness in applying EDD measures. However, application of EDD is not always proportionate and reflective of the risks, as revealed by the DFSA.

### *Politically Exposed Persons (PEPs)*

#### *FIs and DNFBPs in the mainland and CFZs*

347. All FIs use screening systems such as World-Check to identify PEP. Generally, they displayed a strong understanding of EDD requirements, particularly in relation to domestic and international PEPs, which they all categorised as high-risk. These requirements include the scrutiny of the sources of funds and the source of wealth, the on-going monitoring.

348. DNFBPs have a weak understanding of AML/CFT obligations on PEPs and they indicated that they have a limited relation with such type of customers. The majority of this sector was either not certain how to identify a PEP or would use open source internet research to identify PEP. It is therefore unlikely that DNFBPs are applying adequate enhanced measures, given the basic issues in identification that exist.

*FIs and DNFBPs in ADGM*

349. Most FIs and DNFBPs in ADGM have EDD measures as part of their AML/compliance manuals. The interviewed MVTS had a good understanding of PEPs requirements and use electronic tool for screening their customers.

*FIs and DNFBPs in DIFC*

350. When dealing with the high-risk clients, most FIs are generally able to demonstrate additional identification and verification documentation and other enhanced measures. FIs are usually effective at screening for high risk factors and flagging them. However, application of EDD is not always proportionate and reflective of the risks.

351. DFSA analysis of reports and on-site inspections showed that FIs across all sectors demonstrate good awareness of PEP risks and ability to identify PEPs. They are identified either through front office awareness and CDD, or by using background searches and screening

352. However once a PEP is identified, some FIs often fail to acknowledge the associated risks and thus fail to meet additional obligations for verifying the information in relation to the PEP.

353. DNFBPs demonstrated varying degrees of compliance with EDD measures for PEPs, where the auditors and accountants sector showed less robustness than the legal and the TCSP sectors.

*Correspondent banking*

354. Correspondent relationships for banks in the mainland have been improving since 2017 due to adopted measures (proper system of controls, de-risking trends etc.). Large financial institutions have made significant improvements in their risk management of correspondent banking relationships.

355. The DFSA is proposing to undertake some thematic work for this sector in 2019/2020.

*New technologies*

356. Banks and MVTS analyse new products and services for ML/TF risks prior to their introduction to the market. Supervision authorities, through conducted reviews, observed both traditional and innovate measures to mitigate the risks of the new technologies (FinTech, RegTech, FX/CFD trading through online platforms). Such measures are requiring third party certification of IDs (by notary or similar), requesting additional proof of address, enhanced level of DD in relation to source of funds and source of wealth. Remote passport scanning and facial recognition are the emerging technologies currently being explored by these FIs.

*Wire transfer rules*

357. Banks and MVTS in most cases apply the appropriate identity checks and record-keeping where the requirements to establish the identity of the payer (originator) are triggered

358. Banks and MVTS check sending and receiving parties in wire transfers along screening them against in-house and external watch lists. On the other hand, the

thematic review for banks in the DIFC revealed a number of deficiencies including inadequate information and lack of independent monitoring and analysis

### *Targeted financial sanctions*

359. All interviewed FIs stated that they ran names through sanctions checks prior to customer on-boarding. Large FIs have more complex risk management policies and procedures in place to deal with TFS. Some small and medium-sized FIs have a less than uniform understanding of sanctions-related risks and have less sophisticated sanctions compliance programs.

360. As for DNFBPs, there is a weak understanding of the measures relating to TFS including the UN sanctions lists related to terrorism or the immediate freezing of the assets of customers added to the terrorism lists.

361. There are serious concerns for applying the specific measures for targeted financial sanctions (TFS) relating to TF among all sectors. Most of the interviewed FIs and DNFBPs are not aware of the requirement to immediately freeze funds and assets in case of exact match with sanction lists (UN and domestic lists). Some are not even aware of the domestic list. The practice by most entities is to report an STR to the FIU, terminate the relationship or both. In many cases, this can result in the return of funds.

### *Higher-risk countries*

362. FIs appear to use their own judgment and the risk-based approach in determining risk ratings for the countries. They use a number of independent sources (Transparency International Corruption Perception index, BASEL AML index) along with the FATF lists of higher-risk jurisdictions. FIs focus on sanctioned countries, particularly those subject to international (not just unilateral) sanctions programs. Most FIs' methodologies are typically robust insofar as taking country risk into account.

363. In the DIFC, FIs apply enhanced due diligence, more intensive monitoring to customers that hail from high risk countries, being a regional hub with a strategic location at a crossroads between the Asian and the African countries. However, DFSA continues to challenge FIs where any commercial consideration often outweighs the risk-averse approach articulated in the policies.

### *Reporting obligations and tipping off*

364. The FIs met by the assessment team were aware of the obligation to report suspicious transactions to FIU. However, the banking sector and the MVT sector were the only sectors which had been reporting suspicious transactions regularly contributing almost 98% of the total STRs filings, while the number of STRs in other sectors was considered low, as detailed in the statistical table below.

365. Banks in the mainland have a strong compliance training on AML related to tipping off.

366. In the MVT sector, compliance officers provide training to staff. The systematic identification of unusual activity is minimising tipping off by frontline employees.

367. Despite the securities assets size, securities firms reported a relatively small number of STRs each year. Moreover, the SCA review revealed effective procedures

at the level of STR reporting. SCA regulated entities share the AML/CFT related information including STRs with the FIU via a secure electronic link; this contributes to minimizing the possibility of tipping off by leakage of information

368. Overall, the assessment team found that firms understand and implement their reporting obligations adequately, however, it is not clear this applies equally across all sectors given that STR filing is low in a number of sectors.

369. The number of STRs filed by banks and the MVTs sector was generally consistent with the sectoral risk profile – the majority of STRs were submitted by these sectors. In contrast, DPMS and real estate agents have filed only a few STRs during the period extending from 2013 to 2018, which is not commensurate with their risks; this necessitates more guidance and follow-up by the supervisor. Securities, insurance, TCSPs, lawyers and accountants also require supervision guidance in order to improve their abilities to send an appropriate quality and quantity of STRs.

**Table 5.1. STRs received by sector**

| STRs Received by the FIU                                                       | 2013  | 2014  | 2015  | 2016  | 2017  | 2018  |
|--------------------------------------------------------------------------------|-------|-------|-------|-------|-------|-------|
| STRs Received from Mainland FIs                                                |       |       |       |       |       |       |
| Banks                                                                          | 2,267 | 3,228 | 4,402 | 5,899 | 6,090 | 7,130 |
| MVTs                                                                           | 421   | 736   | 1,301 | 1,952 | 1,366 | 1,639 |
| Securities (Regulated by SCA)                                                  | 0     | 0     | 11    | 7     | 7     | 10    |
| Insurance                                                                      | 6     | 37    | 17    | 18    | 16    | 9     |
| Total STRs Received Mainland FIs                                               | 2,694 | 4,001 | 5,731 | 7,876 | 7,479 | 8,788 |
| STRs Received from Financial Free Zones                                        |       |       |       |       |       |       |
| Total STRs Received FFZs                                                       | 51    | 69    | 118   | 132   | 102   | 109   |
| STRs Received from Mainland and Free Zone DNFBPs                               |       |       |       |       |       |       |
| Lawyers                                                                        | 0     | 0     | 0     | 0     | 9     | 4     |
| Real Estate Companies                                                          | 0     | 2     | 0     | 0     | 1     | 0     |
| Dealers of Precious Metals & Stones                                            | 0     | 0     | 0     | 2     | 0     | 0     |
| Company Service Providers                                                      | 0     | 0     | 0     | 0     | 0     | 0     |
| Accountants / Auditors                                                         | 0     | 1     | 3     | 3     | 0     | 0     |
| Total STRs Received Mainland DNFBPs                                            | 0     | 3     | 3     | 5     | 10    | 4     |
| Number of STRs Received from Other Sources [Represent STRs submitted manually] |       |       |       |       |       |       |
| Finance and Investment companies (mainland)                                    | 17    | 19    | 24    | 32    | 68    | 18    |
| Free Trade Zone                                                                | 0     | 6     | 10    | 2     | 7     | 7     |
| Payment Platform Terminals & Services                                          | 0     | 0     | 0     | 0     | 0     | 59    |
| Others                                                                         | 4     | 3     | 2     | 0     | 0     | 0     |
| General Reporting                                                              | 0     | 13    | 10    | 20    | 6     | 20    |
| Total STRs Received Other sources                                              | 21    | 41    | 46    | 54    | 81    | 104   |
| Grand Total                                                                    | 2,766 | 4,114 | 5,898 | 8,067 | 7,672 | 9,005 |

370. While banks and MVTs met with at the on-site have a window of 15/30 days to undertake their own investigation prior to filing STRs, there is a requirement to report matters requiring immediate attention to the FIU. Some confirmed that they report STRs as soon as they reach the threshold of suspicion.

371. There is a requirement for each FI and DNFBP in the ADGM to conduct internal AML training and awareness sessions that includes tipping off on annual basis.

372. In the DIFC, some barriers to reporting stated by the DFSA culminate from having dual reporting requirements. Where FIs tends to prioritise STRs in the booking centre jurisdiction (for example Singapore or Switzerland) on the basis that the assets are held in that location and local regulators need to be informed first.

373. FIs and DNFBPs at the DIFC have AML policies and procedures that address the tipping off issue. Entities self-certify on staff awareness of the tipping off as an offense; DFSA stated that no instances of tipping off were reported.



374. In general, the reporting entities met with during the on-site noted that they require further feedback from the FIU. The feedback in most cases was just to acknowledge receiving the STRs by the FIU, and the lack of feedback seems to be having a severe adverse impact on the relevance or value of the STRs.

### *Internal controls and legal/regulatory requirements impending implementation*

#### *FIs and DNFBPs in mainland UAE and CFZs*

375. As revealed by the BSD, compliance departments at FIs report to AML/CFT senior management and board risk/audit committees; its effectiveness is reviewed by the internal audit department. In addition, FIs provide one-to-one, classroom and online trainings on regular basis.

376. The BSD review of the MVTs sector identified a number of deficiencies in the area of internal controls. This speaks to the complexity of implementing a fulsome compliance program in less sophisticated institutions with less capacity. Approval of compliance officer by BSD is contingent upon having Certified Anti-Money Laundering Specialist (CAMS) or similar designation.

377. SCA reported improvement in internal controls under securities and brokerage firms between 2017 and 2018, which was mainly driven by the increased awareness by compliance officers on their responsibilities.

378. In spite of some insurance companies appointing AML/CFT officer and having internal audit function for the AML process, IA reported a number of deficiencies in internal controls.

379. It is unlikely that DNFBPs have adequate internal controls in place.

#### *FIs and DNFBPs in ADGM*

380. All examined entities by FSRA have relevant procedures in place. Many reporting entities' compliance monitoring plans include periodic checks that cover their AML systems and controls.

#### *FIs and DNFBPs in DIFC*

381. FIs and DNFBPs have devised and implemented procedures that incorporate appropriate levels of governance, risk acceptance and sign-off by the business. The DFSA found that mainly large and well-established FIs can afford sizable compliance and AML teams. The majority of FIs provide ongoing AML training and awareness to staff. Compliance manual outlines the sanctions applicable to staff in case of failures to comply with internal AML policies.

### *Overall conclusions on IO.4*

382. **The UAE is rated as having a moderate level of effectiveness for IO.4.**

## CHAPTER 6. SUPERVISION

### Key Findings and Recommended Actions

#### *Key Findings*

- a) For FIs, and DNFBPs within the FFZs, licensing, registration and fitness and propriety checks to prevent criminals from entering the market are generally comprehensive and effective in preventing criminals and their associates from entering the market. In respect of DNFBPs outside of the FFZs, registries apply Emirates ID and the MOI criminal background check. However these controls are not particularly comprehensive and do not adequately address the issue of foreign directors, shareholders or beneficial owners.
- b) The DFSA, FSRA and IA have developed a detailed understanding of ML/TF risk in the areas they supervise, which extends to the individual institution level.
- c) All FI supervisors have a general understanding of sectoral level ML/TF risk. BSD and SCA have a developing understanding of ML/TF risk at type and individual institutional level. For BSD, this has been enhanced since 2017 by the regular collection of ML/TF data points at institutional level, and a third party sector-wide risk assessment exercise to establish a new baseline for AML/CFT risk assessments. Supervisors' efforts have so far been focussed on designing the process of enhanced risk assessment and therefore detailed individual institution risk knowledge was not yet fully demonstrated. This currently limits the risk-based approach to supervision in the Mainland and the CFZs.
- d) Prior to 2017, the majority of supervisors included some elements of ML/TF risk in their supervision programme, however supervision was predominantly based on conduct of business and prudential risk indicators resulting in scheduled supervision cycles. All supervisors are enhancing their supervisory activities following the outcomes of the NRA. The significant risk understanding exercise carried out by the BSD from 2017 onwards has resulted in the ML/TF risk based approach evolving and becoming more comprehensive. Implementation is ongoing. The DFSA is the exception, having applied a developed risk-based approach since 2013 and has recently further developed this to enhance supervision activity based on ML/TF risk.

- e) The DFSA has demonstrated the application of effective, proportionate and dissuasive sanctions against both firms and individuals, and the FSRA is demonstrating competence to achieve the same. The BSD, the IA and SCA have taken remedial actions and levied some very limited sanctions against firms; however, these have been limited to license revocation, license downgrades, warning letters or low-level fines. It is of major concern to the assessment team that the UAE authorities do not recognise the importance of using the full range of sanctions (particularly fines and barring orders) in a proportionate manner where greater breaches of the requirements occur in order to create a dissuasive culture in the UAE.
- f) Some more recent actions by supervisors, particularly around the requirement for entity-level risk assessments to be conducted and more risk-based supervision has started to demonstrate a change in compliance by FIs and DNFBPs. However, actions and communication between a significant number of supervisors and the industry has so far been limited and therefore it has not been possible to demonstrate whether this positive change in compliance has been predominantly due to the actions of the supervisors. These efforts result in varying levels of improvement on compliance, depending on the supervisor.
- g) Outside of the FFZs, DNFBP supervisors were only recently established by virtue of Cabinet Resolutions. Very limited activity has occurred (only for some sectors) beyond initial registration and planning for a supervisory regime to be in place for most sectors by 2021. The UAE has therefore not been able to demonstrate any notable effective supervision for DNFBPs outside of the FFZs. This is of particular concern given the risk and materiality of certain segments of this sector (i.e. DPMS and Real Estate agents) in the context of the UAE.

### *Recommended Actions*

- a) The UAE should facilitate all supervisors aligning their licensing and registration practices by giving more focus to business models of individual institutions and to apply a consistent RBA for licensing, particularly for specialised business models.
- b) Meetings of the recently established Sub-Committee for FI supervisors should occur regularly to ensure alignment of the supervisors in the UAE and also to coordinate through regular meetings with the DNFBP supervisors. This should be used to limit regulatory arbitrage across the UAE as new supervisory requirements are implemented. There should be regular discussion of High-level principles of AML/CFT supervision for FIs and DNFBPs with the outcomes communicated to the industry.
- c) FI supervisors should ensure the full implementation of RBAs and carefully monitor their implementation (particularly noting some

are recently implemented) – focus should specifically be given to adequacy of supervisory resources to ensure they are sufficient. DNFBP supervisors outside of the FFZs (MOJ, MOE) should expedite the implementation of a RBA and should carefully consider the requirement for adequate supervisory resources, in order to commence supervision effectively.

- d) The UAE should look to utilise best practice from within the UAE for both FI and DNFBP supervision. The MOE and the MOJ should particularly identify and utilise this in implementing effective DNFBP supervision on a national basis. This should involve regular communication with DNFBPs in order to design and implement the new risk-based supervision process which should include a detailed analysis of sectorial risks.
- e) UAE supervisors should consider the benefits of establishing public/private partnerships to communicate more efficiently with the industry and also with the third parties used in the AML/CFT self-assessment process.
- f) The Guidance and outreach issued by supervisors (particularly BSD) should emphasise the risk awareness for the Real Estate/DPMS sector and focus in greater detail on the risks associated with cash.
- g) The UAE authorities should re-consider their approach to enforcement for all supervisors and particularly follow-up and completion times for mitigation/remediation plans to ensure that the regime becomes effective, proportionate and dissuasive. The UAE should particularly ensure that the full range of sanctions are appropriately used, ensuring that greater breaches of the requirements are subject to proportionate and dissuasive action – which should include particular focus on the use of fines and banning orders proportionate to the relevant breach.

383. The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The Recommendations relevant for the assessment of effectiveness under this section are R.14, R. 26-28, R.34, and R.35.

### Immediate Outcome 3 (Supervision)

384. The Banking Supervision Department (BSD) at the UAE Central Bank licenses and supervises banks, exchange businesses/houses, finance companies, and registers and supervises hawaladars in the mainland and CFZs. The Insurance Authority (IA) licenses and supervises insurance companies, insurance brokers, and other insurance-related professionals (e.g. actuaries, loss adjusters) in the mainland. The Securities and Commodities Authority (SCA) licenses and supervises securities and commodities derivatives companies, including brokerages, advisors, listed companies, Investment Managers, Fund Managers, custodians, Securities Consulting (Research and Financial planning) and the three domestic stock exchanges in the mainland and CFZs.

385. The Dubai Financial Services Authority (DFSA) licenses and supervises the financial institutions and registers for AML/CTF purposes almost all DNFBPs that operate within the Dubai International Financial Centre (DIFC). The Financial Services Regulatory Authority (FSRA) licenses and supervises the financial institutions and almost all DNFBPs that operate within the Abu Dhabi Global Market (ADGM). Since April 2019 the Ministry of Justice has taken over responsibility for the oversight of lawyers in the UAE, including the FFZs.

386. In respect of DNFBPs in the mainland, market entry control is achieved through a combination of commercial licensing checks and professional activity licensing for some DNFBPs. The licensing bodies vary by jurisdiction within the UAE and by DNFBP sector and, particularly in the case of real estate agents and DPMS, are not the same as the supervisory agency. In the mainland, DNFBP supervision is very recent with the two supervisors being appointed only in April 2019.

387. The findings in this chapter are based on interviews with all supervisors and with a large number of the licensing authorities. They are also based on published materials and evidence submitted, and interviews with both FIs and DNFBPs in the private sector.

388. Positive and negative aspects of supervision were weighted most heavily for the banking sector (particularly in the mainland where the majority of assets are held), heavily for important sectors exposed to cash transactions (MVTs, DPMS and the real estate sector), moderately heavy for the securities sector, lawyers and TCSPs and less heavily for less important sectors (finance companies, insurers, auditors and accountants and notaries). This is because of the relative materiality and risk in the UAE context of these supervised populations, as explained above in Chapter 1 (section 1.4.3). Also, see Chapter 1 (section 1.4.2) for a description of each supervisor and which entities they are responsible for supervising.

### *Licensing, registration and controls preventing criminals and associates from entering the market*

389. For FIs, licensing, registration and fitness and propriety checks to prevent criminals from entering the market are generally comprehensive and effective. Across all licensing authorities, a criminal background check is carried out on key individuals through the Ministry of the Interior. The BSD, SCA, the IA, the DFSA and the FSRA have dedicated resources carrying out the licensing function and there are various measures across the organisations to detect license breaches and unlicensed or unregistered activity.

390. In respect of DNFBPs outside of the FFZs, controls are not particularly comprehensive and do not adequately address the issue of foreign directors, shareholders or beneficial owners.

### *BSD – Mainland/CFZs - Banks and MVTS (including Hawaladars)*

391. The Licensing Division of the BSD at the Central Bank issues licenses for banks (commercial and investment banks), finance companies and exchange businesses operating in mainland UAE and in the Commercial Free Zones. Checks are conducted prior to the issuance of a new FI license or approving a new senior manager for a reporting FI and these exist through a number of specific controls to prevent criminals and their associates from owning or controlling financial institutions. The BSD assesses the nature and scope of the proposed FI activity, followed by a screening of

the key shareholders, senior managers and beneficial owners of FIs. This involves the standard criminal background check through the Ministry of the Interior.

392. Historically there were cases where the BO of a MVTs provider was not transparent, as prior to 2015 ownership background checks only entailed obtaining a police clearance certificate. Since 2015, the BSD reviews MVTs ownership changes and review copies of the passports of the owners, both local and foreign. The information is run through World Check, public searches, the STR database and an OFAC/Sanctions list. These checks extend to the Board of Directors and senior managers and candidates for selected positions, including, CEO, CRO, Head of Compliance and MLRO, need to successfully pass a formal interview with BSD management before final approval. There are requirements to notify the BSD before change in any senior management positions.

393. The BSD then applies a fitness and propriety (F&P) test which looks at an individual's qualifications and requires them to complete interviews. For both the Head of Compliance and MLRO positions, the Central Bank conducts the same due diligence and clearances as for all senior management positions at the bank, including the CEO, CFO, CRO, Directors, etc.

394. For MVTs, the manager or controller of the business is required to have the appropriate knowledge of exchange business and other relevant experience. The managers in charge and heads of major sections are required to submit CVs and a special committee of the BSD interviews nominees for key positions to assess their competence and their technical/managerial capabilities. Only approved managers can manage the business and any violation on the part of the person in charge of management (who is an authorised signatory) is a criminal offense. BSD has recently declined the appointment of two General Managers.

395. In addition, the MVTs sector cannot modify their license and ownership, or merge or enter into a joint venture with any person or entity without prior written approval by the Central Bank. For both banks and MVTs, the F&P test again involves Ministry of Labour checks on criminality in home country as well as UAE national security clearances by the Ministry of Interior.

396. The same checks are carried out upon license renewal (annually for MVTs/ 3 years finance company) which ensures that the terms of the license remain as initially approved. Bank licenses are open and not subject to regular renewal. There are also on-site assessments, carried out by the supervision which include checks on the terms of the original license.

397. The table below details the number of applications that have been processed by the BSD.

**Table 6.1. Central Bank FI Licenses Approved and Rejected**

| FI Category       | Result of authorisation request | 2014 | 2015 | 2016 | 2017 | 2018 |
|-------------------|---------------------------------|------|------|------|------|------|
| Banks             | Approved                        | -    | 1    | 3    | 1    | -    |
|                   | Rejected                        | -    | -    | -    | -    | -    |
| Exchange business | Approved                        | 8    | 3    | 2    | -    | -    |
|                   | Rejected                        | 2    | 1    | -    | 2    | 1    |

398. The BSD deals with breaches of ongoing license obligations in a number of ways, depending on the severity of the breach. It may use a range of supervisory tools



and actions (not approving new products, branches and any other requests until the breach is addressed), issues fines and penalties, restrict activity or downgrade a license, suspend, or revoke the license). However, limited instances were provided to the assessment team to demonstrate the use of these powers.

399. The BSD maintains collaboration with law enforcement to identify instances of unregulated/unregistered activity. Law enforcement has the primary responsibility in this area, but the Central Bank makes referrals based on observations or information it receives in the course of its work. There are examples of this being effective in the MVTS sector.

#### Box 6.1. – MVTS Breach

In January 2017 Dubai's Department of Economic Development (DED) issued fines to 25 shops for engaging in "unauthorised activities and illegal money transactions". The shops were offering Bangladeshi expatriates services of cheaper money transfers to their home country by using an app, which was not approved by the Central Bank BSD. The DED acted on a tip-off and raided the shops, which were spread across different areas in Dubai, and found out that none of them were licensed by the UAE Central Bank to provide money transfer services. All the shops were advertising the illegal activity in their native Bengali language to avoid suspicion. The DED confiscated all devices. The practice was harmful to the UAE economy, local businesses, and consumers.

#### SCA – Mainland/CFZs – Securities and Brokerages

400. Up to mid-2018, the Central Bank issued licenses for financial intermediary companies; however, as of mid-2018, the licensing of such financial intermediary companies shifted to the SCA, which is now responsible for both licensing and supervision of securities and commodities markets and related financial services.

401. The SCA conducts a series of market entry checks prior to approving a new license. This involves the SCA licensing team reviewing the intended business activity and due diligence being conducted on the activity that is planned. The SCA Licensing Team identifies the beneficial owners, and conducts background checks on shareholders and senior managers. All key personnel, including management, persons doing licensed activity and beneficial owners, are subject to due diligence, which is conducted using screening software, such as WorldCheck, as well as the standard criminal background check conducted by the Ministry of the Interior. The Licensing Team also communicates with other regulators where the company has a presence. The F&P tests applied for senior employees are relevant to qualifications and skills to operate those positions. There is general supervision of the entity after licensing which covers licensing issues. Licenses are renewed annually, with a focus on 3 points: any changes to the activity, any changes to the people, any changes to processes and submission of proper documentation.

**Box 6.2. – Securites company ownership issue – checks on beneficial owners**

A company from a foreign jurisdiction wanted to acquire 100% shares in a licensed company. Upon conducting due diligence on the company and its beneficial owners, it was discovered that the same beneficial owners of the acquirer were subject to some sanctions in another country (Japan). A formal request was made to Japanese regulators, who confirmed and provided information on further violations by the beneficial owners of the acquirer company. As a result, the request for acquiring ownership in the licensed company was denied.

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402. SCA approved 200 new licenses from 2014-2018, and rejected or cancelled 24 licenses. SCA deals with breaches of ongoing license obligations in a number of ways, depending on the severity of the breach. This ranges from a notification, to a warning, the issuance of fines and penalties, suspension or withdrawal of the license along with the option of referring to prosecution. However, whilst a number of license cancellations and rejections were demonstrated, the number and levels of fines were low and no banning orders were made.

403. SCA follows a two-pronged strategy in order to control unlicensed financial activity in the securities and commodities markets of the UAE. The investor is provided with guidance and periodic alerts through all types of electronic and print media advising them to deal only with licensed companies. They are further informed that all details about the status of companies licensed to practice securities activities is available on the SCA website, which also usefully includes the license certificate embedded with a QR code, which can be easily scanned by the customer to verify the licensing status of the company. SCA also monitors information through electronic media, newspapers, and complaints by email or letters, findings during on-site visits etc.

*IA - Mainland/CFZs – Insurance Sector*

404. The IA applies a number of controls to prevent criminals and their associates from owning or controlling or insurance firms, including criminal checks and F&P checks and interviews on the partners directors, main shareholders and main employees and requires a clearance certificate for the individuals. WorldCheck is also used along with the IA's blacklist, which represents classifications made by the IA that depend on Cabinet Resolution decisions, detections of non-compliance with regulations, laws and legislations, and relays from other associates or regulatory authorities. There is also ongoing on-site supervision to ensure compliance with licensing requirements among other requirements.

405. The IA has approved 140 licenses between 2014-2018, and it has not rejected any licenses.

406. The IA deals with breaches of ongoing license obligations in a number of ways, including alerts, warnings, notices, as well as cessation / cancellation of the company's license and write off in some cases. However, limited instances were provided to the assessment team to demonstrate the use of these powers and it is notable that the IA did not reject or cancel any licenses between 2014 – 2018.

407. Unlicensed operators are identified through inspection, reports from the market, complains, and other governments reports. The IA has identified unlicensed activity, with an example where a company was doing intermediate insurance broker activity without getting license from the Insurance Authority. All of them were subject to action and follow-up activity.

#### *FSRA – FIs and DNFBPs in the ADGM*

408. The FSRA is the regulator and supervisor for the ADGM Financial Free Zone and licenses banks, MVTS, securities, and insurance companies. The FSRA operates a number of licensing controls and market entry checks. They review the applicants AML/CFT policies and procedures at the time of authorisation. There is then be a check on a number of individuals. Both the Registration Authority (RA), which handles all aspects of incorporation, registration and licensing of legal entities in ADGM, and the FSRA run checks and conduct due diligence on shareholders/partners, board directors, senior management members (such as CEO, Compliance Officer/MLRO, Finance Officer, Risk Officer), and other senior managers. These checks look to identify the beneficial owners during the process of identification; therefore, registration and Authorization officers will screen the persons who hold controlling interest once identified. There is equally the criminal background check carried out by the Ministry of the Interior. The FSRA then goes on to conduct F&P tests based on experience, qualifications, CV and criminal activity. The dual approach of the registration authority and the FSRA conducting very detailed checks using independent sources upon incorporation is a particularly robust process.

409. The FSRA then proceeds to actively monitor shareholding and if there is a change in shareholders, then the institution needs to file a report (5% shareholding interest). Every member of senior management needs to be approved. The FSRA applies a 10% holding for change of control for an FI.

410. The FSRA deals with breaches of ongoing license obligations in a number of ways, through the issuance of warnings, fines, suspend the license, cease and desist orders and other possibilities.

411. In 2017/18 a number of breaches were identified both in relation to AML and non-AML matters. The FSRA also monitors the occurrence of unlicensed financial activities. In November 2018, the FSRA issued two public regulatory alerts concerning (1) a fraudulent website containing false references to the ADGM and (2) to false statements on a website regarding the regulatory status of an institution.

412. In November 2018, the FSRA issued 'cease and desist' letter to two entities.

**Box 6.3. – Security ownership issue – checks on beneficial owners**

The case in question relates to a foreign institution (“the Applicant”) that was granted in-principle approval status by the ADGM’s FSRA in 2017. During the ongoing assessment process, adverse information was shared with the FSRA by the Applicant’s home regulator (“AHR”), relating to an ongoing investigation it was undertaking in relation to the Applicant’s parent (“the Parent”).

The FSRA granted in-principle approval to the Applicant in question in 2017. The Applicant’s business plan consists of corporate finance advisory and asset management, and relies on the Parent and connected company resources and transactional capabilities.

The FSRA’s standard request for information to the AHR in respect of the Applicant and its Parent, was received shortly after granting in-principle approval; the AHR was conducting an investigation into issues relating to the Applicant’s Parent, involving two of its subsidiaries.

In summary, the AHR’s concerns in relation to the Applicant’s Parent are as follows:

- a) The allegation the Parent on-pledged shares of clients to secure a loan, without client knowledge;
- b) The allegation the Parent used the loan to fund operational expenses, without client knowledge

The FSRA spoke to the AHR on the matter of the above, which raised concerns over the governance of the Applicant and its Parent. The case raised questions about the corporate governance and control structures of the Parent, highlighting a regulatory and reputational risk for the FSRA.

The Applicant could not be admitted in its current form and the FSRA required that it review its governance and legal entity structures to ensure these are satisfactory and pose no material and reputational risk to Abu Dhabi Global Market. The Applicant subsequently withdrew the application.

413. The ADGM is in the early phase of its operation but looks to address unauthorised financial service providers through on-site compliance assessments, which are part of annual assessment done, complaints, reviewing returns and checking files.

414. FSRA has not had cause to reject an application to date (ADGM has only been operational since October 2015). There have been some potential applicants, who after making initial inquiries, decided against pursuing a full application. No licenses were revoked to date and two financial institutions decided to withdraw their licenses. The FSRA has issued 50 licenses to financial institutions as at 31 December 2018.

*DFSA – FIs and DNFBPs in the DIFC*

415. When an institution submits an application for DFSA authorisation, the authorisation team considers a number of key factors such as the applicant's jurisdiction of origin, business model, fitness and propriety of the Controllers, Beneficial Ownership, senior management and related entities. The DFSA may start the process by considering in detail with the DIFC Authority Business Development team the proposed activities of the entity in the DIFC. The authorisations team first considers the applicant's jurisdiction of origin. The DFSA's jurisdiction risk tolerance is approved by the DFSA Board of Directors and is primarily based on the various FATF lists of countries with strategic deficiencies and the Basel AML Index (BIG Index). There is a specific formula applied but in specific circumstances this can be overridden where the DFSA has an established relationship with the regulator concerned. Where the individuals, and/or the applicant FI, have a regulated history, a good standing request letter is sent to the relevant regulator(s).

416. A detailed business model assessment is then conducted, where the Authorisation team reviews the business model for a number of risks including AML risks. Such factors that would be considered, to include the target region, type of client base, and type of business activities (for example, trade finance and private banking is likely to increase AML risks). The DFSA then carries out a detailed process to identify controllers and ultimate beneficial owners. They also use online screening software and open source information. A significant number of the senior management is also checked (including interviews) including the Senior Executive Officer, Finance Officer, Compliance Officer, and Money Laundering Reporting Officer.

417. The DFSA has experienced examples of identifying criminal activity through this process.

**Box 6.4. – DIFC authorisation and licensing checks**

Where an FI applied for Authorization to provide group foreign fund marketing activities, the Authorization team's research discovered allegations that the controller of the applicant was operating a Ponzi scheme in the U.S. Through communication with the U.S. SEC, the DFSA received confirmation that the allegations were credible. In response, the team required the applicant to provide additional information, at which point the applicant withdrew its application.

418. The DFSA then conducts a detailed F&P test on four senior management roles whereby DFSA requires the individuals who hold these roles to obtain DFSA Authorised Individual status. The roles include the Senior Executive Officer (SEO), Finance Officer (FO), Compliance Officer (CO), and Money Laundering Reporting Officer (MLRO). The DFSA assesses fitness and propriety via the relevant FI's self-certification, background checks to identify negative criminal or regulatory history, and face-to-face interviews to determine the individual's experience and technical knowledge relevant to the role for which he applied. Any time the DFSA is notified of a pending change and receives a new Authorised Individual application, the DFSA assesses the individual's fitness and propriety and knowledge and experience.

419. The DFSA conducts ongoing background and fit and proper checks for beneficial owners/controllers and continuous monitoring of senior management. Once authorised, the DFSA conducts ongoing screening of beneficial owners/controllers and senior management of a financial institution. In addition, all financial institutions are required to submit to the DFSA an annual controllers report identifying its controllers. Each domestic FI is required to seek prior approval from the DFSA any time before a beneficial owner wishes to increase his ownership over the 10% threshold. In October 2017, the DFSA enhanced its screening capabilities by adopting a new screening software system that scans against the various lists and a few media sources for all authorised individuals every 12 hours.

420. The DFSA then looks to monitor unlicensed financial services activity through on-site assessments, on-going off-site monitoring, complaints, and notifications from external regulators/agencies and whistle blowers.

421. Since 2014, the DFSA has taken enforcement action against 5 financial institutions and 1 individual concerning suspected breaches of unlicensed financial services activity. This resulted in further investigation and in some cases an alert statement being issued.

### *Supervisors' understanding and identification of ML/TF risks*

422. Generally, all FI supervisors demonstrated an understanding of the inherent risks facing the sectors that they supervise which is consistent with the NRA findings. All supervisors contributed to the NRA and have recently started to take these into account when formulating their own risk assessments. However, the level of identification and understanding of risk at the type of institution and individual institution level varies significantly between the supervisors. The DFSA and ADGM have developed a detailed understanding of ML/TF risk in the areas they supervise, which extends to individual institution level. BSD, SCA and IA have all been developing entity level risk assessment models and are currently at different stages of applying this to their risk based supervision regimes. Whilst all FI supervisors have a solid understanding of the risks at sectoral level, supervisors efforts have so far been focussed on designing the process of enhanced risk assessment and therefore some supervisors still need to further develop their insight into risks at the individual institutional level. This currently limits the understanding of individual institution risk and therefore implementation of the risk based approach to supervision in the Mainland and the CFZs.

423. Given the recent appointment of DNFBP supervisors (outside of the FFZs), the understanding of ML/TF risk for DNFBPs is limited, and is generally restricted to the conclusions of the NRA. However, some supervisors have recently started working on developing their understanding at sectoral and individual institution level.

### *BSD – Mainland/CFZs - Banks and MVTS (including Hawaladars)*

424. The BSD has a general understanding of risk at sectoral level and a developing understanding of ML/TF risk at entity level and has recently enhanced their process for understanding risk through a more detailed assessment of ML/TF risk facing the entities that they supervise.

425. At sectoral level, BSD has identified banking and MVTS providers as sector-level areas or activities with significant ML/TF risks and finance companies as



presenting less risk than the other two sectors it supervises, in line with the findings of the NRA.

426. At entity level, the BSD has enhanced its process of off-site Risk Based Supervision (RBS) through the development of 23 data points. All FIs were required to submit data from June 2017. The purpose of the data is to better quantify any changes in AML/TF risk profiles for banks on a quarterly basis, via off-site monitoring; and to ensure a quantitative based fine-tuning of BSD's comparative views on the relative entity specific AML/TF risks. These data points were revised, increasing to 29 data points in June 2019 in order to monitor and assess the comparative relative ML/TF risk across the banks it supervises. Through May 2019, a deeper validation of the AML/TF data submitted by banks was completed as a data quality assurance exercise. From July 2019 the data is being used to as a component to BSD's frequency and scope matrix prioritization of its on-site AML/TF reviews across the banking sector.

427. As part of the implementation of its enhanced risk-based supervision approach, BSD has carried out an additional, more detailed, risk assessment exercise over 2018 and 2019, using a number of third-party consultants, to establish a new baseline for AML/CFT risk assessments by entity. This exercise, which took place over 2017 and 2018, involved the BSD mandating the production of assessments on all supervised banks. These assessments were carried out by third-party consultants who were limited to a list of six providers, approved by the BSD. The scope of assessment was compiled by the BSD.

428. At the time of the on-site, assessments had been submitted by all local and foreign banks, as well as the MVTs sector. The assessment team noted that the BSD did not play any direct role in the production of the reports, which was between the FI and the third-party consultant, which therefore limited the BSDs direct understanding of ML/TF risks faced at entity level. However, the BSD noted that results and findings were subject to a 3-month comparative analysis, conducted by BSD staff, which looked to determine the quality and consistency of the 3rd party assessment reports and related findings. The results, incorporated the BSD's own risk scores and represented a full recalibration resulting in downgrades from the original 3rd party assessments. BSD's recalibrated scores formed the basis for prioritizing on-site reviews and validations, and subsequent warning letters issued in October 2018.

429. Between 2013 – 2017 the BSD has an integrated model of off-site and on-site views on ML/TF risk management for banks in a 'Dashboard assessment'. Within the Dashboard, the ML/TF assessment forms part of each banks adequacy of Internal Controls versus Risks including Reputational Risks. The AML/CFT scores are based on the on-site assessment of the institutions' AML management process (per the execution of the examination related work programs) as well as the institutions compliance with AML Laws and Regulations, including KYC requirements and Recordkeeping. The Dashboard was designed to maintain high awareness of the ML/TF risks of the various sectors within each bank as well as across the sector to ensure accurate identification when there are changes. Each Dashboard for all banks is updated every quarter on the basis of the last AML/CFT examination findings supported by an AML/CFT risk assessment and heat maps. However, the assessment team noted that the dashboard assessment included AML & Sanctions Compliance as one of 5 factors, where the majority of the assessment was driven by conduct of business and prudential risk indicators.

430. For MVTs, the BSD conducts a general AML/CFT risk assessment that assigns a rating to the institution using a 4-tier scale (High, Medium-High, Medium, Low). This model has been in place since August 2018. From November 2016 until July 2018, all MVTs were risk rated using a 5-rating scale (Unacceptable, Very high, High, Medium, Low). The BSD has an Enhanced Risk Scorecard which enables the BSD to assess the level of compliance of each institution with the regulations relating to Licensing and Monitoring of Exchange Business and AML Laws/Regulations and Notices including the Standards – one of these areas is AML Compliance (with 8 individual parameters). Irrespective of the overall Risk Score, an institution will be rated as High Risk automatically in the event of a number of scenarios presenting themselves, which includes failure of compliance with 5 out of 8 AML compliance requirements, or rated medium-high risk if failure of compliance with 3 out of 8 AML compliance requirements. However, this risk assessment process looks generally at compliance of the business with relevant requirements, rather than developing detailed risk understanding in the BSD at the entity level. This limits the understanding of ML/TF risk by the BSD at individual institution level in an area that has been determined high risk by the NRA. It is recognised that in 2019, the BSD enhanced data collection for MVTs which is a positive step to a better understanding.

#### *SCA – Mainland/CFZs – Securities and Brokerages*

431. Before 2019 the SCA only conducted a general risk assessment, which includes a section on AML. It consists of 26 factors, of which 8% are allocated to AML-specific factors and generally was based on compliance with legislative or regulatory requirements. This has limited the specific ML/TF risk understanding of SCA at both sectoral and individual institution level. Only brokerages were risk-rated as per this methodology, as many of the other activities now under SCA's regulatory purview were transferred over from the BSD in 2018. The SCA used a three-level rating scale: low, medium and high risk. In addition, the level and impact of the activity influenced the rating, and the following were therefore considered in a high-risk category:

- Brokerage firms with violations >60% or Transactions Value >10 Billion, or
- Violation between 40-59% combined with Transactions Value between 5-10 Billion

432. In 2019, in addition to the general risk assessment, an AML-specific risk assessment was conducted for the first time by all SCA-supervised reporting entities. From an AML perspective, the activities were classified into different risk area using the following criteria: nature of the business, nature of products and services, nature of clients, geographic reach and delivery channels. Generally, the risk assessment was based on the entities' most recent compliance examination but looked specifically at ML factors. This has, to some extent, developed SCAs understanding at both sectoral and individual institution level; however, as this was a very recent development, effectiveness was not able to be fully demonstrated.

#### *IA - Mainland/CFZs – Insurance Sector*

433. In its NRA, the UAE identified life insurance and general insurance to be sectors of inherently medium risk. Based on those findings, the Insurance Authority identified life insurance companies and intermediaries as insurance sectors with high ML/TF risk given the nature of products and services provided. The Insurance Authority enhanced its risk model in 2019 so that it takes into consideration of

additional factors such as the external auditor report as well as training, the availability of policies and procedures, the existence of a qualified compliance officer, how well the company's employees apply the customer due diligence and enhanced customer due diligence policies.

434. The enhanced model for risk assessment looked at a two-factor valuation for each company. The first factor on inherent risk looked to build upon the NRA methodology as well as the Insurance Core Principles (ICPs) issued by the International Association of Insurance Supervisors (IAIS) and the Guidance Papers issued by the IAIS, for example, life products have been identified to represent a higher degree of risk compared with other insurance products. The second factor valuation was then based on analysis of the external auditor report specifically looking at AML/CFT related breaches, training and policies. This has produced an evaluation matrix calculating the risk at individual entity level. Further to this the IA has produced a categorisation of risk at insurance sub-sector level, which appears comprehensive.

435. In order to maintain and continuously update its ML/TF risk identification and understanding in its sector, the IA monitors financial data sent from the reporting institutions and Internal Control as highlighted above, analyses the results and, based on its findings, may request surprise inspections. The IA is working on improving the reports template to ensure that the reporting entities are providing more thorough responses. Additionally, the IA reviews the ML/TF risks periodically, the results are being refined and the risk parameters are adjusted according to the results. Generally this approach has provided the IA with a comprehensive understanding of risk at sectoral, type of institution and individual institution level.

#### *FSRA – FIs and DNFBPs in the ADGM*

436. The FSRA has taken a number of actions to develop its understanding of ML/TF risk at both sectoral and at individual institution level. The ADGM has been involved in the NRA process and has discussed the outcomes of the NRA between the Financial Crime Prevention Unit, the FSRA Authorization and Supervision teams, Registration Licensing and Monitoring team in order to look to raise awareness of the NRA outcomes. Based on the NRA, money service businesses were rated as the highest risk sector, while banks, brokers and agents, investment fund management, financial advisors, asset managers, and custodians in the FFZs were rated as medium-high risk, life insurance/investment businesses were rated medium risk, and property and casualty insurance were rated low risk.

437. The FSRA has recently revised its risk-rating policy, which is reflected in the Impact-Risk Assessment Methodology. The methodology is based on impact (prudential, category, size and complexity) and four groups of risk: (1) Business Risk, (2) Oversight & Control Risk, (3) Financial Resources Risk, and (4) Financial Crime Risk (i.e. AML, CTF and Sanctions). The previous impact/ risk rating methodology contained ten risk elements, with each given a weighting of 10% and a rating of either: low, medium low, medium high or high. Each of these ten elements were re-assigned into four groups under the revised risk-rating policy and equally weighted, meaning that Financial Crime Risk increased from 10% to 25% to reflect its importance. The recently developed Impact-Risk Assessment Methodology looks in more detail at Financial Crime Risk in both considering the inherent risk arising from the type of the business undertaken and its location together with the controls and oversight in place to mitigate anti-money laundering, sanctions-list breaches, terrorist financing, fraud,

insider dealing, corruption, and other types of financial crime. This process allows the FSRA to conclude a relatively detailed assessment on ML/TF risk at individual entity level.

438. An assessment is undertaken initially as part of the authorisation process and then depending on the risk rating applied, is re-assessed as part of the ongoing supervision of the firm or whenever an event (such as a breach, change in activities or a change in control, etc.) occurs. Reassessment times vary from every 12 months (high risk), 36 months (medium risk) and 60 months (low risk), with an additional ability to re-assess if an event occurs (such as a breach, change in activities or change in control). Where the re-assessment results in a material change to the firm's impact or risk ratings, the assessment will be presented to senior management or the relevant decision-making committee, with a recommendation including justification.

439. The assessment process is applied at an individual entity level, type of institution level and sector level. This allows the FSRA to form a view of risk at individual entity level, type of institution and sector level. The risk rating of a given firm will determine the supervisory intensity, hence forming the basis of the RBA.

#### *DFSA – FIs and DNFBPs in the DIFC*

440. The DFSA has applied a risk-based approach since 2013, based on comprehensive risk understanding at sectoral, type of institution and individual institution level.

441. The DFSA is currently in the process of enhancing its risk assessment process which looks to enhance their understanding of ML/TF risk. Prior to the development of the NRA in 2017, the DFSA mainly relied on sectoral and FI specific level supervisory mechanisms to understand ML/TF risks. This included horizon-scanning and industry-wide trend risk identification through relevant third-party reports (e.g. FATF Publications and Thomson Reuters Financial Crime in the ME survey). In addition, the DFSA engaged with key stakeholders and industry experts to further enhance its understanding of the ML/TF risks in the relevant sectors.

442. Since the NRA and the DFSA's Supervision Department restructuring in 2018, the DFSA has introduced a number of key changes to its internal framework to ensure that the conclusions arrived at the NRA are kept up to date. In order to achieve that objective, the DFSA adopted the NRA methodology framework in assessing vulnerabilities in the supervised sectors.

443. The DFSA is also enhancing its risk assessment process at entity level which looks to further develop their understanding at individual institution level. The DFSA's risk-based philosophy seeks to measure the risk each FI represents by reference to two dimensions; impact and probability. Both measures are subjective and ultimately rely on supervisory judgment. As such, the DFSA's supervisory risk-based approach involves reference to the DFSA's continuous risk management cycle, which utilises a wide range of data, compliance reviews and a risk matrix to form risk-based classifications of FIs. It also considers a number of other factors when considering risk such as regulatory notifications, using appropriate supervisory tools to maintain compliance and considering lead or consolidated supervision that the FI may be subject to in other jurisdictions.

444. Risk assessment is initially conducted at the time of the FI's authorisation through the use of a detailed risk scoring model which produces an impact score, a probability score and a modified risk rating (MRR). Following authorisation, an FI is

subject to desk-based and on-site compliance reviews, risk mitigation, and continuous monitoring that feed into the risk rating.

445. The MRR is based on an aggregate Impact and Probability score that reflects the identification, assessment and prioritisation of risks using an impact and probability model. The Impact Rating is a descriptive and subjective assessment of the potential adverse consequences that could ensue from the failure of, or significant misconduct by, a regulated FI or entity that is authorised, registered or recognised by the DFSA. The DFSA does not have a direct, singular proxy for the term impact but considers a number of factors – including the nature of a FI's activities, the level of revenue being generated in the Centre, political sensitivity surrounding a FI's ownership or clients and Inter-linkages with other DIFC entities.

446. Following the restructure of the Supervision Department, the Financial Crime Prevention (FCP) Team is now responsible for monitoring AML/CFT risks for FIs and DNFBPs to ensure more focus is given to ML/TF risk in the supervisory program. The new supervisory programme now includes information and data received on a quarterly and annual basis. The quarterly and annual reports enable the DFSA to consider revenue, types of customers, numbers of customers and staff numbers. In addition to this, the AML Annual return introduced in 2014 enables the DFSA to monitor the: percentage of customers that are assessed as PEPs; percentage of customers subject to an enhanced due diligence process; percentage of customers subject to a simplified due diligence process; number of internal STRs; number of external STRs; and, material changes to jurisdictional risks in relation to the FI's country of origin.

447. The development of the framework in this manner will allow the DFSA to have a far more detailed understanding of specific risks at individual institution level, and the regular reporting will ensure that their risk understanding can be kept up to date and capture any changes in the reporting institutions.

448. The second part of the risk assessment is based on probability being the measure of the likelihood of a particular risk materializing in an FI. As with impact, the probability rating is descriptive and based on supervisor judgment. DFSA's risk matrix is designed to evaluate probability by reference to four Risk Groups, one of which is AML/CFT.

449. In the past the AML/CFT risk was assigned the lowest weight risk in the risk matrix. However, the new risk assessment and supervisory model has revised this weighting, to allow a greater level of consideration to be given to AML/CFT. In any instance, the DFSA's Board, which sets the Risk Tolerance, has determined that it has a low tolerance for AML/CFT risks. This is in line with the DFSA risk statement. As a result, such risks are prioritised in any policy, supervisory and enforcement priorities and actions undertaken by the DFSA.

450. After the initial assignment of a MRR, the DFSA monitors to determine if there are material deficiencies in the FI's overall framework. On a quarterly basis the Managing Director and Directors of Supervision meet to review all the MRRs along with the underlying Probability ratings for each FI and identify where inconsistencies may exist or where current or emerging FI issues require a revision of existing risk ratings. Senior management have ongoing updates on FIs that fall within the high-risk category and are currently subject to remediation exercise.

451. Generally, this detailed process of risk rating with quarterly and annual updating of relevant data has developed a comprehensive understanding in the DFSA



of the entities they supervise. This extends to an understanding of the risk at a type of institution and sectoral level. The further development of the risk assessment programme and the risk based approach to supervision in 2019 will further strengthen this understanding and ensure it can remain up to date and the DFSA can be aware of changes in risk rating (via the quarterly updating).

### *Risk-based supervision of compliance with AML/CFT requirements*

452. There is an uneven level of sophistication in the development of risk-based models for supervision among the supervisors in the UAE. Prior to 2017, the majority of supervisors included some elements of ML/TF risk in their supervision programme, however supervision was predominantly based on conduct of business and prudential risk indicators resulting in scheduled supervision cycles. All supervisors are enhancing their activities following the outcomes of the NRA. The significant risk understanding exercise carried out by the BSD from 2017 onwards has resulted in the ML/TF risk based approach evolving and becoming more comprehensive. Implementation is ongoing.

453. The DFSA is the exception in this regard, given that it has applied a developed RBA since 2013 and has recently further developed its RBA to further enhance supervision activity based on ML/TF risk including considering the outcomes of the NRA. The FSRA has also applied a risk based approach to supervision since its inception in 2015. SCA is applying risk-based supervision on a new inspection plan for 2018-2020 which involves risk-based supervision at entity level. The BSD and the IA have taken positive steps to transition to a risk-based approach to supervision based on ML/TF risk, however implementation is ongoing and it is currently too soon to demonstrate effectiveness.

### *BSD – Mainland/CFZs - Banks and MVTs (including Hawaladars)*

454. The BSD is currently in the process of fully implementing a RBA to supervision of FIs. The overall supervisory staff include 60 inspectors, complemented by 30 additional analytical staff performing supportive offsite supervision. Over the past several years, examinations are budgeted and monitored by BSD to last up to 20 days. In practice, teams can vary in size from 4 to 8 examiners based on the bank size and complexity. If there are problems or issues, then the examiners can request an additional special scope lasting up to 20 days. Within the general teams there are staff allocated that are experienced with AML/CFT compliance (9 experienced certified examiners) and they are currently in process of seeking to hire more additional AML specialists as team leaders.

455. The BSD has recently developed, with the assistance of an international consulting firm, a Risk Based Supervision Framework. The Framework covers all licensed institutions by the Central Bank, i.e., all the sub-sectors, which includes, local banks, foreign banks, finance companies and MVTs. At the time of the on-site visit, the full framework was still being rolled out; however, the revised programs for AML and CFT risks developed under this framework were rolled out for field testing and revision from May 2018 and used as part of thematic examinations as a follow-up to the 3rd party assessments.

456. In order to support the transition into the more recently developed AML/CFT RBA, a comparative framework that started with a baseline assessment was required for all banks and MVTs providers during 2017 and 2018. This resulted in the production of a 3rd party assessment report which was then validated by the BSD



(discussed above). BSD's overall risk scores formed the basis for prioritizing on-site reviews and validations, and subsequent warning letters issued to local banks in October 2018. This same follow-up process of BSD comparative recalibration of the assessments for foreign banks and local banks is being completed during 2019.

457. Prior to the introduction of the new Risk Based Supervision Framework, the BSD conducted on-site inspections at least once a year and quarterly off-site assessments of all its local and foreign banks. It also conducted special targeted examinations on an ad hoc basis, many of which were specialised examinations for the FIU.

458. With the introduction of the new Risk Based Supervision framework, the frequency and scope of on-site compliance reviews is now being determined by the risk profile, activities and operations of the institution (informed by the third party assessment report). Generally, during the period under review the on-site inspections have generally been on a scheduled supervision cycle.

**Table 6.2. BSD on-site inspections – Consolidated (All banks)**

| Risk Category | 2014 | 2015 | 2016 | 2017 | 2018 |
|---------------|------|------|------|------|------|
| Very High     | 7    | 7    | 8    | 10   | 4    |
| High Risk     | 6    | 12   | 7    | 11   | 17   |
| Medium Risk   | 31   | 33   | 55   | 28   | 31   |
| Low Risk      | 11   | 4    | 2    | 4    | 2    |
| Total         | 55   | 56   | 72   | 53   | 54   |

*Note: No on-site examinations conducted for 2 banks*

459. Historically, BSD examiners have examined many client files to verify compliance with KYC, monitoring and the bank's own written policies. STRs have also been sampled to ensure quality in filing, as well as system alerts checked and follow-up procedures and processes. Samples of high-risk customers, foreign PEPs, and EDD clients and correspondence banks are routinely reviewed during examinations. The supervisors also use a process assessment card to rate the quality of processes applied at the banks (strong, satisfactory, marginal, and weak) at five levels: Strategy, Identification, Measurement, Monitoring and Controls.

460. The BSD supervision team also conducts off-site assessments covering various requirements such as routine and ad hoc meetings with compliance MLRO officers as well as senior management, monitoring of branches, domestic and foreign subsidiaries, as well as compliance with regulations, risk basics and statistics. It includes the monitoring of market news and events and following up directly with impacted institutions.

**Table 6.3. BSD off-site inspection of banks – Consolidated (All banks)**

| Risk Category | 2014 | 2015 | 2016 | 2017 | 2018 |
|---------------|------|------|------|------|------|
| Very High     | 7    | 7    | 8    | 10   | 5    |
| High Risk     | 6    | 12   | 7    | 11   | 14   |
| Medium Risk   | 27   | 29   | 39   | 30   | 32   |
| Low Risk      | 13   | 5    | 2    | 4    | 5    |
| Total         | 53   | 54   | 56   | 55   | 56   |

461. For MVTs providers, on-going supervision is based on information submitted by the MVTs in regular intervals (monthly, quarterly return forms, etc.), and consists of carrying out a continuous (on-going) analysis of the MVTs business activities and their risk situation. In case of the BSD identifying breaches of the general rules and regulations, special attention is required and particular supervision of an MVTs which in some case resulted in putting the institution on 'close watch'. The MVTs sector previously reported 17 monthly and quarterly reports to the BSD via e-mail which included information on balance sheets, guarantees, liabilities, etc. These reports have now been reviewed and redeveloped and were integrated into the Integrated Regulatory Reporting (IRR) Portal of the Central Bank in December 2018. There are also daily remittance reports submitted to the FIU by way of the Remittance Reporting System (RRS). This is a daily report of remittances by transaction. The report has recently been updated to expand from 17 fields to 40 fields and went live in December 2018. BSD also has access to the report for supervisory purposes.

462. Supervision for the MVTs sector is generally conducted by examiners who are primarily AML/CFT specialists; some come from the industry, others from regulators, or are trained by the Central Bank. Four different types of examinations exist within the Supervision framework for MVTs:

- a) Full Scope Examination (5-15 days dependent on size and complexity) with 2 to 5 examiners;
- b) Fast Track Examination (3-7 days dependent on size and complexity) with 1-3 examiners;
- c) Follow up Examinations (Dependent on the number of breaches remediated); and
- d) Special Examination (Dependent on the level of investigation required) with number of examiners depending on the scope.

**Table 6.4. BSD – On-site inspection of MVTs**

| Examination Type       | 2014 | 2015 | 2016 | 2017 | 2018 |
|------------------------|------|------|------|------|------|
| Fast Track Examination | 0    | 72   | 85   | 112  | 48   |
| Full Scope Examination | 35   | 6    | 41   | 22   | 20   |
| Special Examination    | 5    | 2    | 0    | 5    | 5    |
| Follow up examination  | 0    | 0    | 6    | 6    | 22   |
| Total                  | 40   | 80   | 132  | 145  | 95   |

463. Whilst recent action by the BSD indicates significant progress in applying supervisory activity based on ML/TF risk, the new regime is still being transformed. Therefore it was not possible at this stage to demonstrate that they were applying resources on a risk basis as opposed to the previous regime which operated on a scheduled supervision cycle. It will only be possible to determine the correct

application of resource once the additional material contained in the third-party assessment reports, along with the additional reporting requirements, have been fully implemented into the supervisory work programme from 2019 onwards.

#### *SCA – Mainland/CFZs – Securities and Brokerages*

464. In order to supervise or monitor compliance of financial institutions with AML/CFT requirements, the SCA conducts both on-site inspections and off-site assessments. SCA has 18 examiners, who are all responsible for AML/CFT and other supervisory requirements. All examiners are trained to conduct AML/CFT supervision. The risk-based supervision plan is reviewed semi-annually and the examination is conducted based on risk identified before each visit. The risk score takes into consideration the previous ML/TF deficiencies or violations of the licensed companies. If the FIU or law enforcement have raised any notifications or information is provided on AML cases, it is taken into consideration in the SCA's AML/CFT supervision plan.

465. AML/CFT compliance is checked during all inspections. SCA is currently working from a 2018 – 2020 inspection plan. From a frequency perspective, companies that are classified as high risk for the general assessment are visited every year in the three year plan, while medium risk companies are visited twice and low risk companies are visited once. An examination team includes a minimum of two examiners, and more resources are added as deemed appropriate. On average, a team includes three examiners and examinations are completed within 50 working days from the first visit to the licensed entity until the date of issuing the report. The 2018 – 2020 inspection plan includes the incorporation of the specific ML/TF risk assessment brought in during 2019, and therefore looks to apply resources on a risk based approach.

**Table 6.5. SCA – On-site inspections for AML/CFT**

| Number of Examinations             | 2014 | 2015 | 2016 | 2017 | 2018 |
|------------------------------------|------|------|------|------|------|
| Markets                            | 2    | 0    | 0    | 1    | 1    |
| Securities Brokers                 | 35   | 49   | 28   | 45   | 17   |
| Commodities Brokers                | 19   | 17   | 16   | 19   | 13   |
| Custodians                         | 4    | 2    | 3    | 2    | 2    |
| Financial Analysis and Consultancy | 13   | 15   | 9    | 9    | 11   |
| Investment management              | -    | -    | -    | 2    | 4    |
| Promotion and introduction         | -    | -    | -    | -    | 6    |
| Total                              | 73   | 83   | 56   | 78   | 54   |

466. In addition to the on-site visits, the SCA monitors the reporting companies' compliance with AML/CFT through off-site reviews over and above the semi-annual report sent to the regulator. In November 2017, SCA issued a circular to reporting entities requiring them, as of January 2018, to prepare periodic compliance reports on an SCA template, which includes a specific part for AML compliance. Reporting entities are required to prepare the compliance report quarterly, which is maintained with the reporting entity and can be requested at any time.

#### *IA - Mainland/CFZs – Insurance Sector*

467. The Insurance Authority monitors its regulated entities using a risk-based approach to supervision, and since mid-2018 there has been a specific focus on

ML/TF related risk. A comparison is conducted between the on-site inspection report and the external auditor report and in case of high variation of the report, an update is carried out. This will then determine the plan for future on-site inspections. The exact frequency of on-site inspection is determined by the results of off-site examinations and the results of previous visits. The Insurance Authority has eight staff members (six off-site and two on-site/off-site) supervising 60 insurance companies and 160 related services.

468. Until the first quarter of 2018, the AML/CFT compliance assessment was performed as part of the scope of the on-site inspection. Although the focus of the on-site inspection was more general, there were a number of items that dealt with AML/CFT controls. Since mid-2018 the on-site inspection now includes specific examinations relating to AML/CFT and the process has been amended to now include amended internal procedures to ensure all on-site inspections cover an overall examination on the procedures of the entity with respect to AML/CFT.

**Table 6.6. Insurance Authority On-site inspections**

| Number of On-site Inspections | 2015 | 2016 | 2017 | 2018 |
|-------------------------------|------|------|------|------|
| Very High Risk                | NA   | NA   | NA   | 11   |
| High Risk                     | NA   | NA   | NA   | 1    |
| Medium Risk                   | NA   | NA   | NA   | 2    |
| Low Risk                      | 1    | NA   | NA   | 6    |
| Total                         | 9    | 19   | 20   | 20   |

469. Until 2016, entity level risk was assessed through activity from which it was found that the life insurance companies and the fund accumulation companies are of higher risks among companies supervised by the Insurance Authority. Since 2018, the IA has included off-site inspection taking into consideration the external auditor report findings as an intermediate step to apply the new model for risk assessment for insurance companies. The Insurance Authority conducted a total of 182 off-site inspections for the period 2015-2017.

#### *FSRA – FIs and DNFBPs in the ADGM*

470. The FSRA has previously operated an Impact and Risk Rating Methodology which determined the supervision regime based on the institutions overall risks and it is notable that this has always considered ML/TF risks. Changes made in January 2019 have enhanced the consideration of ML/TF risks. This revised Impact/Risk Rating Methodology and Supervisory Approach has transitioned to apply a more specific AML Risk Rating methodology and supervision programme (as outlined in section 6.2.2 above).

471. The FSRA has 62 staff, of which 37 staff are dedicated to supervision. Of these examiners, three are dedicated to AML/CFT (the Financial Crime Prevention Unit) and are responsible for 36 FIs and 21 FinTech FIs. Usually three or four supervisors are assigned to each inspection (where one is the team leader). On average, on-site inspections take two to three working days.

472. The previous Impact and Risk Rating Methodology contained ten risk elements: AML/CFT, financial soundness, liquidity, credit risk, market risk, conduct risk, operational risk, corporate governance, internal controls, business model. These ten elements were re-assigned into four risk groups under the new Impact/Risk

Methodology & Supervisory Approach. The review cycle is based on this new risk policy for each entity. Under the previous regime, and current policies, the minimum time frame for an on-site inspection was one year while maximum time frame was five years.

473. The FSRA conducted five on-site reviews in 2017 and sixteen in 2018. Four of these on-sites were of banks, thirteen were of other financial institutions and four were of DNFBPs. All of the inspections involved an AML/CFT element.

**Table 6.7. FSRA – On-site inspections**

| Number of On-site Inspections | 2014 | 2015 | 2016 | 2017 | 2018 |
|-------------------------------|------|------|------|------|------|
| High Risk                     | -    | -    | 0    | 1    | 0    |
| Medium High Risk              | -    | -    | 0    | 0    | 4    |
| Medium Low Risk               | -    | -    | 0    | 1    | 8    |
| Low Risk                      | -    | -    | 0    | 3    | 4    |
| Total                         | -    | -    | 0    | 5    | 16   |

474. The FSRA is also looking at AML/CFT supervision based on thematic reviews. The scope of the first reviews undertaken in 2019 cover the application of the risk-based approach and how FIs understand their ML/TF risks and are mitigate them, customer on-boarding process and practices and TFS monitoring and management.

475. The FSRA also uses a number of off-site supervisory tools, which include the review of firms' prudential returns, annual auditor reports and financial statements, and an ongoing discussions and meetings with firms. The FSRA also uses the annual AML/CFT Return (over and above the on-site inspections and off-site supervisory tools) to monitor and supervise firms for compliance with AML/CFT regulations. The review of the AML/CFT return, on-site inspections and off-site supervisory tools are also inputs for Financial Crime Risk category of the revised Impact/Risk Rating Methodology & Supervisory Approach.

#### *DFSA – FIs and DNFBPs in the DIFC*

476. The DFSA operates a comprehensive supervisory risk model based on ML/TF risk assessment which is comprised of on-site and off-site inspections and thematic reviews. ML/TF Risk has been an integral part of supervisory compliance within the DFSA, which was further enhanced following the outcomes of the NRA. On 1 January 2018, following a restructuring of the supervision department, the DFSA updated its risk-based AML/CFT supervisory approach. The revised approach looked to further develop the RBA by considering AML/CFT more specifically in determining the review cycle of institutions. As at 1 January 2019, the DFSA has 46 staff specifically dedicated to supervision. Seven (7) of the supervisors are dedicated to the Financial Crime team.

477. The DFSA has further developed the model it applies to determine the supervisory risk cycle after 1 January 2019. Generally, the business model in financial institutions influences the risk rating which impacts the frequency of any compliance review, including AML/CFT compliance assessments. However, the DFSA Board has a published risk statement indicating its Risk Appetite and noting the heightened regional AML/CFT risk. The DFSA therefore conducts AML reviews based on a number of factors regardless of business model.

478. A first on-site risk-assessment of an FI would generally take place during the first 12 months post authorisation. Prior to 1 January 2019, depending on the MRR rating of the financial institution, FIs were put onto an on-site risk assessment cycle of between one to three years for higher risk (with a dedicated relationship manager in the DFSA) and two to five years for lower risk. Deposit-taking institutions were subject to an on-site risk assessment cycle of between 12-18 months. Banks supervised on consolidated basis are subject to an on-going risk assessment cycle where several visits are conducted each year based on the supervisory strategy, which is reviewed on a yearly basis. This assessment was predominantly made on the business activity category which determined the assessment cycle. Previously there also remained the ability for institutions to have an increased on-site risk assessment cycle due to an elevation in a particular risk (e.g. AML/CFT) which occurred on a number of occasions.

479. Also post 1 January 2019, a change was made to the cycle of supervision, moving most financial institutions onto the two to six year on-site risk assessment cycle with them being directly supervised by the Conduct of Business team. However, due to the identification of heightened risks (including ML/TF risk), five classes of institutions continue to be relationship managed and be subject to more stringent supervision. This included Deposit-taking banks, insurance intermediaries and underwriters, non-bank financial institutions that offer diversified services, non-bank financial services that have exceptional regulatory concerns and Fintech related FIs. The result of the heightened focus on these institutions, with the exception of insurance sector, is that they are now subject to a one to two year on-site risk assessment cycle with the focus being determined by the specific risks relevant to each of the five risk activities noted. In addition to this, a deposit-taking institution, unless it is categorised as low risk it will automatically be subject to an on-site visit every 12 months; or if it is supervised on a consolidated basis, it will be subject to an on-going risk assessment cycle where several visits are conducted each year based on a supervisory strategy which is reviewed on a yearly basis. In respect of insurance intermediaries, a three to five year on-site risk assessment cycle is followed, with insurers on a two to three year cycle.

480. All FIs in the DIFC are subject to compliance reviews, which either takes the form of a general assessment or an assessment focused on a particular risk element across one or all business lines. All compliance reviews include both a desk-based review and an on-site review. The desk-based review includes a review of the FI's AML/CFT and sanctions policies and procedures (e.g. general policy and risk statement, client on-boarding templates, KYC/CDD procedures, sanctions screening, and transaction monitoring policies/procedures). The on-site review includes a sample review of client files (which includes a review of the clients' source of wealth and funds), a sample transaction review, a review of sanctions screening documentation, and AML/CFT training materials. The on-site assessment will also include interviews with relevant staff (e.g. client on boarding team, client facing staff, CDD assurance personnel, audit personnel, senior management, etc.). The majority of compliance reviews are general assessments that include an assessment of ML/TF risks as well as prudential risks. However, the DFSA has in place triggers (e.g., change in business activities, increase in number of clients, annual AML return (red flags or intel), that may trigger an AML/CFT systems' review outside the general review cycle.



Table 6.8. DFSA– AML/CFT Compliance Reviews

|                                                   |      |      |      |      |      |
|---------------------------------------------------|------|------|------|------|------|
| Number of On-site Inspections                     | 2014 | 2015 | 2016 | 2017 | 2018 |
| Number of AML Compliance Reviews Completed        | 131  | 151  | 202  | 167  | 128  |
| % of General Compliance Reviews that included AML | 43%  | 45%  | 53%  | 41%  | 26%  |

481. The DFSA also conducts a number of monitoring programmes to enhance its ML/TF supervision. These include ad hoc AML-specific client reviews and client file reviews. The ad hoc reviews are designed for when there is the identification of a material risk event that is subject to a desk-based review (such as increased STRs, complaints, hits identified through compliance checks etc.) The Client File review is designed to proactively mitigate risks arising from the on-boarding of new clients. The DFSA developed a process in 2014 to review client files of newly licensed financial institutions subject to pooled supervision once two or more clients are on-boarded.

482. In relation to thematic reviews, over the assessment period, the DFSA conducted a total of 4 thematic reviews. Two out of the 4 reviews were AML/CFT related – a trade finance thematic review and a financial crime thematic review. These reviews have drawn on input from the regulated entities (with high return rates – 89%) and subsequent follow up thematic on-site visits to a selection of entities. For both thematic reviews, where material issues were found, the DFSA initiated an AML-specific risk assessment. The DFSA also publishes regular feedback<sup>26</sup> on its thematic reviews.

483. In relation to off-site supervision, the DFSA introduced a format for the annual AML/CFT return in 2013. The return required financial institutions to provide practical examples displaying how it complies with its obligations under the AML requirements in the DIFC. In addition, the return required financial institutions to provide specific qualitative data, for example, the number of particular clients, the number of clients subject to EDD or PEPs. The DFSA used the information in the Return to get a better understanding of the AML landscape and risks in the DIFC. The return could also trigger an on-site risk assessment in certain circumstances.

#### *DNFBPs – DNFBPs in the Mainland/CFZs*

484. Given that the DNFBP supervisors in the Mainland/CFZs were only recently established by virtue of Cabinet Resolutions, limited activity has occurred in terms of the development of their understanding of the sectors and institutions that they supervise. The Ministry of Economy has produced an operational action plan for inspection and supervision of DNFBPs – which looks to achieve coverage for supervision of all designated entities by 2020. However, as nothing is currently in place for risk understanding and supervision of the entities, overall effectiveness was not able to be demonstrated.

#### *Remedial actions and effective, proportionate, and dissuasive sanctions*

485. Supervisors have a range of remedial actions at their disposal to encourage compliance. The BSD, the IA and SCA have taken limited remedial actions and levied sanctions against firms; these have mainly constituted basic sanctions (e.g. warning

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[www.dfsa.ae/en/Your-Resources/Publications-Reports/Thematic-Reviews](http://www.dfsa.ae/en/Your-Resources/Publications-Reports/Thematic-Reviews)

letters) or low-level fines, however licence downgrades and a very limited number of license revocations were demonstrated. It is a major concern to the assessment team that the UAE authorities do not recognise the importance of using the full range of sanctions (particularly fines and barring orders) in a proportionate manner where greater breaches of the requirements in order to create a dissuasive culture in the UAE.

486. The DFSA is the exception, having demonstrated the application of effective, proportionate and dissuasive sanctions against both firms and individuals, and the FSRA is demonstrating competence to achieve the same. The DFSA and the FSRA have imposed sanctions against individuals as well as firms.

#### *BSD – Mainland/CFZs - Banks and MVTs (including Hawaladars)*

487. The BSD has a range of remedial actions and sanctions which it has applied. This includes:

- a) Transmittal letters (Post-on-site observation letters) and
- b) Confidential warning letters
- c) Remedial actions (not approving new products, branches and any further requests until breach issue is addressed)
- d) Fines and penalties
- e) Compliance rating downgrade (increasing supervision frequency)
- f) Activity restriction or license downgrade
- g) License revocation or suspension

488. In practice, the BSD has previously applied a large number of the above (but not all) in response to breaches; however, where applied, they have either been applied too leniently or not sufficiently expediently so that they could be considered effective, proportionate and dissuasive.

489. The BSD presented a situation in 2018 where one foreign bank branch licensed as a wholesale bank was not been able to keep up with rectifying AML compliance matters on a global basis and has therefore closed down, maintaining only a representative office in the UAE. Whilst this demonstrates that there is the possibility for certain enforcement actions to ultimately yield results, which may protect against ML/TF, it is not possible to conclude that this comes as a result of the effective actions of the BSD or that it is suitable.

490. When actions were taken by the BSD to downgrade licenses or revoke licenses, the assessment team noted that this generally took long periods of time, without demonstrating interim measures in place to limit further risk presented by these entities.

491. Between 2013 and 2018 there has been a generally low number of enforcement actions taken against banks, and these have mainly resulted in letters/reports, which are generally issued post a series of supervisory requests in regards to remediation requests that the institution failed to meet.

**Table 6.9. BSD cases resulting in enforcement actions – Banks and Finance Companies**

| Enforcement Actions                                         | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|-------------------------------------------------------------|------|------|------|------|------|------|
| Fines                                                       | -    | -    | -    | -    | -    | -    |
| Enforceable Undertakings                                    | -    | -    | -    | -    | -    | -    |
| Restriction on Individual                                   | -    | -    | -    | -    | -    | -    |
| Confidential Warning Letter                                 | -    | -    | -    | -    | -    | 11   |
| License Downgraded                                          | -    | -    | -    | -    | -    | 1    |
| Licenses Revoked                                            | -    | -    | -    | -    | -    | 1    |
| Letters/Reports (Following breaches in on-site inspections) | -    | 18   | 34   | 48   | 36   | 35   |

492. Generally, when considering a number of the examples provide during the on-site visit, the BSD has favoured using a very limited range of enforcement actions (mainly Letters/Reports) rather than utilising a range of actions which are proportionate to the issues identified. There is a particular concern that fines and banning orders are not used in a proportionate manner where greater breaches of the requirements occur.

493. Whilst the UAE authorities have indicated they believe that license revocations and downgrades can be more dissuasive, the table above demonstrates that these have rarely been used and when used, they have taken significant time to implement. The assessment team are therefore of the view that there is a major issue with the approach of the UAE authorities to the use of sanctions which has not created a dissuasive environment in terms of the use of sanctions in the Mainland or the CFZs.

#### **Box 6.5. Example of BSD intervention – a specialist investment bank**

The bank in question conducted very specialised banking and investment business. It had a large proportion of high-risk customers including High Net Worth Individuals (HNWIs) and PEPs (over 25%).

In on-boarding clients, the bank relied significantly on reliance of introducers based overseas. The bank was also operating a number of nominee shareholders, trust, foundations and funds accounts, and often involving complex structures. This resulted in a specific on-site visit being conducted in 2018, however it appears that these concerns were identified some significant time before (potentially as early as 2015). The bank had, however, hired and retained a prominent AML/CFT risk consultancy firm to provide compliance assurance reports and remedial action oversight and the bank during this time and they routinely submitted periodic assessment and remediation reports to BSD. The BSD discovered significant failings in relation to CDD procedures. This particularly related to client identification, source of wealth/funds and use of nominees. The bank was found to have been on boarding clients who either have direct or indirect association with money laundering, corruption, untraceable source of funds. They were also found to be on-boarding nominee shareholders, trusts, foundations and funds accounts where the beneficial ownership was hidden under different layers of mostly shell companies that had no apparent real operations. In most

situations the bank was not obtaining documents on source of funds and any verification on source of wealth was not robust. In many cases the intended account activity did not match the actual activity.

Following the exit review meeting with the senior management team and Board Advisors held in March 2018, BSDs senior management organised a meeting with the Chairman of the Bank to further discuss the details of the findings and to express BSDs ongoing concerns regarding the management of the bank, including the consideration of having the CEO removed. The Chairman noted the bank would take actions and asked for a follow up examination in early 2019 to validate the progress. A further remediation plan was developed with an AML/CFT risk consultancy firm monitoring and providing updates to BSD along with meetings with the senior management.

The bank received the full examiners report in respect of the inspection in January 2019, some 10 months after the conclusion of the on-site examination however, as agreed at the exit meeting, the bank had already taken some remedial actions, based on the exit meeting agenda. The comprehensive list of remedial actions were, however, only provided in the report. The follow-up on-site inspection in February 2019, conducted post the conclusion of the risk consultancy review, resulted in a number of findings including a number of serious AML contraventions which were not deemed to be in line with UAE Laws and Regulations.

The BSD dealt with this matter by way of several face to face meetings, conference calls, letters and guidance provided to the bank. As a result of actions by the BSD, the Board of the bank ultimately terminated the services of the CEO and the second ranking senior manager, the Head of Private Bank. The CEO was placed on the official banned list of the BSD. The BSD continues to carefully monitor the implementation of a series of actions by the bank to improve the operational effectiveness of their Financial Crime Control Framework.

494. The example provided in Box above demonstrates that despite serious AML/CFT failings in an institution, the BSD did not implement sanctions that were proportionate to the failings identified. During the onsite, the BSD was of the view that the ultimate action taken in the above case (removal of the CEO by the Board after some time) was appropriate to deal with the exposure to the UAE of financial crime risk in this specific case. It is of concern to the assessment team that limited consideration appears to have been given to using the full range of sanctions (notably financial penalties) in order to create a dissuasive environment to future behaviour in the UAE. The duration of time taken to issue sanctions in this case and the severity of the ultimate sanction (to the institution itself) were also of concern to the assessment team.

495. In respect of the MVTs sector, the BSD has taken action which mainly has consisted of the issuance of notices to exchange companies and some license downgrades and revocations. These were categorised into different levels of notice (Black (15), Grey (13) and Red (57)) which were varying in severity and potential further action that could be taken if remediation did not occur. Between 2013-2018,

the Central Bank revoked the license of 6 MVTs providers and between 2016-2018 downgraded the license of 16 MVTs providers to buying and selling of foreign currency only). Since an MVTs provider's level of AML/CFT compliance impacts its risk category, the BSD also used the refusal of license applications as a sanction by rejecting requests for new business applications for entities rated medium-high and high. This has been an approach used to encourage MVTs providers to improve their AML/CFT controls, which may subsequently lead to an improvement in their ratings. In July 2018, post the implementation of the revised standards for licensing and regulations of MVTs in March 2018 a total of 26 MVTs have surrendered their licenses of which many of these were previously downgraded.

496. It is a positive step that the BSD has created an enforcement division in 2018, with the approval of an official enforcement mandate and enforcement policy also being approved. It was demonstrated during the on-site visit that the enforcement division is now significantly involved in all matters that may require enforcement intervention and notably with the supervision teams during on-site close out meetings. However, it is currently unclear whether the staffing provided for the Enforcement Division (4 FTEs) will allow it to be effective in improving the situation in the future.

497. Overall, through case studies and information provided by the BSD and discussions with the private sector, the assessment team concluded that the BSD has not created a dissuasive environment in the Mainland/CFZs by the use of effective and proportionate sanctions.

#### *SCA – Mainland/CFZs – Securities and Brokerages*

498. SCA has a range of remedial actions and sanctions available, which it has used to a limited extent on the sectors that it supervises. The remedial actions and sanctions used by SCA involve notices, warnings, remedial action plans, fines, license suspensions and cancellations.

499. The vast majority of AML/CFT breaches are at securities and commodities brokerages given their transactional nature (versus consultancy and advisory nature of the other activities within the securities sector).

**Table 6.10. SCA Enforcement Actions Relating to AML/CFT**

| Category                           | Number of                 | 2014 | 2015 | 2016 | 2017 | 2018 |
|------------------------------------|---------------------------|------|------|------|------|------|
| Brokerages                         | AML/CFT Breaches          | 26   | 56   | 54   | 16   | 12   |
|                                    | Notice                    | 24   | 49   | 28   | 0    | 0    |
|                                    | Warning                   | 1    | 5    | 22   | 16   | 9    |
|                                    | Fine                      | 0    | 1    | 2    | 1    | 3    |
|                                    | Total Enforcement Actions | 25   | 55   | 52   | 17   | 12   |
| Custodians                         | AML/CFT Breaches          | 0    | 0    | 0    | 0    | 0    |
|                                    | Notice                    | 0    | 0    | 0    | 0    | 0    |
|                                    | Warning                   | 0    | 0    | 0    | 0    | 0    |
|                                    | Fine                      | 0    | 0    | 0    | 0    | 0    |
|                                    | Total Enforcement Actions | 0    | 0    | 0    | 0    | 0    |
| Financial Analysts and Consultancy | AML/CFT Breaches          | 0    | 0    | 6    | 3    | 2    |
|                                    | Notice                    | 0    | 0    | 4    | 0    | 0    |
|                                    | Warning                   | 0    | 0    | 2    | 3    | 2    |
|                                    | Fine                      | 0    | 0    | 0    | 0    | 0    |
|                                    | Total Enforcement Actions | 0    | 0    | 6    | 3    | 2    |

**Box 6.6. SCA Enforcement action – financial penalty**

In 2018, it was identified that the Company did not set the necessary policies & procedures required to determine whether the client was a politically exposed foreign person, a member of their family, or any persons associated with them. The Company was given 3 months period to rectify this point. By the deadline, the company didn't take any action to rectify the finding. The case was referred to the Enforcement Department and 20 000 AED (EUR 4 850) penalty was imposed.

500. Whilst a number of fines have been issued, these are generally still low in number and low in value considering the breaches identified. The majority of SCAs actions remain restricted to notices and warning letters. SCA has not yet had cause to use more severe powers such as license suspension or cancellation. Overall, considering the level of breaches identified, the application of the fines, warnings, notices it appears that proportionate sanctions are being implemented and it can therefore be considered that SCA issues sanctions that are to some extent effective, proportionate and dissuasive.

**IA - Mainland/CFZs – Insurance Sector**

501. In relation to breaches of AML/CFT obligations by insurance companies, only two breaches have been identified and therefore only two administrative actions have been taken in the form of warning letters. The breaches related to the assessment of ML/TF risks posed by clients and CDD for verification of identity of source of funds and source of wealth. Given the number of entities in the insurance sector, the identification and action against only two entities is a surprise to the assessment team, and therefore it was not generally possible to demonstrate effectiveness due to



the limited number of situations identified for enforcement. It is positive that the IA had suspended (31) Insurance Brokers because of the inability to identify the Ultimate Beneficial Owners of the Brokers.

#### *FSRA – FIs and DNFBPs in the ADGM*

502. Given the relatively new existence of ADGM, there has been a limited number of enforcement actions involving the imposition of a formal sanction on a person. At the time of the on-site visit there had been two recent financial penalties imposed. Information about any enforcement actions are published on the ADGM website.

503. The FSRA Enforcement Department conducts administrative and civil proceedings to pursue regulatory action to address contraventions and/or misconduct in the ADGM efficiently and effectively (and in accordance with internal procedures). Administrative proceedings to impose a sanction (including the imposition of financial penalties, censures and prohibition orders) and regulatory action (such as the cancellation of a Financial Services Permission) is imposed through a process that involves the issuance of a Warning Notice, Decision Notice and Final Notice. Under this process, Decision Notices issued by the FSRA are subject to administrative review by the Regulatory Committee/Appeals Panel. Civil proceedings are conducted through the commencement of proceedings before the ADGM Courts. The remedies available to the FSRA under this process includes injunctions and orders, actions for damages and the compulsory winding-up of regulated entities. The FSRA has methodical and prescriptive published guidance on its Enforcement policies and processes and has recently finalised an Enforcement Internal Procedures Manual along with the creation of an Enforcement Department. The policy aims to ensure sanctions are appropriately determined and are effective, proportionate and dissuasive.

#### *DFSA – FIs and DNFBPs in the DIFC*

504. The DFSA has been able to comprehensively demonstrate its ability to issue effective, proportionate and dissuasive sanctions against both firms and individuals. The DFSA and the FSRA are the only supervisors in the UAE to have imposed any sanctions against individuals.

505. The DFSA most regularly uses Risk Mitigation Plans (RMPs) as a supervision tool which follows an inspection or review where weaknesses in the institutions AML/CFT framework were identified. Generally, the weaknesses are not recurring and not systemic, and supervision believes compliance can be achieved without resort to enforcement action. The RMP generally contains required corrective action by the institution and is required to be reported to the DFSA upon completion, sometimes with a requirement to engage an independent third party to assist in the process and be involved in the report. During the review period, approximately 20% of AML/CFT compliance reviews resulted in a RMP.

506. Where there is consideration that an issue can be resolved through supervisory action, but that material harm could still occur, the DFSA can prohibit the institution taking on new clients whilst the issue is resolved. The DFSA has more stringent powers to issue a sanction and/or issue directions to a person that has contravened a provision of any legislation administered by the DFSA. This can range from fines, censures, directions for restitution/compensation, directions to account for property or to cease and desist from certain activity, direct someone to do something relevant to the contravention and prohibit or restrict persons from certain

offices or performing functions in or from the DIFC. These actions come with publication on the DFSA Website<sup>27</sup>. Enforceable undertakings can be issued alongside any of these sanctions to ensure remediation of any deficiency.

**Table 6.11. Sanctions applied by DFSA against all persons for AML/CFT breaches**

| Enforcement Action                                         | 2014 | 2015 | 2016 | 2017 | 2018 |
|------------------------------------------------------------|------|------|------|------|------|
| Fine                                                       | 0    | 3    | 2    | 0    | 0    |
| Censure                                                    | 0    | 0    | 0    | 0    | 0    |
| Direction for restitution                                  | 0    | 0    | 0    | 0    | 0    |
| Direction to do an act                                     | 0    | 0    | 0    | 0    | 0    |
| Suspension of withdrawing authorisation from an individual | 0    | 0    | 0    | 0    | 0    |
| Restriction from performing DIFC functions                 | 0    | 0    | 0    | 0    | 0    |
| Enforceable Undertakings - Public                          | 0    | 2    | 1    | 1    | 0    |
| Enforceable Undertaking - Private                          | 0    | 2    | 1    | 0    | 1    |
| Private Warning Letter                                     | 0    | 2    | 0    | 0    | 0    |

507. Although the DFSA has not issued any fines in relation to AML/CFT since 2016, the DFSA has opted to issue EUs where the FIs agreed to pay a penalty for the breach. In relation to the size of the fine in respect of the AML related actions Enforcement has taken since 2014, the fines ranged from USD 8 4000 00 as the highest fine to USD 30 000 as a lowest fine. All fines are published on the DFSA's website<sup>28</sup>.

508. The fines that have been issued are significant and notably apply to both individuals and firms. In considering the fines administered, it is important to note that these were accompanied by a direction to remediate/enforceable undertaking. The cost of remediation is considered high – where individuals were fined, they were also removed from their function and not able to undertake similar functions for a period of time.

<sup>27</sup> [www.dfsa.ae/en/What-We-Do/Enforcement#Regulatory-Actions](http://www.dfsa.ae/en/What-We-Do/Enforcement#Regulatory-Actions)

<sup>28</sup> [www.dfsa.ae/en/What-We-Do/Enforcement#Regulatory-Actions](http://www.dfsa.ae/en/What-We-Do/Enforcement#Regulatory-Actions)

Table 6.12. All Recent Fines Imposed by the DFSA

| Type                  | Dates                                              | Fine Imposed                      | Fine Paid                         | Commentary                                                                                                       |
|-----------------------|----------------------------------------------------|-----------------------------------|-----------------------------------|------------------------------------------------------------------------------------------------------------------|
| Financial Institution | 2 November 2015 (Decision Notice)                  | \$1,000,000                       | \$640,000                         | Qualified for a total of 40% discount under the DFSA's policy for early settlement and other mitigating factors. |
| Financial Institution | 29 March 2015 (Decision Notice)                    | \$10,500,000                      | \$8,400,000                       | Qualified for a 20% discount under the DFSA's policy for early settlement.                                       |
| Individual            | 9 May 2016 (Decision Notice)                       | \$70,000                          | \$56,000                          | Qualified for a 20% discount under the DFSA's policy for early settlement.                                       |
| Individual            | 9 May 2016 (Decision Notice)                       | \$70,000                          | \$56,000                          | Qualified for a 20% discount under the DFSA's policy for early settlement.                                       |
| Financial Institution | 14 May 2015 (Decision Notice)                      | \$70,000                          | \$56,000                          | Qualified for a 20% discount under the DFSA's policy for early settlement.                                       |
| Financial Institution | 7 June 2015 (Enforceable Undertaking - Public)     | \$150,000                         | \$50,000                          | Suspension of USD 100 000 unless the FI failed to comply with any or all the terms or conditions in the EU.      |
| Financial Institution | 18 October 2016 (Enforceable Undertaking - Public) | \$60,000                          | \$30,000                          | Suspension of USD 30 000 unless the FI failed to comply with any or all the terms or conditions in the EU.       |
| Financial Institution | 14 May 2015 (Enforceable Undertaking - Public)     | \$50,000                          | \$50,000                          | None                                                                                                             |
| Individual            | 8 May 2017 (Enforceable Undertaking - Public)      | 2 November 2015 (Decision Notice) | 2 November 2015 (Decision Notice) | 2 November 2015 (Decision Notice)                                                                                |

509. The DFSA has a well-established Enforcement Department that is responsible for issuing sanctions and directions against persons that contravene a provision of any legislation administered by the DFSA, including AML/CFT requirements. Supervision liaises closely with the enforcement department in considering the issuance of sanctions. The DFSA has a methodical and prescriptive published policy which aims to ensure sanctions and directions are appropriately determined and, are effective, proportionate and dissuasive. This is based on three principles – disgorgement (not benefiting from contravention), discipline and deterrence. Numerous examples demonstrating the effective implementation of this policy were provided.

### Box 6.7. DFSA Case Studies – AML failings and sanctions

**Case study 1<sup>29</sup>:** An FI brought the contraventions to the DFSA's attention after the firm received internal whistle-blower complaints concerning the operation of its Private Banking International business line in the DIFC. In response to the complaints, the FI initiated an internal investigation which revealed that certain of its staff, within the DIFC branch, had engaged in practices that breached FIs' own policies and DFSA administered laws and Rules.

The DFSA imposed the fine because the firm did not:

- ensure that its anti-money laundering (AML) related systems and controls operated effectively;
- monitor and supervise the activities of all its Private Banking International (PBI) employees and ensure that they were adequately trained, understood and adhered to the firm's AML policies and procedures;
- undertake adequate risk based assessments of every customer or conduct adequate customer due diligence (CDD) for many of its clients; and
- undertake adequate transaction monitoring of client accounts.

The link to the DFSA Media Release can be found here: [http://dfsa.complinet.com/en/display/display\\_main.html?rbid=1547&element\\_id=23008](http://dfsa.complinet.com/en/display/display_main.html?rbid=1547&element_id=23008)

**Case study 2<sup>30 31</sup>:** In May 2016, the DFSA issued fines of USD 56 000 to each of two Licensed Directors of a financial institution. The DFSA found that the two directors instructed the SEO and CO to open accounts for 2 clients where: the clients had been assigned a high AML risk rating; the SEO and CO informed the directors that EDD had not been completed; and the directors were aware their instruction was not consistent with the FI's own account opening procedures.

### *DNFBPs – DNFBPs in the Mainland/CFZs*

510. Given that the DNFBP AML/CFT supervisors in the Mainland/CFZs were only recently established by virtue of Cabinet Resolutions, limited activity has occurred in terms of the development of their understanding of the sectors and institutions that they supervise. However, the MOJ has demonstrated effectiveness in imposing sanctions for non-compliance in relation to professional market conduct, in the format of a number of private warning letters and suspension of license actions. The Ministry of Economy has also taken similar actions against auditors and accountants.

<sup>29</sup> [www.dfsa.ae/getattachment/4efb2c0c-1678-436c-bbde-55a37089bb19/attachment](http://www.dfsa.ae/getattachment/4efb2c0c-1678-436c-bbde-55a37089bb19/attachment)

<sup>30</sup> [www.dfsa.ae/getattachment/7217351d-3aa9-42e4-bccf-0eb586e72313/attachment](http://www.dfsa.ae/getattachment/7217351d-3aa9-42e4-bccf-0eb586e72313/attachment)

<sup>31</sup> [www.dfsa.ae/getattachment/8ea57600-9910-48b6-876a-7725573118cb/attachment](http://www.dfsa.ae/getattachment/8ea57600-9910-48b6-876a-7725573118cb/attachment)

### *Impact of supervisory actions on compliance*

#### *BSD – Mainland/CFZs - Banks and MVTS (including Hawaladars)*

511. Some of the recent supervisory work by the BSD has shown some encouraging signs. For example, the carrying out of the third party independent AML-CFT risk assessments mandated by the BSD for all banks has significantly increased ML/TF risk awareness and has changed the views of those banks in relation to their approach to AML/CFT compliance. The assessment team noted through discussions with the industry that the requirement to carry out the 2017/2018 assessment report related to ML/TF has produced a reaction in industry, with many banks now looking to quickly take action in relation to their findings and also looking to put into place programmes to more regularly examine their ongoing ML/TF risk. However, it is not possible to demonstrate if the actions of the BSD are having a major effect on compliance by FIs and DNFBPs, or if this compliance is coming from external factors.

512. The BSD Dashboards for its local and foreign banks, on on-site assessments indicate a positive compliance trend which, at least in part, been caused by operational de-risking and investment by local banks as well as supervisory actions, especially with respect to the MVTS sector. It is positive that there has been a low incidence of repeat AML/CFT breaches. Only 16% of breaches identified in local banks are repeat findings, only 4% in foreign banks and 30% in the MVTS sector.

513. This trend also appears to be reflected in the thematic reviews conducted as follow-up to the comparative analysis performed by the BSD of the third-party assessments and the individual risk-grades assigned to individual banks by the BSD to local banks. They show a trend in overall general improvement and banks taking effective actions to close identified gaps, which was most noticed in the bank's Governance and Oversight as well as training and awareness.

#### *SCA – Mainland/CFZs – Securities and Brokerages*

514. SCA stated that in most cases, breaches are rapidly rectified when identified by the SCA. The SCA tracks the number of repeat offenders as it relates to AML/CFT breaches identified during compliance monitoring. 53% of securities brokerage breaches related to repeat offenders and 50% of commodities brokerages. No repeat offenders were identified in the markets and financial analysis and consultancy sectors, and no breaches were identified in the other SCA-supervised sectors. The tables below show that, whilst the repeat breach numbers are decreasing, they remain a high percentage. It is notable that repeat breaches significantly reduced between 2016 (65%) and 2017 (33%) which SCA contend is down to a new compliance initiative launched in 2017. This indicates that to some extent, SCAs actions appear to be having a positive impact on the individual firms they supervise.

**Table 6.13. Initial & repeat AML/CFT breaches for institutions supervised by SCA**

| Category                           | Number of                        | 2014 | 2015 | 2016 | 2017 | Total |
|------------------------------------|----------------------------------|------|------|------|------|-------|
| Commodities Brokerages             | AML/CFT Breaches                 | 1    | 8    | 23   | 7    | 39    |
|                                    | No of Firms w AML breaches       | 1    | 5    | 11   | 3    | 20    |
|                                    | No of Firms with repeat Breaches | 0    | 2    | 7    | 1    | 10    |
| Securities Brokerages              | AML/CFT Breaches                 | 26   | 56   | 54   | 16   | 152   |
|                                    | No of Firms w AML breaches       | 16   | 25   | 23   | 9    | 73    |
|                                    | No of Firms with repeat Breaches | 7    | 15   | 15   | 3    | 39    |
| Financial Analysts and Consultancy | AML/CFT Breaches                 | 0    | 0    | 4    | 0    | 4     |
|                                    | No of Firms w AML breaches       | 0    | 0    | 4    | 0    | 4     |
|                                    | No of Firms with repeat Breaches | 0    | 0    | 0    | 0    | 0     |
| Markets                            | AML/CFT Breaches                 | 0    | 0    | 1    | 0    | 1     |
|                                    | No of Firms w AML breaches       | 0    | 0    | 0    | 0    | 0     |
|                                    | No of Firms with repeat Breaches | 0    | 0    | 0    | 0    | 0     |

#### *IA - Mainland/CFZs – Insurance Sector*

515. In the IA the limited breaches identified limits the IA's ability to demonstrate effectiveness in this area.

#### *DFSA – FIs and DNFBPs in the DIFC*

516. The DFSA carefully monitors the actions it takes upon the entities it supervises in order to monitor their effect. The DFSA has an internal Regulatory Information System (RIS) which tracks all actions taken by supervisors. Follow-up is achieved through reviews by supervisors, together with the FI's own Internal Audit reviews and if serious failures are noted this might also involve a third party to assist in the remediation. All issues inserted into the RIS must be resolved for the matter to be closed.

517. The DFSA has not, however, provided statistics on repeat breaches that are identified in follow-up examinations.

#### *Promoting a clear understanding of AML/CFT obligations and ML/TF risks*

518. All supervisors publish a different range of guidance and undertake a varying range of outreach activities with the sectors that they supervise, so that the industry have an understanding. These include issuing guidance which is sometimes developed in consultation with the private sector. Given the significant recent changes in relation to AML/CFT legislation in the UAE, it is not possible to demonstrate that this action is sufficient across the industry to provide a clear understanding of AML/CFT obligations and ML/TF risks.



*BSD – Mainland/CFZs - Banks and MVTS (including Hawaladars)*

519. The BSD issues guidance documents that are attached to and relate to proper implementation of regulations, and notices published by the Central Bank to financial institutions. This includes Chapter 16 of “the Standards” which was circulated on 1 March 2018 and details expectations for every AML/CFT sanctions requirement.

520. The Central Bank has also issued Standards for the MVTS Sector, which provides detailed guidance on how to implement the regulations pertaining to the MVTS sector. Chapter 16 in particular details along with International Best Practice how to implement AML/CFT requirements.

521. The BSD has also provided training and outreach to the industry through a variety of sessions during the evaluation period. The BSD also provides typologies to financial institutions to support their institutional risk assessments.

*SCA – Mainland/CFZs – Securities and Brokerages*

522. SCA has published a booklet was issued for the role of compliance officers where the booklet has a section related to AML/CFT. Further guidance has been provided to licensed companies on how to classify their clients into various categories in terms of the rate of potential risk they have from ML perspective.

523. A common deficiency and Best Practice Letter was issues to brokerage firms at the beginning of 2018 indicating the most common deficiencies which was observed during 2017 examinations in addition to an example of the best practices in each area. The letter included 10 areas were 2 of them was related to AML procedures.

524. SCA has also provided general outreach to the securities sector in relation to the National Risk Assessment and new AML/CFT legislation.

*IA – Insurance Sector - Mainland/CFZs*

525. The IA has produced a guidance document concerning the implementation of the AML/CFT Regulations, instructions concerning AML/CFT in Insurance Activities, and an internal controller's guide for insurance brokerage companies which provides guidance on matters including AML/CFT legislation.

526. The IA holds annual training for 300-400 individuals on specific AML/CFT concepts. It specifically holds training sessions for MLROs on an annual basis, in collaboration with the Central Bank of UAE. The sessions are aimed at training MLROs of insurance companies and related professions to enhance their AML capabilities and teach them how and when to file STRs using the FIU's platform. The most recent training was held on 6 November 2018. The IA has also provided specialist training programs in the field of AML/CFT, which have been developed in cooperation with the UK International Compliance Council.

*FSRA – FIs and DNFBPs in the ADGM*

527. The FSRA Financial Crime Prevention Unit launched a webpage in July 2018<sup>32</sup>. The webpage serves as one key communication channel and source of information for FIs and DNFBPs, such as: FCPU's role and approach (including details on risk-based approach, role of DNFBPs), regulatory framework for AML/CFT, reference to all

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[www.adgm.com/operating-in-adgm/financial-crime-prevention/overview](http://www.adgm.com/operating-in-adgm/financial-crime-prevention/overview)

notices and circulars issued by FCPU, how to file STRs, high risk jurisdictions and other matters. The AML Rulebook is available on the ADGM website and directs FIs and DNFBPs to FATF typology work.

528. The FSRA has also conducted a series of outreach sessions in 2018 to both FIs and DNFBPs. These outreach sessions covered wide topics related to: AML/CFT systems and controls, risk-based approach, sanctions compliance, FATF Recommendations and assessment methodology, UAE Federal AML/CFT Laws and Cabinet Resolution, ultimate beneficial ownership and data protection. The presentations for these sessions are posted in ADGM website.

#### *DFSA – FIs and DNFBPs in the DIFC*

529. The DFSA actively promotes the understanding of ML/TF risks through numerous methods. Generally, this very pro-active approach has been very effective in promoting a clear understanding amongst the industry of their AML/CFT obligations and ML/TF risks. The DFSA provides written guidance in various forms which is published through the DFSA's website contains a page labelled, "AML, CTF & Sanctions Compliance."<sup>33</sup> The page sets out the various AML obligations for institutions. The website also contains a page that gives an outline of expectations/obligations that includes the AML obligations of DNFBPs. The DFSA also published FAQs on AML/CFT related matters and Dear SEO letters will be regularly issued which cover important ML/TF matters.

530. The DFSA conducts a variety outreach sessions which are thematic in nature and will cover different areas of ML/TF. The DFSA conducts an average of 10 sessions per year under this programme.

531. The DFSA also attends CONG meetings. The CONG (Compliance Officers Networking Group) is a group formed by institutions in the DIFC, whereby the Compliance Officers/MLROs of different institutions discuss regulatory policies and rules and the impact they have on the industry. The DFSA is often invited to attend CONG meetings in order to present current policy/rule initiatives and provide further clarity of DFSA expectations on relevant matters, including AML. This gives the DFSA an opportunity to observe, assess, and promote the stakeholders' recognition and understanding of relevant AML risks.

532. The DFSA publishes summary reports of thematic reviews<sup>34</sup> in order to inform financial institutions of the DFSA's expectations with regard to the identification and control of particular risk(s) as well as best practice. In relation to AML/CFT risks, the DFSA conducted a trade finance review in 2016 and a financial crime Thematic Review in 2017.

533. The DFSA also has conducted specific outreach for DNFBPs it supervises and has produced specific guidance for the DNFBP sector, plus sub-sectors (such as TCSPs).

#### *Overall conclusions on IO.3*

534. **The UAE is rated as having a moderate level of effectiveness for IO.3.**

<sup>33</sup> [www.dfsa.ae/en/What-We-Do/Supervision#AML-CTF-Sanctions-Compliance](http://www.dfsa.ae/en/What-We-Do/Supervision#AML-CTF-Sanctions-Compliance)

<sup>34</sup> [www.dfsa.ae/en/Your-Resources/Publications-Reports#Thematic-Reviews](http://www.dfsa.ae/en/Your-Resources/Publications-Reports#Thematic-Reviews)



## CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

### Key Findings and Recommended Actions

#### *Key Findings*

- a) The UAE has 39 different company registries, many of which have been created to promote economic growth in the various free zones. The risk of criminals being able to misuse legal persons in the UAE for ML/TF remains high, particularly through concealment of beneficial ownership information via complex structures, which may be controlled by unidentified third parties, or the use of informal nominees.
- b) The UAE has a nascent but developing understanding of the vulnerabilities of legal persons in the country, and how they can be, or are being misused for ML/TF. However, this understanding is uneven across the country and generally limited to the inherent risks. It is positive that some analysis has very recently been conducted resulting in a typology report from the FIU, however this is limited to certain sectors and it was not able to be demonstrated that this material had been used to develop understanding across the relevant UAE authorities.
- c) Whilst the recent legislative changes represent significant progress by the UAE, the fragmented system of registries has given rise to different levels of understanding, implementation and application of measures to prevent the misuse of legal persons, creating a vulnerability to regulatory arbitrage. In the DEDs, there is generally only a basic knowledge of the concept of beneficial ownership, whereas this is more developed in a number of the CFZs and the FFZs where they demonstrated a good understanding.
- d) In the majority of the registries there was no clear understanding of the concept of informal nominees or controlling persons (which were often confused with shareholders or BOs). In the FFZs, where formal nominees are permitted, there was a detailed understanding in the DIFC accompanied by specific legislation that deals with notification to the registry of the nominee.
- e) The creation and implementation of the National Economic Register (NER) is positive step and will significantly enhance information exchange across the UAE in respect of basic information. It will also act as a mechanism to standardise the

implementation of the new legislative provisions (when all Registers are connected).

- f) There is a wide divergence across the UAE registries as to how adequate, accurate and current beneficial ownership information can be obtained by competent authorities. In respect of obtaining this information from registries, many implement different standards of verification, with high levels of verification being used in the FFZs and some CFZs. But generally (and particularly in the DEDs) there is not sufficient verification of the accuracy of information – beyond the use of Emirates ID (for citizens and residents only) and a criminal background check. This leaves a significant vulnerability in respect of non-resident beneficial owners.
- g) UAE authorities, including LEAs demonstrated the ability to access basic and BO information from FIs, where the FI had a relationship with the legal entity in the UAE (it is not a requirement for a legal entity to have a relationship with a UAE FI). The requirement imposed on legal entities to maintain and provide basic and BO information was only recently enacted and it was not possible to assess if legal entities held suitable information. Equally, the UAE did not demonstrate the ability to obtain information directly from a legal entity.
- h) In respect of legal arrangements, for trusts (which can only be established in the DIFC/ADGM) there are comprehensive mechanisms for obtaining adequate, accurate and current beneficial ownership information from the trust service providers which are closely supervised. For awqaf, the General Authority for Islamic Affairs and Endowments has all the information specific to each waqf registered in its records.
- i) The UAE has not implemented at national level a regime whereby sanctions for failing to provide information can be considered effective, proportionate and dissuasive.

### *Recommended Actions*

- a) The UAE should extend its risk assessment of legal entities to consider how legal entities can be or are being abused for ML/TF across the UAE. This should notably include factors around product delivery channels, geographical exposure of legal persons in the UAE and the activity of the underlying company including the use of case studies developed by competent authorities.
- b) The UAE should expedite the full implementation of the NER across all registries in relation to basic information. The authorities should also look to develop the understanding of beneficial ownership and informal nominees across the Registries through guidance and training when implementing the new legislative requirements.

- c) Further guidance should be issued to registries in implementing the new legislative requirements around verifying the accuracy of information and the requirements for updating information. This should be done to ensure a unified approach across the UAE to information requirements under the new legislation.
- d) The UAE should look to determine a national level policy to ensure effective implementation of sanctions for failing to comply with information requirements. This policy should ensure failure to comply is considered proportionate and dissuasive. The authorities should look to monitor the implementation to ensure that it is applied effectively across all 39 registries.

535. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R.24-25.<sup>35</sup>

### Immediate Outcome 5 (Legal Persons and Arrangements)

#### *Public availability of information on the creation and types of legal persons and arrangements*

536. The UAE has a significant number of corporate registers – in total there are 39, including one for each of the emirates (plus Dibba Municipality, which is in Fujairah but has a separate corporate registry), the two FFZs and 29 CFZs. The Departments of Economic Development (DEDs) manage the registries for the Mainland Emirates, whereas each CFZ and FFZ registry is independent. There is some collaboration in how they operate in the Mainland and in Dubai (under the Dubai Free Zone Council<sup>36</sup>). In the other jurisdictions, most of the Registries operate independently without any particular coordination or collaboration. Each registrar is required under the AML Law and is responsible for providing public information on the creation and types of legal persons and this information can be found on the public website of each register. However, the extent of the information available varies significantly between registers.

537. In the Mainland, where this role falls to the local Departments of Economic Development (DEDs), three DEDs (Ajman, Dubai and Sharjah) provide comprehensive information. Of the remaining DEDs, Abu Dhabi provides a link to application forms, RAK DED provides brief basic information on formation and Fujairah, and Dibba and UAQ DED do not provide information.

538. In the FFZs, the DIFC provides comprehensive information via clear website information ([www.difc.ae](http://www.difc.ae)), and the ADGM equally provides information on business registration by referring to laws and regulations ([www.adgm.com](http://www.adgm.com)).

<sup>35</sup> The availability of accurate and up-to-date basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.

<sup>36</sup> The Dubai Free Zones Council oversee the affairs of the Free Zones in Dubai and committees where created, such as the registry committee, legal committee, strategy committee etc. The assessment team did not meet the Council.



539. In the majority of CFZs, the only information available to the public is general information about setting up companies, application forms or brochures (see for example Sharjah International Free Zone). This information is not specific enough to outline the creation and types of legal persons available. These CFZs have predominantly been set up for the purpose of promoting economic development by the UAE in order to attract and diversify investment into the country. Therefore, their primary purpose has not, so far, been to provide information on the technical requirements of how to create a legal entity. Only in JAFZA ([www.jafza.ae](http://www.jafza.ae)) and RAKEZ ([www.rakez.com](http://www.rakez.com)) provide comprehensive information. DMCC ([www.dmcc.ae](http://www.dmcc.ae)) provide a variety of links but the information on types or creations of legal persons is not easy to find.

540. In respect of legal arrangements, for awqaf, information on setting up a waqf and the types of awaqf is published by the General Authority of Islamic Affairs<sup>37</sup> and Endowments and the awaqf and Minor Affairs' Foundation<sup>38</sup>.

541. In respect of trusts, which are only able to be created in the DIFC and in ADGM, available information is restricted to published legislation. The DIFC Trust Law contains information on the creation of express trusts, which is publicly available on the DIFC's website<sup>39</sup> and the DIFC has also published a handbook on the creation of Trusts<sup>40</sup>.

### *Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities created in the country*

542. The UAE has a nascent but developing understanding of the vulnerabilities of legal persons in the country, and how they can be, or are being misused for ML/TF. The assessors based this conclusion on: a review of the assessed inherent ML/TF vulnerability by type of legal person, which was done as part of the NRA; a review of the typology the FIU published in July 2019; discussions with LEAs, registrars, FIs and a variety of DNFBPs. The fragmented legal regimes and registration requirements across the different registries in the UAE has led to different levels of understanding of ML/TF risk, meaning that the assessment team has found it challenging to conclude on a single level of ML/TF risk understanding across the UAE. Equally, the fragmented nature of the registries means that risks may vary from registry to registry, thus requiring a more detailed assessment of risk at an individual registry level.

543. The UAE has conducted a thorough and detailed assessment of inherent ML/TF vulnerabilities of all legal persons as part of the NRA. Three-level risk ratings were used in the assessment process (high, medium and low) and the process included looking at the vulnerabilities in the Mainland, FFZs and CFZs separately. This was effectively conducted by applying a risk level to each type of legal entity (LLC, Joint Partnership Company, LLP, Foundation etc.) and whether it was in the Mainland, FFZs and CFZs.

544. The outcome of this assessment found that in the Mainland, limited liability companies, joint liability companies and branches of foreign and UAE companies

<sup>37</sup> [www.awqaf.gov.ae/en/definitionofwaqf](http://www.awqaf.gov.ae/en/definitionofwaqf)

<sup>38</sup> <http://ogp.dubai.gov.ae/#home>

<sup>39</sup> [www.difc.ae/business/laws-regulations/difc-laws-regulations/](http://www.difc.ae/business/laws-regulations/difc-laws-regulations/)

<sup>40</sup> [www.difc.ae/files/2515/6256/3494/DIFC-RC-MA-23\\_Rev\\_01\\_Trust\\_Handbook.pdf](http://www.difc.ae/files/2515/6256/3494/DIFC-RC-MA-23_Rev_01_Trust_Handbook.pdf)

represented a high inherent ML/TF vulnerability. The FFZs equally conducted their own risk assessment which was in line with the methodology applied in the Mainland. In the FFZ, high inherent vulnerability was deemed to also include Private Companies Limited by Shares, Branches of Foreign Companies, Limited Special Purpose Companies, Limited Investment Companies, Private Companies Limited by Guarantee, Protected Cell Companies and Limited Supra National Companies. In the CFZs, limited liability companies, private companies limited by shares, branches of foreign companies, offshore companies and joint liability companies were found to have high inherent vulnerability. Overall, this exercise concluded that a significant proportion of the legal persons in each area were high inherent risk (Mainland - 55.86%, FFZs - 93.32%, CFZs - 85%). It is questionable how useful categorising such a large number of legal persons in a country as high inherent risk can be, without going on to look beyond the inherent vulnerability of those legal persons.

545. The UAE authorities have not developed any significant and precise understanding of how the legal persons can be, or are actually being used for ML/TF. In particular, the UAE has not looked at factors around product delivery channels, geographical exposure of legal persons in the UAE and the activity of the underlying company in order to understand the ML/TF risk.

546. Legal persons in the UAE are subject to the risk of being misused by countries in the region that are subject to UNSCR designations for attempted sanctions evasion. The UAE provided examples of MVTs, incorporated as UAE legal persons, being misused in this way. The UAE authorities had success in identifying this misuse and taking action against these companies.

547. It is positive that in July 2019 the FIU published a promising typology report on "Money Laundering Vulnerabilities in the UAE Real Estate Sector and Commercial Free Zones". The assessment team were informed that the typology report was shared with LEAs and it was further discussed in meetings with relevant authorities. However, it was not able to be demonstrated that this material had been used to develop understanding across the relevant UAE authorities, given that it was published during the time of the on-site visit. Aside from this recent report, there has not been any other significant use of typologies or case studies which could usefully be developed and shared across the LEAs and registries regarding how legal persons are abused for ML/TF in practice.

548. A number of registries appear to be developing a more detailed understanding of how their own legal persons may be abused for ML/TF. RAKEZ noted specific work being conducted along with LEAs to develop typologies and how to better identify red flags of ML/TF. This was being particularly focussed around the areas of trade-based money laundering (including fake invoicing) and the use of legal persons to assist sanctions evasion. The DIFC has also conducted work on specific typologies where legal persons can be abused for ML/TF. Overall, whilst a number of individual authorities appear to be developing a greater understanding of how legal persons in their specific authorities can be misused for ML/TF, this is currently uneven across the country and generally does not extend beyond inherent vulnerabilities of legal persons.

### *Mitigating measures to prevent the misuse of legal persons and arrangements*

549. The UAE has in place a range of measures to mitigate against the misuse of legal persons and arrangements; however, in a number of areas these obligations are

relatively new and their effectiveness cannot yet be assessed. The UAE has placed recent legislative obligations on all FIs and DNFBPs which help mitigate the misuse of UAE legal persons and arrangements for ML/TF. These requirements, which have now been comprehensively legislated for at national level (by virtue of the AML Law and AML By-law) mean that legal persons and arrangements must undergo CDD and provide BO information when dealing with any regulated sectors. Whilst it is the case that this requirement has been in place for some significant time for FIs, it is only recently that the DNFBP sector has become fully subject to regulation.

550. In this regard, the use of TCSPs and legal consultants to establish legal persons and arrangements in the UAE presents a vulnerability, which the UAE are not currently able to fully quantify. During the early stage of introducing DNFBP regulation (the time of the on-site), it was clear to the assessment team that the UAE authorities were unaware of the number of TCSPs that may be operating across the country. However, given the very recent introduction of regulation and appointment of supervisors for all DNFBPs, the position is likely to become clearer in the near future.

551. The recent legislative action has also resulted in proactive steps to introduce a unified approach to a definition of beneficial ownership across the UAE and has also placed obligations on both legal entities and the Registrars. However, given the recent introduction of legislation, the fragmented nature of the registry system and different legal regimes operating in the UAE effectiveness was not demonstrated. These findings are based on a review of the relevant legislative and operational changes and discussions with registrars, LEAs, financial institutions and DNFBPs.

552. Whilst the recent legislative changes represent significant progress by the UAE, the fragmented system of registries has given rise to different levels of understanding and application of mitigating measures across the UAE. This has created registration arbitrage, with different standards being applied by each registry. It is considered that this increases the risk of legal persons potentially being used by criminals for ML/TF in the UAE and particularly by potentially targeting registries which do not apply robust mitigating measures. This is especially the case when considering verification of beneficial ownership information which may be concealed via complex structures, or where entities are controlled by unidentified third parties and the use of informal nominees.

553. The introduction of a standard beneficial ownership requirement at national level is undoubtedly a significant positive development for the UAE. However, the knowledge of the beneficial ownership requirement currently varies significantly across the authorities in the registries.

554. In the DEDs, there is generally only a basic knowledge of the concept of beneficial ownership. Whilst there was general knowledge demonstrated of the new requirement to obtain beneficial ownership information for anyone who owned or controlled 25% or more of the legal person, there was very limited understanding of the concept of ultimate effective control when dealing with a complex structure. In a number of cases it was clear that registrars would mainly focus on legal ownership documents as opposed to looking to ascertain the ultimate beneficial ownership of the entity. In these circumstances, it is of concern to the assessment team that in the situation of individuals acting on behalf of others, the situation would not likely be identified by most registries.

555. In the FFZs and a number of specific CFZs there is a more developed understanding of beneficial ownership and complex structures. These registrars have introduced robust measures both at incorporation and updating of information to prevent against abuse. The DIFC has applied beneficial ownership requirements since 2014, and introduced updated Beneficial Ownership Regulations in 2018. The ADGM has been collecting beneficial ownership information from entities at registration since its inception under the general powers of the Registrar and also introduced specific regulations in 2017. Both of the FFZs have developed detailed guidance, including the use of examples for complex structures in order to outline the application of the beneficial ownership requirements. In both of the FFZs there is ongoing outreach to entities about the beneficial ownership requirements, and the DIFC Registrar of Companies has also conducted a remediation plan for existing entities. In RAKEZ, JAFZA and the DMCC the understanding of the beneficial ownership requirements was far more developed compared to other CFZs, and robust mitigating measures are in place to prevent against abuse.

556. In respect of nominee directors and shareholders, the new legislative requirements place a requirement for nominees to disclose their status to the registrar. In the majority of the registries there was no clear understanding of the concept of informal nominees (which was often confused with shareholders or BOs). This is a significant concern which is amplified when considering the previously unregulated and still unquantifiable role and number of TCSPs in the UAE. In the FFZs, where formal nominees are permitted, there was a detailed understanding in the DIFC accompanied by specific legislation that deals with notification to the registry of the nominee.

557. Through the Emirates ID system, the UAE has developed a secure system that provides accurate information on individuals who are either a citizen or a resident in the UAE. The majority of registries use Emirates ID when verifying the information on directors, shareholders and beneficial owners of legal persons incorporated in the UAE. Emirates ID is linked to a criminal background check which is carried out by the Ministry of the Interior which will search against individual's names for criminal records and other relevant information. This acts as a strong mitigating measure when dealing with citizens or residents of the UAE to ensure that criminals are not directors or shareholders of legal persons, or beneficial owners of legal persons when the local registrar goes beyond the initial natural person establishing a legal person or a position within that legal person.

558. However, whilst Emirates ID is available to all foreign individuals who live in the UAE, it is not available to non-residents – who may be directors, shareholders or beneficial owners of legal persons and who pose a higher inherent risk to the UAE. In the situation of a foreign individual, most registries request identification documents attested for accuracy by a notary in the relevant foreign country, and then verified by the national embassy of that country in the UAE – however, this was not a uniform procedure by all registries. A number of registries noted the use of lawyers acting with a power of attorney on behalf of those clients as common place. The UAE authorities state that all relevant information on identifying the individual is captured in the Power of Attorney (POA) and therefore, in certain circumstances, this can provide a safeguard.

559. In 2018, the UAE launched the National Economic Register (NER) with the aim of “providing accurate, comprehensive, and instant data on the existing economic licenses in the UAE” in addition to existing public registers in ADGM and DIFC. It is

publicly accessible through a dedicated website in both Arabic and English. The UAE should be commended for this initiative which takes significant steps, in the context of the UAE, to sharing information on legal entities across the country which could mitigate against the potential for misuse of legal persons. Whilst this register contains a significant amount of basic information, a number of deficiencies still remain. Notably, the field of director is still not populated by all entities (see Recommendation c24.3). Equally, whilst being intended to be used as a single register in the UAE, its content is currently limited to the data provided by the mainland DEDs, and two CFZs. The UAE have commenced a process of connecting all of the free zones to the NER, which will undoubtedly make basic information more widely available across the country on legal entities.

560. Whilst the creation of the NER is a positive step, the current position on information sharing between the registers is very limited. In respect of LEAs, there is limited use of information from the registrars to develop intelligence, however, statistics provided show this is uneven. These factors create a vulnerability to misuse of legal persons by criminals. This currently makes the UAE particularly vulnerable to regulatory arbitrage between registers where criminals can find lower standards on company incorporation and ongoing monitoring.

561. In respect of legal arrangements, trusts are only able to be established in the DIFC and ADGM and are subject to well developed and robust regulatory regimes. In the ADGM, there is yet to be an established trusts industry. In the DIFC, the industry is limited with 9 firms licensed as Trust Service Providers and supervised as authorised firms (i.e. the same as banks) for this activity by the DFSA. Although no exact figures are available, there are a limited number of trusts established under the DIFC Trusts Law (approximately 50) and the ADGM is yet to witness any significant activity. A relatively limited number of foreign law trusts have a link with the DIFC for trustee/management services through authorised firms. There was no indication of substantial activity in FIs/DNFBPs dealing with trusts in the Mainland or the CFZs, nor was there any investigation involving a trust referred by LEAs. In respect of foreign trusts being administered in the UAE, enquiries with UAE authorities indicated that activity in this area was minimal, and where occurring, was predominantly limited to the FFZs. Therefore it is considered that the risk in this area is likely to be limited. Whilst both FFZs consider this is an area for potential business growth, the current system appears to be robust and carefully monitored by both supervisors to prevent against abuse.

562. In respect of Awqaf, as the management of the waqf is carried out by the competent authority appointed by the Court to manage the waqf, this provides a significant mitigating measure against abuse for ML/TF. Certain authorities have also introduced additional further mitigating measures. For example, the Awqaf Al Jaafariya does not deal with cash in any way when dealing with income from a waqf or disbursing funds – it will only accept wire transfers or bank cheques.

### *Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons and legal arrangements*

563. UAE authorities are able to access basic and BO information on legal persons and arrangements via one of three sources: from financial institutions and DNFBPs, from registers, or from the legal entity itself. These findings were based on discussions with registries, competent authorities, and FIs/DNFBPs.



564. UAE authorities, including LEAs demonstrated the ability to access basic and BO information from FIs, where the FI had a relationship with the legal entity in the UAE (it is not a requirement for a legal entity to have a relationship with a UAE FI). Legal entities are required by virtue of the new legislation to maintain basic and BO information, which is required to be provided through one or more natural persons resident in the country. However, this requirement was only recently enacted and it was not possible to assess if legal entities held suitable information. Equally, the UAE did not demonstrate the ability to obtain information directly from a legal entity.

#### *Source 1 – Financial institutions and DNFBPs*

565. Competent authorities can obtain basic and BO information directly from financial institutions and DNFBPs. In respect of FIs, they generally demonstrated a solid understanding of their CDD and BO requirements (see Chapter 5 on IO.4). This information can typically be accessed in a timely fashion. In respect of DNFBPs, the understanding of CDD and BO requirements is weaker and outside of the FFZs would generally not guarantee the availability of accurate and up-to-date information on beneficial ownership.

566. Generally FIs were found to hold information on legal entities which could be provided to LEAs in a timely manner. This is supported by case studies; however, for DNFBPs this was not fully demonstrated.

567. LEAs can also compel the provision of BO information, where this is available, through available investigative measures such as production or disclosure orders. The FIU can also have access to BO information by sending requests to registered reporting entities.

568. The availability of BO information via these methods is dependent on the legal entity having a relationship with a UAE FI or DNFBP. It has not been possible to quantify the number of legal entities that do not have a relationship with a UAE FI or DNFBP.

#### *Source 2 – Registers of basic and beneficial ownership information*

569. Since the introduction of the new legislation, all registers across the UAE are required to collect basic and beneficial ownership information which can be accessed by competent authorities. However, there is a wide divergence across the UAE as to the completeness of this information and how it is verified and updated.

570. Competent authorities have immediate access to the public NER, which holds basic information on legal persons; however, not all registers are currently connected to the NER (although there is work underway to complete this) and some information is still missing (see above). Competent authorities can also make requests directly to each registry for additional basic and beneficial ownership information, such as the documents provided during the license registration or renewal process.

571. The adequacy and accuracy of basic and beneficial ownership information held by each registry varies significantly across the UAE. In the FFZs and some CFZs (notably RAKEZ) a significant set of information is obtained with verification of information and particularly identity verification being achieved through the use of multiple identity documents and the use of open source and third party software. A number of the CFZs are also using open source and third-party software to verify information received; however, what is requested varies significantly across the registers. In the DEDs, the information received is more limited and generally



requires a more limited set of documents focussing on legal ownership requirements. The new requirements for beneficial ownership are being introduced, but this has not yet occurred in a unified manner. Verification in most cases is limited to a single source of identification documentation and the criminal background check carried out by the Ministry of the Interior. However, this presents a vulnerability as it does not adequately cover non-resident legal or beneficial owners or controllers.

572. Outside of the FFZs and the CFZs where there is a more developed understanding of beneficial ownership requirements (RAKEZ, JAFZA and the DMCC) the newly introduced requirements for holding beneficial ownership information are only understood to a limited extent by registry authorities. For existing companies, there is also no consistent application of a regime to ensure their beneficial ownership information is notified to the registry and that it is verified for accuracy.

573. In respect of updating basic and beneficial ownership information contained on the Registers, there is currently no unified approach to ensuring compliance with the provision to update across the UAE. The majority of registers seek to rely on an annual return declaration by the company which would inform them of any change to information.

574. A large number of registries in the UAE also carry out regular on-site inspections, which are generally focussed around ensuring that the company's stated activity is actually occurring from the registered office. Within most registries, a single department is in charge of registering and inspecting the companies with human resources allocated to these inspections varying greatly from registry to registry. Figures range from one employee responsible for inspection of 83 companies (Sharjah) up to 1 for 1 100 (RAK DED). It appears that the conduct of the inspection does not focus in detail on the accuracy of basic or beneficial ownership information and therefore the inspection regime cannot be relied upon to ensure accuracy or updating of this information. Equally, employees at these registries have only recently been given guidance and training on the new beneficial ownership requirements, some of which has only consisted of simple notification of the new requirements.

### *Source 3 – Legal entities themselves*

575. LEAs can also access basic and BO information from the legal entity itself. Legal entities are required by virtue of the new legislation to maintain basic and BO information, which must be available at all times and upon request. Companies are also required to provide information on one or more natural persons resident in the country authorised to provide the information to the competent authorities. However, the effectiveness of this mechanism could not be assessed as the provisions of the new legislation have been recently enacted and the competent authorities did not provide examples of obtaining information by this method.

### *Information on legal arrangements*

576. For trusts in the DIFC, competent authorities have the power to obtain, and do obtain information, including beneficial ownership information, on trusts located in the DIFC for reasons related to ML/TF, unlawful organisations and sanctions compliance. Such information must be provided by the trustee within three days of receipt of a request. In order to ensure that information on legal arrangements is accurate and current, trustees have a duty to keep up-to-date records and information on the trust and its beneficial owners (Trust Law – DIFC Law No. 4). This requirement is monitored by the robust supervisory regime in place for trusts in the DIFC.

577. In the ADGM, the Registration Authority does not register trusts as legal arrangements, although the Trusts (Special Provisions) Regulations 2016 applies for general enforceability purposes. Trust service providers in the ADGM are subject to licensing and regulation by the FSRA, which requires them to comply with (among other things) the AML Rules (including specific requirements for the identification and verification of beneficial ownership of trusts) and the Conduct of Business Rulebook (COBS)."

578. In respect of awqaf, the General Authority for Islamic Affairs and Endowments has a special system for waqf assets, which is required to be updated upon change. Information regarding beneficial ownership is available with the General Authority for Islamic Affairs and Endowments, which has all the information specific to each waqf registered in its records. In cases where there is a third party managing a waqf and acting as a trustee, rather than a supervisor, beneficial ownership information shall be requested by the judicial authorities of the State. In addition, the Awqaf supervisory authority plays the same role as a trustee in a traditional trust, and therefore by definition is aware on a real-time basis of the affairs of the Awqaf that they manage. In cases where the settlor retains the management of Awqaf assets, all cash flows in and out of those assets flow through the waqf foundation, thus giving effective oversight to the waqf competent authority. The competent authorities may request information on the awqaf managed by the Federal Awqaf by contacting the foundation directly through formal channels. The AMAF in Dubai obtains information on awqaf managed by third parties through periodic reports and the foundation determines the data that needs to be provided in those reports.

### *Effectiveness, proportionality and dissuasiveness of sanctions*

579. The application of proportionate and dissuasive sanctions across the UAE authorities varies significantly and whilst a few authorities are able to demonstrate the application of proportionate and dissuasive sanctions for failure to meet the information requirements, the vast majority of authorities are unable to demonstrate effectiveness in this area. Whilst the new AML Law and By-law and the various companies' laws across the jurisdictions provide a range of penalties, some of which could be deemed proportionate and dissuasive, they are not yet being used in practice.

580. In the FFZs, both the DIFC and ADGM imposed fines. In the DIFC, fines were issued to 121 entities (5% of legal entities in the DIFC) between January to July 2019, for being in non-compliance to DIFC UBO Regulations. No fines were imposed relating to beneficial ownership information in ADGM, but as the jurisdiction only effectively started operating in 2017, this info was collected more recently.

581. However, in the DEDs and most of the CFZs there is no effective implementation of proportionate or dissuasive sanctions. Whilst legislative provisions may exist, they are not being used in practice to ensure the information requirements are complied with.

582. In the DEDs, where there are the largest number of legal entities registered in the UAE, there has been no sanctions issued in five of the registries. In the remaining three (Abu Dhabi, Dibba and RAK), some action has been taken but these sanctions are not directly linked to the information requirements.

583. In the CFZs, dissuasive use of sanctions was not demonstrated evenly, except for RAK free zones, which have recently put some measures in place. RAKEZ blocked

530 companies' accounts in 2018 until CDD information (including BO information) was provided. In RAK ICC the registrar has issued specific penalties for not notifying the Registrar in respect of changes of officers or members. For both RAK free zones, 55 entities were not registered or had their license renewal declined on financial crime grounds.

584. The UAE has not, to date, at a national level, implemented a regime whereby sanctions for failing to provide information are proportionate and dissuasive. A number of Registries are making good progress in this regard, however, with the implementation of the new comprehensive legislative provisions in place at national level, the UAE authorities should give early consideration to a national approach to implementing sanctions effectively.

#### *Overall conclusions on IO.5*

585. **The UAE is rated as having a low level of effectiveness for IO.5.**

## CHAPTER 8. INTERNATIONAL CO-OPERATION

### Key Findings and Recommended Actions

#### *Key Findings*

- a) While the UAE has a sound legislative basis for international cooperation, it has provided mutual legal assistance (MLA) and extradition to a minimal extent considering its exposure to foreign predicate offences and associated proceeds of crime. The UAE noted that requests did not always meet its legal requirements or that requesting countries did not complete all relevant paperwork. Feedback from delegations highlighted significant issues in the provision of formal cooperation, including limited responses to requests or extended delays in execution with little or no feedback. While the MOJ is developing a system to better track information across all Public Prosecutors, at the time of the onsite not all PPs had integrated with this new IT system.
- b) The UAE has not demonstrated that it is routinely seeking outgoing legal assistance from foreign countries to pursue ML and TF, in line with identified risks. Overall, the numbers of requests for both MLA and extradition are low, and particularly low for ML and TF considering the UAE's identified risk exposure. The UAE explained that a significant amount of effort is placed on informal cooperation, and while numbers of requests are extremely high for TF, there is not a corresponding emphasis on ML. However, recent case studies show a move towards more regular formal cooperation on ML cases.
- c) Recently, the FIU has made it a policy to provide more detailed responses to requests (including in relation to beneficial ownership), although resources dedicated to providing international cooperation remain low. Considering the UAE's risk profile, up until recently, the FIU's proactive engagement with counterparts was limited.
- d) Police are responsive to requests for assistance in relation to major ML schemes identified by key partners and have recently undertaken more proactive cooperation including on high-risk regulated sectors, such as money service businesses, and the abuse of legal persons. For terrorism and TF, informal cooperation is occurring with major partners, predominantly via State Security, and is focused on disruption activity. The Federal Customs Authority has started to increase its international engagement with

key partners on ML/TF risks, including cross-border cash and gold and precious metals / stones movements.

- e) Access to beneficial ownership information is increasing, largely due to a policy change by the FIU to assist in this area. However, due to the newness of some measures, including the National Economic Register, the UAE is only identifying and exchanging basic and beneficial ownership information to a limited extent.

### *Recommended Actions*

- a) Make significantly greater use of formal international legal assistance processes (MLA, extradition and asset freezing and confiscation), prioritising Dubai given its increased exposure to ML/TF risks such as the laundering and placement of foreign proceeds. As part of this action, review the efficacy of recently introduced Key Performance Indicators, and consider applying additional criteria reflecting the complexity and priority of requests to ensure the KPIs are realistic and achievable.
- b) Review current resources in the MOJ-IC, Public Prosecutions and Police Forces, assessing whether increases are needed to achieve the AML Strategy's priority to "thoroughly provide and seek timely and constructive MLA and extradition".
- c) Conclude integration of the MOJ's new case management system with the remaining Public Prosecutions to ensure greater collection and oversight of information about, all forms of formal international legal assistance, both of incoming and outgoing.
- d) In addition, standardise processes between the PPs to ensure consistency in procedural requirements in requesting or responding to MLA, extradition and asset identification, freezing and confiscation requests.
- e) Build on existing police-to-police cooperation to pursue significant investigations of ML in the UAE, translating these into prosecutions and formal cooperation requests.
- f) Increase FIU resources focused on international cooperation and ensure access to all relevant data sources, so it can better seek and provide (on request and spontaneously) cooperation at a level commensurate to the UAE's ML/TF risk profile.
- g) Continue developing the Federal Customs Authority's engagement with international partners, both formal and informal, on key ML/TF risks including:
  - o Cross-border cash/precious metals and stones smuggling,
  - o When completed, being able to share registration details of cash couriers linked to UAE-based MVTs providers and,
  - o The abuse of legal persons associated with all forms of ML and TF risk.

- h) Continue improving the provision of beneficial ownership information, including requests made via the FIU, supervisors and through police to police cooperation, coordinated by the MOI.

586. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The Recommendations relevant for the assessment of effectiveness under this section are R.36-40.

## Immediate Outcome 2 (International Cooperation)

### *Providing constructive and timely MLA and extradition*

587. Under the UAE's AML/CFT Strategy, a strategic priority is to "thoroughly provide and seek timely and constructive mutual legal assistance (MLA) and extradition" and the 2018 AML Law and 2019 AML By-Law have enhanced the UAE's ability to prioritise and provide MLA and extradition support for ML and TF. However, despite these new laws, and a policy shift within competent authorities to prioritise ML/TF requests, the UAE has provided or sought MLA and extradition to a minimal extent.

588. There is still inconsistency, across the Public Prosecutions (PPs), about the likelihood of successful execution of incoming MLA requests and a significantly low number of outgoing legal requests, especially linked to ML and TF, given the UAE's acknowledged exposure to foreign predicate offending and associated money laundering. According to the UAE PP's, requests are often not executed<sup>41</sup> because of a failure to comply with required conditions, missing paperwork and other associated documentation, or incorrect transmission from the requesting country. This is despite the MOJ's International Cooperation (MOJ-IC) team undertaking an initial assessment of all incoming requests. In addition, at the time of the onsite, the MOJ-IC had just introduced a new case management system but not all of the PP's own systems had integrated with this new platform. The assessment team based its conclusions on: statistics on MLA and extradition provided by the MOJ; interviews with MOJ and prosecutors; case studies; and feedback provided by international partners.

### *General process for international cooperation*

589. Incoming international cooperation requests are initially received by the Ministry of Foreign Affairs-International Cooperation (MOFAIC), passed on to the MOJ's International Cooperation team for review of procedural and treaty requirements. They are then distributed to relevant public prosecutions (Federal, Dubai, Abu Dhabi and RAK PP's) to execute. Until recently, the MOJ-IC had a paper-based system for tracking the distribution of MLA, extradition and asset freezing and confiscation requests to the PP's. It has since introduced a computer-based case management system which will improve the tracking of requests and generate timely and relevant management information. However, at the time of the on-site this system had not yet fully integrated with the PP's own computer systems.

41 Not executed' cases are not closed, instead any issues that inhibit execution are referred back to the requesting country for them to address. 'Not executed' cases remain open but are a separate classification from requests considered 'Ongoing'.



590. Prior to January 2018, there was no tax regime in the UAE, and authorities advised that incoming requests may have been denied due to a lack of dual criminality. However, some of the PPs were still able to execute requests – e.g. the FPP received five MLA requests relating to tax evasion prior to 2018, and all five were executed. Since 2018 the UAE has executed three additional MLA request for tax crimes, including a request for the offence of lying on a tax return.

591. The MOJ-IC's initial formal review can result in requests being rejected before they are passed to the relevant PP – e.g. between 2013 and 2018, 283 requests out of a total of 870 received, were rejected on the grounds of procedural issues or non-compliance with relevant treaties or international frameworks. There were inconsistencies in how this review was described. In one version the MOJ-IC has no role in analysing quality, only ensuring compliance with the relevant treaty or international framework. In comments made during the finalisation of the report, the MOJ does seem to assess the requests for accuracy of information sought, and may still refer to the relevant PP requests missing information or documentation – e.g. bank account numbers or the company name is incomplete or unclear – in an effort to expedite execution. When the PP asks for support from the Police in executing these requests, those with missing information are not executed and instead referred back to the MOJ to work with the requesting country to take remedial action. These requests are recorded as “Not Executed”. However, it was not clear if the MOJ works with those requesting countries – where there is missing information or documentation – after they have referred the case to the PP but before it is received back on the basis of the missing information.

### *Mutual legal assistance*

592. Notwithstanding the UAE's belief that partners prefer informal cooperation, the provision of MLA across its PPs is inconsistent both in executing requests related to predicate offences and money laundering. Between 2013 and 2018, the UAE received 587 actionable requests for MLA linked to all crimes (meaning they had passed the MOJ-IC's initial assessment). Overall, approximately 50% of requests (293) were executed across the PPs. Breaking down the data across the various PPs, of the 587 requests, 51% were sent to Dubai PP. However, Dubai PP only executed 89 (29%), with 143 not executed and a further 60 still ongoing. By comparison, the Federal PP received 156 requests, just over 25% of the total, executing 104 (66%) with only 14 not executed and 17 ongoing. Abu Dhabi received 86, executing 65 (76%) and RAK PP received 42, executing 35 (83%).

593. Within Dubai PP's statistics, of the 143 not executed, 23 have a timeframe of over 700 days between the initial request and a response given by Dubai PP, including 10 over 1 000 days. Of the 60 ongoing, 28 have a timeframe of over 700 days between the initial request and a response given, including 13 over 1 000 days. All of these 28 requests are pending a response from the requesting country, which are presumably in addition to, or complement, the original MLA request.

Table 8.1. Incoming requests for MLA (all predicate offences)

|              |                         | 2014 | 2015 | 2016 | 2017 | 2018 | Total | % of total requests in the jurisdiction |
|--------------|-------------------------|------|------|------|------|------|-------|-----------------------------------------|
| UAE Total    | Total requests received | 96   | 79   | 118  | 141  | 127  | 561   |                                         |
|              | Executed                | 66   | 42   | 53   | 62   | 48   | 271   | 48%                                     |
| Dubai PP     | Total requests received | 54   | 33   | 76   | 73   | 67   | 303   |                                         |
|              | Executed                | 29   | 10   | 19   | 15   | 16   | 89    | 29%                                     |
|              | Not executed            | 18   | 20   | 37   | 39   | 29   | 143   | 47%                                     |
|              | Withdrawn               | 4    | 1    | 6    | 0    | 0    | 11    | 4%                                      |
|              | Ongoing                 | 3    | 2    | 14   | 19   | 22   | 60    | 20%                                     |
| Abu Dhabi PP | Total requests received | 15   | 16   | 14   | 18   | 19   | 82    | 100%                                    |
|              | Executed                | 14   | 13   | 14   | 15   | 5    | 61    | 74%                                     |
|              | Not executed            | 0    | 3    | 0    | 0    | 1    | 4     | 5%                                      |
|              | Ongoing                 | 1    | 0    | 0    | 3    | 13   | 17    | 21%                                     |
| RAK PP       | Total requests received | 3    | 3    | 11   | 8    | 15   | 40    |                                         |
|              | Executed                | 2    | 3    | 11   | 6    | 12   | 34    | 85%                                     |
|              | Not executed            | 0    | 0    | 0    | 0    | 0    | 0     | 0%                                      |
|              | Ongoing                 | 0    | 0    | 0    | 1    | 3    | 4     | 10%                                     |
|              | Withdrawn               | 1    | 0    | 0    | 1    | 0    | 2     | 5%                                      |
| Federal PP   | Total requests received | 24   | 27   | 17   | 42   | 26   | 136   |                                         |
|              | Executed                | 21   | 16   | 9    | 26   | 15   | 87    | 64%                                     |
|              | Referred to another PP  | 2    | 4    | 3    | 2    | 3    | 14    | 10%                                     |
|              | Not executed            | 0    | 5    | 3    | 3    | 3    | 14    | 10%                                     |
|              | Denied                  | 1    | 0    | 2    | 0    | 1    | 4     | 3%                                      |
|              | Ongoing                 | 0    | 2    | 0    | 11   | 4    | 17    | 13%                                     |

Source: UAE - revised statistics provided on 11 December 2019 and updated on 6 January 2020.

594. As with general rates of execution for all crimes, there are significant differences in the likelihood of PPs executing ML-related MLA requests, with successful execution rates ranging from 20% of requests received, right up to 100%. As before, between 2014 and 2018 Dubai PP received the most requests for ML-related mutual legal assistance, accounting for 92 of the 174 received (53%). However, over the same period only 18 were executed (20% of the requests received in the jurisdiction), 46 were not executed (50%) and 24 requests are ongoing (26%). Of these 24 ongoing, 11 have a timeframe of over 700 days between receipt and initial response from Dubai PP, and within that subset, 5 are over 1 000 days. Reasons for not executing the requests are similar to those associated with general crime MLA requests – e.g. a failure to comply with required conditions.

595. RAK PP successfully executed all 10 ML-related MLA requests it received. Of these, 8 were executed within 90 days and 2 within 180 days. Abu Dhabi PP has the next highest success rate, executing 25 ML-related MLA requests (69%) with 11 ongoing (31% of which 5 are more than a year old), and none not executed. Both RAK PP and Abu Dhabi PP have successfully executed requests from countries that Dubai PP could not for administrative or procedural errors. Federal PP successfully executed 17 of its 36 (47%) ML-related MLA requests, with 11 still ongoing (31%)

and only 6 not executed (17%). All 11 are more than 500 days old, including 9 requests from Saudi Arabia.

596. Dubai PP and Federal PP have both received three TF-related MLA requests. Dubai PP have executed two requests, not executed another (for failure to comply with requirements) and the fourth request was withdrawn after a period of almost four years. The Federal PP have executed two out of three requests and referred the third to Dubai PP, and it appears it has thereafter not been executed as explained above. The reason provided for the relatively low number of incoming TF requests is the amount of informal cooperation facilitated by State Security.

597. For both general and ML-related MLA requests, the MOJ explained the difference between Dubai PP's and the other PPs' performance as based on the complexity of requests received by Dubai PP, often covering multiple individuals, companies or types of information (e.g. bank account numbers). The recurring crime types of the requests not executed included fraud, money laundering, theft and forgery, accounting for 74 of the 143 requests for all crimes not executed. All of these crimes are flagged as high, or medium-high, threats in the National Risk Assessment.

598. While it is likely Dubai receives particularly complex requests for MLA, given its increased exposure to foreign predicate offences and money laundering, many of the countries requesting support from Dubai have had requests executed by the other UAE PPs. Although case files were not examined in detail, on the basis of summaries provided by the PPs, it appears that requests made to different PPs share similar characteristics (e.g. the same predicate offence) or require the same type of information on individuals, companies or bank accounts.

**Table 8.2. Incoming requests for MLA relating to ML - by jurisdiction**

|              |                            | 2014 | 2015 | 2016 | 2017 | 2018 | Total | % of total requests in the jurisdiction |
|--------------|----------------------------|------|------|------|------|------|-------|-----------------------------------------|
| UAE          | Total ML requests received | 20   | 21   | 39   | 47   | 47   | 174   |                                         |
|              | Total ML requests executed | 13   | 12   | 15   | 17   | 13   | 70    | 40%                                     |
| Dubai PP     | Total requests received    | 14   | 8    | 26   | 18   | 26   | 92    |                                         |
|              | Executed                   | 7    | 2    | 3    | 2    | 4    | 18    | 20%                                     |
|              | Not executed               | 5    | 4    | 14   | 10   | 13   | 46    | 50%                                     |
|              | Withdrawn                  | 1    | 0    | 3    | 0    | 0    | 4     | 4%                                      |
|              | Ongoing                    | 1    | 2    | 6    | 6    | 9    | 24    | 26%                                     |
| Abu Dhabi PP | Total requests received    | 3    | 6    | 7    | 8    | 12   | 36    |                                         |
|              | Executed                   | 3    | 6    | 7    | 6    | 3    | 25    | 69%                                     |
|              | Not executed               | 0    | 0    | 0    | 0    | 0    | 0     | 0%                                      |
|              | Ongoing                    | 0    | 0    | 0    | 2    | 9    | 11    | 31%                                     |
| RAK PP       | Total requests received    | 0    | 1    | 5    | 1    | 3    | 10    |                                         |
|              | Executed                   | 0    | 1    | 5    | 1    | 3    | 10    | 100%                                    |
| Federal PP   | Total requests received    | 3    | 6    | 1    | 20   | 6    | 36    |                                         |
|              | Executed                   | 3    | 3    | 0    | 8    | 3    | 17    | 47%                                     |
|              | Referred to another PP     | 0    | 0    | 0    | 0    | 1    | 1     | 3%                                      |
|              | Not executed               | 0    | 2    | 1    | 2    | 1    | 6     | 17%                                     |
|              | Denied                     | 0    | 0    | 0    | 0    | 1    | 1     | 3%                                      |
|              | Ongoing                    | 0    | 1    | 0    | 10   | 0    | 11    | 31%                                     |

Source: Revised statistics provided on 11 December 2019

**Table 8.3. Incoming requests for MLA relating to TF**

|            |                         | 2014 | 2015 | 2016 | 2017 | 2018 | Total |
|------------|-------------------------|------|------|------|------|------|-------|
| Dubai PP   | Total requests received | 2    | 0    | 0    | 0    | 1    | 3     |
|            | Executed                | 1    | 0    | 0    | 0    | 1    | 2     |
|            | Not executed            | 0    | 0    | 0    | 0    | 1*   | 0     |
|            | Withdrawn               | 1    | 0    | 0    | 0    | 0    | 1     |
| Federal PP | Total requests received | 0    | 0    | 0    | 2    | 1    | 3     |
|            | Executed                | 0    | 0    | 0    | 2    | 0    | 2     |
|            | Referred to another PP  | 0    | 0    | 0    | 0    | 1*   | 0     |

*Note: Abu Dhabi and RAK did not record any TF MLA requests. \*It appears that the 1 request received by the Federal PP in 2018 was referred to Dubai PP and thereafter not executed.*

*Source: Revised statistics provided on 11 December 2019*

599. While new procedures have been implemented to address these issues, at the time of the on-site they had not had a noticeable impact on improving the likelihood of requests being executed, or the speed with which procedural or documentation issues are flagged and rectified. Besides, the issues identified are primarily associated with the time period before introduction of these new procedures and it is fair to say the lack of coordination and inconsistency of approach hampered the UAE's ability to respond to requests in a timely fashion.

#### *Timeliness and resources*

600. The MOFAIC forwards requests to the MOJ within two days or sooner if the request is urgent, and the MOJ in turn forwards ML/TF requests to PPs within two days, or four days for all other crimes, following their initial review. This was a new requirement introduced in 2019 following implementation of the AML By-Law and associated policy commitment to prioritise ML/TF requests. However, there remains a significant issue with legacy requests, with many cases over several hundred days old before the PPs denied or did not execute the request.

601. While some of these cases remain ongoing or not executed because of procedural issues or a lack of engagement by the requesting country, there did not appear to be any consistent coordination between the PPs in managing the backlog. Nor was there evidence of working with the MOJ to expedite procedural or documentation issues with countries who have been in regular contact with the UAE. This is in addition to any potential bi-lateral engagement with the significant number of liaison officers or liaison magistrates in the UAE, who clearly benefit from regular informal cooperation with UAE authorities (see core issue 2.4).

602. The MOJ described the introduction of new performance measures across all relevant authorities, as part of a drive in bringing consistency across the system. However, there was some confusion between the MOJ's expectations on the time it should take PPs to execute ML/TF requests, and the PPs who have established key performance indicators on the same. The MOJ will follow up with the PPs on ML/TF requests within one month, and other requests within two months. The PPs have an 80 day period for executing ML/TF requests and 120 days for other requests – although time critical MLAs would be executed quicker if possible.

603. While the introduction of such KPIs should enhance the UAE's execution of MLA requests, the fact they do not appear to differentiate between (relatively) less complex or more complex cases could create new issues in executing requests. Some mitigation is provided by new processes for the MOJ to follow-up with PPs and

prosecutors directly, but these are extremely new and have not yet led to a noticeable improvement in the number or speed of requests executed, regardless of the crime type. The MOJ/PPs have also engaged the services of a new translation company which should assist with further improvements to performance. However, it would be sensible for the International Cooperation Committee to review compliance against the KPIs after 12 months and determine if additional criteria are necessary to assist the PP in executing simple or complex requests in a timely and constructive manner.

604. While the national AML Strategy objectives and the new policy focus on international cooperation are expected to drive improvements in the provision and seeking of MLA, it is unclear if the various authorities have enough resources across the MLA system, including the MOI and Police, to meet these ambitions, not least following the introduction of these extremely ambitious timeframes. An integrated, UAE-wide IT system will greatly assist with case management but the key issues leading to requests not being executed are legal compliance and / or the accuracy of the information provided, particularly those sent to Dubai PP. Addressing those problems requires manual checks and if the UAE is likely to see further increases in incoming requests (in addition to any rise in outgoing requests), current resources, across the MLA system but particularly in Dubai, will not be sufficient.

**Table 8.4. Staff dedicated to international cooperation requests**

| No. of staff dedicated to international cooperation |                                                                                                                                                                                                |
|-----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| MOFAIC                                              | 5 staff                                                                                                                                                                                        |
| MOJ                                                 | 5 staff                                                                                                                                                                                        |
| Federal                                             | Attorney-General's Office: 2 prosecutors, 2 staff and 1 translator<br>PP: No dedicated staff, 11 staff trained in international cooperation across 6 prosecution departments in the Federal PP |
| Dubai PP                                            | 3 prosecutors and 3 legal scholars                                                                                                                                                             |
| Abu Dhabi PP                                        | No dedicated staff, requests forwarded to relevant prosecutors                                                                                                                                 |
| RAK PP                                              | 2 prosecutors and 2 clerks                                                                                                                                                                     |

*Source: Compiled by assessment team from the UAE's response to Q.8 of the initial IO.2 questions*

605. Between 2013 and 2018, the UAE PPs received 92 requests for asset identification, or freezing / confiscation, which is relatively small given the UAE's acknowledged exposure to the laundering or placement of the proceeds of foreign crimes. Successful execution performance is inconsistent across the PPs, with Abu Dhabi PP the largest recipient, likely because of the location of the FIU and Central Bank. Of the 47 it received, 37 were executed or partially executed and 9 remain ongoing. RAK PP were the next best in executing requests, concluding 5 out of the 7 it received. Dubai PP executed three of the 12 it received, while Federal PP executed 8 of the 26 it received. Common issues that hampered execution included incomplete information from the requesting country, or if only partially executed that funds were no longer available to recover.

606. It was difficult to put an indicative total on the value of these requests, as this information was not routinely collected. Dubai PP included three amounts, with a noteworthy request from Saudi Arabia of AED 23 760 000 (EUR 5 837 919), however, the confiscation aspect of the request was not executed. The other two requests with values provided are currently ongoing. Notwithstanding the lack of values, it is likely the overall number of asset-related requests are underreported as when dealing with

fraud cases, including business email compromise, the primary response is for the authorities to ask UAE-based banks to refund the victims directly, without the need for formal legal requests (see below and IO8).

### *Extradition*

607. UAE's provision of extradition assistance is similar to its record on MLA, with inconsistency of performance across the PPs. Of 591 actionable requests linked to all crimes (10% of the 634 extradition requests were initially rejected by the MOJ), Dubai was the biggest recipient, receiving 330 requests (56% of all actionable extradition requests). Dubai executed 109 extradition requests (33%), with 124 not executed. The 63 extradition requests denied by Dubai PP accounts for nearly 80% of the UAE's total number of 79 requests denied. Federal PP is the best performing Emirate, executing 122 of the 137 received (89%). RAK PP executed 61 of its 86 extradition requests (71%) and Abu Dhabi PP executed 21 of the 38 it received (55%).

608. As before, reasons for not executing requests were primarily procedural or documentation issues, with a large number of requests failing to meet the UAE's extradition requirements despite changes in legislation to make it easier. While the MOJ said it was working with those jurisdictions, it does not appear to have led to an improvement in successful execution of extradition requests, particularly where there are repeat failings on the same issues.

609. The UAE received 37 ML-related extradition requests between 2014 and 2018. Across all PPs, 20 requests were executed (54% of the total received), 7 were not executed, 4 were denied and 6 are ongoing. As before, Dubai received the majority of extradition requests (19 requests) and has not executed or denied 10 of those requests (53%). As with ML-related MLA requests, RAK PP has successfully executed all ML-related extradition requests, the Federal PP has successfully executed 2 out of its 4 (50%), Abu Dhabi only 1 (33%) and Dubai 6 (32%). The reasons for non-execution were primarily the absence of relevant information, or if denied, the court halted proceedings because extradition conditions were not met. Across all PPs, seven terrorism/TF-related extradition requests were received, of which six were executed. Five of those requests were executed by the Federal PP and the other by Dubai. One request was denied in Dubai, as the court halted proceedings as extradition conditions were not met.

610. In 2018, an extradition request relating to ML and embezzlement was denied by Dubai Courts because "part of the crime was within the UAE's jurisdiction", Dubai Police were informed and the person released from custody (the case is ongoing). In five cases, where the UAE could not extradite an Emirati citizen, the suspect was pursued via domestic criminal proceedings. In at least one of these cases relating to drug trafficking, the offender was convicted of the crime in the UAE after securing MLA from Egypt. The UAE also demonstrated that it has provided extradition on the basis of reciprocity in 54 cases between 2014 and 2018. The vast majority of these cases are expedited (i.e., the suspect does not contest the extradition) but a handful have also been upheld by courts in a contested process.



**Table 8.5. Incoming extradition requests – overview**

|                                   | 2014 | 2015 | 2016 | 2017 | 2018 | Total                                        |
|-----------------------------------|------|------|------|------|------|----------------------------------------------|
| All extradition requests received | 108  | 145  | 90   | 119  | 172  | 634                                          |
| - number executed                 | 19   | 47   | 60   | 65   | 110  | 301 (48%)                                    |
| ML requests                       | 6    | 5    | 10   | 9    | 7    | 37<br>(6% of all requests )                  |
| - number executed                 | 1    | 3    | 8    | 6    | 2    | 20<br>(54% ML requests executed)             |
| TF/ terrorism requests            | 1    | 1    | 2    | 1    | 2    | 7<br>(1% of all requests)                    |
| - number executed                 | 1    | 1    | 2    | 1    | 1    | 6<br>(86% of TF/terrorism requests executed) |

Source: Compilation of statistics by assessment team of data provided by MOJ and PPs – 'IO.2 statistics core issue 2.1 and 2.2 – Updated (July17, 2019)'. Statistics further revised by UAE on 11 December 2019.

**Table 8.6. Incoming requests for extradition relating to ML - by jurisdiction**

|              |                         | 2014 | 2015 | 2016 | 2017 | 2018 | Total |
|--------------|-------------------------|------|------|------|------|------|-------|
| Dubai PP     | Total requests received | 5    | 2    | 2    | 6    | 3    | 18    |
|              | Executed                | 0    | 0    | 2    | 3    | 0    | 5     |
|              | Not executed            | 3    | 1    | 0    | 3    | 0    | 7     |
|              | Denied                  | 1    | 0    | 0    | 0    | 2    | 3     |
|              | Ongoing                 | 1    | 1    | 0    | 0    | 1    | 3     |
| Abu Dhabi PP | Total requests received | 0    | 0    | 0    | 1    | 2    | 3     |
|              | Executed                | 0    | 0    | 0    | 1    | 0    | 1     |
|              | Ongoing                 | 0    | 0    | 0    | 0    | 2    | 2     |
| RAK PP       | Total requests received | 1    | 3    | 5    | 1    | 2    | 12    |
|              | Executed                | 1    | 3    | 5    | 1    | 2    | 12    |
| Federal PP   | Total requests received | 0    | 0    | 3    | 1    | 0    | 4     |
|              | Executed                | 0    | 0    | 1    | 1    | 0    | 2     |
|              | Denied                  | 0    | 0    | 1    | 0    | 0    | 1     |
|              | Ongoing                 | 0    | 0    | 1    | 0    | 0    | 1     |

Source: Compilation of statistics by assessment team of data provided by MOJ and PPs – 'IO.2 statistics core issue 2.1 and 2.2 – Updated (July17, 2019)'. Statistics further revised by UAE on 11 December 2019.

**Table 8.7. Incoming requests for Extradition relating to TF and Terrorism**

|                    |                         | 2014 | 2015 | 2016 | 2017 | 2018 | Total |
|--------------------|-------------------------|------|------|------|------|------|-------|
| Dubai PP (TF only) | Total requests received | 0    | 0    | 1    | 0    | 1    | 2     |
|                    | Executed                | 0    | 0    | 1    | 0    | 0    | 1     |
|                    | Not executed            | 0    | 0    | 0    | 0    | 1    | 1     |
| Federal PP         | Total requests received | 1    | 1    | 1    | 1    | 1    | 5     |
|                    | Executed                | 1    | 1    | 1    | 1    | 1    | 5     |

Note: Abu Dhabi and RAK did not record any TF extradition requests. The numbers provided by the Federal PP include both terrorism and TF related requests and the Dubai requests refer to TF only.

Source: Compilation of statistics by assessment team of data provided by MOJ and PPs – 'IO.2 statistics core issue 2.1 and 2.2 – Updated (July17, 2019)'. Statistics further revised by UAE on 11 December 2019.

### *Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements*

611. The UAE has not demonstrated that it is routinely seeking formal legal assistance from foreign countries to pursue ML, associated predicate offences and TF. The numbers of requests for both MLA and extradition are low, and particularly low for ML and TF considering the UAE's risk and context. As before, the UAE described its preference for informal cooperation, with the MOI stating it gives a high priority to such engagement as it can lead to swifter action, such as arrests or seizures. This was placed in the context of the UAE's frustrations with countries not adhering to the principles of reciprocity, despite efforts at bi-lateral engagement on common issues. The assessment team based its conclusions on: interviews with MOJ, police and the FIU and a review of statistics and case studies.

#### *General process*

612. Requests for MLA and extradition are prepared by the PPs, approved by courts, reviewed by the MOJ and sent to MOFAIC for delivery to the foreign country via official diplomatic channels. Requests for extradition involve Interpol red notices. MOJ is required to follow up on requests every three months.

#### *Mutual Legal Assistance*

613. In terms of outgoing MLA requests, despite recognition of foreign predicate offending as a significant ML threat, the overall numbers of requests are low, with 45 requests sent by all UAE PPs between 2013 and 2018 in relation to ML, associated predicate offences, and TF. A significant percentage of requests from all PPs are linked to fraud, forgery or theft, which are all identified as significant predicate offences in the NRA. However, there is no discernible pattern to the number of total requests, other than Dubai's number of outgoing requests doubled from 4 in 2016 to 8 in 2018 and over the same two year period, Abu Dhabi reached a peak of 6 outgoing requests in 2017 but only 1 in 2018. To some extent, this may be explained by the greater focus on cooperation via informal means (e.g. police to police cooperation via international liaison officers based in the UAE) but in light of the national AML Strategy's ambitions on formal international cooperation, there is little evidence to suggest a likely change of emphasis from informal to formal cooperation. It should also be noted that the UAE also takes pre-emptive measures and deports foreign nationals on the basis of evidence collected through a domestic investigation. This information is shared with the receiving country so further measures in the receiving country could be applied depending on the nature of the offence.

**Table 8.8. Source of outgoing requests for MLA to foreign countries**

|                 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | Total |
|-----------------|------|------|------|------|------|------|-------|
| Dubai PP        |      | 1    | 2    | 4    | 5    | 8    | 20    |
| Federal PP      | 3    | 3    | 3    | 2    | 1    | 1    | 13    |
| Abu Dhabi PP    |      | 2    | 1    | 0    | 6    | 1    | 10    |
| RAK PP          | 0    | 0    | 0    | 0    | 1    | 1    | 2     |
| Total (by year) | 3    | 6    | 6    | 6    | 13   | 11   | 45    |

*Note: These statistics include outgoing requests in relation to serious crimes (21 categories of predicate offences). Some statistics are not available for 2013.*

*Source: Updated IO.2 Statistics, Table 2.2.1*

614. As above, there is no discernible pattern to ML-related outgoing MLA requests. For example, all six of Abu Dhabi PP's outgoing requests in 2017 were ML-related and are its only ML-related requests between 2013 and 2018. Four are ongoing and two were not executed. Dubai PP has sent three (in 2017 and 2018), and two of these requests – to Bahrain and Kenya – resulted in ML convictions in the UAE (see IO7). Federal PP has sent one request related to ML and TF, which remains ongoing (see Box 8.1. below). This is the only TF-related outgoing request across all the PPs. RAK PP sent no ML-related MLA requests at all between 2013 and 2018.

615. This is again reflective of the attitude towards formal cooperation and the lack of ML cases that would otherwise generate MLA requests, notwithstanding pre-emptive measures such as deportation. However, as the UAE's AML Strategy promotes an emphasis on driving a system-wide response in tackling ML/TF, we would expect to see more of that informal cooperation moving onto a more formalised footing, particularly if the number of prosecutions for ML and TF offences is to increase.

#### **Box 8.1. Federal PP's request for MLA on a ML/TF case**

The UAE is currently in the process of seeking assistance on a case that involves both ML and TF. Two general trade companies registered in the UAE received funds, transfers and cheques from a charity organisation in two European countries which is listed on World Check as supporting Hamas and the Muslim Brotherhood. A European national, who owns an exchange house in a European capital city, is suspected of laundering the proceeds of crime being investigated by the PP. The PP sent an MLA request to the competent authorities in the relevant country in September 2018 to freeze the funds and bank account of the suspects in the ML Case, supported by relevant documentation proving the suspects' involvement in the ML and TF crimes. In December 2018, the authorities in the foreign country requested further information which was promptly provided. The UAE is awaiting a further response.

#### **Box 8.2. Dubai PP's request for MLA on ML cases**

Dubai Police and PP recently concluded a money laundering investigation involving natural and legal persons. The predicate offence was fraud (business email compromise). This case included MLA with Kenya and Bahrain, with material from both countries supporting the successful prosecution outcomes against two of the four natural persons and the company involved in facilitating the fraud.

A similar case, involving MLA with Australia, is currently ongoing.

616. The UAE has sent limited requests to freeze assets in another jurisdiction – see IO.8.

### Extradition

617. There are more extradition requests than MLA requests related to predicate offences for ML, but the number remains relatively modest, in the context of the UAE's risk profile and the threat of foreign money laundering and predicate offending. The numbers of requests related to ML and TF are very low, except for the Federal prosecution which has made nine requests for extradition related to ML offences – five of these requests have been denied and 4 are ongoing. Dubai, Abu Dhabi and RAK PPs have not made any extradition requests relating to ML or TF. The requests sent by the PPs are met with little success, with a large proportion of requests denied or ongoing for lengthy periods.

**Table 8.9. Source of outgoing requests for extradition**

|                 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | Total (by PP) |
|-----------------|------|------|------|------|------|------|---------------|
| Dubai PP        |      | 15   | 8    | 9    | 7    | 2    | 41            |
| Federal PP      | 3    | 3    | 3    | 10   | 3    | 1    | 23            |
| Abu Dhabi PP    |      | 1    | 2    | 0    | 4    | 2    | 9             |
| RAK PP          | 2    | 2    | 4    | 0    | 0    | 0    | 8             |
| Total (by year) | 5    | 21   | 17   | 19   | 14   | 5    | 81            |

*Note: These statistics include outgoing requests in relation to serious crimes (21 categories of predicate offences). Some statistics are not available for 2013.*

*Source: Updated IO.2 Statistics, Table 2.2.12*

### Seeking and providing other forms of international cooperation for AML/CFT purposes<sup>42</sup>

618. The UAE has described informal cooperation as the cornerstone of its approach, and in general, has demonstrated a better capacity to seek and provide informal cooperation than it has with formal cooperation, particularly with a recent, increased focus on ML and TF. There are a range of mechanisms in place to facilitate informal cooperation including MOUs, membership in Egmont, Interpol, WCO, supervisory networks and colleges. The FIU has demonstrated that it seeks assistance to add value to LEA efforts, but the number of outgoing requests are low and its resources are inadequate to deal with the number of incoming requests. Police cooperation is effective, particularly via foreign liaison officers based in the UAE, but is mostly responsive rather than proactive. State Security works actively with foreign counterparts on TF issues. While there is some proactive cooperation about cash/PMS smuggling and TBML with international partners by the FCA, it does not appear routine in the context of the UAE's risk profile, in particular the dominance of cash within the economy. Supervisors appear to seek and provide adequate cooperation, particularly through supervisory colleges and are putting in place mechanisms to deal with the coordination of requests. The assessment team based its conclusions on: interviews with relevant authorities, review of case studies, statistics and resourcing, and international cooperation feedback from other delegations.

### FIU cooperation

619. The FIU has exchanged information with 135 countries since 2014. While the FIU has the necessary framework to cooperate with counterparts (both Egmont and

<sup>42</sup> This section includes the assessment team's views on core issues 2.3 and 2.4.

non-Egmont members), it is under resourced. There are only two staff in the international cooperation unit of the FIU to deal with a growing number of exchanges (769 in 2018), although assistance can be provided by other FIU analysts. The FIU plans to increase its resourcing to four people in the international cooperation unit, which is positive but may not be adequate to meet demand and follow up on spontaneous disseminations.

620. In terms of outgoing requests, LEAs did mention that they seek assistance from the FIU in tracing assets overseas. FIU can also seek international cooperation to follow up on STRs it has received and does so on a case-by-case basis or in relation to previous incoming requests. Overall, the number of outgoing requests by the FIU, which remains around 40 requests a year, is very low considering the laundering of foreign proceeds should be a priority. One third of these 40 requests are made on behalf of LEAs, further suggesting that the FIU undertakes very limited proactive engagement. Recently, the FIU appears to be making a more proactive role, by requesting the assistance of foreign FIUs in order to uncover a potential money laundering case (see the Box below), but the outcomes of these efforts are at early stages. While these developments are positive, more sustained and proactive international cooperation is required to enrich the FIU's intelligence and facilitate action against criminals and their assets.

### Box 8.3. FIU seeking international co-operation

The FIU received an STR on "X", who is a salaried individual, holding an account in a UAE bank. Analysis of the case showed multiple incoming funds followed by outward transfers sent to other jurisdictions. Based on suspicion, a request for information was sent in 2016 to multiple FIUs who investigated the case and confirmed that the subject was acting as middle man in a large ML network. Based on this cooperation, the STR case details were forwarded to the LEA in the UAE for further action. A Joint Committee has been formed between the FIU and the relevant LEA to produce a comprehensive joint technical report but the outcome is still pending.

*Source: UAE IO2 Effectiveness Submission, Case 2.3.4C*

621. In terms of incoming requests, as reported by some delegations, the FIU has gradually started to improve the quality of the responses provided to foreign counterparts. The number of requests went from 345 in 2014 to 537 in 2018, with two countries (USA and UK) concentrating 1/3 of the queries. Since 2016, on average 80% of requests have been responded to in 30 days or less. Fraud and TF cases are prioritised and immediately processed, while requests related to ML are only assigned a medium priority. At domestic level, these requests also result in a large number of alerts sent to FIs (that can in turn generate new STRs) and can provide a basis for dissemination to LEAs. But in the same way as for the other disclosures, they do not translate into further investigations.

622. Prior to 2018, the FIU was providing limited intelligence. However, the FIU recognised the need to improve the quality and consistency of the financial intelligence it provides on request but also through spontaneous dissemination. Therefore, the FIU initiated a new policy in 2018 to collect information from more diversified sources: the FIU sent 61 requests for information to LEAs (including FCA),

free zones' authorities, land registries and supervisors to support international cooperation analysis. The recent introduction of the new GoAML system will allow for better analysis of financial intelligence, as well regularised access to a wide range of other datasets.

623. The FIU also plays a critical role in supporting the return of monies linked to fraud, such as business email compromise, which have been sent to or are transiting through the UAE. The Central Bank have issued guidelines to financial institutions setting out the process for funds repatriation, which negates the need for formal asset repatriation requests. Once a victim has notified their domestic bank or a UAE-based liaison officer flags with the police/FIU, a recall notice is issued to the UAE-based financial institution and a notification lodged with the FIU. This notification is cross-checked by the FIU and if fraud is evident, the FIU will instruct the UAE-based FI to repatriate the funds (see IO8 for figures).

**Table 8.10. International cooperation by the FIU**

|                                                    | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | Total |
|----------------------------------------------------|------|------|------|------|------|------|-------|
| Incoming requests received from foreign FIUs       | 330  | 345  | 325  | 449  | 468  | 537  | 2454  |
| Incoming spontaneous disclosures from foreign FIUs | 11   | 42   | 250  | 181  | 199  | 117  | 800   |
| Outgoing requests for information to foreign FIUs  | 47   | 37   | 50   | 46   | 40   | 29   | 249   |
| Outgoing spontaneous Disclosures to foreign FIUs   | 0    | 24   | 71   | 114  | 84   | 86   | 379   |

Source: FIU, IO.2 Statistics Update, Tables s 2.3.2 and 2.4.9

### Police cooperation

624. In general, the UAE police forces have good relationships with their foreign counterparts, supporting the seeking and provision of financial intelligence. The MOI has 44 MOUs for international cooperation with foreign counterparts but can also cooperate in the absence of an MOU. The MOI has 20 people focused on international cooperation, including three each from Abu Dhabi and Dubai Police. The MOI also has five officers working with Interpol and coordinating with Europol. There are 55 liaison officers from various international partners based in the UAE who seem to be integral for complex ML investigations.

625. Statistics provided by the MOI for 2014 to 2018 showed more than 66 400 different types of cooperation, albeit 63 535 were information exchange requests facilitated by Interpol. Specifically in relation to informal cooperation on ML, the figures appear surprisingly low, particularly when set against total requests sent to foreign LEAs and the UAE's strength of conviction in its routine use of informal cooperation. The ML requests make up less than 2% of all MOI requests to foreign counterparts, which is inconsistent with the UAE's ML/TF risk profile. With an increased focus on ML, this cooperation is developing. Case studies describing ongoing informal cooperation on ML evidenced a good spread of complex investigations, with a range of priority partners. For example:

- The MOI presented a substantial ML investigation into a professional network involving the UK and Germany, arising from a false declaration of cash. The MOI oversaw cooperation between domestic authorities, such as Federal Customs and the FIU, while brokering cooperation with their European counterparts. Intelligence on individuals, legal persons and the identification of potential proceeds of crime continues, and several trials are underway in Germany and the UK.



- The MOI and PPs have also set up a taskforce with French and Italian authorities to tackle shared ML risks. While the work is ongoing, intelligence has already been shared between all partners with the aim of progressing joint investigations or pursue other disruption outcomes, subject to the nature and complexity of the risk.
- Dubai Police described cooperation with the UK on a number of issues, including disrupting and gathering intelligence on Dubai-based high priority criminals the UK had identified. Dubai Police referenced several investigations where they have cooperated with UK law enforcement authorities, including on key shared risks such as the bulk movement of cash in freight. These are developing into operational activities with scope for greater cooperation as the lines of enquiry develop. Dubai Police are using outputs from the cash in freight work and links to a particular Money Service Business to address weaknesses with its AML controls. As these controls are strengthened, Dubai Police plan to use this MSB as an example to support raising standards across other businesses in the sector.

626. As such, while previous cooperation was mostly reactive, the 2018 policy shift on ML has seen an increase in positive, proactive operational cooperation, often with the UAE's identified priority partners.

**Table 8.11. Outgoing LEA requests to foreign counterparts (ML & all crimes)**

|                                          | 2013  | 2014  | 2015  | 2016   | 2017   | 2018 | Total  |
|------------------------------------------|-------|-------|-------|--------|--------|------|--------|
| ML-related requests sent to foreign LEAs | 4     | 7     | 8     | 12     | 16     | 6    | 53     |
| Total requests sent to foreign LEAs      | 4 969 | 7 924 | 9 463 | 11 959 | 11 356 | -    | 45 671 |
| Percentage of requests related to ML     | 0.08  | 0.09  | 0.08  | 0.10   | 0.14   | -    | -      |

Source: MOI, IO.2 Statistics Update, Table 2.3.1

627. In terms of incoming requests, the MOI provided statistics to demonstrate that they were responsive to all requests (see table below). The number of spontaneous disclosures from the MOI to foreign LEAs was fairly low but shows an increasing trend.

**Table 8.12. Informal police-to-police cooperation**

| Law Enforcement / Police Cooperation                                           | 2013  | 2014  | 2015  | 2016  | 2017  | 2018  | Total  |
|--------------------------------------------------------------------------------|-------|-------|-------|-------|-------|-------|--------|
| Requests Received from Foreign LEAs (All Crimes Including ML but Excluding TF) | 200   | 236   | 254   | 273   | 295   | 222   | 1,480  |
| Requests executed (as at Feb 2019)                                             | 200   | 236   | 254   | 273   | 295   | 222   | 1,480  |
| Requests Received from Foreign LEAs (ML)                                       | 52    | 64    | 75    | 93    | 107   | 92    | 483    |
| Requests executed (as at Feb 2019)                                             | 52    | 64    | 75    | 93    | 107   | 92    | 483    |
| Requests Received Through Interpol (Excluding TF)                              | 44    | 37    | 28    | 33    | 51    | 66    | 259    |
| Requests executed (as at July 2019)                                            | 44    | 37    | 28    | 33    | 51    | 66    | 259    |
| Spontaneous Disclosures by MOI to Foreign Counterparts (Excluding TF)          | 27    | 19    | 23    | 54    | 65    | 52    | 240    |
| Requests Received from Foreign LEAs (TF)                                       | 5,036 | 6,197 | 8,498 | 9,360 | 8,158 | 1,279 | 38,528 |

Source: MOI

### Security / TF cooperation

628. On TF, informal cooperation is occurring with major partners to disrupt TF activity. State Security provides the vast majority of this cooperation. As highlighted below, it sends and receives a large number of requests. The difference in the numbers

of requests between State Security and MOI is attributed to the fact that this includes requests in relation to terrorism as well as TF and the difference in their scope of work of the agencies.

**Table 8.13. Incoming and outgoing information requests relating to Terrorism and TF – State Security**

|                                             | 2013  | 2014  | 2015  | 2016  | 2017  | 2018  | Total  |
|---------------------------------------------|-------|-------|-------|-------|-------|-------|--------|
| Requests sent to foreign counterparts       | 4 372 | 5 579 | 8 459 | 9 557 | 7 458 | 6 263 | 41 688 |
| Requests received from foreign counterparts | 5 036 | 6 197 | 8 498 | 9 360 | 8 158 | 1 279 | 38 528 |

*Note: This can include multiple request in relation to the same case. It can also include the receipt and exchange of updates to foreign fighter lists.*

*Source: State Security, Table 2.3.1B*

### Customs cooperation

629. The FCA has 14 bi-lateral agreements implemented, another 16 are in the process of finalisation while another 34 are being negotiated with key partners. In tackling general customs issues, the FCA has disseminated 42 intelligence reports at both a national and international level, including smuggling of drugs, tobacco and prohibited goods, several of which led to seizures at ports across the UAE. Despite a significant amount of cash declaration penalties being administered (see IO8) and detailed intelligence analysis on cash and PMS movements by the FCA, up until now it appears there is not sustained formal or informal international cooperation on ML/TF. However, as part of the work of ML Investigation Sub-Committee, the MOI is coordinating a multi-agency project into cross-border cash and PMS smuggling, and the abuse of corporate structures, including capability building with international partners leading to joint operational activity.

**Table 8.14. Incoming requests to the FCA related to smuggling**

|                                         | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | Total |
|-----------------------------------------|------|------|------|------|------|------|-------|
| Requests by foreign customs authorities | 0    | 0    | 0    | 1    | 2    | 5    | 8     |

*Source: FCA, IO.2 Effectiveness Submission, Table 2.4.6*

### Supervisory cooperation

630. Supervisors appear to seek and provide adequate cooperation via bilateral agreements, multilateral agreements (IOSCO MOU), on the basis of reciprocity and via specific cooperation mechanisms such as supervisory colleges. Many of the requests relate to 'fit and proper' status checks (see core issue 3.1). Not many of the requests relate to other AML/CFT matters, apart from the DFSA who provided case studies of how cooperation led to taking action in relation to two entities.

631. International cooperation feedback was positive on supervisory cooperation, but some countries did note the difficulty in identifying the correct supervisors.<sup>43</sup>

<sup>43</sup> Authorities noted that the new Supervisory Committee will play a role in coordinating international cooperation requests.

### *International exchange of basic and beneficial ownership information of legal persons and arrangements*

632. In addition to public registers available in DIFC and ADGM, the UAE is developing the National Economic Register to bring together basic information on all legal persons in the country. Once it will be completed, this will provide a public access to this information, as well as a useful starting point for the FIU and LEAs to provide cooperation to partners.

633. Before the 2018 AML Law and By-law, there was no legal requirement for companies and registrars to maintain this information, and the collection of beneficial ownership information was inconsistent, and if held, was held by financial institutions as required by their individual supervisors. Consequently BO information was previously collected and exchanged by FI supervisors and the Ministry of Finance for tax-related requests. The UAE did not provide compelling evidence to suggest these methods were being used to exchange basic and beneficial ownership information. Over five years (2014 to 2018), 112 MLA requests relating to BO were made to the Dubai and Federal PPs. The results of these specific requests were not provided, however, considering the general results on MLA set out earlier in the chapter, this has not proved an effective form of cooperation.

634. However, the FIU is able, to some extent, to provide basic and BO information to counterparts by relying on information in the STR database or by seeking information, where available, from financial institutions, LEAs and companies' registries. Pending direct access to the 39 registrars, FIU requests to these authorities remain limited, with four such requests made to the DMCC and the Dubai Free Zone Council in 2019. More broadly, there are concerns about the possibility of competent authorities to collect and provide accurate and up-to-date UBO information, due in particular to the recent enactment of new UBO regulation and its uneven implementation throughout the country.

### *Overall conclusions on IO.2*

635. **The UAE is rated as having a low level of effectiveness for IO.2.**

## TECHNICAL COMPLIANCE ANNEX

This annex provides detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerological order. It does not include descriptive text on the country situation or risks, and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

### Technical Compliance Ratings<sup>44</sup>

|      |      |      |      |      |      |      |      |      |      |
|------|------|------|------|------|------|------|------|------|------|
| R.1  | R.2  | R.3  | R.4  | R.5  | R.6  | R.7  | R.8  | R.9  | R.10 |
| PC   | LC   | LC   | LC   | LC   | PC   | PC   | LC   | C    | LC   |
| R.11 | R.12 | R.13 | R.14 | R.15 | R.16 | R.17 | R.18 | R.19 | R.20 |
| LC   | LC   | C    | LC   | LC   | C    | LC   | LC   | PC   | C    |
| R.21 | R.22 | R.23 | R.24 | R.25 | R.26 | R.27 | R.28 | R.29 | R.30 |
| LC   | LC   | LC   | LC   | PC   | C    | C    | LC   | PC   | C    |
| R.31 | R.32 | R.33 | R.34 | R.35 | R.36 | R.37 | R.38 | R.39 | R.40 |
| C    | C    | LC   | LC   | LC   | C    | LC   | LC   | C    | LC   |

### Recommendation 1 – Assessing risks and applying a risk-based approach

This is a new Recommendation which was not assessed in the last MER.

**Criterion 1.1** – The UAE finalised its first National Risk Assessment (NRA) on 25 September 2018 and updated relevant statistics in May 2019. The UAE developed its own process for conducting the NRA which involved questionnaires and workshops with a wide range of government stakeholders and some private sector participants. As part of this process, the UAE reviewed its: exposure to the FATF 21 predicate offences, including professional ML; TF threats and specifically the funding of eight terrorist organisations; the capabilities of competent authorities in dealing with ML/TF; and the inherent sectoral vulnerabilities in both the mainland (including CFZs) and the Financial Free Zones (FFZs).

However, there are several issues with how these products were used, in addition to a lack of depth with data and information sources, to develop a collective understanding of ML/TF risk, including that:

- It is not clear how the threats and vulnerabilities interact to create risks, and if mitigation measures have been taken into account;
- There is limited detail on trade-based money laundering, the role of organised crime groups, cross border ML/TF risks, the UAE's exposure to foreign proceeds

<sup>44</sup> Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – non compliant.

of crime or the use of cash in transactions, including links to high-value real estate; and,

- Vulnerabilities in relation to TF are treated identically to ML across each sector, which does not appear to align with the country's context, nor with TF case studies provided.

Separate risk assessments have been developed in relation to legal persons and NPOs, which support the NRA. Although some FI supervisors have conducted entity-level risk assessments, generally, competent authorities have not conducted other risk assessments to identify and assess ML/TF risks in the UAE.

**Criterion 1.2** – The National Committee for Combatting Money Laundering and the Financing of Terrorism and Illegal Organisations (the National Committee) is required to identify and assess ML/TF risks for the UAE (AML Law, Art. 12(2)). The National Committee includes a wide range of federal agencies, authorities in the FFZs and certain agencies from some of the emirates (Sharjah, UAQ and RAK) (Ministerial Decision No. 119 of 2017).

The Chairman of the National Committee established an NRA subcommittee on 12 June 2016 to coordinate the assessment of risks (National Committee Administrative Decision No. 149 of 2016) and the Subcommittee was re-established on 29 May 2017 (National Committee Administrative Decision No. 214 of 2017). The NRA Subcommittee is chaired by a representative of the Securities and Commodities Authority (SCA) and is composed of other representatives of the Central Bank, Ministry of Justice (MOJ), State Security, Ministry of Interior (MOI), Ministry of Economy (MOE) and the Federal Customs Authority (FCA) (National Committee Administrative Decision No. 214 of 2017, Art. 1).

**Criterion 1.3** – The UAE's first NRA was finalised in 2018 and is up-to-date. The UAE authorities have committed to updating the NRA every two years. The NRA Subcommittee met for the first time on 16 June 2019 and will meet at least every six months to monitor emerging threats and vulnerabilities and to advise the National Committee of any further mitigation measures that are required.

**Criterion 1.4** – The UAE's NRA is a classified document which has been discussed and approved in closed meetings of the National Committee and Higher Committee. The UAE has developed an 'Outreach Plan' used two mechanisms to communicate the results of the risk assessment to competent agencies and the private sector: (1) A high-level summary of the NRA (6-page 'NRA Brief') which was shared with FIs and some DNFBPs, via supervisors, and competent agencies in March 2019 and a more detailed 30-page NRA update shared in June 2019, and (2) risk assessment awareness sessions conducted by the NRA Subcommittee and by the MOJ and MOI, including in December 2018 and January 2019.

**Criterion 1.5** – The UAE's National Action Plan does not specifically address the allocation of resources or implementation of additional measures that complement the UAE's programme of legislative reform in line with the FATF Standards to address priority ML/TF risks. However, as a result of the NRA process, some agencies did adjust their allocation of resources, or applied additional mitigation measures. For example, FI supervisors are transitioning to applying their resources in line with the RBA to supervision. The MOJ, MOI and the FIU have obtained additional IT / database resources to better prioritise and manage their workload. However, it is not clear this is occurring across all agencies or that additional measures are being considered in mitigating the UAE's risk exposure to more complex ML/TF risks. FIs and DNFBPs

are required to take into consideration the results of the NRA in applying mitigation measures (AML By-law, Art. 4(2)).

**Criterion 1.6** – The UAE does not allow exemptions from the FATF Standards. Casinos are not covered in the AML/CFT regime as they are prohibited under UAE law (Penal Code, Art. 413 – 416).

**Criterion 1.7** – (a) The UAE requires FIs and DNFBPs to take enhanced measures to manage and mitigate higher risks (AML By-law, Art. 4(2)(b)). (b) The UAE requires that FIs and DNFBPs document their risks and incorporate information on higher-risks into their risk assessments and take into account the results of the NRA in applying mitigation measures (AML By-law, Art. 4(2)).

**Criterion 1.8** – The UAE allows FIs and DNFBPs to apply simplified due diligence measures when they have identified a low-risk relationship or transaction. FIs and DNFBPs are required to take into consideration the results of the NRA in applying mitigation measures (AML By-law, Art. 4(2)-(3)).

**Criterion 1.9** – Supervisors are required to ensure that FIs and DNFBPs are implementing their obligations under the AML Law and AML By-law, including the requirements contained in R.1 (AML By-law, Art. 44). See analysis of R. 26 and R. 28 for more information.

**Criterion 1.10** – FIs and DNFBPs are required to take appropriate steps to identify, assess and understand their ML/TF risks (taking into account their customers, the countries or geographic areas in which they operate, their products and services, their transactions and their delivery channels) (AML Law, Art. 16; AML By-law, Art. 4(1)). This includes being required to:

- a) document their risk assessment (AML Law, Art. 16(1)(a));
- b) consider all relevant risk factors in determining the level of overall risk and the relevant mitigation measures (AML Law, Art. 16(b));
- c) keep their assessments up to date (AML Law, Art. 16(1)(a)); and
- d) have appropriate mechanisms to provide risk assessment information to competent authorities (AML Law, Art. 16(f)).

**Criterion 1.11** – FIs and DNFBPs are required to:

- a) have risk mitigation policies, controls and procedures in place which are approved by senior management and are monitored and enhanced as necessary (AML Law, Art. 16(1)(d)),
- b) monitor the implementation of those controls and enhance them as necessary (AML Law, Art. 16(1)(d)) and
- c) take enhanced measures to manage and mitigate higher risks that are identified (AML Law, Art. 4(2)(b) - see analysis of c.1.7).

**Criterion 1.12** – The UAE allows simplified due diligence measures where low-risk has been identified and criteria 1.9 to 1.11 are met. Simplified due diligence is not permitted when the FI or DNFBP suspects any crime, including ML or TF (AML By-law, Art. 4(3)).



### *Weighting and Conclusion*

While the UAE has made efforts to identify and assess risks, there are limitations with the process and information sources, which brings into question the reasonableness of some of the NRA's conclusions. While some agencies demonstrated a risk-based approach in applying mitigation measures, it was unclear how the risk assessment process ensures a consistent process of resource allocation or informs the development of further mitigating measures, across all AML/CFT stakeholders.

**Recommendation 1 is rated partially compliant.**

### **Recommendation 2 - National Cooperation and Coordination**

In its last MER, the UAE was rated largely compliant with these requirements. The technical deficiencies related to: a lack of a co-ordinated national approach to domestic cooperation, no laws to allow regulatory authorities to share information with other competent authorities and a lack of cooperation between emirates-level customs authorities and the Federal Customs Authority. Since the last MER, various new co-ordination mechanisms have been introduced by the UAE.

**Criterion 2.1** – The overarching national AML/CFT policy is the National AML/CFT Strategy 2019-2021 (approved on 6 January 2019). It is implemented through the National Action Plan 2018-2020. The National Committee, chaired by the Governor of the Central Bank, is responsible for national AML/CFT policy. The National Committee and its sub-committees provide a mechanism to ensure that policies are regularly reviewed (see also c.1.3). The National Committee and its sub-committees provide a mechanism to ensure that policies are regularly reviewed (see also c.1.3). Notwithstanding issues highlighted at c.1.1 about the UAE's risk analysis and assessment process, the National AML/CFT Strategy and National Action Plan aim to lift overall compliance with the FATF standards, setting out a range of enabling actions that support the implementation of a more risk-based approach to AML/CFT measures.

**Criterion 2.2** – The National Committee established in 2000 and chaired by the Governor of the Central Bank, is responsible for national AML/CFT policy and has its functions set out in law (AML Law, Art. 12(1)). The Supreme Council on National Security Cooperation also plays a role in relation to national-security risk and actions, including TF.

**Criterion 2.3** – There are mechanisms in place to enable the 105 competent authorities in the UAE to co-operate, co-ordinate and exchange information at both the policy-making and operational levels:

Overall policy co-ordination on AML/CFT:

- The National Committee has three policymaking sub committees: (1) The NRA Sub-Committee, (2) the Legal Sub-Committee, and (3) The Free Zones Sub-Committee. It includes a wide range of agencies including: the MOI, MOJ Ministry of Foreign Affairs and International Cooperation (MFA), MOE, Ministry of Finance (MOF) and the Department of Economic Development (DED); the FIU; the Central Bank; FI and DNFBP Supervisors; State Security; the Supreme Council on National Security Cooperation; NPO supervisors; and a selection of local government representatives, including from the two financial free zones (Ministerial Decision No. 119 of 2017 and 2019 AML Law).

- The UAE has also established a Higher Committee in 2017 and a Project Management Office to coordinate policy development among competent authorities in preparation for UAE's Mutual Evaluation.

#### Operational co-ordination on ML:

- The MOI ML Committee co-ordinates police inquiries on ML in Ajman/Sharjah/UAQ/ Fujairah. The Federal Public Prosecution ML Committee and the Dubai Public Prosecution ML Committee co-ordinate ML cases in Ajman/Sharjah/UAQ/ Fujairah and Dubai, respectively. In 2019, the UAE has introduced further measures to improve cooperation such as the Subcommittee of ML Investigation Authorities (LEAs, prosecutors, FIU and customs) and the Subcommittee of Financial Supervisors (Subcommittee of Financial Supervisors (Administrative Decision No. 407 of 2019 and No. 408 of 2019, respectively).
- Domestic information-sharing: The UAE utilises MOUs between individual agencies as a way to exchange information domestically (e.g., between supervisory agencies, or with the FIU). It has also created umbrella agencies such as the General Authority for the Security of Ports, Borders and Free Zones, to coordinate actions between the emirates.

#### Operational and policy co-ordination on TF:

- The National Committee for Combatting Terrorism coordinates between all competent authorities in all matters relating to combatting terrorism (Federal Law No.7 of 2014 amending Federal Decree Law No.1 of 2004, Art. 62; Council of Ministers Decision No. 32 of 2016). State Security is the focal point for operational coordination for combatting TF.

**Criterion 2.4** – Issues relating to counter proliferation financing are coordinated under the Committee for Goods and Materials Subject to Import-Export (the “Import/Export Committee”) (Cabinet Decision No. 20 of 2019, Art. 10; Federal Law No. 3 of 2007, Art. 12(3)). The members of the Committee are the MOI, MOE, FCA, Preventive Security Department, Armed Forces – Chemical Defence, Civil Defence, Central Bank, MFA and Federal Authority for Nuclear Regulation. While the Import/Export Committee functions as a sanctions secretariat to coordinate the implementation of PF-TFS (see R.7), broader operational coordination on CPF and detecting sanctions evasion is ad hoc.

**Criterion 2.5** – The UAE has no stand-alone national data protection and privacy legislation that might conflict with AML/CFT requirements. However, the two financial free zones, the Dubai International Finance Centre (DIFC) and Abu Dhabi Global Market (ADGM) have issued data protection legislation. The DIFC has created the position of Commissioner of Data Protection, while the ADGM has established the Office of Data Protection. Data protection legislation in both the DIFC and the ADGM have exemptions for sharing of information for the purposes of AML/CFT (DIFC Data Protection Law 2007, Art. 10 & 12; AGDM Data Protection Regulations 2015, Art. 3(1)(h) & 5(1)(l)), and ongoing cooperation occurs between the data protection and the AML/CFT bodies.

### Weighting and Conclusion

The UAE has processes for national co-operation and co-ordination on AML/CFT. While national AML/CFT policies are informed by the risk identified, issues with c1.1

impact on the UAE's compliance, and there are gaps in operational coordination on CPF.

**Recommendation 2 is rated largely compliant.**

### Recommendation 3 - Money laundering offence

In its last MER, the UAE was rated partially compliant with these requirements. The technical deficiencies related to a lack of coverage of the categories and range of predicate offences and the inability to demonstrate that a conviction for a predicate offence is not necessary to prove that property is the proceeds of crime. The previous MER also considered effectiveness issues under R.3 which are now covered under IO.7. The UAE has amended its ML offence in 2014 and 2018 since the last MER.

**Criterion 3.1** – The UAE criminalises ML in line with the Vienna and Palermo Conventions. The ML offence applies to all of the Emirates and free zones and covers the following activities (AML Law, Art. 2):

- a) Transferring or converting the proceeds or conducting any transaction with the aim of concealing or disguising their illegal source
- b) Concealing or disguising the true nature, source or location of the proceeds, or the method involving the disposition, movement or ownership of the proceeds or rights related to them,
- c) Acquiring, possessing or using proceeds,
- d) Assisting the perpetrator of the predicate crime to escape punishment.

**Criterion 3.2** – The UAE applies an 'all crimes approach' to the ML offence, i.e. dealing in the proceeds of any felony or misdemeanour constitutes ML (AML Law, Art. 2). A felony is any crime with a minimum imprisonment of three years and a misdemeanour is any crime with a minimum imprisonment term of one month (Penal Code, Art. 28-29). As per Attachment A, the UAE has criminalised all the designated categories of predicate offences set out in the FATF Glossary, including tax evasion (Federal Law No. 7 of 2017 on Tax Procedures, Art. 26). While the tax evasion offence is broad, it refers to the evasion of national taxes, which at present in the UAE only covers value-added tax (Federal Decree-Law No. (8) of 2017 on Value Added Tax). It is not clear to what extent the ML offence covers the laundering of the proceeds of a range of foreign direct or indirect tax crimes.

**Criterion 3.3.** – The UAE does not apply a threshold approach.

**Criterion 3.4** – The ML offences extend to any 'funds' (which covers assets in whatever form, tangible or intangible, moveable or immovable, documents or notes evidencing ownership of those assets or associated rights in any form including electronic or digital forms or any interests, profits or income earned from these assets) and 'proceeds' which are funds which generated, directly or indirectly, in whole or part, from a felony or misdemeanour (AML Law, Art. 1).

**Criterion 3.5** – When proving that property is the proceeds of crime, there is no requirement that a person be convicted of a predicate offence (AML Law, Art. 3).

**Criterion 3.6** – The definition of 'predicate offences' in the AML Law covers conduct which occurred in another country if the act is punishable in both the UAE and the other country (Art. 1).

**Criterion 3.7** – The ML offence can also apply to persons who committed the predicate offence (AML Law, Art. 2(2)).

**Criterion 3.8** – It is possible to infer, from objective factual circumstances, the intent and knowledge required to prove the ML offence. Under the Criminal Procedure Law, “the judge shall decide the case according to his personal conviction; however he may not base his judgment on evidence that was not submitted by the parties during the hearings” (Federal Law No. 35 of 1992, Art. 209). In addition, the Federal Supreme Court has clarified that in criminal trials, the court can extrapolate, from evidence and presumptions, the liability of the defendant of the crime (Challenge No. 371 of 2018 and No. 379 of 2018).

**Criterion 3.9** – Proportionate and dissuasive criminal sanctions apply to natural persons convicted of ML. The ML offences are punishable by up to 10 years’ imprisonment, a fine between AED 100 000 – 5 million (approximately EUR 20 000 – 1 million) or both (AML Law, Art. 22). Where aggravated circumstances apply, the ML offence is punishable by temporary imprisonment (a minimum sentence of three years, a maximum sentence of 15 years – Penal Code, Art. 68(2)) and a fine of AED 300 000 – 10 million (approximately EUR 60 000 – 2 million).

**Criterion 3.10** – Criminal liability and proportionate, dissuasive sanctions apply to legal persons convicted of ML, without prejudice to the criminal liability of natural persons (Penal Code, Art. 65; AML Law, Art. 4). Legal persons are liable to a penalty of no less than AED 500 000 and no more than AED 50 000 000 (EUR 100 000 to EUR 10 000 000) (AML Law, Art. 23). These sanctions are also applicable to the representatives, managers or agents of the legal person.

**Criterion 3.11** – There are a range of ancillary offences to the ML offence including: participation in; conspiracy to commit; attempt; incitement, and wilfully assisting in preparatory acts (Penal Code, Art. 34 – 37, 44 – 47).

### Weighting and Conclusion

Most criteria are met, and while the UAE does have a broad offence in place for evasion of domestic indirect taxes, it is not clear to what extent the ML offence can be applied to the laundering of foreign tax crime.

**Recommendation 3 is rated largely compliant.**

## Recommendation 4 - Confiscation and provisional measures

In its last MER, the UAE was rated largely compliant with these requirements. The deficiencies related to issues of effectiveness which are now covered in the effectiveness assessment in IO.8.

**Criterion 4.1** – The UAE has the following conviction-based measures enabling it to confiscate property whether held by criminal defendants, or by third parties (AML Act, Art. 26(2)):

- a) Laundered property can be confiscated upon conviction (Art. 26(1)(a)),
- b) Proceeds of or instrumentalities used or intended for use in ML and relevant predicates (Art. 26(1)(a)),

- c) Property that is proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organisations (Art. 26(1)(a), and
- d) Property of corresponding value (Art. 26(1)(b)).

**Criterion 4.2** – The UAE has measures that enable its competent authorities to:

- a) Identify, trace and evaluate property that is subject to confiscation through the broad powers of the public prosecution and the competent court to identify, track, or evaluate suspicious funds, proceeds of crime and instrumentalities or, property of equivalent value (AML law, Art. 5(2) & 7(1)). While guidance for prosecutors provides some basic guidelines, there are no legal or procedural frameworks in place to facilitate confiscation.
- b) Carry out provisional measures, to freeze, seize or restrain property that is subject to confiscation to preserve the property and prevent its transfer or disposal prior to a decision on confiscation or forfeiture as freezing and seizing. For example, the Governor of the Central Bank (or his delegate, on advice from the FIU) can request certain FIs to freeze suspicious funds that they hold for up to seven days (AML Law, Art. 5(1); AML By-law, Art. 46(1) – (6)). The public prosecution and the competent court can request/issue seizing or freezing of assets if they are the result of, or connected with, a crime on an ex-parte basis (AML Law, Art. 5(2)).
- c) The public prosecution and the competent court can take steps to prevent or void actions (whether contractual or otherwise) taken to prejudice the ability to freeze or recover property that is subject to confiscation (AML Law, Art. 5(3)).
- d) Take other appropriate investigative measures through the powers described in R.31 (AML Act, Art. 7).

**Criterion 4.3** – UAE’s laws protect the rights of bona fide third parties (AML Law, Art. 5 (3)(5) & (6)).

**Criterion 4.4** – The UAE has mechanisms in place to manage and, where necessary, dispose of frozen, seized and confiscated property. This includes the ability to appoint any person to take possession, manage, and deal with the property (AML Law, Art. 5 (7), Art. 48; Federal Law 35 of 1992, Art 85-87).

### Weighting and Conclusion

Most criteria are met, however there is lack of legal or procedural frameworks in place to facilitate the use of the broad powers to identify, trace and evaluate property.

**Recommendation 4 is rated largely compliant.**

### Recommendation 5 - Terrorist financing offence

In its last MER, the UAE was rated largely compliant with these requirements. The deficiency was that it was unclear if FT applies to financing of an individual terrorist (without an act or the contemplation of one). Since that time, the UAE enacted Federal Law no. 7 of 2014 “On Combating Terrorism Offences.”

**Criterion 5.1** – Article 29, of Federal Law No. 7 of 2014 “On Combating Terrorism Offences” (the Terrorism Law) creates TF offenses that extend to both terrorist acts

and provision or collection of funds to terrorist organisations or individuals. “Terrorist offence” covers any criminal offence committed for a “terrorist purpose” (further defined as intending to bring about, directly or indirectly, a “terrorist result” – e.g. inciting fear, causing death or bodily injury, inflicting substantial damage to property, or aiming to influence a government or international organisation. This is in line with Article 2.1(b) of the TF convention. With respect to Article 2.1(a) of the TF convention, provisions cover acts listed in the Annex to the TF Convention only if done “for a terrorist purpose,” which adds a specific intent element and is not consistent with the TF Convention or the FATF Standard.

The TF offense applies to anyone who “Offers, collects, prepares, obtains or facilitates the obtainment of funds for the purpose of using the funds, or being aware that they will be used, in part or in whole, in the commission of a terrorist offence.” (Art. 29(1). The *mens rea* (intent) element thus appears to cover the provision or collection of funds with the unlawful intention, as well as the unlawful knowledge, that they will be used to carry out TF (“for the purpose of using the funds, or being aware that they will be used”).

The offence covers the direct provision or collection as well as the indirect collection (“facilitates the obtainment”) of funds. It is unclear if indirect provision of funds is covered.

**Criterion 5.2** – The TF offence extends to any person who wilfully provides or collects funds or other assets, by any means, with the unlawful intention that they should be used, in whole or in part, to carry out a terrorist act, or by a terrorist organisation or individual terrorist. However, the same deficiency in criterion 5.1 regarding indirect collection of funds extends to this criterion.

**Criterion 5.2 bis** – The TF offence does not specifically include financing the travel of individuals who travel for the purpose of perpetrating, planning, or preparation of or participation in terrorist acts or providing or receiving terrorists training. Article 22 of the Terrorism Law provides a penalty for those who intentionally “seek to join” a terrorist organisation or participate in those activities in any way. However “seeking to join” does not directly cover travel. Article 31(2) of the same law also provides a penalty for those who intentionally “assist a terrorist person on the achievement of his purpose” and Article 32(2) provides a penalty for intentionally supplying a terrorist organisation or person with documents, materials, information, consultation, dwelling, habitation, and a place for meeting/other facilities. The rather specific provisions of Article 32 do not explicitly cover the financing, and the material support provision in Article 31 could potentially cover financing of travel, although again not explicitly.

**Criterion 5.3** – TF offences mostly, but do not fully, extend to “any funds or other assets”. The definition of “funds” in the Terrorism Law includes any kind of assets, whether physical or moral, movable or immovable, including national currency, foreign currencies, documents or instruments which prove ownership of such assets or any right related thereto regardless of their form including electronic or digital form. This appears broad enough to cover funds from a legitimate or illegitimate source. This definition covers “funds” as required by the FATF definition, but not the extended “funds or other assets” (as defined by FATF and as required for criterion 5.3) and therefore does not specify economic resources (including oil and other natural resources), bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or



other income on or value accruing from or generated by such funds or other assets, and any other assets which potentially may be used to obtain funds, goods or services.

**Criterion 5.4** – TF offences do not require that the funds or other assets: (a) were actually used to carry out or attempt a terrorist act(s) or (b) be linked to a specific terrorist act(s). Article 29 of the Terrorism Law covers funds provided both for the purpose of carrying out or attempting terrorist acts, but also more broadly funds provided to terrorist organisations or persons. Neither provision requires that an act is actually carried out (“purpose of”), and the latter provision satisfies this criterion by noting that TF includes provision of funds to terrorists/terrorists orgs, irrespective of specific acts.

**Criterion 5.5** – It is possible to infer, from objective factual circumstances, the intent and knowledge required to prove the ML offence. (Criminal Procedure Law, Federal Law No. 35 of 1992, Art. 209). In addition, the Federal Supreme Court has clarified that in criminal trials, the court can extrapolate, from evidence and presumptions, the liability of the defendant of the crime (Challenge No. 371 of 2018 and No. 379 of 2018).

**Criterion 5.6** – Proportionate and dissuasive criminal sanctions should apply to natural persons convicted of TF. A breach of Article 29 or 30 of the Terrorism Law is punishable by life imprisonment or temporary imprisonment for no less than 10 years. Article 53 ensures that any penalties will not lapse or be reduced, and that no person convicted of a terrorist offence will be eligible for early release.

**Criterion 5.7** – Sanctions are available for legal persons. There are both monetary penalties of between AED 1 million and AED 100 million (EUR 243 000 and EUR 24.3 million) (Article 42, Paragraph 1) and the potential for a court to rule on dissolution of the legal person (Article 42, Paragraph 2). These sanctions do not preclude parallel civil or administrative proceedings, as permitted by the Civil Transactions Law. This liability and corresponding penalties are without prejudice to the criminal liability of natural person, as stated in Article 42, Paragraph 3.

**Criterion 5.8** –

- a) Attempt to commit the TF offence is covered through Article 64 of the Terrorism Law and Article 35 of the Penal Code (attempt).
- b) Participating as an accomplice in a TF offence or attempted offence is covered through Article 64 of the Terrorism Law and Article 44 of the Penal Code.
- c) Organising or directing others to commit a TF offence is covered through Articles 19, 20, and 28 of the Terrorism Law, and attempts for such offenses are covered through Article 64 of the Terrorism Law and Article 35 of the Penal Code.
- d) Contributing to the commission of one or more TF offence(s) or attempted offence(s), by a group of persons acting with a common purpose is covered by Articles 28 and 31 of the Terrorism Law.

**Criterion 5.9** – TF offences are predicate offences for ML. As indicated in Recommendation 3 and Article 2 of the AML Law, all felonies and misdemeanours in UAE are predicate offences for ML.

**Criterion 5.10** – TF offences generally apply, regardless of whether the person alleged to have committed the offence(s) is in the same country or a different country from the one in which the terrorist(s)/terrorist organisation(s) is located or the

terrorist act(s) occurred/will occur. Article 3 of the Terrorism Law provides that persons can be charged for committing “terrorist offenses” (which per the Article 1 definition would include TF) outside the State, in certain select cases. The select cases aspect limits the scope of offenses that are chargeable.

### *Weighting and Conclusion*

The UAE meets or mostly meets the large majority of the technical criteria. There are minor issues relating to: an additional terrorist purpose required for acts in the CFT Convention, the indirect collection and definition of funds, and extraterritoriality of TF offences.

**Recommendation 5 is rated largely compliant.**

### **Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing**

In its last MER, the UAE was rated partially compliant with these requirements. The deficiencies were that there was no consideration of any 1373 lists by the appropriate authorities; no circulation of the 1267 lists to the DGCX, the DIFC, or the DNFBP sectors; and slow circulation of lists to some sectors. Since then, the UAE issued Cabinet Decision No (20) of 2019 “Regarding Terrorism Lists Regulation and Implementation of UN Security Council Resolutions On the Suppression and Combating of Terrorism, Terrorists Financing & Proliferation of Weapons of Mass Destruction, and Related Resolutions” (the UNSCR Decision) in January 2019. The UAE’s Executive Office of the Committee for Goods and Materials Subject to Import and Export Control (“the Executive Office” of the “Import/Export Committee”) issued the “Procedures of implementing the Cabinet’s resolution No. (20) of 2019 concerning the regulations on Terrorists’ Lists; and implementing the Security Council’s Resolutions concerning the prevention and suppression of terrorism, terrorism financing and proliferation financing” (“the Office Procedures”); and the Supreme Council on National Security issued its own procedures by the same name (“the Council Procedures”).

Identifying and designating

#### **Criterion 6.1 –**

- a) UAE has identified the Supreme Council for National Security (“the Council”) as the competent authority responsible for proposing for designation persons or entities to the 1267/1989 and 1988 Committees. Federal Law No. 17 of 2006, “On the establishment of the Supreme National Security Council,” formally established this body. The UNSCR Decision specifies in Art. 2(1)(c) that one of the Council’s functions is to submit proposals to the (UN) Sanctions Committee for the listing of terrorist persons or organisations. “Sanctions Committee” is defined to include the UN committees established pursuant to UNSCRs 1267/1989 and 1988. The UNSCR decision is equivalent to a regulation, which was issued pursuant to Art. 28 of the AML Law (which references compliance with UN resolutions).
- b) Article 8 of the UNSCR Decision provides that the Council shall, through the Ministry, propose to the Sanctions Committee for listing any person identified by the competent authorities to have participated, in any way, in financing or supporting acts or activities of ISIL (Da’esh) or Al-Qaeda and any group related

thereto, and to provide the Sanctions Committee with the reasons for listing as per the standard form prepared for such purpose and ensure the certain information is supplied. This covers a mechanism for identifying targets for designation related to UNSCR 1267/1989 (Al-Qaeda/Da'esh), but not UNSCR 1988 (Taliban). This is an inconsistency in the Decision, whereby the definition of Sanctions Committee includes UNSCR 1988, but the operative provision in Article 8 specifies that the criteria for listing is limited to the activities of ISIL, Al-Qaeda, and affiliates (not Taliban), although this could in part be covered through the reference to "any group related hereto" to Al Qaeda and ISIL.

l) The Council Procedures (Eighth section) further detail the standards and procedures for identifying targets and proposing them to the UN (including in relation to UNSCR 1988), *inter alia*, collecting information about the person or entity, using the assistance of LEAs and authorities in the state, contacting the state where the proposed person or entity resides, for the purposes of obtaining information, specifying findings and the grounds indicating the designation criteria are met, the nature of supporting evidence etc., providing the Sanctions Committee with information and confirming certain data.

- c) An evidentiary standard of proof of "reasonable grounds" or "reasonable basis" applies when deciding whether or not to make a proposal for designation. Article 2(2) of the UNSCR Decision indicates that the Council shall exercise its powers (regarding proposals for designation) in accordance with the rules and procedures set forth in the relevant Security Council resolutions, whenever the reasons and indicators are reasonable, irrespective of whether or not a criminal proceeding exists.
- d) UAE follows the procedures and (in the case of UN Sanctions Regimes) standard forms for listing, as adopted by the UN 1267/1989 Committee (Art. 8 UNSCR Decision). While the Decision does not specifically refer to UNSCR 1988 (Taliban), this seems indirectly covered by the reference to "any group related hereto" to Al Qaeda and ISIL. And this point is further clarified in the Council Procedures.
- e) Art. 8 of the UNSCR Decision covers the requirement to provide as much relevant information as possible on the proposed name and the basis for the listing. There is nothing which prohibits the UAE from specifying whether its status as a designating state may be made known should a proposal be made to the 1267/1989 Committee. In addition, the Council Procedures (Eighth section, point 5) indicate that "the proposal must include the statement of the state whether the Sanctions List can declare that the State has submitted a proposal for designation in the Sanctions List.

#### **Criterion 6.2 –**

- a) Article 2(1)(a) of the UNSCR Decision designates the Council as the competent authority for designating persons or entities that meet the specific criteria for designation, as set forth in UNSCR 1373; as put forward either on the UAE's motion, or, after examining and giving effect to, if appropriate, the request of another country.
- b) Article 3 of the UNSCR Decision covers the requirement to have a mechanism for identifying targets based on the designation criteria set out in UNSCR 1373. Article 3(1) covers persons and entities who commit or attempt to commit

terrorist acts, or who participate in or facilitate the commission of terrorist acts, and also refers back to Article 2(1), which outlines the powers of the Supreme Council on National Security. Article 2(1) notes that the Council may make designations based upon the criteria laid out in UNSCR 1373.

- c) Council Procedures Third, Point 2: The Council shall, without prior notice, prepare one or more Local Lists proposing the designations, and once convinced on reasonable grounds for designation, the Council must take its decision immediately.
- d) Proposals for designation are not conditional upon the existence of criminal proceeding. As noted in 6.1(c), Article 2(2) of the UNSCR Decision indicates that the Council shall exercise its powers (regarding proposals for designation) in accordance with the rules and procedures set forth in the relevant Security Council resolutions, “whenever the reasons and indicators are reasonable, irrespective of whether or not a criminal proceedings exist.”
- e) Article 2.1(b) of the UNSCR Decision specifies that when requesting another country to give effect to the actions initiated under the freezing mechanisms, that the Supreme Council shall provide “all relevant information relating to the accurate establishment of their identity and the information which support their fulfilment of the classification criteria stated in Security Council Resolution 1373.”

#### **Criterion 6.3 –**

- a) Article 9 of the UNSCR Decision addresses the fact that the Council may call upon law enforcement and other authorities to obtain information regarding a designation. LEA and other related authorities are required to provide the Supreme Council for National Security with the requested information, which would help the Council determine whether the indicators supported a determination of reasonable grounds/reasonable basis, as noted in criterion 6.1(c). The Council Procedures (Seventh section, points 3 and 4) indicate that the proposal shall have to include the most possible details about the basis, grounds or justifications in which the designation is built on; the Council attaches along with the proposal all the information related to the identification of the proposed designation, accurately, to allow positive and firm identification of the persons and entities.
- b) There is no specific indication that the mechanism operates *ex parte* against a person or entity who has been identified and whose (proposal for) designation is being considered. However, as the UNSCR Decision does not require that the person in question be present or consulted during the designation process, it can be inferred that authorities are implicitly permitted to operate *ex parte*.

#### **Freezing**

**Criterion 6.4 –** The Executive Office must take all necessary actions to implement, without delay, UN Security Council Resolutions under Chapter VII of the UN Charter (UNSCR Decision, Article 10(1)). The Executive Office must inform the security and regulatory authorities and any other authority about the Sanctions List once issued by the Sanctions Committee. The Executive Office must then circulate to these same authorities the name of any terrorist individual or organisation listed in the Sanctions

List for the first time once the Narrative Summary related to such listing is issued (Article 10(2)).

Article 11 of the UNSCR Decision then indicates that every natural and legal person must, without delay or prior notice, freeze funds owned, controlled or held, in whole or in part, directly or indirectly by: an individual or organisation designated by the UN Security Council or any relevant Security Council committee pursuant to any relevant Security Council resolutions, or an individual acting, directly or indirectly, on behalf of, or as directed, controlled or dominated by, any person or organisation listed in the Sanctions List.

The freezing obligation in Article 11 does not specifically apply to the domestic UNSCR 1373 list. Article 11(1) only refers to freezing obligations for those individuals and organisations designated by the UNSC or relevant UNSC committee. Article 11(2) refers to the “Sanctions List,” but this is defined to include only “sanctions imposed as per the [UN] Security Council Sanctions Committee,” and this article only refers to individuals acting on behalf of, rather than the designated person/entity itself. There is no reference to a freezing obligation pursuant to the “Local List” issued pursuant to Articles 2 and 3 of the UNSCR Decision.

The Executive Office’s Procedures are broader, indicating that any person shall, without delay and without prior notice, freeze the funds of any “designated”, controlled over, in full or partially, directly or indirectly or belonging to a person function on behalf of the designated, or under its direction, or indirectly owned or controlled by the designated. (Eighth section, point 1). “Designated” is defined as a person or entity listed by the UN Security Council in the UN sanctions list, or by the Cabinet in the local list. However, the Procedures are not enforceable means, and it is unclear how they can establish an obligation that is broader than (and inconsistent with) that in the UNSCR Decision.

In terms of process, the Executive Office began setting up a mechanism (“the portal/website”) in January 2019 for coordinating with the related government entities responsible for implementing provisions of UNSCRs, including targeted financial sanctions, and communicating UN designations to the private sector. The internal portal (for authorities only) was launched in a pilot phase in April 2019, while the public website was launched in late June 2019. The online portal links the Executive Office to all relevant competent authorities across the seven Emirates and is intended to facilitate the implementation of TFS within the UAE, including across free zone authorities.

According to the Office Procedures (Third section), the Executive Office’s will immediately receive any new or updated resolution from the UN and any local listing from the Council. The Executive Office will then circulate these without delay, via the Portal to the security agencies, supervisory authorities, and to FIs and DNFBPs via email. However, since the system was very new at the time of the on-site visit, it was unclear how quickly this process would occur. The security agencies and supervisory authorities must then report back on any information found from supervised entities and findings, to the Executive Office within five days.

In terms of public notification/dissemination of the list, besides the notification from authorities covered above, Article 19(1) of the UNSCR Decision requires FIs and DNFBPs to keep track of any changes in the UN Sanctions Committees lists by checking for updates on the UN website or the Executive Office’s website on a daily basis or before conducting any transaction or entering into any business relationship



to ensure that such person is not on the Sanctions List. According to the UAE, this means that FIs and DNFBPs are legally obliged to review the website of the Office on a daily basis. Article 19(2) also requires FIs and DNFBPs to “continuously” check their database of existing customers to ensure there are no matches.

FIs and DNFBPs are also required to report any asset freezing actions to the Executive Office (via their supervisor) within five business days (Art 19(3)). The Executive Office will also publicly “declare” the names of those listed by the UN and also notify any individuals and entities within the UAE of their listing, after completing the asset freezing procedures.

In theory this process should operate “without delay”, although due to the system being brand new at the time of the on-site visit, no demonstration was possible.

#### **Criterion 6.5 –**

- a) Article 11(1) of the UNSCR Decision indicates that all natural and legal persons must freeze, without delay or prior notice, the funds of persons and entities designated by the UN. However, the UNSCR Decision does not specifically apply to persons designated in the context of UNSCR 1373 – i.e. the “Local list” pursuant to Articles 2 and 3 of the UNSCR Decision. The process is broader in the Office Procedures (see c.6.4 above), but the Procedures are not enforceable means, and it is unclear how they can establish an obligation that is broader than (and inconsistent with) that in the UNSCR Decision. This issue cascades to the subsequent sub-criteria. “Funds” is broadly defined in accordance with the FATF Methodology.
- b) Per the definitions of “funds” and “freezing” in the UNSCR Decision, Article 1, the obligation to freeze extends to: (i) all funds or other assets owned or controlled by a listed person or entity; (ii) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; (iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities; and (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities. However, these obligations apply to “listed persons/entities” or “listed individuals/organizations” which are not defined, and the definition of “freezing” only notes that there is no limitation with respect to the funds used in an act, threat or agreement connected to proliferation financing (with no reference to TF). The definition of “freezing” in the Office Procedures differs in that it includes TF, and it applies to any “designated”, defined as anyone listed pursuant to the UN or the local list. However, see above regarding the enforceability of this and inconsistency with the UNSCR Decision..
- c) Article 12 of the UNSCR Decision prohibits all natural and legal persons from making any funds, or financial or other related services, available, directly or indirectly, for the benefit of designated persons and entities; entities owned or controlled, directly or indirectly, by designated persons or entities; and persons and entities acting on behalf of, or at the direction of, designated persons or entities, unless authorised by the Office, and in coordination with the relevant Sanctions Committee or in line with relevant UNSCRs. UAE explains that the Office would not act upon its own discretion to determine



independently if a de-listing request was “in line with relevant UNSCRs” and would coordinate with the relevant Sanctions Committee/Security Council.

- d) UAE has mechanisms to communicate designations to the financial sector and DNFBPs immediately upon taking such actions. The Office Procedures clarify that the Executive Office will circulate without delay any new listings or updates to FIs and DNFBPs via email (Third section). Article 19 (1) of the UNSCR Decision also requires FIs and DNFBPs to check, on a daily basis, the UN Sanctions Committee websites and the Executive Office’s website for new designations. Individual regulators notify FIs and DNFBPs of the list changes and created a subscription service through the website where one can sign up to receive email notifications of list changes. Other provisions of Article 19 provide guidance to FIs and DNFBPs regarding reporting obligations with respect to frozen funds, previous designated customers, and false positives, as well as obligations to unfreeze funds and report said action, if an “unfreezing resolution” is issued.
- e) Article 19 (3) of the UNSCR Decision requires financial institutions and DNFBPs to report to their regulatory authorities any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSCRs, including attempted transactions.
- f) Article 20 (2) of the UNSCR Decision protects the rights of bona fide third parties acting in good faith when implementing the obligations under Recommendation 6.

De-listing, unfreezing and providing access to frozen funds or other assets

**Criterion 6.6 –**

- a) There are procedures to submit de-listing requests to the relevant UN sanctions Committee in the case of persons and entities designated pursuant to the UN Sanctions Regimes, in the view of the country, do not or no longer meet the criteria for designation, in accordance with the procedures adopted by the 1267/1989 Committee or the 1988 Committee (UNSCR Decision, Article 2(d) and Article 15).
- b) There are legal authorities and procedures to de-list and unfreeze the funds or other assets of persons and entities designated pursuant to UNSCR 1373, that no longer meet the criteria for designation (UNSCR Decision, Article 4).
- c) With regard to designations pursuant to UNSCR 1373, there are procedures to allow, upon request, review of the designation decision before an independent competent authority (UNSCR Decision, Article 6). A person would first submit a request to the Ministry of Justice, attaching all supporting documents. The Ministry of Justice then refers the issue to the Supreme Council for National Security, who will then refer its opinion to the Ministry of Presidential Affairs, who in turn presents it to the Cabinet. The Cabinet then makes a decision.
- d) There are procedures to facilitate review by the 1988 Committee in accordance with any applicable guidelines or procedures adopted by the 1988 Committee (UNSCR Decision, Article 15 (1)). The Executive Office is required to have procedures, on its website, to deal with requests for de-listing from the Sanctions List. This includes guidance to persons or organisations on submitting a petition directly to the Focal Point.

- e) Article 15 (2) of the UNSCR Decision covers the procedures for de-listing petitions regarding UNSCR 1267/1989 to be submitted to the Ombudsman.
- f) Article 17 of the UNSCR Decision contains the procedures to unfreeze the funds or other assets of persons or entities with the same or similar name as designated persons or entities, who are inadvertently affected by a freezing mechanism (i.e. a false positive), upon verification that the person or entity involved is not a designated person or entity.
- g) Article 5 of the UNSCR Decision states that, for those listed on the Local List, de-listings come into force after publication in the Official Gazette. With respect to those listed on the UN Sanctions List, Article 15 (5) states that the Executive Office shall announce on its website mechanisms for communicating de-listing and unfreezing cases to FIs and DNFBPs. Article 19 (6) of the UNSCR Decision requires FIs and DNFBPs to unfreeze funds within five business days upon issuance of an “unfreezing resolution” by the Executive Office and also requires reporting of this action.

**Criterion 6.7** Access to frozen funds is provided for in Articles 18 (pertaining to UN listings) and Article 7 (pertaining to domestic listings). Article 18 allows the Office to authorise the use of part of the frozen funds to covers basic expenses, or professional fees and costs relating to rendering legal services, or any extraordinary expenses other than those categories. Such requests are notified to the relevant UN Sanctions Committee; if there is no objection within five working days, the exemption is allowed to proceed. Article 7 contains a similar procedure for authorising access to basic expenses for funds frozen pursuant to the Domestic List.

### Weighting and Conclusion

The UNSCR Decision of January 2019 substantially improves the TFS framework, and the UAE meets or mostly meets a large number of the technical criteria. However there are more significant deficiencies in criteria 6.4 and 6.5, which are weighted more heavily and where the freezing obligation in the UNSCR Decision does not specifically apply to the local (1373) list. There are other, relatively minor issues: no requirement to make a prompt determination regarding a foreign request received (c.6.2(c)); and a lack of clear definition of “listed person” to whom the freezing measures apply and freezing refers to funds connected to PF, not TF (c.6.5(b)). Finally, it is unclear whether the newly established system would operate without delay.

**Recommendation 6 is rated partially compliant.**

### Recommendation 7 – Targeted financial sanctions related to proliferation

This is a new Recommendation that was not assessed in the last MER.

**Criterion 7.1** – The Executive Office of the Committee for Goods and Materials Subject to Import and Export Control (“the Executive Office”) must take all necessary actions to implement, without delay, UN Security Council Resolutions under Chapter VII of the UN Charter (UNSCR Decision, Article 10(1)), such as those relating to financing of proliferation of weapons of mass destruction. “Without delay” is defined as the freezing of funds within hours from issuance of the listing decision by the Sanctions Committee, for the purpose of preventing disposal of the funds, including smuggling thereof. The Office must inform the security and regulatory authorities

and any other authority about the Sanctions List once issued by the Sanctions Committee. The Office must then circulate the name of any individual or organisation listed in the Sanctions List for the first time once the Narrative Summary related to such listing is issued (Article 10(2)). The “Sanctions List” is defined in Article 1 of the UNSCR Decision to include individuals and organisations subject to sanctions imposed by UN Sanctions Committees, “Sanctions Committee” is also defined in Article 1 and includes the terrorism-related UN sanctions committees, as well as UNSCR 1718 Committee on North Korea, but does not include, UNSCR 2231 on Iran and thus UNSCR 2231 is absent in any of the definitions related to UN TFS within the UNSCR Decision. The lack of reference to UNSCR 2231 is problematic, as these definitions cascade to operative paragraphs within the UNSCR Decision (and thus other criteria within Recommendation 7).

Article 11 of the UNSCR Decision then indicates that every natural and legal person must, without delay or prior notice, freeze funds owned, controlled or held, in whole or in part, directly or indirectly by: an individual or organisation designated by the UN Security Council or any relevant Security Council committee pursuant to any relevant Security Council resolutions, or an individual acting, directly or indirectly, on behalf of, or as directed, controlled or dominated by, any person or organisation listed in the Sanctions List. As indicated above, “Sanctions List” refers back to sanctions imposed by UN Sanctions Committees, which excludes UNSCR 2231, so there appears to be a gap in the “derivative” freezing provisions (i.e. those acting on behalf of designated persons/entities). The Executive Office’s Procedures (Eighth section, point 1) are broader, indicating that any person shall, without delay and without prior notice, freeze the funds of any “designated”, controlled over, in full or partially, directly or indirectly or belonging to a person function on behalf of the designated, or under its direction, or indirectly owned or controlled by the designated. “Designated” is defined as a person or entity listed by the UN Security Council in the UN sanctions list, or by the Cabinet in the local list. However, the Procedures are not enforceable means, and it is unclear how they can establish an obligation that is broader than (and inconsistent with) that in the UNSCR Decision.

In terms of public notification/dissemination of the list, see Recommendation 6 for further details on this process.

#### ***Criterion 7.2 –***

- a) Article 11(1) of the UNSCR Decision indicates that all natural and legal persons must freeze, without delay or prior notice, the funds of persons and entities designated by the UN. “Funds” is broadly defined in accordance with the FATF Methodology.
- b) Per the definitions of “funds” and “freezing” in the UNSCR Decision, Article 1, the obligation to freeze extends to: (i) all funds or other assets owned or controlled by the designated person or entity; (ii) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; (iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities. In terms of (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities, Article 11(2) refers to these categories, but only in relation to the “Sanctions List,” which as noted above, does not include UNSCR 2231. The Executive Office’s Procedures (Eighth section, point 1 – see

criterion 7.1 above) would cover this; however, see above about the enforceability of this and consistency with the UNSCR Decision.

- c) Article 12 of the UNSCR Decision prohibits all natural and legal persons making from making any funds, or financial or other related services, available, directly or indirectly, for the benefit of designated persons and entities; entities owned or controlled, directly or indirectly, by designated persons or entities; and persons and entities acting on behalf of, or at the direction of, designated persons or entities, unless authorised by the Office, and in coordination with the relevant Sanctions Committee or in line with relevant UNSCRs. UAE explains that the Office would not act upon its own discretion to determine independently if a de-listing request was “in line with relevant UNSCRs” and would coordinate with the relevant Sanctions Committee/Security Council. Nevertheless, there is still a gap in that Art. 12 refers to persons or organisations listed in the Sanctions List, which as noted above does not include UNSCR 2231. The Executive Office’s Procedures (Eighth section, point 2) are broader, indicating that any person shall be prohibited from making funds available to any “designated”, or for their benefit. “Designated” is defined as a person or entity listed by the UN Security Council in the UN sanctions list, or by the Cabinet in the local list. However, see above about the enforceability of this and inconsistency with the UNSCR Decision.
- d) UAE has mechanisms to communicate designations to the financial sector and DNFBPs immediately upon taking such actions. The Office Procedures clarify that the Executive Office will circulate without delay any new listings or updates to FIs and DNFBPs via email (Third section). Article 19 (1) of the UNSCR Decision requires FIs and DNFBPs to check, on a daily basis, the UN Sanctions Committee websites and the Executive Office’s website for new designations. This legal provision puts the onus on the private sector to proactively check these sites and does not describe the process and timeline for updating the Executive Office’s website. The UAE has also created an internal portal (for communication between the Executive Office and competent authorities) and a public website for communicating designations to FIs and DNFBPs (in addition to emails from authorities notifying of new changes to the lists). However, it is unclear whether the newly established system would operate without delay. Other provisions of Article 19 provide guidance to FIs and DNFBPs regarding reporting obligations with respect to frozen funds, previous designated customers, and false positives, as well as obligations to unfreeze funds and report said action, if an “unfreezing resolution” is issued.
- e) Article 19 (3) of the UNSCR Decision requires financial institutions and DNFBPs to report to their regulatory authorities any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSCRs, including attempted transactions.
- f) Article 20 (2) of the UNSCR Decision protects the rights of bona fide third parties acting in good faith when implementing the obligations under Recommendation 7.

**Criterion 7.3** – There are measures for monitoring and ensuring compliance by financial institutions and DNFBPs with the PF-TFS requirements. In the AML law, FIs and DNFBPs must immediately implement the directives (i.e. the UNSCR Decision)

issued by the competent authorities in relation to UNSC Resolutions on TF and PF (Article 16). The AML by-law also has a general requirement for all natural and legal persons to immediately comply with the TF and PF instructions by competent authorities (Article 60). The UNSCR Decision, in addition to the requirements above, requires FIs and DNFBPs to check the UN lists daily through the UNSC website, or the Executive Office (of the Import/Export Committee) and also check before any transaction to prevent such a transaction with a listed person or entity (Article 19).

The authority of supervisors to monitor and ensure compliance with the PF-TFS obligations is provided for in the UNSCR Decision (Article 20), the AML law (Article 13), and AML by-law. Article 44(7) of the AML by-law expands upon Article 13 of the AML Law and indicates that one of the responsibilities of the supervisory authorities is “Undertaking all measures to ensure full compliance of the Financial Institutions and DNFBPs in implementing Security Council Resolutions relating to the prevention and suppression of terrorism and Terrorism Financing, and the prevention and suppression of the proliferation of weapons of mass destruction and its financing, and other related decisions, by conducting onsite visits and on-going monitoring, and imposing appropriate administrative sanctions when there is a violation or shortcoming in implementing the instructions.”

Administrative sanctions range from a warning, or a fine of no less than AED 50 000 (EUR 12 070) and up to AED 5 000 000 (EUR 1.2 million), banning the violator from working in the sector for a determined period, restricting the powers of or suspending board members, supervisory or executive board members, managers or owners, limiting the activity of the FI or DNFBP, or cancelling a license (AML Law, Article 14).

There are also criminal penalties, including imprisonment or a fine of no less than AED 50 000 (EUR 12 070) and up to AED 5 000 000 (EUR 1.2 million) that apply to any person for non-compliance with PF-TF instructions (AML Law, Article 28). These measures are generally broad, given that “person” is not defined in the AML Law and therefore is interpreted to mean both natural and legal persons. Further, reference to “imprisonment” applying (presumably to natural persons) for non-compliance is difficult to interpret, as it does not specify a term of sentence or degree of crime. However, Article 69 of the Penal Code indicates that if a law does not specify a prison sentence, then the sentence is imprisonment between one month and three years.

#### **Criterion 7.4 –**

- a) There are no procedures enabling listed persons and entities to petition a request for de-listing at the Focal Point for de-listing established pursuant to UNSCR 1730, or informing designated persons or entities to petition the Focal Point directly. UAE authorities cite Article 15 of the UNSCR Decision; however, this article only applies to TF-related UNSCRs and UNSCR 1718, by referring to de-listing from the “Sanctions List,” which does not UNSCR 2231 on Iran. The Office Procedures (Fourth section) contain more detail on de-listing procedures but also only in relation to the Sanctions List.
- b) There are publicly known procedures to unfreeze the funds or other assets of persons or entities with the same or similar name as designated persons or entities, who are inadvertently affected by a freezing mechanism (i.e. a false positive) (UNSCR Decision, Article 17). Affected persons may submit their requests to the Office, who studies the request and issues a decision within 30 days. However, Article 17 applies only to the unfreezing of funds relating to



the persons or organisations listed on the Sanctions List, which does not apply to UNSCR 2231 de-listing requests. The Office Procedures (Fifth section) contain more detail on unfreezing procedures, but also only in relation to the Sanctions List.

- c) Access to frozen funds is provided for in Article 18 for those parties listed on the Sanctions List, in accordance with UN procedures (including notifying and obtaining a non-objection from the relevant Sanctions Committee). However, because the Sanctions List does not apply to UNSCR 2231, exemptions for those listed under this UNSCR would not apply. The Office Procedures (Sixth section) contain more detail on access to frozen funds, but also only in relation to the Sanctions List.
- d) The Office Procedures specify a mechanism to receive and circulate any new or updated resolution, designation or de-listing to financial institutions/DNFBPs (Third section). Article 19 of the UNSCR Decision, and the Office Procedures (Fifth section) provide information regarding de-listing actions and unfreezing funds.

#### **Criterion 7.5 –**

- a) The UNSCR Decision (Article 13) permits the addition to the accounts frozen pursuant to UNSCRs 1718 or 2231 of interests or other earnings due on those accounts or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of this resolution, provided that any such interest, other earnings and payments continue to be subject to these provisions and are frozen, and are reported to the Office.
- b) Article 14 of the UNSCR Decision provides that the implementation of the freezing order pursuant to UN Security Council Resolution 1737 (2006) and 2231 (2015) shall not prevent the entitlement of the individual or organisation listed in the Sanctions List to any payment due under a contract entered into prior to the listing of such individual or organisation, provided that: 1) the Office decides that the contract is not related to any prohibited items, materials, etc. referred to in relevant Security Council Resolutions; 2) the Office decides that the payment will not be directly or indirectly received by a person or organisation listed pursuant to UN Security Council Resolution 1737 (2006); and 3) the Office provides the Sanctions Committee of Security Council Resolution 1737 (2006) with a prior notification, requesting the payment or receipt of such payments, or, if necessary, to authorise unfreezing of the Funds for this purpose, within ten working days prior to the issuance of such authorisation.

The sub-criterion is partly met, due to the following deficiencies: 1) The inclusion of “Sanctions List” is problematic, as it does not include those designated under UNSCR 2231; 2) Yet Article 14 (3) refers to making prior notification to the “Sanctions Committee of Security Council Resolution 2231,” which does not exist (UNSCR 2231 is governed directly by the UN Security Council). This reference is corrected in the Office Procedures (Ninth section, point 3), which refers only to prior notice to the UN Security Council; however, see above regarding the enforceability of this and inconsistency with the UNSCR Decision.



### *Weighting and Conclusion*

The UNSCR Decision of January 2019 creates an improved framework for implementing PF-TFS. However, a number of obligations refer to the “Sanctions List”, which as defined in the Decision does not include UNSCR 2231. As a result, there is: no obligation to freeze the funds or other assets owned, controlled or held, in whole or in part of an individual acting, directly or indirectly on behalf of or as directed, controlled by a (2231) designated person or organisation (c.7.1 and 7.2(b)). This also affects the ongoing prohibition of making funds available (c. 7.2(c)); publicly known procedures for submitting delisting requests, unfreezing funds and access to frozen funds (c.7.4); and freezing actions not preventing a designated person or entity from making a payment due under contract entered into prior the listing of such person or entity (c.7.5(b)).

**Recommendation 7 is rated partially compliant.**

### **Recommendation 8 – Non-profit organisations**

The UAE has not been assessed against the detailed requirements of Recommendation 8 following the 2016 adoption of changes to Recommendation 8 and its Interpretative Note.

Taking a risk-based approach

#### ***Criterion 8.1 –***

- a) UAE has addressed the requirement to identify which subset of organisations fall within the FATF definition of NPO and identified the features and types of NPOs, which, by virtue of their activities or characteristics, are likely at risk of TF abuse.
- m) In its assessment of the NPO sector in the UAE, the authorities divided NPOs by the nine regulators (which generally regulate different types of NPOs) and applied ten criteria to each type of NPO each regulator covered. Criteria included the NPOs’ nature of activities undertaken, funders/donors and recipients, and the nature of NPO services performed. The UAE used a definition of NPO broadly in line with the FATF definition for determining NPOs
- n) The authorities determined that four of the regulators licensed/supervised NPOs that fall under the FATF definition, four did not meet the definition, and one (the Dubai Creative Cluster Authority – DCCA) was “likely no.” The DCCA (now called the DDA) currently only has 10 licensed non-profit associations that are primarily trade associations, which are not licensed to raise or disburse funds for charitable, religious, cultural, or other purposes.
- o) Those NPOs fitting the FATF definition were assigned a risk rating of either “Lower” or “Higher,” based on international typologies, the expertise of UAE officials, and the UAE national context. The ratings were discussed and agreed by UAE officials from relevant competent authorities and were finalised in October 2018. The TF vulnerability assessment concluded that the NPOs most at risk for abuse by terrorist financiers are those supervised by the Islamic Affairs and Charitable Activities Department (IACAD – Dubai jurisdiction), the Ministry of Community Development (MOCD – Federal jurisdiction) and the Rulers of the individual emirates (Emirate-level ruler’s funds). NPOs in the International Humanitarian City (IHC – Dubai Free Zone jurisdiction) were judged to be lower risk given their nature, since they are only

permitted to be branches of foreign/international NPOs, and many of the NPOs are UN agencies, organisations, funds and programs having international presence and worldwide known activities. Furthermore, the intergovernmental status is considered to be low-risk when it comes to money laundering and terrorism financing, especially because the parent NPOs have their own internal policies that manage these types of crimes. The NPOs meeting the FATF definition, by authority and risk, are as follows:

**Table 1. NPOs in the UAE (according to the FATF definition)**

| Authority/ Jurisdiction                                                           | Type/Activity of the NPO                                                                                                                                                                                                                                                                                                                             | Number licensed or registered                                                                                                     | Risk rating |
|-----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------|
| Islamic Affairs and Charitable Activities Department – IACAD (Dubai jurisdiction) | Charitable and Islamic activities that involve donations focused on Islamic matters, such as developing religious awareness, constructing and caring for mosques, developing Quran learning centres, supervising construction of mosques, supporting orphanages and others                                                                           | 15                                                                                                                                | Higher      |
| Ministry of Community Development – MOCD (Federal jurisdiction)                   | The Ministry categorises NPOs in various categories (social, communal, religious, cultural, educational, professional, women's, charity and humanitarian, folk arts and theatre, and scientific) depending upon their main objective. MOCD directly licenses NPOs, which includes foundations funded by wealthy individuals for charitable purposes. | 222                                                                                                                               | Higher      |
| Individual Emirs(rulers)                                                          | Article 120 of the Constitution defines a list of functions (foreign affairs, banks, the post...) that are the exclusive executive or legislative jurisdiction of the federal government. The list does not include NPOs or charitable activities, which means that the Emirate-level NPOs may carry out these functions.                            | 51 (including: Federal: 14 <sup>5</sup><br>Dubai: 23<br>Abu Dhabi: 9<br>RAK: 3<br>UAQ: 2<br>Sharjah: 5<br>Fujairah: 1<br>Ajman: 7 | Higher      |
| International Humanitarian City – IHC (Dubai Free Zone jurisdiction)              | Only branches of foreign NPOs; specifically designed for large non-governmental organisations.                                                                                                                                                                                                                                                       | 64                                                                                                                                | Lower       |

- b) The UAE has identified the nature of threats posed by terrorist entities to the NPOs that are at risk, as well as how terrorist actors may abuse those NPOs. UAE notes that, in line with the NRA, inherent TF risk is tied to the country's demographics (e.g. large transient expat population) and status as a financial hub (i.e., large flow of funds where illegitimate funds could be disguised). Based on these risk factors, the authorities that participated in the NRA identified that terrorist financiers may abuse the NPO sector by falsely posing as a legitimate charity, by exploiting legitimate charities to disguise financial flows, or by diverting funds intended for legitimate uses to finance terrorism.
- c) The UAE has mostly reviewed the adequacy of measures, including laws and regulations that relate to the subset of the NPO sector that may be abused for terrorism financing support in order to be able to take proportionate and effective actions to address the risks identified.
- p) UAE lists a number of seemingly robust measures and controls put in place to prevent TF abuse by the NPO sectors at risk of TF (see criterion 8.2(a)). However, the

<sup>45</sup> This does not refer to a Federal Ruler's Fund, but rather to the UAE Red Crescent.

supervision of NPOs under the jurisdiction of the individual rulers of each of the seven Emirates, each of which has a constitutional right to found, and license their own NPOs, is in the process of transitioning to the MOCD.

q) UAE has also adopted provisions into its AML Law and AML By-law that directly relate to NPOs. These provisions relate to the role of supervisors in supervising the NPO sector, including monitoring compliance with the law, assessing risk, levying enforcement actions, and reviewing the adequacy of legislation in preventing misuse of NPOs.

d) Article 45(3) of the AML By-law states that the competent supervisory authority for NPOs shall commit to periodically reassessing NPOs by reviewing updated information on their potential vulnerabilities, which may be exploited in support of TF. As per the NRA subcommittee's charter, the NPO vulnerability assessment will be re-evaluated every two years.

Sustained outreach concerning terrorist financing issues

**Criterion 8.2 –**

a) UAE has policies to promote accountability, integrity, and public confidence in the administration and management of NPOs. The remaining deficiency relates to the Emirate-level Rulers' Funds.

r) **All NPOs:** For any new NPO, whether being licensed for the first time by an NPO licensing authority (such as MOCD, IACAD, etc.) or renewing its license, the authority must gain approval from the Ministry of Interior (MOI) before issuing any license on owners/founders, board members, and volunteers. This consists (mainly) of a criminal background check. These checks are made pursuant to Art. 3 of Federal Law No. 2 of 2008 Concerning Associations and Domestic Institutions of Public Interest, which indicates that members must be well reputed and of good conduct, and not previously sentenced to imprisonment for a crime.

s) Per Notice No. 79 of 2019 (AML/CFT guidance for financial institutions) all NPOs, regardless of their jurisdiction, must obtain a No Objection Certificate (NOC) from the MOCD in order to open a bank account and an authorisation from the UAE Red Crescent for conducting financial transfers out of the UAE (section 6.4.6). Without such an authorisation, no bank will initiate or accept receipt of an international transfer for an NPO. International funds transfers must also be routed through the UAE Red Crescent (see criterion 8.2(d)).

t) UAE also has a government portal listing the government agencies responsible for social, charitable and humanitarian work within and outside the UAE, as well as links to some NPOs in the UAE (many or all of which seem to be government-affiliated or are government sites with information specific to charities in those jurisdictions).

u) Finally, Article 33(2) of the AML By-law says that each NPO, in coordination with supervisors, must put in place clear policies to promote transparency, integrity, and public confidence in its own administration.

v) **MOCD:** All NPOs under the federal jurisdiction must apply for and receive authorisation from MOCD (Art 7, Federal Law No. 2 of 2008 Concerning Associations and Domestic Institutions of Public Interest). There must be at least 20 founding members, who must be UAE citizens, and they must be considered well reputed and of good conduct (Art.3), which mainly means they will have passed a criminal

background check administered by the Ministry of Interior. The NPO may not exceed the objective determined in its articles of association (Art.15). The NPO must retain registers, including minutes of meetings and account books of revenue expenses corroborated with the accredited documents (Art. 22). MOCD also reviews financial statements from their regulated entities (required by Arts. 29 and 40 of Federal Law No. 2), audited by approved audit forms.

w) There are a number of regulations, decision and controls covering the works of NPOs. The MOCD is updating such regulations as per FATF recommendations and the AML law; MOCD is also drafting a federal law to further organise the fundraising process.

x) **IACAD:** NPOs in Dubai must obtain a license with IACAD – Art. 8 of Dubai Law No.2 of 2011 of the Department of Islamic Affairs and Charitable Activities, and Art 3 of Executive Council Resolution No. 26 of 2013 concerning Charities, Quran Memorisation Centres and Islamic foundations in the Emirate of Dubai. The latter details the licensing procedures, which must be renewed every year (Art. 7). Applicants must submit detailed information on the organisational structure, names of the founders and names and addresses of proposed board members, annual programs, plans and activities, and sources of funding (Art. 6). Founders must be UAE nationals, be financially solvent, be of good conduct and reputable character and never having been convicted of certain offences, e.g. breach of trust (Art. 5). Similar requirements apply to board members, although they need not be UAE nationals (Art. 10).

y) The NPO must spend its funds for the purpose for which it was established, provide the IACAD every three months its bank statements evidencing all financial transactions and provide IACAD with any other required information, and obtain approval from IACAD on the appointment of board members and its chairman, director, personnel, and volunteers (Art. 12). NPOs must maintain records of income and expenditures corroborated by supporting documents and bank account details evidencing all financial transactions, including deposits and withdrawals (Art 18). NPOs obtain approval from IACAD to open a bank account and are subject to audits of their documents, records, books, and data (Art. 12).

z) **IHC:** IHC has recently issued new regulations in 2018 for licensing NPOs with the aim of having them fully comply with AML/CFT standards. NPOs must submit detailed reports of their activities to the IHC authorities. IHC staff approve all shipments of stock out of the free zone. See IHC Regulations Chapter 2, Section 2 (conditions of licensing), Chapter 3, Section 12 (Provision of Information) and Section 13 (Inspection by the Authority), Chapter 4, Section 1 (Conditions of renewal of license), and Chapter 5, Section 2 (Revocation and Cancellation of licenses).

aa) **Emirate-level Ruler's Funds:** The UAE has noted that “since the NPO vulnerability assessment and discussion with the NAMLCFTC, the de facto and the de jure supervisor of Ruler's Funds is the MOCD. The UAE cites Federal Law No. 2 of 2008 as providing the overall authority for the MOCD to supervise ruler's funds not already under a previous MOU. UAE has also noted that, for an Emir to establish an NPO, he must issue a decree, setting controls and procedures for the activities of such NPO and its board. MOCD presumably examines against these controls/procedures. Nevertheless, the policies regarding accountability, integrity, and public confidence in the administration and management of these NPOs are not as clear.

- b) The UAE has undertaken some outreach and conducted educational programmes to raise and deepen awareness among NPOs about the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, and the measures that NPOs can take to protect themselves against such abuse. MOCD has conducted awareness workshops for NPOs regarding the AML/CFT procedures. IACAD holds workshops for NPOs under its supervision, which sometimes touch upon AML/CFT issues (for instance, when new laws or regulations have been promulgated) and conducts annual awareness programs for the public through various programs aimed at raising public awareness of these measures. This includes donation-related awareness sessions conducted in Dubai schools and educational institutions. During the IHC's annual members' meeting, IHC conducts a workshop about its new regulations, where AML/CFT measures and new changes to those measures have been emphasised, to include the new requirement for IHC entities to channel funds through the UAE Red Crescent.
  - c) UAE indicates that authorities have and continue to develop a number of measures and controls with the NPO sector as part of their on-going efforts to mitigate terrorism and TF risks. Article 33 of the AML By-law requires NPOs to adopt best practices adopted by NPO supervisors to mitigate their TF vulnerabilities. Beyond the sessions referenced in part (b) above (which do not seem to directly relate to the development of best practices to address TF risk and vulnerability), no specifics regarding these outreach efforts (e.g., number of sessions held, when, with which NPOs, etc.) and no best practices have been shared with the assessment team.
  - d) All NPOs, in collaboration with the competent supervisory authority, must commit to conducting transactions through official financial channels, taking into consideration the different capabilities of financial services in other countries (AML by-law, Art. 33).
- bb) All NPOs must obtain a license to carry out any financial service, including maintaining a bank account, collecting donations, or sending funds internationally (Federal Decree Law No. 14 of 2008 "Regarding the Central Bank and Organisation of Financial Institutions and Activities, Art. 89, and Central Bank Circular 24/2000, Art. 3.2.). NPOs supervised by the MOCD and IACAD must use bank accounts to deposit cash and make withdrawals (Art. 38 of Federal Law No. 2 of 2008 Concerning Associations and Domestic Institutions of Public Interest, Art.12 of Executive Council Resolution No. 26 of 2013 concerning Charities, Quran Memorisation Centres and Islamic foundations in the Emirate of Dubai. Per Central Bank Circular 24/2000, NPOs licensed by IHC can open bank accounts after receiving the relevant NOC from MOCD. They execute transactions (deposits/withdrawals) that must be reflected in their annual financial report, but they may not collect donations directly using their bank accounts. Rather, donations from individual IHC members' fundraising campaigns are collected into IHC's bank account. Per an MOU between IHC and IACAD, IHC deducts 10% of the total collected amount and remits 90% to the Member after checking on the source of each donation. When the IHC member wishes to send funds raised outside of the UAE (i.e. the 90%), they must use the UAE Red Crescent to remit).
- cc) Per Central Bank of the UAE Circular 24 of 2000, all NPOs, regardless of their jurisdiction, must also obtain a No Objection Certificate (NOC) from the MOCD in order to open a bank account. The NOC must also state whether or not the NPO is



authorised to transfer funds from the account. Without such an authorisation, no bank will initiate or accept receipt of an international transfer for an NPO.

dd) All UAE NPOs that have international activities and need to transfer funds outside the UAE must do so through the UAE Red Crescent (Art 1, Cabinet Resolution no. 6 of 2007 “On donations or financial support provided by associations in the state”). The Red Crescent (Authority) transfers the funds through its own bank account on behalf of the other NPO to a select list of approved foreign NPOs, which in some countries may be the Red Crescent’s own offices. The UAE Red Crescent does not deal with any foreign NPOs (on its own behalf or on behalf of other UAE NPOs) before receiving approval from the MOI.

ee) When the UAE Red Crescent cooperates with NPOs outside the UAE to implement projects for beneficiaries in other countries, it requires the NPO to provide its memorandum of association, the identification documents for its Board of Directors and a letter of recommendation from the Embassy of the that NPO’s country located within the UAE and then approved by the Ministry of Interior. Then, it will conclude a cooperation agreement with these NPOs specifying terms, conditions and obligations. The Conditions are laid out in the Regulations and Conditions to Register and open File for foreign aid issued by the Red Crescent.

Targeted risk-based supervision or monitoring of NPOs

**Criterion 8.3 –** The UAE has taken steps to promote effective supervision or monitoring such that they are able to demonstrate that risk based measures apply to NPOs at risk of terrorist financing abuse.

Under the AML law, supervisory authorities include federal and local authorities that supervise NPOs (Art.1). Supervisors must assess risk and carry out supervision, monitoring, and follow up to ensure compliance with the AML law and by-law (Art. 13). Supervisors must also commit to supervising and monitoring NPOs using a risk-based approach to prevent their misuse for TF and ensuring compliance with their requirements (Art. 45).

**MOCD** is designated to supervise NPOs within its jurisdiction and control financial aspects to ascertain from spending patterns the good management of its financial and real resources to meet the objectives of the NPO. MOCD is authorised to review, at any time the NPO’s books, registers, and documents (Arts. 19 and 20 of Federal Law No.2 of 2008 “Concerning Associations and Domestic Institutions of Public Interest”).

**IACAD** licenses and supervises NPOs within Dubai. IACAD oversees charitable activities, the collection and disposal of donations, and programs and projects launched by its charitable organisations inside and outside of UAE. The IACAD must authorise any third party who wishes to collect donations in Dubai. (Arts. 6-8 of Dubai Law No. 2 of 2011).

**IHC** licenses and supervises NPOs within its jurisdiction. It licenses humanitarian and commercial institutions, determines and classifies the humanitarian and commercial services that may be practices, and monitors and inspects the institutions (Arts 5 and 20 of Dubai Law No. of 2012, “Regarding the International Humanitarian City (IHC)”).

As noted above, the MOCD has taken over supervision of Ruler’s Funds and has begun supervision and monitoring of those NPOs in 2019.



**Criterion 8.4 –**

- a) Most appropriate authorities monitor the compliance of NPOs with the requirements of this Recommendation. See criterion 8.3. From a legal authorities perspective (with respect to all NPOs other than those under the personal jurisdiction of the Emirs), this sub-criterion is met with a combination of the AML Law, AML By-law, and individual laws applicable to each of the individual NPO supervisors. However, the monitoring of activities for the NPOs under the jurisdiction of the seven Emirs (Ruler's funds) is in transition to the MOCD.
- b) The authorities are able to apply a range of proportionate and dissuasive sanctions for violations by NPOs or persons acting on behalf of these NPOs. See analysis under R.8 section of c.35.1. The administrative penalties under Article 14 of the AML Law apply to obligations of NPOs listed in AML By-law, which are contained in Article 33 of the By-law. Further, Article 16 of the AML Law notes that obligations of NPOs are listed in the AML By-law (see Article 33 of the By-law). Therefore, any violations of the By-law would in theory carry penalties under the "catch-all" criminal sanctions provision in Article 31 of the AML Law that applies to any violation of that law. This penalty is imprisonment or a fine of no less than AED 10 000 (EUR 2 390) and no more than AED 100 000 (EUR 23 900). However, these monetary penalties may not be dissuasive in all cases.

Besides the provisions contained in the AML Law and AML By-law, most of Recommendation 8 is implemented through specific laws and regulations of the MOCD, IACAD, and IHC. Violations of these include the following penalties:

- MOCD: liquidation of the NPO for certain violations – e.g. disposal of funds in other than for their lawful intended purpose, refusal to provide information or submitting incorrect information, gross violations against the articles of association (Art. 47, Federal Law No. 2 of 2008 Concerning Associations and Domestic Institutions of Public Interest); a fine of AED 10 000 for any breach of the law, or seizure any funds collected without authorisation (Art. 57).
- IACAD: rectification orders for any breach, written notices, suspending or permanently cancelling the license (Art. 20 of Executive Council Resolution No. 26 of 2013 concerning Charities, Quran Memorisation Centres and Islamic foundations in the Emirate of Dubai).
- IHC: sending rectification orders, sending written notices, imposing fines, suspending or permanently revoking the license. A list of fines and penalties determined by the Board of the IHC is listed in the IHC Regulations 2018, Annex 3 (Art. 26 of Dubai Law 1 of 2012).

Separate from the penalties described in R.35 pertaining to the AML Law, as well as the penalties applicable to the jurisdiction-specific laws and regulations of the MOCD, IACAD, and the IHC, there are also criminal sanctions under Article 181 bis 2/1 of UAE Federal Penal Code regarding forming an unlicensed association.

Effective information gathering and investigation

**Criterion 8.5 –**

- a) Article 45(6) of the AML By-law indicates that NPO supervisors must commit to cooperating, coordinating and exchanging information at the local level

with competent authorities that hold relevant information on NPOs. Article 45(7) and (8), also state, respectively, that NPO supervisors should have experience in TF investigations and should review the information relating to the management of NPOs, including financial information. The MOI also conducts background checks on NPOs' staff, board of directors, and volunteers for each of the NPO licensing bodies. NPO supervisors also have or are developing electronic links with security services to facilitate cooperation for the purposes of law enforcement investigations.

- b) As noted above, Article 45(7) and (8), also state, respectively, that NPO supervisors should have experience in TF investigations and should review the information relating to the management of NPOs, including financial information. The relevant law enforcement and prosecution authorities appear to have the necessary investigative expertise.
- c) It appears that full access to information on the administration and management of particular NPOs (including financial and programmatic information) may be obtained during the course of an investigation. See criterion 8.5(a) above.
- d) Article 45(9) of the AML by-law requires NPO supervisors to commit to establishing mechanisms to ensure that the prompt exchange of information with competent authorities for the purpose of taking preventive measures or investigative action where there is a suspicion that the NPO is: a front for raising funds on behalf of a terrorist organisation; being exploited as a conduit for TF or any other form of terrorism support; or concealing or disguising the flow of funds intended for legitimate purposes, but redirected for the benefit of terrorists or terrorist organisations.

Effective capacity to respond to international requests for information about an NPO of concern

**Criterion 8.6** – Article 45(10) of the AML by-law requires NPO supervisors to commit to determining the appropriate points of contact and procedures required to respond to international requests for information regarding NPOs suspected of TF or being exploited for TF or other forms of terrorism support. According the UAE, this means that the NPO supervisors are themselves the points of contact. All the NPO Supervisors have clear contact details on their websites, including a toll-free number, designated email address, and electronic inquiry forms for any request/inquiry. In the cases of formal MLA requests relating to an NPO, the official channels would be used.

### **Weighting and Conclusion**

The UAE has taken substantial measures on Recommendation 8 and meets or mostly meetings nearly all of the technical criteria. The remaining issues relate to: unclear policies regarding accountability, integrity, and public confidence in the administration and management of Emirate-level Rulers' Funds (c.8.1); lack of developing and refining best practices (c.8.2(c)); and only initial monitoring of Emirate-level Rulers' Funds (c.8.4(a)).

**Recommendation 8 is rated largely compliant.**

## Recommendation 9 – Financial institution secrecy laws

In its last MER, the UAE was rated largely compliant with these requirements. The summary of factors underlying the rating was the lack of clear statutory gateways through which the regulatory authorities may exchange confidential information with domestic authorities and foreign counterparts.

**Criterion 9.1** – There are no financial institution secrecy laws that inhibit the implementation of AML/CFT measures in the UAE.

- a) *Access to information by competent authorities:* Article 49 of the AML By-law explicitly provides that law enforcement authorities shall obtain the information directly from competent authorities even if it is subject to banking secrecy or professional confidentiality.
- b) *Sharing of information between competent authorities:* A range of mechanisms exist to exchange information between agencies at an operational level (see analysis of R.2) and there are no financial institution secrecy laws that inhibit this sharing. Article 38 of the AML By-law also prohibits invoking banking, professional or contractual secrecy in exchange of information among competent authorities at the domestic or international level.
- c) *Sharing of information between FIs:* FIs are prohibited from invoking banking, professional or contractual secrecy to restrict information sharing with other FIs where this is required for the purposes of R.13, 16 or 17 (AML By-law, Art. 38).

### Weighting and Conclusion

All criteria are met.

**Recommendation 9 is rated compliant.**

## Recommendation 10 – Customer due diligence

In its last MER, the UAE was rated non-compliant with these requirements as there were no CDD obligations embedded in law or regulation across all sectors.

**Criterion 10.1** – FIs are prohibited from opening or conducting any financial or commercial transaction under an anonymous or fictitious name or by pseudonym or number, and maintaining a relationship or providing any services to it (AML Law, Art. 16(1)(c), AML By-law, Art. 14).

**Criterion 10.2** – FIs are required to undertake CDD measures in the following cases (AML By-law, Art. 6):

- a) Establishing business relations;
- b) Carrying out occasional transactions above EUR 15 000, whether the transaction is carried out in a single transaction or in several transactions that appear to be linked;
- c) Carrying out occasional transactions that are wire transfers covered under R.16;
- d) There is a suspicion of ML/TF; or

- e) Where there are doubts about the veracity or adequacy of previously obtained customer identification data.

**Criterion 10.3** – FIs are required to identify the customer (including whether permanent or occasional, and whether a natural or legal person or legal arrangement), and verify the customer's identity using documents, data or information or any other identification information from a reliable and independent source or any other identification information (AML By-law, Art. 8(1)). It is not clear whether 'any other identification information' originates from a reliable and independent source.

**Criterion 10.4** – FIs are required to verify that any person purporting to act on behalf of the customer is so authorised. FIs are also required to verify the identity of that person using document, data or information from a reliable and independent source or any other identification information (AML By-law, Art. 8(2)). As identified above in c.10.3, there is no specification whether other identification information comes from a reliable and independent source.

**Criterion 10.5** – FIs are required to identify and verify the customer's identity and the identity of the beneficial owner (AML By-law, Art. 8(1)). A beneficial owner is defined as the natural person who owns or exercises effective ultimate control, directly or indirectly, over a customer or the natural person on whose behalf a transaction is being conducted or, the natural person who exercises effective ultimate control over a legal person or legal arrangement (Art 1 AML Law, Art. 1; AML By-law, Art. 1).

**Criterion 10.6** – FIs are required to conduct CDD (AML Law, Art. 16/b) which includes identifying the purpose of the business relationship. FIs are also required to understand the intended purpose and nature of the business relationship and obtain, where necessary, information related to this purpose (AML By-law, Art. 8(3)).

**Criterion 10.7** – FIs are required to conduct ongoing customer due diligence measures and ongoing supervision of business relationships, including:

- a) audit transactions that are carried out through the period of the business relationship, to ensure that the transactions carried out are consistent with the FIs information about the customer, their type of activity and the risks they pose, including – where necessary – the source of funds (AML By-law, Art. 7(1))
- b) ensuring that documents, data or information obtained under CDD measures are up to date and appropriate by reviewing the records, particularly those of high-risk customer categories (AML By-law, Art. 7(2)).

**Criterion 10.8** – FIs are required to understand the nature of the customer's business as well as the customer's ownership and control structure (AML By-law, Art. 8(4)).

**Criterion 10.9** – FIs are required to verify the identity of legal persons and arrangements as follows:

- name, and legal form (AML By-law, Art 8(1)(b)(1));
- the powers that regulate and bind the legal person or arrangement (requirement for Memorandum of Association and Articles of Association) (AML By-law, Art. 8(1)(b)), as well as the names of the relevant persons holding

a senior management position in the legal person or legal arrangement (AML By-law, Art.8(1)(b)(4));

- the address of the registered office and, if different, a principal place of business. If the legal person or arrangement is foreign, it must mention the address of its legal representative in the State and submit the necessary documents as proof. (AML By-law, Art.8(1)(b)(2)).

**Criterion 10.10** – FIs are required to conduct CDD on legal persons including the identification and verification of the beneficial owner (AML Law, Art. 16(b)).

- FIs are required to take reasonable measures to identify the beneficial owners, legal persons, and legal arrangements for a customer, and verify it by using information, data, or documents acquired from a reliable source, by the following (AML By-law, Art.9(1));
- Obtaining the identity of the natural person(s), whether working alone or with another person, who has a controlling ownership interest in the legal person of 25% or more, and in case of failing or having doubt about the information acquired, the identity should be verified by other means;
- In the event of failing to verify the identity of the natural person exercising control as per paragraph (a) or the person (s) with the controlling ownership interest is not the Beneficial Owner, the identity shall be verified for the relevant natural person(s) holding the position of senior management officer, whether one or more persons (AML By-law, Art.9(1)(b)).

However, the legislation does not adequately cover control of the legal person “through other means” where there is a doubt as to whether the controlling ownership interest is the beneficial owner or where no natural person exerts control through ownership interests.

**Criterion 10.11** – FIs are required to conduct CDD on legal arrangements including the identification and verification of the beneficial owner (AML Law, Art. 16(b)). Article 9(2) of the AML By-law states:

- Verifying the identity of the settlor, the trustee(s) or anyone holding a similar position, the identity of beneficiaries or a class of beneficiaries, the identity of any other natural person exercising ultimate effective control over the legal arrangement,

However, the legislation does not specifically refer to ultimate effective control being exercised through a chain of control/ownership.

**Criterion 10.12** – In addition to the CDD measures required for the customer and Beneficial Owner, FIs are required to conduct CDD measures and ongoing monitoring of the beneficiary of life insurance policies and funds generating transactions, including life insurance products relating to investments and family Takaful insurance (life insurance), as soon as the beneficiary is identified or designated as follows (AML By-law, Art.11(1)):

- a) For the beneficiary identified by name, the name of the person, whether a natural person a legal person or a legal arrangement, shall be obtained (AML By-law, Art.11(1)(a));
- b) For a beneficiary designated by characteristics or by class – such as a family relation like parent or child, or by other means such as Power of Attorney or

Will – it shall be required to obtain sufficient information concerning the beneficiary to ensure that the Financial Institution will be able to establish the identity of the beneficiary (AML By-law, Art. 11(1)(b));

- c) In all cases FIs are required to verify the identity of the beneficiary at the time of the pay-out (AML By-law, Art.11(2)).

**Criterion 10.13** – There is no explicit requirement to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable. There is a general requirement that FIs should verify the identity of the beneficiary at the time of the payout as per the insurance policy or prior to exercising any rights related to the policy. That requirement means that if the FI identifies the beneficiary of the insurance policy to be a high-risk legal person or arrangement, then it should conduct enhanced CDD measures to identify the beneficial owner of that beneficiary, legal person, or legal arrangement (AML By-law, Art. 11(2)).

**Criterion 10.14** – In general, FIs are required to undertake CDD measures to verify the identity of the customer and the beneficial owner before or during the establishment of the business relationship or opening an account, or before executing a transaction for a customer with whom there is no existing business relationship (AML By-law, Art.5 (1)).

In cases where there is a low ML/TF risk, it is permitted to complete verification of customer identity after establishment of the business relationship, under the following conditions:

- a) The verification will be conducted in a timely manner as of the commencement of business relationship or the implementation of the transaction.
- b) The delay is necessary in order not to obstruct the natural course of business.
- c) The implementation of appropriate and effective measures to control the risks of the Crime.

**Criterion 10.15** – There is a general requirement that FIs are required to take measures to manage the risks in regards to the circumstances where customers are able to benefit from the business relationship prior to verification (AML By-law, Art 5(2)).

**Criterion 10.16** – FIs are required to apply CDD requirements to customers and ongoing business relationships within such times as deemed appropriate based on relative importance and risk priority, taking into account if CDD measures were applied before. The FI should also ensure the sufficiency of data previously acquired (AML By-law, Art.12).

**Criterion 10.17** – FIs are required to perform enhanced due diligence where the ML/TF risks are higher (AML By-law, Art. 4(2)(b)). There is a requirement to consider risk in line with the results of the National Risk Assessment.

**Criterion 10.18** – After identifying and assessing risks and taking steps to mitigate risks, taking into account the results of the NRA, FIs are only permitted to apply simplified CDD measures to manage and limit identified low risks. The simplified measures are required to be commensurate with the lower risk factors, and are not acceptable whenever there is suspicion of ML/TF (Art. 4 (3), AML By-law). There is, however, no restriction on not applying simplified CDD when specific higher risk situations apply.



**Criterion 10.19** – Where an FI is unable to comply with relevant CDD measures, it is required to (AML By-law, Art 13(1)) they:

- a) Are prohibited from establishing or maintaining a business relationship or executing any transaction and;
- b) Should consider reporting a suspicious transaction to the FIU.

**Criterion 10.20** – In cases where FIs form a suspicion of ML/TF, FIs should not apply CDD measures if they have reasonable grounds to believe that undertaking such measures would tip-off the customer and they should report a suspicious transaction to the FIU along with the reasons having prevented them from undertaking CDD measures (AML By-law, Art. 13(2)).

### **Weighting and Conclusion**

While most of the CDD measures put in place by the UAE meet the FATF Standards, minor deficiencies exist: it is not clear whether ‘any other identification information’ originates from a reliable and independent source; there is no express requirement to verify the proof of existence of a legal person or legal arrangement; the legislation does not adequately cover control of the legal person “through other means”; the legislation does not specifically refer to ultimate effective control being exercised through a chain of control/ownership; there is no explicit requirement to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable.

**Recommendation 10 is rated largely compliant.**

### **Recommendation 11 – Record-keeping**

In its last MER, the UAE was rated largely compliant with these requirements. The summary of factors underlying the rating were that there was no clear requirements relating to the retention of account opening documents in the domestic securities sector and record-keeping requirements in the domestic insurance sector were based on the time at which the contract was issued, not the time of termination of the relationship.

**Criterion 11.1** – FIs are required to maintain all records, documents, data and statistics for all financial transactions, commercial and cash transactions, whether local or international for a period of no less than five years from the date of completion of the transaction. (AML Law, Art. 16(1)(f) and AML By-law, Art. 24(1)).

**Criterion 11.2** – FIs are required to keep all records obtained through CDD measures, account files and business correspondence and results of analysis undertaken for at least five years following the termination of the business relationship or after the date of the occasional transaction (AML Law, Art.16 AML By-law, Art.24(2)).

Art.24(2) of the AML By-law includes an additional requirement to hold records for five years from the date of completion of inspection by Supervisory authorities, or from the date of issuance of final judgment of the competent judicial authorities.

**Criterion 11.3** – FIs are required to keep the records, documents and data organised so as to permit data analysis and tracking of financial transactions (AML By-law, Art. 24(3)). However, there is no explicit requirement that the records should be

sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.

**Criterion 11.4** – Financial Institutions and DNFBPs shall make all Customer information regarding CDD towards Customers, ongoing monitoring and results of their analysis, records, files, documents, correspondence and forms available immediately to the competent authorities upon request (AML By-law, Art.24(4)).

### **Weighting and Conclusion**

There is no explicit requirement that the records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.

**Recommendation 11 is rated largely compliant.**

## **Recommendation 12 – Politically exposed persons**

In its last MER, the UAE was rated non-compliant with these requirements as it did not have in place any specific requirements as to PEPs in the domestic banking, securities and insurance sectors.

**Criterion 12.1** – In addition to performing the CDD measures under R.10, FIs are required to carry out the following in respect of foreign PEPs (AML By-law, Art.15):

- a) put in place risk management systems to determine whether a customer or the beneficial owner is considered a PEP (AML By-law, Art.15(1)(a));
- b) obtain senior management approval before establishing a business relationship, or continuing an existing one, with a PEP (AML By-law, Art.15(1)(b));
- c) take reasonable measures to establish the source of funds of customers and beneficial owners identified as PEPs (AML By-law, Art.15(1)(c));
- d) conduct enhanced ongoing monitoring on that relationship (AML By-law, Art.15(1)(d)).

However, there is no requirement to establish the source of wealth of customers and beneficial owners.

**Criterion 12.2** – In relation to domestic PEPs and individuals previously entrusted with prominent functions at international organisations, FIs are required to (AML By-law, Art.15(1)):

- a) Take sufficient measures to identify whether the customer or the beneficial owner is considered one of those persons.
- b) Take the measures identified in relation to clauses b) to d) under c.12.1 above, when there is a high risk business relationship accompanying such persons.

However, there is no requirement to establish the source of wealth of customers and beneficial owners, which is equally an issue under c.12.1.

**Criterion 12.3** – The measures set out in c.12.1 apply to the family members and close associates of all types of PEPs (AML By-law, Art.1 – definition of PEP).

**Criterion 12.4** – FIs are required to take reasonable measures to determine the beneficiary or beneficial owner of life insurance policies and family takaful insurance.

If an individual is identified as a PEP, FIs are required to inform senior management before the pay-out of those policies, or prior to the exercise of any rights related to them, in addition to conduct enhanced scrutiny on the overall business relationship, and consider making an STR to the FIU (AML By-law, Art.15(2)).

### *Weighting and Conclusion*

There is no requirement to establish the source of wealth of customers and beneficial owners who are PEPs.

**Recommendation 12 is rated largely compliant.**

## **Recommendation 13 – Correspondent banking**

In its last MER, the UAE was rated non-compliant for the requirements on correspondent banking. The summary of factors underlying the rating indicated that there was an absence of any provisions relating to correspondent banking in the UAE.

**Criterion 13.1** – With regard to cross-border correspondent banking relationships and other similar relationships, financial institutions are required to take the following measures (AML By-law, Art. 25):

- a) Collect sufficient information about any receiving correspondent banking institution for the purpose of identifying and achieving a full understanding of the nature of its work, and to make available, through publicly available information, its reputation and level of control, including whether it has been investigated. (Art 25 (1)(b))
- b) Evaluate AML/CFT controls applied by the receiving institution. (Art 25 (1)(c))
- c) Obtain approval from senior management before establishing new correspondent banking relationships. (Art 25 (1) (b))
- d) Understand the responsibilities of each institution in the field of combatting ML/TF. (Art 25 (1) (e))

**Criterion 13.2** – With respect to intermediate payment accounts, the financial institution should be required to a) ensure that the receiving institution has taken CDD measures towards customers who have direct access to those accounts and b) that it is able to provide CDD information to the relevant customers upon request of the correspondent institution. (AML By-law, Art 25 (2)).

**Criterion 13.3** – FIs shall refrain from entering into or maintaining a correspondent banking relationship with shell banks or with an institution that allows their accounts to be used by shell banks (AML By-law, Art. 25(1)(a)).

### *Weighting and Conclusion*

All criteria are met.

**Recommendation 13 is rated compliant.**

## **Recommendation 14 – Money or value transfer services**

In its last MER, the UAE was rated non-compliant with these requirements. The deficiencies focused on the lack of formal, legally enforceable obligations imposed on

hawaladars, no legal powers to oversee the activities of hawaladars to ensure compliance with standards of CDD, record keeping etc. There were limitations on standards applied to remitters in the formal sector as reflected in analysis of relevant recommendations covering the financial sector.

**Criterion 14.1** – - MVTS in UAE is provided by banks, exchange houses and hawaladars. Providers of MVTS shall be licensed by or registered with the competent supervisory authority (AML By-law, Art. 26(1)).

In the mainland, MVTS providers are licensed by the Central Bank (BSD) (Federal law No.14, Art. 67(1), Art. 65(1)) and as per regulations issued by the central bank (Regulations relicensing and monitoring of exchange business, 2014 (Article 1(1)(1), Art.1 (2)(2)). New Hawaladar regulations issued in May 2019 clarify that all hawala dealers operating through the UAE must register with the Central Bank (Hawaladar Regulation, Art. 2(1)).

In the DIFC, the DFSA defines the scope of financial services offered in the DIFC; the DFSA rulebook defines providing money services as a financial service (Dubai Law No. 1 of 2004, Art. 42). The DFSA does not currently permit the provision of MVTS as a financial service in the DIFC. A person carrying on this service would contravene a DFSA Rule and the general prohibition in DIFC Law No. 1 of 2004 against carrying on a financial service without authorisation.

In ADGM the provision of currency exchange or money transmission in the ADGM (i.e. Providing Money Services) is a “Regulated Activity” that requires a Financial Services Permission (FSP) granted by the Financial Services Regulatory Authority (FSRA) (Financial Services and Markets Regulations 2015, section 17 and section 57 of Schedule 1).

**Criterion 14.2** – The supervisory authority shall take action where MVTS providers are found without a license or registration in accordance with their effective legislation (AML By-law, Art. 26 (1)).

In the Mainland, a licensed FI must carry on its business within the scope of the license granted to it. Equally, no person may claim being a licensed FI, if it is not the case as (Federal Law No. 14 of 2018, Art.68(1), Art.68(2)). There are proportionate and dissuasive sanctions available that include imprisonment and fines between (AED 200 000 – 10 000 000) (around EUR 48 500 – 2.4 million, (Federal Law No. 14 of 2018, Art.142).

In the DIFC, a person may not carry financial services unless authorised and licensed (DIFC Law No.1 of 2004, Art 42). In case of any contravening of DFSA’s legislation, the DFSA may issue one or more sanctions (DIFC Law No.1 of 2004, Art 90). Sanctions can include a fine (with no upper limit), publicly censuring the person, prohibiting the person from holding office or being an employee of an FI.

In ADGM, a person cannot carry a regulated activity unless authorised (although it is unclear if MVTS is included) (General Prohibition, Art. 16). In case of contravening said prohibition, then regulator may consider imposing a financial penalty (Art.232). Sanctions also include public censure, private warnings, and applying to the ADGM Court for injunctions and court orders.

The UAE has taken action against some natural and legal persons that carry out MVTS without a license or registration – this is covered under Immediate Outcome 3. However, it has not been possible to demonstrate that this has occurred across all

areas of the UAE (particularly by the DEDs) and that proportionate and dissuasive sanctions have been applied.

**Criterion 14.3** – The Supervisory Authority shall take the necessary measures to ensure that licensed or registered providers are subject to monitoring for AML/CFT compliance (AML By-law 2019, Art 26(1)).

**Criterion 14.4** – MVTS providers shall keep an up-to-date list of their agents and make them available to the relevant authorities within the country in which the MVTS providers and their agents operate (AML by-Law, Art 26(2)). Furthermore, in mainland the central bank requires licensing all persons that enter into an agreement with MVTS (Standards for the regulations regarding licensing and monitoring of exchange business, Art. 1(2)(2)).

**Criterion 14.5** – Providers of MVTS shall engage their agents in AML/CFT programmes and monitor them for compliance with these programmes (AML By-law, Art. 26(2)).

### *Weighting and Conclusion*

No information provided by the UAE as to how to identify the natural or legal persons that carry out MVTS without a license or registration, or actual actions being taken in this regard.

**Recommendation 14 is rated largely compliant.**

## **Recommendation 15 – New technologies**

In its last MER, UAE was rated largely compliant with the requirements for new technologies. The 2012 FATF Recommendations set out new requirements which go beyond the former R8.

**Criterion 15.1** – FIs are required to identify and assess the ML/TF risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products (AML By-law, Art. 23(1)).

The country has not fully identified and assessed the ML/TF risks of new technologies. The UAE has established a new NRA subcommittee whose mandate includes monitoring and emerging threats and vulnerabilities associated with new technologies.

**Criterion 15.2** – (a) and (b) FIs are required to assess risks prior to the launch or use of products, practices or technologies, and take appropriate measures to manage and mitigate such risks (AML By-law, Art.23(2)).

### *Weighting and Conclusion*

The country has not fully identified and assessed the ML/TF risks of new technologies.

**Recommendation 15 is rated largely compliant.**

## Recommendation 16 – Wire transfers

In its last MER, the UAE was rated non-compliant with these requirements. The major deficiency was that there were only very limited provisions in place with respect to wire transfers. There were no specific regulations that specify the complete process institutions should undertake when both remitting and receiving wire transfers. The threshold for completing customer identification and verification procedures was too high and needed to be reduced from AED 40 000 to the equivalent of no more than USD 1 000.

**Criterion 16.1 – (a)** FIs shall ensure that all cross-border wire transfers equal to or exceeding AED 3 500 (approximately EUR 840) are always accompanied by the following data: the name of the originator, his or her identity number or travel document, date and place of birth, address and account number. In the absence of an account, the transfer must include a unique transaction reference number which allows the process to be tracked, and the name of the beneficiary and his account number used to make the transfers (AML By-law, Art.27(1)(a)).

**(b)** FIs shall ensure that all international wire transfers equal to or exceeding AED 3 500 are always accompanied by the following data: the name of the beneficiary and the account number used to make the transfers. In the absence of an account, the transfer must include a unique transaction reference number which allows the process to be tracked. (AML By-law, Art.27(1)(b)).

**Criterion 16.2** – In the event that several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, the batch file shall contain required and accurate originator information, and full beneficiary information, that is fully traceable within the beneficiary country; and the financial institution shall be required to include the originator's account number or unique transaction reference number (AML By-law, Art.27(2)).

**Criterion 16.3** – FIs shall ensure that all cross-border wire transfers less than AED 3 500 are always accompanied by the data in criterion 16.1, without the need to verify the accuracy of the data referred to, unless there are suspicions about committing ML/TF (AML By-law, Art.27(3)).

**Criterion 16.4** – FIs are not required to verify the accuracy of information pertaining to its customer, unless there are a suspicion about committing ML/TF (AML By-law, Art.27(3)).

**Criterion 16.5** - The domestic wire transfers, which the ordering financial institution shall ensure that the information accompanying the wire transfer includes originator information as indicated in criterion 16.1, unless this information can be made available to the beneficiary financial institution and competent authorities by other means (AML By-law, Art.27(4)).

**Criterion 16.6** – The information accompanying the domestic wire transfer can be made available to the beneficiary financial institution and competent authorities by other means. The ordering financial institution shall be only required to include the account number or a unique transaction reference number, provided that this number or identifier will permit the transaction to be traced back to the originator or the beneficiary. And the ordering financial institution shall make the information available within three business days of receiving the request either from the beneficiary financial institution or from competent authorities means (AML By-law,



Art.27(5)). LEAs are able to compel immediate production of such information (see Recommendation 31).

**Criterion 16.7** – The ordering financial institutions shall keep all information about the originator and the beneficiary collected in accordance with the provisions of Article (24) of the AML By Law 2019 (AML By-law, Art.27(7)).

**Criterion 16.8** – FIs shall not carry out wire transfers if they fail to comply with the conditions set out in Article 24 of the AML By-law 2019 (AML By-law, Art.27(6)).

**Criterion 16.9** – An intermediary financial institution shall ensure that all originator and beneficiary information that accompanies a wire transfer is retained with it for cross-border wire transfers (AML By-law, Art.28(1)).

**Criterion 16.10** – Where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, the intermediary FIs shall keep a record of all the information received from the ordering financial institution or another cross-border intermediary FI, in accordance with the provisions of Article 24 of the AML By-law 2019 (AML By-law, Art.28(2)).

**Criterion 16.11** – Intermediary FIs shall take reasonable measures, which are consistent with straight-through processing, to identify cross-border wire transfers that lack required originator information or required beneficiary information (AML By-law, Art.28(3)).

**Criterion 16.12** – Intermediary FIs shall have risk-based policies and procedures for determining when to execute, reject, or suspend a wire transfer; and the appropriate follow-up action (AML By-law, Art.28(3)).

**Criterion 16.13** – Beneficiary FIs shall take reasonable measures, to identify cross-border wire transfers that lack required originator information or required beneficiary information, which may include real-time monitoring where feasible or post-event monitoring (AML By-law, Art.29(1)).

**Criterion 16.14** – Cross-border wire transfers of AED 3 500 or more, a Beneficiary FI shall verify the identity of the beneficiary, if the identity has not been previously verified. FIs should keep all collected information about the originator and the beneficiary according to Article (24) of the AML By-Law 2019 (AML By-law, Art.29(2) & (4)).

**Criterion 16.15** – Beneficiary FIs shall have risk-based policies and procedures determining when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and for determining the appropriate follow-up action means (AML By-law, Art.29(3)).

**Criterion 16.16** – MVTs providers shall comply with all of the relevant requirements of Articles (27), (28), and (29) of the AML By-Law 2019, whether they operate directly or through their agents (AML By-law, Art.30(1)).

**Criterion 16.17** –

- a) MVTs providers that control both the ordering and the beneficiary side of a cross-border wire transfer must take into account all information from both the ordering and beneficiary sides in order to determine whether an STR is to be filed (AML Law, Art.15 & AML By-law Art. 30(2)(a)).

- b) The MVTs provider must also send the STR to the FIU 'in the relevant country', meaning the country affected by the suspicion, whether the ordering or beneficiary country (AML By-law, Art. 30(2)(b)).

**Criterion 16.18** – All natural and legal persons in the UAE, including FIs, are required to take freezing action and comply with prohibitions from conducting transactions with designated persons and entities when conducting wire transfers (AML By-law, Art.60) (See also the analysis of R.6).

### *Weighting and Conclusion*

All criteria are met.

**Recommendation 16 is rated compliant.**

## **Recommendation 17 – Reliance on third parties**

In its last MER, the UAE was rated largely compliant with these requirements. Deficiencies related to uncertainty about provisions governing sales of insurance products through domestic brokers and agents.

**Criterion 17.1** – FIs are permitted to rely on third-parties to apply CDD measures of their behalf, but the FIs remain ultimately liable for any failure to apply such measures (AML By-law, Art.19(1)). FIs are required to:

- a) obtain immediately the necessary CDD information (AML By-law, Art.19(1)(a));
- b) ensure that copies of the necessary documents for CDD measures can be obtained without delay and upon request (AML By-law, Art.19(1)(a));
- c) ensure that the third party is regulated and supervised, and adheres to the CDD measures towards CDD and record-keeping requirements (AML By-law, Art.19(1)(b)).

**Criterion 17.2** – FIs are required to take into consideration high-risk countries identified by the National Committee when looking to rely on a third party to undertake the necessary CDD measures (AML By-law, Art. 19(1). This is somewhat limiting as the National Committee has only designated countries in the FATF Public Statement as high risk, rather than having regard to information available on country risk more broadly.

**Criterion 17.3** – A FI can rely on a third-party introducer which is part of the same financial group, if the following conditions exist (AML By-law, Art. 19(2)):

- a) the group applies CDD, PEP and record-keeping requirements and implements programs for combatting money laundering and terrorist financing in accordance with Recommendation 18 (AML By-law, Art. 19(2)(a));
- b) Supervision at financial group level, of the implementation of the CDD, PEP, record-keeping requirements and AML/CFT programs (AML By-law, Art. 19(2)(a));
- c) the group must mitigate any higher country risk through its AML/CFT policies (AML By-law, Art. 19(2)(b)).

While the key criteria of this section appear to be met, the deficiency in relation to consideration of high-risk countries in Criterion 17.2 has an impact on application of

this criteria where a group may not have to consider levels of country risk beyond what is determined by the National Committee (which has only designated those countries in the FATF Public Statement as high risk).

### *Weighting and Conclusion*

Taking into account the level of country risk when relaying on third parties is limited to countries in the FATF Public Statement, rather than having regard to information available on country risk more broadly.

**Recommendation 17 is rated largely compliant.**

## **Recommendation 18 – Internal controls and foreign branches and subsidiaries**

In its last MER, the UAE was rated partially compliant with the internal control requirements and largely compliant with the foreign branches and subsidiaries requirements. There were no provisions governing the role of the designated compliance officer, limited requirements with respect to an adequately resourced, independent AML audit function, no requirements to have screening for all relevant staff and no staff training requirements in the insurance sector. There were equally limits to the basis on which institutions must inform the regulators on restrictions on their foreign branches' ability to implement appropriate AML controls.

**Criterion 18.1** – FIs are required to implement policies, procedures and controls for combatting ML/TF, which have regard to the ML/TF risks and the nature and size of the business, and to continuously update them, and to apply them to all branches and subsidiaries in which it holds a majority interest (AML By-law, Art.20), including the following:

- a) Compliance management arrangements for combatting ML/TF including the appointment of a compliance officer (AML By-law, Art 20(3));
- b) Screening procedures to ensure the availability of high competence and compatibility standards when hiring staff (AML By-law, Art.20(4));
- c) Preparation of periodic programs and workshops in the field of combatting ML/TF to build the capabilities of compliance officers and other competent employees (AML By-law, Art.20(5));
- d) An independent audit function to test the effectiveness and adequacy of internal policies, controls and procedures related to ML/TF (AML By-law, Art.20(6)).

In the mainland the obliged FIs to appoint a compliance officer and the position should be at a *management level* (FI Guidance Section 8.1.1), which is not considered as enforceable means.

**Criterion 18.2** – FIs are required to implement group-wide AML/CFT programmes which are applicable to all branches and majority-owned subsidiaries of the financial group (AML By-law, Art.31). These include the measures in c18.1 (AML By-law, Art.20) and:

- a) Policies and procedures for the exchange of information required for the purposes of CDD and risk management in relation to ML/TF (AML By-law, Art.31(1));

- b) The provision of customer information, accounts, and transactions from the branches and subsidiaries to the compliance officers at a Financial Group level, whenever necessary for the purpose of combating ML/TF. (AML By-law, Art.31(2));
- c) Adequate safeguards on the confidentiality and use of the information exchanged (AML By-law, Art.31(1)).

**Criterion 18.3** – FIs should ensure that their foreign branches and majority-owned subsidiaries apply AML/CFT measures consistent with UAE requirements where the minimum AML/CFT measures of the other country are less strict than those applied in the UAE, to the extent permitted by that other country's laws and regulations permit (AML By-law, Art.32(1)).

If the other country does not permit the appropriate implementation of AML/CFT measures consistent with the UAE, FIs shall take additional measures to manage ML/FT risks related to their operations abroad and reduce them appropriately, inform the supervisory authority in the State of the matter and abide by the instructions received from it in this regard (AML By-law, Art.32(2)).

### *Weighting and Conclusion*

There is no enforceable requirement for FIs to appoint a compliance officer at the management level.

**Recommendation 18 is rated largely compliant.**

## **Recommendation 19 – Higher-risk countries**

In its last MER, the UAE was rated partially compliant with these requirements as there were no obligations on domestic securities companies in relation to higher risk countries. There was also no process in place for alerting institutions to jurisdictions that might have significant weaknesses in AML controls and no arrangements under which the authorities might require institutions to take countermeasures.

**Criterion 19.1** – FIs must apply enhanced due diligence measures proportionate to the risk level that may arise from business relationships and transactions with natural or legal persons from high-risk countries. They must further implement the measures defined by the National Committee on high risk countries (AML By-law, Art. 22(1) and (2)).

The National Committee is to identify high ML/TF risk countries and instruct supervisors to ensure adherence to required CDD procedures to entities under their supervision (AML Law, Art. 12(3)). When identifying higher-risk countries, the National Committee should be coordinating with the relevant authorities and referring to related international sources of information in order to identify high-risk countries in relation to ML/TF (AML Law, Art.12).

Through Decision No.2 (of January 2019), the NAMLCFT endorsed the FATF Public Statement of October 2018, as well as any subsequent updates, and instructs regulatory authorities (federal and local authorities) to ensure that financial institutions, DNFBPs and non-profit organisations subject to their supervision implement the measures required in respect of FATF Public Statement on high risk jurisdictions in the area of money laundering and financing terrorism. Since the FATF

calls for enhanced due diligence to be applied, the provisions in the AML law, by-law, and Decision No. 2 (indirectly) fulfil this criterion.

**Criterion 19.2** – The National Committee has the power to identify high-risk countries through reference to international sources of information including by: (a) the FATF; and (b) independently of any call by the FATF ((AML Law, Art.12). However, the types of measures that can be imposed are limited to CDD measures as defined by the Committee regarding high-risk countries (AML Law, Art. 22).

The FI Guidance (Section 6.4.3) indicates that FIs are obliged to implement all specific EDD measures and counter-measures regarding high risk countries as defined by the NAMLCFTC, including those called for by the FATF and/or other FSRBs. This is also called for in Decision No. 2 of 2019. The guidance indicates that FIs should consider establishing adequate internal policies, procedures and controls, and gives examples such as considering the organisation's risk appetite and customer acceptance policies pertaining to the business. However, these are mostly not examples of countermeasures as specified in the Interpretative Note to Recommendation 19 (or in the FATF Public Statement of June 2019), and the guidance is not considered enforceable means. While the requirements of c.19.1 are met due to the link between the National Committee decision and the specific requirements for enhanced due diligence in the AML By-law, there is no similar link for counter-measures. Therefore, the legal basis to apply counter-measures is therefore limited.

**Criterion 19.3** – There are not sufficient measures in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries. There is only Decision 2 of 2019, which only advises about the risks related to the (two) countries in the FATF Public Statement.

### **Weighting and Conclusion**

FIs must apply enhanced due diligence to countries when called up by the FATF. But the legal basis to apply counter-measures is limited (and counter-measures specified in guidance are mostly limited to normal enhanced CDD measures). There are not sufficient measures in place to ensure that FIs are advised of concerns about weaknesses in the AML/CFT system of other countries.

**Recommendation 19 is rated partially compliant.**

## **Recommendation 20 – Reporting of suspicious transaction**

In its last MER, the UAE was rated non-compliant with these requirements. There was no obligation in law or regulation to report suspicions related to TF. There was an absence of a defined basis upon which money laundering suspicions should be reported, lack of clarity about the scope of the reporting obligation and no obligation to report attempted transactions for either ML or TF.

**Criterion 20.1** – If an FI suspects or has reasonable grounds to suspect that a transaction or funds representing all or some proceeds, or suspicion of their relationship to ML/TF or that they will be used regardless of their value, to inform the FIU directly and without delay, and provide the FIU with a detailed report including all the data and information available regarding that transaction and the parties involved, and to provide any additional information requested by the FIU, with no right to object under the confidentiality provisions (AML Law, Art. 15; AML By-law, Art. 17(1)).

**Criterion 20.2** – FIs are required to report all suspicious transactions, regardless of the amount of the transaction (AML Law, Art. 15(5)). “Suspicious transaction” is defined to include transactions related to funds for which there are reasonable grounds to suspect that they are earned from any felony or misdemeanour, or related to the financing of terrorism or of illegal organisations, whether committed or attempted (AML Law, Art. 1).

### **Weighting and Conclusion**

All criteria are met.

**Recommendation 20 is rated compliant.**

## **Recommendation 21 – Tipping-off and confidentiality**

In its last MER, the UAE was rated partially compliant with these requirements. The tipping-off offence was narrowly defined to include actions related to the customer only and there were concerns relating to the obligation imposed on institutions to notify customers immediately of a temporary freezing order imposed by the Central Bank.

**Criterion 21.1** – FIs and their directors, officers and employees are protected by law from criminal, civil and administrative liability in relation to their providing any requested information or violating any obligation under legislative, contractual and administrative directives aimed at securing confidentiality of information unless the disclosure is made in bad faith or with the intent of causing damages to others (AML Law, Art.27). Beyond this, FIs, their board members, employees and authorised representatives shall not be legally liable for any administrative, civil or criminal liability for reporting when reporting to the FIU or providing information in good faith (AML By-law, Art. 17).

However, there is no explicit legal requirement that protection should be available even if the individual did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.

**Criterion 21.2** – Financial institutions, their managers, officials or staff, shall not disclose, directly or indirectly that they have reported or are intending to report a STR, nor shall they disclose the information or data contained therein, or that an investigation is being carried out in this regard (AML By-law, Art 18(1)). Any person who notifies or warns a person or reveals a transaction under review in relation to a STR or an investigation by the competent authorities faces imprisonment for no less than six months and a fine (AML Law, Art. 25).

### **Weighting and ConclusionA**

There is no explicit legal requirement that protection should be available even if the individual did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.

**Recommendation 21 is rated largely compliant.**

## **Recommendation 22 – DNFBPs: Customer due diligence**

In its last MER, the UAE was rated non-compliant with these requirements. The deficiencies related to: regulators not having issued AML/CFT regulations for DNFBPs (except for the DFSA) and lawyers and accounts were not covered under



AML or CFT requirements. With the introduction of the AML Law in 2018, all DNFBPs are covered under AML/CFT requirements.

**Criterion 22.1** – DNFBPs are required to comply with the CDD requirements set out in R.10 (see AML Law, Art. 16) in the following situations:

- a) Casinos – Not applicable as gambling is prohibited in the UAE and therefore casinos are prohibited and therefore not subject to AML/CFT requirements (Penal Code, Art. 413-416). This includes gambling on ships (the Penal Code applies to crimes that occur on ships in ports and in territorial waters. In terms of online gambling, gambling websites are blocked by the Telecommunication Regulatory Authority (TRA).
- b) Real estate agents – when they are involved in transactions for a client concerning the buying and selling of real estate. Real estate agents are subject to the AML/CFT requirements when they “conclude operations” for the benefit of customers (AML By-law, Art. 3(1)).
- c) Dealers in precious metals and dealers in precious stones – when they engage in any cash transaction, or interrelated transactions, with a customer equal to or above AED 55 000 (approximately EUR 13 000 – i.e. below FATF’s EUR/USD 15 000 threshold) (AML By-law, Art.3(2)).
- d) Lawyers, notaries, other independent legal professionals and accountants when they prepare for, or carry out, transactions for their client concerning the buying and selling of real estate; managing of client money, securities or other assets;<sup>46</sup> management of bank, savings or securities accounts; organisation of contributions for the creation, operation or management of companies; creating, operating or management of legal persons or arrangements and buying and selling of business entities (AML By-law, Art.3(3)).
- e) Trust and company service providers when they perform such services as: acting as an agent in the formation of legal persons; acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons; providing a registered office, business address or accommodation, correspondence or administrative address for a legal person or arrangement; acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement; or acting as (or arranging for another person to act as) a nominee shareholder for another person (AML By-law, Art.3(3)).

The deficiencies identified under R.10 also apply to DNFBPs.

**Criterion 22.2** – DNFBPs are required to comply with the same record-keeping requirements as FIs under the AML Law and By-law – see analysis of R.11.

**Criterion 22.3** – DNFBPs are required to comply with the same PEPs requirements as FIs under the AML Law and By-law – see analysis of R.12.

<sup>46</sup> The AML By-law refers to ‘client funds’ (Art. 3(3)(b)). Funds is defined very broadly in the AML By-Law (Art. 1) and is interpreted to include “client money, securities or other assets”.

**Criterion 22.4** – DNFBPs are required to comply with the same new technologies requirements as FIs under the AML Law and By-law – see analysis of R.15.

**Criterion 22.5** – DNFBPs are required to comply with the same third-party reliance requirements as FIs under the AML Law and By-law – see analysis of R.17.

### *Weighting and Conclusion*

Minor shortcomings remain in relation to CDD, Record Keeping, PEPs and New Technologies. In relation to reliance on third parties, moderate shortcomings remain in relation to consideration of the level of country risk. Overall, minor shortcomings remain.

**Recommendation 22 is rated largely compliant.**

## **Recommendation 23 – DNFBPs: Other measures**

In its last MER, the UAE was rated non-compliant with these requirements. The deficiencies related to: regulators not having issued AML/CFT regulations for DNFBPs including in relation to reporting STRs and lawyers and accounts were not covered under AML or CFT requirements.

**Criterion 23.1** – DNFBPs are subject to the same STR reporting requirements as FIs (see analysis of R.20). All DNFBPs are required to comply with the STR requirements set out in R.20, in line with the following qualifications set out in the FATF Standards (AML By-Law, Art. 3):

- a) Lawyers, notaries, other legal stakeholders and accountants – when, on behalf of, or for, a client, they engage in a financial transaction in relation to the activities described in criterion 22.1(d). There are exemptions for legal professional privilege which comply with footnote 66 of the Methodology (AML By-law, Art.17(2)).
- b) Dealers in precious metals or stones – when they engage in a cash transaction, or interrelated transactions, with a customer equal to or above AED 55 000 (approximately EUR 13 000).
- c) Trust and company service providers – when, on behalf or for a client, they engage in a transaction in relation to the activities described in criterion 22.1(e) (POCA, Schedule 9; TACT, Schedule 3A).

The STR requirements to not apply to casinos as gambling is prohibited in the UAE (Penal Code, Art. 413-416).

**Criterion 23.2** – DNFBPs are required to comply with the same internal control requirements as FIs under the AML Law and By-Law – see analysis of R.18.

**Criterion 23.3** – DNFBPs are required to comply with the same higher-risk countries requirements as FIs under the AML Law and By-Law – see analysis of R.19.

**Criterion 23.4** – DNFBPs are required to comply with the same tipping-off and confidentiality requirements as FIs – see analysis of R.21.

### *Weighting and Conclusion*

Minor shortcomings remain in relation to the requirement in FFZs to appoint a compliance officer at management level and that when considering confidentiality

for reporting, protection should be available even if the individual did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred. Moderate shortcomings remain in relation to identification of high risk third countries.

**Recommendation 23 is rated largely compliant.**

## Recommendation 24 – Transparency and beneficial ownership of legal persons

In its last MER, the UAE was rated partially compliant with this recommendation. The main factors underlying the rating were the lack of evidence of how the authorities confirm that registered shareholders are beneficial owners, the uncertainty as to the extent to which nominee shareholders are used to conceal foreign ownership of domestic companies and the absence of procedures to provide access to information on beneficial ownership on companies registered in the Jebel Ali free zone.

There are 32 separate legal jurisdictions for company incorporation in the UAE – a single jurisdiction for the DEDs on the mainland and separate requirements for the two FFZs and 29 CFZs. A number of requirements in this recommendation are met by federal laws (AML Law, AML By-law), however a number are affected by domestic law in the individual jurisdictions.

The AML Law and By-Law apply in the entire UAE in both mainland and all free zones (commercial and financial free zones). This AML Law and By-Law supersede the individual mainland and free zone regulations, some of which have not been repealed given that these regulations are more comprehensive and include additional non-AML-related provisions. In the case of a conflict of the provisions of the individual regulations and the AML Law and By-Law, the AML Law and By-law shall supersede any individual regulations (Constitution of the UAE, Article 151).

When considering risk and context, the assessment team decided to focus on six main jurisdictions when analysing provisions for Recommendation 24 – the Mainland, ADGM, DIFC, DMCC, JAFZA and RAKEZ – this allows for analysis of the jurisdiction of over 60% of the known companies in the UAE.

**Criterion 24.1** – Each registrar is responsible for providing public information on the different types, forms and basic features of legal persons, the process of their creation and for obtaining and recording of basic and beneficial ownership information (AML By-Law, Art. 34).

- In the Mainland, where this role falls to the local Departments of Economic Development (DEDs), only three registrars (Ajman, Dubai and Sharjah) out of seven provide full information. Fujairah and Umm Al Quwain do not provide information on both the details of types, forms and basic features of legal person and the processes of their creation. In two cases (Fujairah and RAK DED), the full range of companies are not covered. Abu Dhabi DED does not provide any of this information.
- In ADGM, DIFC, DMCC, JAFZA and RAKEZ, the requirements of this criterion are fully covered.
- There are very different situations in the other jurisdictions, with many registrars not fulfilling the requirement.

**Criterion 24.2** – The UAE’s NRA process assessed the ML/TF risks associated with a number of types of legal person created in the UAE. There is also a requirement to conduct a risk assessment for ML/TF risk in legal persons (AML By-law, Art.44 (1)). The NRA of legal persons classified each type of UAE legal person according to a three-level risks ratings. It focuses mainly on vulnerabilities related to the possibility of UBO concealment. However, the risk assessment does not include the specific risks in the commercial free zones (CFZs) and the inability to provide the exact number of legal persons operating in some CFZs limits its impact. Furthermore, the process did not look in detail as to examples on how certain legal persons could be misused for ML/TF. This applies in particular to Limited Liability Companies (LLCs), which represents the majority of the companies established in the UAE.

**Criterion 24.3** –

Each corporate registrar (Mainland DED and local registrars in the FZs) is responsible for licensing companies and maintaining a companies’ register, which shall include the companies’ name, legal form, address, Memorandum of Association, Articles of Association or any similar document, and names of relevant persons holding senior management positions, which includes Directors (AML By-law, Art.34 & Art.8(1) (b)).

The National Economic Register (NER) was launched in 2017 with the aim of “providing accurate, comprehensive, and instant data on the existing economic licenses in the UAE”. It is publicly accessible through a dedicated website<sup>47</sup> in both Arabic and English. Whilst this register contains a significant amount of information required, there are deficiencies. The field ‘responsible manager’ is often not completed and available and this therefore leaves a deficiency in relation to information on the registered office of a legal person. Equally, whilst being intended to be used as a single Register in the UAE, its content is currently limited to the data provided by the 7 mainland DEDs and two CFZs. Therefore, there is limited information publically available on the National Economic Register. In the Free Zones, the licensing authorities in each of the financial and commercial free zones serve as the company registrar for its jurisdiction. Most of the authorities maintain their own publicly available company registers. For ten free zones, registries are non-existent<sup>48</sup>. For the twenty remaining free zones, public access to these registries varies depending on the free zone. It is notable that:

- In most cases (70 % of FZs companies), information is accessible to authorities only, upon request (eleven cases, including RAKEZ);
- When a register is accessible to the public for free, it just contains basic information (cf. JAFZA), and is sometimes limited to the sole company’s name;
- Only the two Financial Free Zones (ADGM and DIFC) give full access to more detailed elements.

**Criterion 24.4** – The AML By-law requires information on shareholders to be held by the company, which must contain the number of shares held by each shareholder and

<sup>47</sup> <https://government.ae/en/information-and-services/business/national-economic-register>

<sup>48</sup> Abu Dhabi Airport Free Zone, Masdar, Abu Dhabi Ports, Dubai Airport Free Zone Authority, Dubai World Trade Centre, Dubai Maritime City Authority, Sharjah Media City, Sharjah Publishing City Authority, Sharjah Healthcare City, Creative City Fujairah

categories of shares including the voting rights and requirement to provide this information to the registrar after ensuring its accuracy (AML By-law, Art. 35(1)).

**Criterion 24.5 –** In the UAE, the relevant Registrar is required to keep the information up-to-date and ensure its accuracy (AML By-law, Art. 34(2)). However, in many of the Registries no mechanism is in place to ensure the information is accurate or updated on a timely basis.

Similarly, there is no time period at the national level for legal persons to update their basic information to ensure the information is accurate and updated on a timely basis. Therefore, this falls within the competence of each jurisdiction.

In the Mainland, companies are required to notify the competent authorities and the Registrar within 15 days for any change in the registered particulars (Company Law, Art.15). For LLCs, company shall send each year the names of new partners (Mainland Company Law, Art 74(3)).

In the free zones, of the specific legislation examined in the five selected jurisdictions, companies should generally notify changes of directors within 14 days, except for JAFZA (where no specific requirement is indicated). However, changes in shareholders should be notified, within 4 days in JAFZA, within 14 days in DMCC, and promptly in DIFC and RAKEZ (with no specific deadline). There is no requirement regarding changes of shareholder in ADGM.

**Criterion 24.6 –**

The UAE uses various mechanisms to obtain or determine the beneficial ownership of legal entities, but these appear not to be sufficient to ensure the availability of beneficial ownership information in all cases.

The AML By-law requires that companies shall undertake to maintain and make available certain beneficial ownership information (as required by AML By-law, Art 9(1)) at all times and upon request, update such data within 15 business days upon its amendment or change and ensure to keep this information up-to-date and accurate on an ongoing basis and assist the Registrar in documenting such information if so required (AML By Law, Art.35(2)). Registrars, when registering a company, shall commit to receive the data of the beneficial owner of the company, and make sure it remains up to date accurate, and available to the Relevant Authorities (AML By-Law, Art. 34(3)). However, discrepancies arise in the application of this regulation by the registrars across the UAE.

FIs and DNFBPs are also required to take reasonable measures to identify the beneficial owner as part of their CDD requirements (AML By Law, Art.8 & 9). However, there are issues identified in R.10 and R.22 where the legislation does not adequately cover control of the legal person “through other means” where there is a doubt as to whether the controlling ownership interest is the beneficial owner or where no natural person exerts control through ownership interests.

**Criterion 24.7 –**

Companies are required to maintain and make available beneficial ownership information to the Registrar at all times and upon request and to update such information within 15 business days (AML By-law, Art. 35(2) & Art.9(1)).

A requirement exists at national level for FIs and DNFBPs to ensure the accuracy of beneficial ownership information by verification of the information (AML By-law, Art.9(1)). However, there is no requirement outside of FIs and DNFBPs to ensure the

accuracy of the information. Registrars, when registering a company, shall commit to obtain the data of the beneficial owner of the company, and make sure it remains up to date, accurate, and available to the Relevant Authorities (AML By-Law, Art. 34(3)). The legislation is, however, ambiguous over whether the information needs to be accurate when obtained or accurate during the course of the Registrar maintaining the information.

**Criterion 24.8** – Companies are required to provide information to competent authorities on request through one or more natural persons resident in the country authorised to do so (AML By-Law, Art. 35).

In the case of foreign-owned companies, the Company Law requires foreign companies looking to set up a branch in the UAE to appoint an agent, which must be a UAE national if the agent is a natural person or a UAE company with all UAE national partners if the agent is a company (Mainland Companies Law, Art. 329).

**Criterion 24.9** – The AML Law requires that both the registrars and the legal persons retain relevant information for at least five years from the date in which the company is dissolved or otherwise ceased to exist (AML By-law, Art.36).

**Criterion 24.10** – The AML Law provides LEAs with the powers necessary to perform their duties from the relevant authorities (AML Law, Art. 10(3)).

LEAs, including public prosecution authorities, also have full power to compel production of bank account records, financial transaction records, customer identification data, and other records maintained by FIs and DNFBPs (Federal Law No. 35 of 1992, “Criminal Procedures”)

Competent LEAs in the UAE have the power to obtain any information in the possession of any relevant party in the context of a criminal investigation, since criminal law is applicable through the UAE, including within free zones (see Article 30 of the Penal Code, cited in the response to Criterion 30.1).

**Criterion 24.11** – In the, UAE, bearer shares are generally prohibited (AML By-law, Art.35(4)) and Mainland Companies Law, Art. 208). They are not strictly prohibited in ADGM, but they are impossible to issue in practice due to regulations related to the keeping of shareholders’ identity (ADGM Companies Regulations 2015, Art.117 &118).

**Criterion 24.12** – Nominee shareholders have to disclose their identities and shares to the Registry (AML By-Law, Art.35).

**Criterion 24.13** –

Failure to comply with legal person transparency obligations is not sanctioned by a specific penalty, but fall under the general regime of violations of the provisions of the AML Law. The regime provides for a fine between AED 10 000 (EUR 2 400) and AED 100 000 (EUR 24 000) (AML Law, Article 31). Based on the circumstances of the incident, punishment can also involve imprisonment (1 month to 3 years) or the fine.

Simultaneously, administrative sanctions can be imposed on FIs, DNFBP, and NPOs by their supervisory authorities. They are liable to various sanctions, ranging from warning and administrative fines (up to AED 5 000 000) to license withdrawal (AML Law, Art. 14).



**Criterion 24.14** – There are provisions in the AML By-law for competent authorities to provide international cooperation in relation to basic and beneficial ownership information by:

- a) Facilitating the access of foreign competent authorities to basic information held by the registries of companies and legal arrangements;
- b) Exchanging information on legal arrangements and the shareholders in companies;
- c) Using their powers to obtain all the information on Beneficial Owners on behalf of foreign counterparts. (AML By-Law, Art. 54(1)).

**Criterion 24.15** – There are provisions in the AML By-law requiring the competent authorities to supervise the implementation quality for the international cooperation requests received from other countries in relation to basic company information and beneficial ownership for companies and legal arrangements, as well as the requests for international cooperation relating to determining the location of the beneficial owner from companies abroad (AML By-law, Art. 54(2)).

### *Weighting and Conclusion*

The UAE has put in place a regime that ensures transparency of basic and beneficial ownership information for legal persons and the country meets or mostly meets most of the criteria, but minor shortcomings remain. The assessment of ML/TF risk of legal persons is currently restricted to the inherent vulnerability of the legal person. Some issues remain over accuracy of basic and BO information and to have effective mechanisms in place to ensure the accuracy of that information.

**Recommendation 24 is rated largely compliant.**

### **Recommendation 25 – Transparency and beneficial ownership of legal arrangements**

In its last MER, the UAE was rated compliant with these requirements.

Since there is no provision relating to trusts under the UAE federal law, trusts are not able to be created on the mainland. Nonetheless, foreign trustees may exist in the UAE, and may hold a bank account in the country

Trusts exist in the UAE in the Financial Free Zones by virtue of specific trusts legislation. Trusts are not permitted to be created on the mainland.

Emirati legislation also allows for the creation of awqaf (plural of waqf). A waqf is an Islamic endowment of property to be used for charitable or religious purpose. A waqf can be either public or private. A public waqf is dedicated to specific charity aspects, while a private waqf identify family members as the beneficiaries. It can be considered a legal arrangement similar to a trust and exists by virtue of Federal Law No. 5 on Endowments (2018). The competent authority managing the waqf plays a similar role as a trustee in a common law trust.

In the UAE, awqaf are supervised by the General Authority of Islamic Affairs and Endowments. There are two separate authorities responsible for awqaf in both Dubai and Sharjah emirates.

As with legal persons, provisions in the AML Law and AML By-law which relate to trusts and trustees apply across the UAE.

**Criterion 25.1 –****(a) Trusts -**

The AML By-law provides that trustees in legal arrangements are required to maintain information about the beneficial owner and it is required to be maintained accurately and updated within 15 days if it is amended or changed (AML By-law, Art.37). This is defined as verifying the identity of the settlor, the trustee(s), or anyone holding a similar position, the identity of the beneficiaries or class of beneficiaries, the identity of any other natural person exercising ultimate effective control over the legal arrangement.

**Awqaf (plural of waqf) -**

In the UAE, the competent authority managing the waqf plays a similar role as a trustee in a common law trust. There is a requirement that to acquire a waqf certificate, all information held on the waqf must be accurate. Any change should be reflected within 30 days in the certificate. (Federal Law No.5 of 2018, Art. 9(3)). However the waqf certificate may not hold all required information.

**(b) Trusts -**

AML By-Law requires trustees in legal arrangements to hold certain basic information relating to intermediaries and service providers, including consultants, investors, directors, accountants and tax advisors (AML By-law, Art. 37(2)).

**Awqaf -**

There is no requirement for a waqf authority to hold basic information on other regulated agents of, and service providers to, the waqf. However, given the nature of awqaf, the public authority may be aware. AML By-Law requires trustees in legal arrangements to hold certain basic information relating to intermediaries and service providers, including consultants, investors, directors, accountants and tax advisors (AML By-law, Art. 37(2)).

**(c) Trusts**

The AML By-law requires that information relevant to c25.1(a) and (b) is maintained for at least five years from the date of the end of their involvement with the legal arrangement (AML By-law, Art. 37(3)). Trustees of trusts established as an express trust under the DIFC Trust Law are required to keep relevant records for a period of six years from the date on which they ceased to act or be involved with the trust (DIFC Trust Law, Art. 60(6)(d)).

**Waqf –** There is no direct requirement for information on the waqf to be held by the authorities for 5 years after their involvement with the waqf ceases.

**Criterion 25.2 –** The AML By-law requires that information shall be accurate and shall be updated within 15 days if change occurs (AML By-law, Art. 37(3)).

**Waqf –** There is no similar requirement for the waqf to ensure all information is updated, however, any change in relation to information in the waqf certificate should be reflected within 30 days (Federal Law No.5 of 2018, Art. 9(3)).

**Criterion 25.3 –** In the DIFC, trustees are required to disclose their status to FIs and DNFPBs when acting on behalf of a trust (DIFC Trust Law, Art.60(6)(c)). However, there are no requirements elsewhere in the UAE to ensure that trustees disclose their status. There appears to be no equivalent requirement for awqaf.

**Criterion 25.4** – Trustees are not prevented from providing domestic law enforcement authorities with any information relating to the trust, whether in relation to a domestic matter or as part of a MLA request.

The AML By-law specifically provides for competent authorities to have access to information held by trustees, FIs or DNFBPs without delay (AML By-law, Art. 37(4)). In respect of awqaf, competent authorities are automatically provided with information related to the assets donated by virtue of the waqf certificate (Federal Law No.5 of 2018, Article 15(8)).

**Criterion 25.5** –

Trusts -

The AML By-law provides competent authorities with powers to obtain timely access to information held by trustees, FIs, and DNFBPs (Art.37(4)). This includes information on the beneficial ownership and control of the trust, including: (a) the beneficial ownership; (b) the residence of the trustee; and (c) any assets held or managed by the financial institution or DNFBP, in relation to any trustees with which they have a business relationship, or for which they undertake an occasional transaction (AML By-law, Art. 37(4)).

**Waqf** – In respect of awqaf, competent authorities are automatically provided with information related to the assets donated by virtue of the waqf certificate (Federal Law No.5 of 2018, Article 15(8)) – however this will not necessarily include all information required by the criterion.

**Criterion 25.6** – The UAE is able to provide international co-operation relating to information on trusts and other legal arrangements:

**(a)** The AML By-law provides for competent authorities to provide basic or beneficial ownership information of companies and legal arrangements – where information is held by the register of companies and legal arrangements (AML By-law, Art.54(1)(a)).

**(b)** Exchanging information on legal arrangements and the shareholders in companies (AML By-law, Art.54(1)(b)).

**(c)** Using competent authorities powers to obtain all the information on beneficial owners on behalf of foreign counterparts (AML By-law, Art.54(1)(c))

All of the above is contingent on the event that complete beneficial ownership information is to be obtained from a FI/DNFBP or other person.

There have been no cases to date of an international MLA related to a waqf in the UAE. However, there appears to be no restriction of providing international co-operation were one to occur.

**Criterion 25.7** –

Trustees are legally liable for any failure to perform their duty and are subject to proportionate and dissuasive sanctions (Federal Law No.5 of 2018 regarding Endowments, Art.17/ AML Law, Art.31). Under the general regime of violations of the provisions of the AML Law. The regime provides for a fine between AED 10 000 (EUR 2 400) and AED 100 000 (EUR 24 000) (AML Law, Article 31). Based on the circumstances of the incident, punishment can also involve imprisonment (1 month to 3 years) or the fine. However, the Law does not specify that the measure to be applied should depend on the severity of the breach or clearly indicate which sanctions will be implied under which conditions.

Awqaf -

In respect of waqf, there are provisions where upon considering the conduct of the Administrator, a Court can order them to be dismissed or shall be joined by another Administrator (Federal Law No.5 of 2018, Art. 20). Equally, without prejudice to any more severe penalty stipulated in any other Law, whoever wastes the Endowed or its revenues shall be punished by imprisonment for a period not less than a year and or a fine not less than AED 50 000 (fifty thousand) or by one of these penalties, with the obligation to return the Endowed (Federal Law No.5 of 2018, Art.29). However, the sanctions for failing to meet obligations may not be considered suitably dissuasive when comparing the situation to trusts.

#### **Criterion 25.8 –**

The AML Law imposes a general regime of violations of the provisions of the AML Law. The regime provides for a fine between AED 10 000 (EUR 2 400) and AED 100 000 (EUR 24 000) (AML Law, Article 31). Based on the circumstances of the incident, punishment can also involve imprisonment (1 month to 3 years) or the fine. However, the law does not specify that the measure to be applied should depend on the severity of the breach or clearly indicate which sanctions will be implied under which conditions.

Awqaf -

In respect of awqaf, competent authorities are automatically provided with information related to the assets donated by virtue of the waqf certificate (Federal Law No.5 of 2018, Article 15(8)) – however this will not necessarily include all information required by the criterion.

#### **Weighting and Conclusion**

Whilst the UAE has implemented a regime which covers many of the criterion of Recommendation 25 for trusts, the application of the AML Law and By-law to awqaf has not been demonstrated. This was also noted during the onsite visit, where the waqf authorities confirmed they are not obliged to comply with the AML legislation. Therefore moderate shortcomings remain around implementing the requirements of Recommendation 25 for awqaf.

**Recommendation 25 is rated partially compliant.**

### **Recommendation 26 – Regulation and supervision of financial institutions**

In its last MER, the UAE was rated partially compliant with these requirements. Deficiencies related to a voluntary registration process for hawala dealers and absence of effective monitoring systems, no “fit and proper” requirements for board members and managing directors of insurance companies, a limited scope of AML/CFT inspections in the securities sector and no supervision in the instance sector.

**Criterion 26.1 –** A number of different regulators act as supervisors of entities falling under the FATF-definition of financial institutions. Article 1 of the AML Law defined “supervisory authorities” as federal and local authorities which are entrusted by legislation to supervise FIs. Article 13 outlines the roles of the supervisory authorities, which includes conducting supervision and examination over financial institutions, both off-site and on-site. The definition of “financial institution” in the

AML Law covers the range of activities set out in the FATF Glossary. All financial institutions have a designated supervisor (see the table below).

**Table 2. FI Supervisors**

|                 | Banks, MVTs + other FIs                                                                                           | Securities                                                                    | Insurance                                                        |
|-----------------|-------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|------------------------------------------------------------------|
| Mainland + CFZs | Central Bank Banking Supervision Department (BSD)<br>Federal Law No.14 of 2018, Art.65(1)                         | Securities and Commodities Authority (SCA)<br>Federal Law No.4 of 2000, Art.2 | Insurance Authority (IA)<br>Federal Law No.6 of 2007, Art.7 & 18 |
| FFZ - DIFC      | Dubai Financial Services Authority (DFSA)<br>Dubai Law No.9 of 2004, as amended by Dubai Law No.7 of 2011, Art. 7 |                                                                               |                                                                  |
| FFZ – ADGM      | Abu Dhabi Financial Services Regulatory Authority (FSRA)<br>Abu Dhabi Law No.4 of 2013, Art. 12                   |                                                                               |                                                                  |

### **Criterion 26.2 –**

#### Core principles financial institutions

All Core Principles financial institutions are subject to licensing requirements in the UAE. As with supervision under Criterion 14.1, the following hold that responsibility for licensing and registration:

#### Mainland

Banks are licensed by the BSD (Federal Law No. 14 of 2018, Art. 67(1) & 65(1))

Securities firms/brokerages are licensed by the SCA (Federal Law No. 4 of 2000, Art. 20 & 25)

Insurance Authority licenses insurance providers and insurance-related professions (Federal Law No. 6 of 2007, Art. 4, 5, 7, 24, 48 & 70).

#### DIFC

DFSA (Dubai Law No. 9 of 2004 amended by Dubai Law No. 7 of 2011, Art.7)

#### ADGM

FSRA (Abu Dhabi Law No. 4 of 2013, Art. 12)

Non-Core Principles Financial Institutions are licensed by the BSD on the mainland and by the DFSA and FSRA in the FFZs.

#### MVTs

The following hold the responsibility for licensing and registration of MVTs or money or currency exchange providers:

#### Mainland

BSD (Federal Law No.14 of 2018, Art.67(1), Art.65(1))

Hawaladars - registered and supervised by the BSD as of May 2019

#### DIFC

DFSA (Dubai Law No.9 of 2004 amended by Dubai Law No.7 of 2011, Art.7)

#### ADGM

FSRA (Abu Dhabi Law No.4 of 2013, Art.12)

In respect of shell banks, the AML By-law makes provisions preventing against dealing with customers which are shell banks or maintaining correspondent relationships with shell banks (AML By-law, Art.25, Art.14).

### ***Criterion 26.3 –***

There is a requirement to apply the regulations, controls and fit and proper standards to anyone who seeks to acquire, control, participate in management or operation, whether directly or indirectly, or to be the beneficiary of an FI. (AML By-law, Art. 44(4)). Each supervisor has its own requirements for the FIs it licences. These controls include the following actions:

- Screening business activity
- Identifying the beneficial owners and shareholders of financial institutions
- Conducting Fit and Proper tests for senior managers and compliance managers
- Screening key shareholders, beneficial owners and senior managers
- Conducting onsite and offsite licensing inspections

Standards for BSD, DFSA and ADGM are contained in their relevant Guidance for licensing. For the other authorities, the following legislation applies: Article 10 of Federal Law 4/2000 (SCA), Article 30 of Federal Law 6 / 2007 (Insurance Authority).

### ***Criterion 26.4 –***

There are a variety of bodies who hold the responsibility to ensure the FIs' obligation to establish and maintain policies, controls and procedures to mitigate and manage ML/TF risks and ensure that they also apply to all their subsidiaries and branches in other jurisdictions, including the application of consolidated group supervision for AML/CFT purposes. These are relevant to both sub-criteria a) and b). Article 31 of the AML By-Law obliges the FIs to implement group-wide AML/CFT programs and Article 44 (8) of the AML By-Law also obliges the Supervisory Authorities to ensure such prescribed measures are adopted by the supervised institutions under the supervision of such Authorities. However, this does not go so far as to require consolidated group supervision of FIs.

#### **Mainland**

General application – AML Law, Art.13 and AML By-law, Art.44 requires the supervisory authorities to conduct on-site and off-site AML/CFT supervision of their supervised entities.

BSD – the BSD is required to conduct onsite and offsite inspections of licensed FIs (Federal Law No.14 of 2018, Art.15, Art 97, Art.102 and Art.107).

IA – The IA also has provisions for onsite and offsite supervision (Federal Law No. 7 of 2007, Art. 36 and Federal Law No. 6 of 2007 amended by Federal Law No. 3 of 2018, Art. 41(Bis)(2), Art. 41(Bis)(3)).

SCA – The SCA has general powers to supervise and monitor the function of the markets.

#### **DIFC**

DFSA (Dubai Law No.9 of 2004 amended by Dubai Law No. 7 of 2011, Art.70(3)) – The DFSA has, in respect of Relevant Persons, jurisdiction for regulation in relation



to money laundering, terrorist financing and the financing of unlawful organisations in the DIFC.

#### ADGM

FSRA (Abu Dhabi Law No. 4 of 2013, Art.12) – The FSRA has the power to make rules applying to any person in relation to money laundering and terrorist financing, including rules prescribing systems, duties and obligations designed to detect, defend against, and prevent money laundering and terrorist financing activities in ADGM.

**Criterion 26.5** – The frequency of on-site and off-site AML/CFT supervision of FIs is determined on the basis of:

- a) the supervisors' assessment of an FI's risk profile (AML Law, Art 13(1), AML By-law Art.44(6)(c))
- b) the ML/TF risks present in the country, in so far as these risks must be reflected in risk assessments undertaken by the supervisory authority (AML By-law, Art.44 (6) (a)) and
- c) the characteristics of the FI, including the degree of discretion allowed to the FI under the RBA (AML By-law, Art 44(6)(b))

The Guidelines and Standards issued by the various supervisors make it clear that in determining the *intensity* of supervision based on risk, the above factors are considered.

**Criterion 26.6** – Supervisors must periodically review the ML/TF risk profile of a FI and Financial Group and also when there are major events or developments in the management and operations of the FI or Group (AML By-law, Art. 44)

### Weighting and Conclusion

All criteria are met.

**Recommendation 26 is rated compliant.**

## Recommendation 27 – Powers of supervisors

In its last MER, the UAE was rated partially compliant with these requirements. The deficiencies identified were the limited range of formal sanctions available to the central bank, no formal powers of inspection over hawaladars, no examination program in the insurance sector and no sanctions powers for hawaladars.

**Criterion 27.1** – Supervisors have powers to supervise and ensure compliance by financial institutions with AML/CFT requirements. The AML Law and the AML By-law, and the supervisory powers that they contain, apply to all financial supervisors and all financial institutions in the UAE, including within the DIFC and ADGM (AML Law, Art. 13 and AML By-law, Art. 44).

**Criterion 27.2** – Supervisors have broad authority for supervisors to conduct inspections of FIs to ensure they comply with their AML/CFT obligations (AML Law, Art. 13, AML By-law Art. 44).

**Criterion 27.3** – Financial Institutions and DNFBPs shall make all Customer information regarding CDD on customers, ongoing monitoring and results of their analysis, records, files, documents, correspondence and forms available immediately to the competent authorities upon request (AML By Law, Art.24(4)).

**Criterion 27.4** – A range of disciplinary and financial sanctions are available to the supervisors including the ability to impose a range of penalties on financial institutions up to and including cancellation of its licence (AML Law, Art.14).

### Weighting and Conclusion

All criteria are met.

**Recommendation 27 is rated compliant.**

## Recommendation 28 – Regulation and supervision of DNFBPs

In its last MER, the UAE was rated non-compliant with these requirements as there was very limited regulation and supervision of DNFBPs. Significant changes have been made in 2018/2019 to bring DNFBPs within the scope of AML/CFT regulation and supervision.

**Criterion 28.1** – As mentioned under c.22.1, casinos are illegal in the UAE. This criterion is therefore not applicable.

**Criterion 28.2 & 28.3** – Accountants, lawyers, notaries, DPMS, TCSPs and real estate agents are subject to the AML/CFT requirements and are required to be monitored for compliance with these requirements (see table below). In broad terms, the AML Law sets out obligations for all supervisory authorities to monitor the entities they are responsible for, including carrying out on-site and off-site supervision based on a risk-based approach (AML Law, Art. 13(2); AML By-Law, Art. 44(5)&(6)). The following table indicates the designated supervisors for DNFBPs in accordance with Cabinet Decision No. 1/3 of 2019 passed on 8 January 2019, and amended by Cabinet Decision No. 28/4 of 2019 on 21 April 2019.

**Table 3. Supervision of DNFBPs (other than casinos)**

| SECTOR                                | DESIGNATED COMPETENT AUTHORITY   |                                                                                                      |
|---------------------------------------|----------------------------------|------------------------------------------------------------------------------------------------------|
|                                       | Mainland & Commercial Free Zones | Financial Free Zones                                                                                 |
| Lawyers & notaries                    | Ministry of Economy              | Ministry of Justice                                                                                  |
| Accountants & Auditors                |                                  | Dubai Financial Services Authority (for DIFC) and Financial Services Regulatory Authority (for ADGM) |
| Dealers in Precious Metals and Stones |                                  |                                                                                                      |
| Real estate agents                    |                                  |                                                                                                      |
| Trust and Company                     |                                  |                                                                                                      |

| SECTOR            | DESIGNATED COMPETENT AUTHORITY |  |
|-------------------|--------------------------------|--|
| Service Providers |                                |  |

DNFBP market entry control in the UAE is achieved through a combination of commercial licensing checks and professional activity licensing for some DNFBPs. The licensing bodies vary by jurisdiction within the UAE and by DNFBP sector and, particularly in the case of real estate agents and DPMS, are not the same as the supervisory agency.

**Table 4. DNFBP licensing authorities**

|                        | Trust & Company Service Providers                         | Dealers in Precious Metals & Stones                                 | Real estate agents  | Accountants & Auditors | Lawyers & Notaries           |
|------------------------|-----------------------------------------------------------|---------------------------------------------------------------------|---------------------|------------------------|------------------------------|
| Market entry mechanism | Commercial Licensing only                                 | Professional Activity Licensing                                     |                     |                        |                              |
| Mainland - Abu Dhabi   | Department of Economic Development Abu Dhabi              | Dept. of Urban Planning & Municipalities Abu Dhabi Municipality     | Ministry of Economy |                        | MOJ; Ruler's Court Abu Dhabi |
| - Dubai                | Department of Economic Development Dubai                  | Dubai Land Department (DLD)                                         |                     |                        | MOJ; Ruler's Courts Dubai    |
| - Sharjah              | Department of Economic Development Sharjah                | Sharjah Department of Real Estate Registration                      |                     |                        | MOJ                          |
| - UAQ                  | Department of Economic Development UAQ                    | UAQ Lands and Properties Department                                 |                     |                        | MOJ                          |
| - RAK                  | Department of Economic Development RAK                    | RAK Municipality                                                    |                     |                        | MOJ; Ruler's Courts RAK      |
| - Ajman                | Department of Economic Development Ajman                  | Department of Land and Real Estate Regulation                       |                     |                        | MOJ                          |
| - Fujairah             | Fujairah Municipality Dibba Municipality                  | Fujairah Municipality                                               |                     |                        | MOJ                          |
| Commercial Free Zones  | Respective CFZ Business Registrar (of which there are 28) | Respective emirate land department (above) where the CFZ is located |                     |                        | MOJ                          |
| Financial Free Zones   | DFSA / FSRA                                               | DFSA / FSRA                                                         | DFSA / FSRA         |                        | MOJ                          |

#### **Criterion 28.4 –**

- a) The DNFBP supervisors have powers to perform their supervisory functions, including powers to monitor compliance (AML law, Art.13(2)). The licensing authorities (apart from the MOE and MOJ) are not covered under Cabinet Resolution No. 1/3 of 2019 nor Cabinet Resolution No. 28/4 of 2019 and therefore do not have the powers provided for in the AML Law.
- ff) Under the AML By-Law, DNFBP supervisors are required to develop and apply regulations, controls and fit and proper standards on people who seek to acquire, control, participate in management or operation, whether directly or indirectly, or to be the beneficiary of an FI or DNFBP (Art. 44(4)).
- gg) However, in reality, a range of other authorities are performing 'fit and proper' and/or other market entry checks. As set out in **Table**, there are 46 authorities in addition to the DFSA, FSRA, MOJ and MOE that are licensing

DNFBPs. Whilst it is clear that a criminal background check is carried out on some relevant parties, it is not clear if all these authorities can take the necessary measures to prevent criminals and their associates from holding positions in DNFBPs.

hh) Supervisors of DNFBPs have sanctions available to them in line with c.27.4 and R.35 to deal with the failure to comply with AML/CFT requirements (AML Law, Art. 13(3) & 14). However, the (minor) deficiencies noted in R.35 also apply to DNFBP supervisors.

**Criterion 28.5** – The supervision of DNFBPs is required to be undertaken on a risk-sensitive basis (AML By-Law, Art. 44(6)):

- a) Supervisors are required to adopt a risk-based approach to the frequency of their AML/CFT supervisory functions, taking into consideration the characteristics of the DNFBPs, including their diversity and number but there is no requirement, guidance or standards in the individual supervisors to ensure that the supervision is performed on a risk sensitive basis and that the intensity is varied based on risk.
- b) In assessing the adequacy of AML/CFT internal controls, policies and procedures of DNFBPs, supervisors are required to take into account risk profiles for each entity or group in their sector and the degree of discretion available to them.

### **Weighting and Conclusion**

The UAE meets or mostly meets most of the criteria for this Recommendation; however, deficiencies remain. The main issue is around the market entry requirements not being comprehensive to prevent criminals or their associates from being professionally accredited, or holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function in a DNFBP. Equally, the recent appointment of supervisors means that there is not yet appropriate guidance to ensure supervision on a risk-sensitive basis.

**Recommendation 28 is rated largely compliant.**

## **Recommendation 29 - Financial intelligence units**

In its last MER, the UAE was rated partially compliant with these requirements due to questions about whether it was the national centre for receipt, analysis and dissemination of STRs, operational independence and resource issues. Effectiveness issues were considered as part of the previous assessment but under the 4<sup>th</sup> round are no longer included in this technical compliance assessment, but are assessed separately under IO.6. Since the last evaluation, the FATF standards in this area were strengthened. In 2018-2019, the UAE passed new legislation and regulation relevant to the FIU.

**Criterion 29.1** – The Financial Intelligence Unit (FIU), which sits within the Central Bank, is the national centre for the receipt, analysis and dissemination of STRs (AML Law, Art. 9; AML By-law, Art. 40(3)). The FIU hosts and maintains a national database of disclosures made by reporting entities via STR online and via emails and letters. As of June 2019 reporting entities are transitioning to the GoAML system. In practice, State Security, and not the FIU, is the national centre for analysing STRs relating to TF.

**Criterion 29.2** – The FIU serves as the central agency for the receipt of disclosures filed by reporting entities, including:

- STRs filed by financial institutions and DNFBPs (AML Law, Art. 9 & 15; AML By-Law Art. 17(1)).
- All FIs report to the FIU information on safe deposit lockers on a periodic basis. Exchange houses report their transactions via the Remittance Reporting System on a daily basis.

**Criterion 29.3** – In relation to obtaining and accessing information:

- The FIU is able to obtain and use additional information from reporting entities as needed to perform its duties (AML Law, Art. 9(1); AML By-law, Art. 42(2)). This can occur regardless if an STR has been filed and FI/DNFBPs are given between three and ten working days to respond to the request.
- The FIU has access to a wide range of financial and administrative information to help it undertake its functions (see table below).

**Table 5. FIU's access to information**

| Database                                                               | Owner                     | Direct/indirect access       | Content                                                                                                                                                                                                                                                                                                 |
|------------------------------------------------------------------------|---------------------------|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Exchange Houses Online Remittance Reporting System                     | FIU                       | Direct                       | Details of remittance transactions uploaded daily by the exchange houses, including sender, receiver, remitter, beneficiary, amount, legal n°, country, date. The RRS has 377,197,490 transactions.                                                                                                     |
| Hawaladar lists                                                        | Central Bank              | Direct                       | Registered Hawaladar dealers                                                                                                                                                                                                                                                                            |
| Cross-border cash, BNI and precious metal and stone declaration system | Federal Customs Authority | Direct                       | Declaration information and data related to the declaration system is entered by customs officials at all border crossings around the country / cross-border declarations (incoming & outgoing) Includes name, nationality, point of declaration, details of the declaration (cash/other, amount, etc.) |
| Summaries of declaration reports                                       | FCA                       | Regular reports              | <ul style="list-style-type: none"> <li>- total value declared by each nationality</li> <li>- total value declared based on arrival from (location)</li> <li>- total values declared by the companies and money exchangers</li> <li>- purpose of the money</li> </ul>                                    |
| Criminal records                                                       | MOI                       | Direct (as of February 2019) | ML-TF related offences                                                                                                                                                                                                                                                                                  |
| Entry and exit records                                                 | MOI                       | On request                   | Entry to, and exit from, persons to the UAE                                                                                                                                                                                                                                                             |
| Unified Criminal System                                                | MOI / State Security      | On request                   | Information about current suspects / ongoing investigations                                                                                                                                                                                                                                             |
| Vehicle registration                                                   | MOI                       | On request                   | Vehicle ownership information                                                                                                                                                                                                                                                                           |
| Customers' account database                                            | Central Bank              | Direct (as of early 2018)    | Information of all accounts maintained in all banks supervised by the Central Bank, including: entity ID, Account Type, Account number, IBAN, Account Currency, Account Title, ID number, ID type, Account status.                                                                                      |
| GoIntel                                                                | FIU                       | Direct (as of 26 June 2019)  | Account and transaction information for all accounts held by institutions licenced by the Central Bank (automated connection to various sources of information through integration technologies provided by the gointel module of the GoAML)                                                            |
| Property registries                                                    | Land departments          | On request                   | Property ownership information and previous property transactions                                                                                                                                                                                                                                       |
| Life insurance register                                                | Insurance Authority       | On request                   | Ownership information                                                                                                                                                                                                                                                                                   |

| Database                                 | Owner          | Direct/indirect access                          | Content                                                                                                                                                                    |
|------------------------------------------|----------------|-------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| World Check and other external platforms | OSINT          | Direct                                          | PEP and sanctions lists, negative media                                                                                                                                    |
| Companies' registries                    | Registrars     | On request                                      | Basic ownership information and beneficial ownership information where it has been collected                                                                               |
| Safe Deposit Lockers Information         | FIU            | Direct - Based on periodic reporting by the FIs | Name, custodian ,etc                                                                                                                                                       |
| Payment platforms                        | Private sector | On request                                      | Information about transitions from 9 platforms ( Western Union, Xpress Money, Cash express, Money Gram, Instant Cash, Speed Remit, U Remit, Transfast, Inti Money Express) |

**Criterion 29.4** – While the FIU is empowered by law to conduct both operational and strategic analysis (AML By-Law, Art. 42(3)):

- a) The FIU performs limited operational analysis in the form of processing and triaging STRs and cross-referencing available sources of information (see c.29.3). While some operational analysis occurs to detect counterparties and proceeds of crime, it is not clear the extent this occurs in relation to identify targets or ML, and in particular, TF.
- b) The FIU has recently undertaken some strategic analysis, but only to a limited extent.

**Criterion 29.5** – The FIU is able to disseminate information to law enforcement authorities and supervisory authorities, spontaneously and upon request, (AML Law, Art. 9; AML By-law, Art. 42(5) – (7)).

These information sharing arrangements are further specified in MOUs between the FIU and nine agencies (including four LEAs, four supervisors and one registrar). Disseminations are made through a secure online portal for seven police agencies and two state security services (Abu Dhabi and Dubai) and encrypted email. LEAs have direct access to the portal for STR disseminations and can view dissemination made to their police force. Prior to June 2019, State Security had access to all STRs disseminated to police forces and currently, under the GoAML system, can access all STRs. The dissemination of the FIU analysis to LEAs depends on the 'Domiciled Emirate' set out in the STR (i.e. the address or location of the person of interest).

**Criterion 29.6** – The FIU is under a legal requirement to protect its information (AML Law, Art.9; AML By-law, Art. 41(1)-(2)). It does so in the following ways:

- a) In addition to Central Bank rules governing security and confidentiality of information, the FIU has internal rules governing the information security, confidentiality, handling, storage, dissemination and access of FIU information. The FIU uses secure channels to disclose information to foreign counterparts (via the Egmont Secured Web) and to LEAs.
- b) FIU staff are security cleared and vetted and must sign a non-disclosure agreement when joining the unit. Failure to comply with these rules is punishable by a termination of the employment contract and general penalties for disclosure of classified information (Penal Code, Art.379).
- c) Physical access to the FIU premises is limited to the FIU members and is secured through a card-access secured door. Access to IT systems and

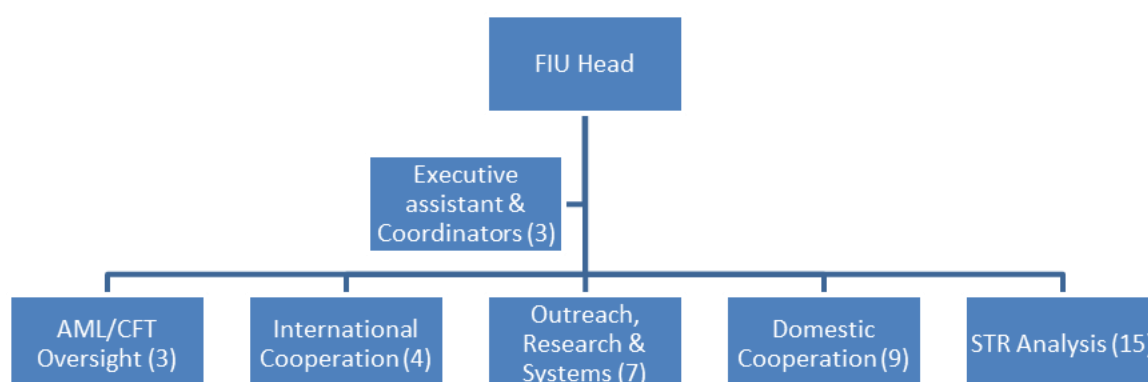


databases is only granted to authorised officers. While an STR is being analysed, it is only available to the case officer and the head of the FIU. The searches conducted in the database are logged.

**Criterion 29.7** – In relation to operational independence and autonomy:

- d) The FIU is established, in law, as an operationally independent unit within the Central Bank (AML Law, Art. 9). The Head of the FIU is appointed by the Central Bank's Board of Directors in line with the Central Bank's code of conduct. The Head of the FIU is a senior manager within the Central Bank and makes independent decisions to analyse, request and/or disseminate information.

**Figure 1. FIU organisational chart**



*Note: The figures in brackets are the number of positions allocated to the FIU - of these 42 positions, 15 positions are vacant.*

*Source: FIU*

- e) The Head of the FIU can sign, on his/her own authority, non-binding MOUs with domestic competent authorities and foreign FIU counterparts (AML By-law, Art. 43(1)).
- f) The FIU has distinct and separate core functions from the Central Bank where it is housed (AML Law, Art. 9; AML By-law, Art. 40-43)).
- g) The Central Bank is required to provide the FIU with the required technical, financial and human resources (AML By-Law, Art. 40(1)). The FIU has its own budget which is approved by the Governor of the Central Bank on an annual basis. Despite a number of vacant positions, the FIU maintains that it is able to obtain and deploy the resources needed to carry out its functions.

**Criterion 29.8** – The FIU has been a member of the Egmont Group since June 2002.

### Weighting and Conclusion

The UAE FIU meets most criteria but does not perform analysis on TF and there are significant deficiencies in terms of its ability to perform operational and strategic analysis.

**Recommendation 29 is rated partially compliant.**

## Recommendation 30 – Responsibilities of law enforcement and investigative authorities

In its last MER, the UAE was rated compliant with these requirements.

**Criterion 30.1** – The UAE has designated a range of bodies that are capable of accessing law enforcement powers to investigate criminal matters (Criminal Procedure Law 1992, Art. 33), which includes ML and TF. In addition to this, the Minister of Justice, in coordination with the Governor of the Central Bank, can grant employees the status of law enforcement officers when investigating ML and TF (AML Law, Art. 32).

### Police

Each of the local Emirate police forces have its own money laundering unit coordinated under the MOI. A Money Laundering Crimes Department has been established in the Federal Investigation Department of the Ministry of Interior (MOI) and a Money Laundering Crimes Division established in the Criminal Investigative and Detective Bureau of the Police General Headquarters in the emirates of Umm Al Quwain, Sharjah, Ajman, Ras Al Khaimah, and Fujairah (Administrative Resolution No.2 of 2018).

Police forces conduct an initial investigation into an offence, using a range of intelligence and evidence gathering powers to build a case suitable for referral to the competent public prosecution authority. Subject to the location of the offence (either the local Public Prosecutors in Abu Dhabi, Dubai or RAK, or the Federal Public Prosecutor for the remaining Emirates) has overall responsibility for the direction of the investigation, including commissioning police forces to seek additional evidence to support a charging decision and progression of the case to trial.

### Public Prosecution Authorities

As noted above, the competent public prosecution authority has ultimate responsibility for finalising ML investigations. Each of the Federal and local prosecution authorities have units responsible for ML prosecution (in addition to other investigations). For example, Dubai Prosecution has a section called Public Funds Prosecution which contains a number of Prosecutors specialised in conducting investigations into public fund offences such as bribery and embezzlement as outlined in the Federal Penal Code (Art. 224 to 230 and 234 to 239 respectively) as well as investigations into ML offences (there are four members of this team).

### Customs authorities / Tax Authorities

Each of the seven Emirates have a local customs authority, with strategic coordination between these local authorities overseen by the Federal Customs Authority (FCA). The FCA has Customs Intelligence Departments distributed at Emirate level with a total of 50 employees responsible for inspecting and initial handling ML cases in addition to other investigations. The Tax Authority is a Federal Authority covering the whole country. These agencies, as well as the State Audit Agency (which deals with corruption), refer ML/TF investigations to other LEAs for investigation.

### State Security

The State Security Authority, as a law enforcement agency, initiates investigations and evidence collection into crimes violating the internal and external security of the

State, including terrorist financing investigations. It sends the case file to the State Security Prosecution who conduct detailed investigations into such offences and refers them to the court.

**Criterion 30.2** – Prosecutors and law enforcement authorities responsible for investigating predicate offences are required to take into account the financial aspects of the criminal activity and connection to ML/TF, i.e., they are required to pursue parallel financial investigations (AML By-law, Art. 49).

**Criterion 30.3** – Prosecutors and the competent courts are designated to exercise powers to identify, trace, and freeze and seize suspected proceeds of crime or property subject to confiscation (AML Law, Art. 5 - see R.4). The Central Bank can also freeze funds held by certain financial institutions for a period of 7 working days, on advice from the FIU (AML Law, Art. 5). Law enforcement authorities are also required to consider the financial aspects of ML and TF investigations including identifying, tracing proceeds or funds subject to confiscation (AML By-law, Art. 49).

**Criterion 30.4** – As set out in c.30.1, the Minister of Justice, in coordination with the Governor of the Central Bank, can grant employees the status of law enforcement officers when investigating ML and TF (AML Law, Art. 32) although this power has not been applied to give non-LEAs the power to investigate ML or TF. Customs agencies and the Federal Tax Authority refer any cases of ML to the relevant police or prosecution agency.

**Criterion 30.5** – The State Audit, a federal independent body, conducts investigations into public-sector corruption. After a preliminary investigation, the State Audit refers such cases to the public prosecution, along with any associated ML offences and the public prosecution can apply relevant confiscation powers.

### **Weighting and Conclusion**

All criteria are met.

**Recommendation 30 is rated compliant.**

## Recommendation 31 - Powers of law enforcement and investigative authorities

In its last MER, the UAE was rated compliant with these requirements. The requirements in R.31 were significantly updated since the UAE's last evaluation.

**Criterion 31.1** – Law enforcement authorities (including customs) and prosecutors in the UAE<sup>49</sup> are able to access necessary document and information for use in investigations, prosecutions, and related actions. Under the UAE's federal system, public prosecutors can only exercise their powers within their jurisdiction. However, they can make a request to another prosecutor from the relevant Emirate to collect information on their behalf (Criminal Procedure Code, Art. 71).

**(a)** Public prosecutors can compel the production of records held by FIs, DNFBPs, and other natural and legal persons in the context of ML, TF and predicate offence investigations (AML Act, Art. 7(1); Criminal Procedure Law, Art. 78; Terrorism Law, Art. 54).

**(b)** In some circumstances, persons and premises can be searched by 'judicial police officers'. The specific search provisions in the Criminal Procedure Law (Art. 51, 53 & 61) are limited to the search of the accused, the dwelling of the accused and search for objects used in the perpetration of the crime and do not appear to be broad enough. In order for a person or a place, which is not the accused nor his/her home, to be searched, the public prosecutor must have 'strong evidence' that a person possesses things related to the crime (Art. 75). However, these provisions are augmented by the broad provision in the AML Law, which allows the public prosecution to access to accounts, records and documents, as well as stored data, held by third parties, as well any 'other procedures' required to uncover the crime and perpetrators (AML Law, Art. 7(1)).

**(c)** Witness statements can be taken voluntarily by judicial police officers or the public prosecution (Criminal Procedure Law, Art. 88 – 93). Refusal to testify before a judicial body is a punishable offence (Penal Code 1987, Art. 261).

**(d)** Evidence can be obtained and seized (Criminal Procedure Law, Art. 30, 75, 78).

**Criterion 31.2** – Public prosecutors can intercept communications necessary for investigation (Criminal Procedures Law, Art. 75) with written permission from the Attorney-General and can access computer systems (AML Law, Art. 7(1)). Law enforcement authorities conducting ML, TF or predicate offence investigations can conduct undercover operations and controlled delivery operations (AML Law, Art. 7).

**Criterion 31.3** –

**(a)** Prosecutors can identify whether natural or legal person hold or control accounts by making requests to relevant supervisors, such as the Central Bank which has a Customer Account Database, other supervisors or the FIU (AML Law, Art. 7). See also c.24.10. Public prosecutors note that they can obtain information from supervisors in a timely manner.

<sup>49</sup> Article 33 of the Criminal Procedures Law uses the term "judicial police officers", this is a catch-all term covering all authorities concerned with conducting investigations and collecting evidence into criminal offences. Customs officers are considered judicial police officers by virtue of the GCC Customs Law (art.116).

**(b)** Prosecutors are able to obtain and execute these powers without prior notification of the owner (AML By-law, Art. 47).

**Criterion 31.4** – Public prosecutors are able to ask the FIU for its opinion on cases of ML and TF (AML Law, Art. 10(1)) and the FIU is able to provide information to competent authorities simultaneously and on request (see c.29.5).

### *Weighting and Conclusion*

All criteria are met.

**Recommendation 31 is rated compliant.**

## **Recommendation 32 – Cash Couriers**

In its last MER, the UAE was rated non-compliant with these requirements. The technical deficiencies related to: a lack of coverage of bearer negotiable instruments or outbound cash movements and a lack of powers and sanctions for failures to disclose or declare.

**Criterion 32.1** – The UAE has implemented a cash declaration system for incoming and outgoing cross-border transportation of currencies, bearer negotiable instruments (BNI), and precious metals and stones (AML Law, Art. 8; Central Bank Regulation Regarding Declaration of Currencies, Negotiable Bearer Financial Instruments, Precious Metals & Stones in Possession of Travelers Entering or Leaving the UAE 2019 (2019 Cash Declaration Regulation)).

The requirements cover transportation by travellers, shipments, postal parcels or parcels handled by courier service companies (2019 Cash Declaration Regulation, regs. 4 & 5).

If the cash is for the benefit of a natural person, a declaration is required for amounts over AED 60 000 (equivalent to less than EUR 15 000) (reg.2-4). If the cash is for the benefit of a company, all cross-border cash, BNI and precious metal and stone movements must be declared (reg. 5).

**Criterion 32.2** – Natural persons entering or leaving the UAE with over AED 60 000 (equivalent to less than EUR 15 000) must provide a truthful written declaration (AML Law, Art. 8; 2019 Cash Declaration Regulation, Art. 2). Customs officers are authorised to test a sample of passengers not making a declaration to verify they are not in breach of the threshold amounts (2019 Cash Declaration Regulation, Art. 2). There are penalties for providing incorrect information (2019 Cash Declaration Regulation, Art. 8)

**Criterion 32.3** – The UAE operates a declaration system, thus this criterion is not applicable.

**Criterion 32.4** – Upon discovery of a false declaration, customs officials can seek additional information from passengers (2019 Cash Declaration Regulation, Art. 8) with penalties applying to persons failing to disclose, or concealing, such information (AML Law, Art. 30).

**Criterion 32.5** – Sanctions are available for false declarations which are proportionate and dissuasive, including possible imprisonment (one month to three years) and a fine (AED 1 000 to 300 000), or a civil penalty (AML Law, Art. 30; 2019 Declaration Regulations, Art. 8 & 9). There is a tiered penalty system ranging from no

penalty for a first-time offence, a fine for second offence and referral to an LEA for a third-time offence. The implementation of the three-tiered penalty system is conditional on the customs officer being convinced of the reasons provided by the traveller (Art. 8 of the Declaration System). According to the Customs Policy, Customs officers can seize the cash / BNI and refer the passenger for potential prosecution in the case.

**Criterion 32.6** – Cross-border cash declarations which are reported to Federal Customs Authority (FCA) are stored on a central database, which is shared with the FIU on a monthly basis. Information recorded includes passenger details, purpose of the cash movement and value of cash/BNI or precious metals and stones. Cooperation on ML and TF issues, including cash declarations, is underpinned by an MOU between the FCA and the FIU signed in October 2010. The FCA is working on enhancing the database so it is accessible to a wider range of stakeholders and other agencies.

**Criterion 32.7** – In addition to the exchange of information with the FIU, the FCA has established a Customs Intelligence Committee to facilitate cooperation between the FCA, other customs agencies and other government agencies concerned with security affairs, such as the Ministry of the Interior and State Security which undertakes analysis on the declarations and produces risk analysis and typologies. It meets on a quarterly basis and discussed a range of issues, which has in the past included cash smuggling. The Operation and Customs Control department in the FCA is responsible for exchanging information between the internal administration, local customs authorities and the World Customs Organisation. It also develops typologies on methods of detection and smuggling routes to assist operations by UAE customs inspectors.

**Criterion 32.8** – Customs officers can seize cash/BNIs/precious metals and stones if they are not convinced by the reasons provided by the traveller (2019 Regulations, Art. 9 and Customs Policy). These provisions are associated with non-disclosure, and do not make an explicit reference to restraining the currency for the purposes of ascertaining whether evidence of ML/TF can be obtained. However, customs officers do have general investigative powers that would allow them to seize objects as they are considered judicial police (see c.31.1 and GCC Customs Law, Art. 116)).

**Criterion 32.9** – To facilitate international co-operation and assistance such co-operation, the FCA retains, and provides to the FIU (Customs Policy, Art. 4; 2019 Cash Declaration procedures, Art. 10):

- (a) all declarations above the prescribed threshold, which include the amount of currency, BNIs and precious stones and metals declared and identification data of the bearer; including;
- (b) information on false declarations, and
- (c) information on suspicions of ML/TF.

**Criterion 32.10** – The UAE's declaration system does not limit the movement of capital and does not unreasonably restrict legitimate travel and trade.

**Criterion 32.11** – Persons transporting currency, BNIs and precious metals and stones in relation to ML or TF may be subject to:



(a) penalties for the ML or TF offences (see R.3 and R.5) and can also be referred to LEAs and the public prosecutor for failing to declare on the third occasion (2019 Cash Declaration Regulation, Art. 8(c)).

(b) civil and criminal forfeiture as set out in R.4 as they fall within the definition of 'funds'.

### *Weighting and Conclusion*

All criteria are met.

**Recommendation 32 is rated compliant.**

## **Recommendation 33 – Statistics**

In its last MER, the UAE was rated partially compliant with these requirements. The deficiencies related to the use of statistics which are covered in the effectiveness assessment. Since the last MER, the Methodology for assessing compliance with this Recommendation has changed significantly.

**Criterion 33.1** – As required by law, the UAE keeps statistics on (AML Law, Art. 7):

(a) SARs received (broken down by sector) and disseminated/disclosed.

(b) ML and TF investigations, prosecutions and convictions, although these are not broken down by UAE jurisdiction.

(c) Property confiscated, but does not keep statistics on frozen or seized property.

(d) MLA and extradition requests as well as intelligence-sharing by law enforcement, the FIU and some supervisory agencies.

### *Weighting and Conclusion*

The UAE does maintain a range of statistics but does not maintain comprehensive national statistics on values of frozen or seized property nor does it keep international cooperation statistics for all of its supervisory agencies.

**Recommendation 33 is rated largely compliant.**

## **Recommendation 34 – Guidance and feedback**

In its last MER, the UAE was rated partially compliant with this recommendation. The deficiencies underlying the rating related to lack of clarity for institutions about what are the central banks expectations, through its inspection program, in respect of AML systems and controls in FIs and inadequate guidance to assist the insurance and securities sectors to implement and comply with STR requirements.

**Criterion 34.1** – The AML By-law places a requirement on the supervisors to provide FIs and DNFBPs guidelines and feedback to enhance the effectiveness of implementation of ML/TF Measures (AML Law, Art.44).

Supervisors

There are a variety of initiatives taken by the different supervisors in the UAE:

The **BSD's** guidance and feedback to banks has taken two main forms:

- Central Bank circulars contain considerable guidance within the document itself. This is detailed below with the example of Circular 24/2000.
- The BSD has for many years conducted annual inspections of every bank in the country. These inspections have always included intensive scrutiny of the banks' AML compliance program, and each inspection concludes with a close out meeting and a "transmittal letter" detailing the findings and actions required for their remediation.

The **SCA** has a unit that answers AML-related questions from regulated entities.

A guidance Booklet was also issued to licensed companies on how to classify their clients into various categories in terms of the rate of potential risk they have from ML/TF perspective. This guidance document assists reporting FIs with their classification of clients using an AML/CFT risk-based approach. SCA is preparing to issue updated guidance.

The **FIU** regularly provides qualitative feedback and guidance to the reporting entities on the STRs filed by them. The FIU has also conducted AML/CFT-related workshops with mainland banks and other reporting entities over the past several years. The FIU also has an obligation under Law to provide feedback (AML By-law, Art.42)

The **DFSA** AML Rulebook provides interpretative guidance to assist financial institutions and DNFBPs to comply with their AML obligations. The DFSA will publish further guidance on specific chapters of the AML Module on an on-going basis, as necessary.

The **ADGM** has a Financial Crime Prevention Unit "FCPU" to promote sound practices within the ADGM in financial crime compliance, which includes AML/CFT, and a financial crime prevention page on its website that provides numerous guidance materials and resources to reporting entities to ensure effective AML/CFT measures are applied by the licensed FIs within ADGM.

The MoE has also recently issued a comprehensive 106-page guidance document which will provide general guidance to DNFBPs in the implementation of the supervisory regime. However, as supervision is new for this sector, and the sectors are still being registered, it was not possible to fully determine if the guidance was suitably comprehensive or sector specific.

### *Weighting and Conclusion*

Whilst the UAE has issued guidance for FIs which will assist them in applying national AML/CFT measures, and in particular, in detecting and reporting suspicious transactions, the UAE has only recently issued guidance for DNFBPs. However, as supervision is new for this sector, and the sectors are still being registered, it was not possible to fully determine if the guidance was suitably comprehensive or sector specific.

**Recommendation 34 is rated largely compliant.**

## **Recommendation 35 – Sanctions**

In its last MER, the UAE was rated PC with these requirements. The technical deficiencies included a limited range of formal sanctions available to the central bank, a limitation, or lack of administrative penalties that can be imposed against brokers

and insurance companies for AML/CFT breaches, and no sanctions available against hawaladars.

### **Criterion 35.1 –**

In relation to Recommendation 6

The authority of supervisors to monitor and ensure compliance with the TF-TFS obligations is provided for in the UNSCR Decision (Article 20), the AML law (Article 13), and Article 44(7) of the AML By-law. These provisions make the administrative penalties in the AML Law available for TFS.

Article 14(1) of the AML Law includes the administrative penalties for FIs and DNFBPs, which range from: a warning; or a fine of no less than AED 50 000 (EUR 12 070) and up to AED 5 000 000 (EUR 1.2 million) for each violation; banning the violator from operating in the sector for a determined period; restricting the powers of or suspending board members, supervisory or executive board members or managers (with the restriction, but not suspension, also applying to owners) who are proven to be responsible for the violation; suspending or restricting the activity of the FI or DNFBP; or cancelling a license. Administrative penalties will be published (AML Law, Article 14). These constitute a broad range of sanctions for legal persons.

There are criminal penalties, including imprisonment or a fine of no less than AED 50 000 (EUR 12 070) and up to AED 5 000 000 (EUR 1.2 million) that apply to any person for non-compliance with TFS instructions (AML Law, Article 28).

These measures are generally broad, given that “person” is not defined in the AML Law and is interpreted to mean both natural and legal persons. However, the AML law reference to “imprisonment” does not specify a term of sentence or degree of crime. According to Article 69 of the Penal Code, unless the law provides otherwise (as is the case here), the minimum period of detention is one month and the maximum is three years.

In relation to Recommendation 8

The authorities are able to apply a range of proportionate and dissuasive sanctions for violations by NPOs or persons acting on behalf of these NPOs. The administrative penalties under Article 14 of the AML Law apply to obligations of NPOs listed in AML By-law, which are contained in Article 33 of the By-law. Further, Article 16 of the AML Law notes that obligations of NPOs are listed in the AML By-law (see Article 33 of the By-law). Therefore, any violations of the By-law would in theory carry penalties under the “catch-all” criminal sanctions provision in Article 31 of the AML Law that applies to any violation of that law. This penalty is imprisonment or a fine of no less than AED 10 000 (EUR 2 390) and no more than AED 100 000 (EUR 23 900). However, these monetary penalties may not be dissuasive in all circumstances.

Besides the provisions contained in the AML Law and AML By-law, most of Recommendation 8 is implemented through specific laws and regulations of the MOCD, IACAD, and IHC. Violations of these include the following penalties:

- MOCD: liquidation of the NPO for certain violations – e.g. disposal of funds in other than determined aspects, refusal to provide information or submitting incorrect information, gross violations against the articles of association (Art. 47, Federal Law No. 2 of 2008 Concerning Associations and Domestic Institutions of Public Interest); a fine of AED 10 000 for any breach of the law, or seizure any funds collected without authorisation (Art. 57);

- IACAD: rectification orders for any breach, written notices, suspending or permanently cancelling the license (Art. 20 of Executive Council Resolution No. 26 of 2013 concerning Charities, Quran Memorisation Centres and Islamic foundations in the Emirate of Dubai);
- IHC: sending rectification orders, sending written notices, imposing fines, suspending or permanently revoking the license. A list of fines and penalties determined by the Board of the IHC is listed in the IHC Regulations 2018, Annex 3 (Art. 26 of Dubai Law 1 of 2012).

In relation to Recommendations 9-23

For non-compliance the preventive measures in the AML Law and By-law, the range of administrative penalties in Art. 14 of the AML Law described above can be applied to FIs and DNFBPs. These are the range from: a warning; or a fine of no less than AED 50 000 (EUR 12 070) and up to AED 5 000 000 (EUR 1.2 million) for each violation; banning the violator from working in the sector for a determined period; restricting the powers of or suspending board members, supervisory or executive board members or managers (with the restriction, but not suspension, also applying to owners) who are proven to be responsible for the violation; suspending or restricting the activity of the FI or DNFBP; or cancelling a license. Administrative penalties will be published (AML Law, Article 14). These constitute a broad range of sanctions for legal persons.

There is also the broad criminal sanction “catch-all” provision contained in Article 31 of the AML Law. This allows for imprisonment or a fine of no less than AED 10 000 (EUR 2 390) and no more than AED 100 000 (EUR 23 900) for any “person” who violates any other provision of the law UAE indicates that this also includes violating provisions of the by-law, since this is a complementary part of the law. The reference to imprisonment does not specify a term of sentence or degree of crime, so pursuant to Article 69 of the Penal Code, this means imprisonment of no less than one month and no more than three years. However, the monetary penalties may not be dissuasive in all circumstances.

The administrative sanctions in the Article 14 of the AML Law are applied by the Supervisor against FIs, DNFBPs and NPOs in case they do not comply with the controls and obligations related to AML/CFT stipulated for by the AML Law and By-Law. While the general sanctions in the Article 31 of the AML Law are applied against any person violating any provision of the AML Law and By-Law upon which no specific sanction is stated.

**Criterion 35.2** – In relation to Recommendation 6 and 9-23, certain administrative penalties can be applied to managers (including senior managers) of FIs and DNFBPs – i.e. restricting the powers of or suspending directors, supervisory or executive board members or managers (the restriction, but not suspension, also applying to owners) who are proven to be responsible for the violation (AML Law, Art. 14(1)).

The criminal sanction “catch-all” provision contained in Article 31 of the AML Law (imprisonment or a fine of no less than AED 10 000 (EUR 2 390) and no more than AED 100 000 (EUR 23 900) applies to any “person”. This therefore applies to directors and senior management; however, the fines may not be dissuasive in all circumstances.

In relation to Recommendation 6 there is also the criminal penalties in Article 28 of the AML Law (imprisonment or a fine of no less than AED 50 000 (EUR 12 070) and

up to AED 5 000 000 (EUR 1.2 million) that apply to any “person”. These penalties are therefore applicable to directors and senior managers.

### *Weighting and Conclusion*

UAE generally has a broad range of proportionate and dissuasive sanctions that can be applied to natural and legal persons, as well as directors and senior managers of FIs and DNFBPs, for failure to comply with AML CFT obligations. However, monetary sanctions in Article 31 of the AML Law may not be dissuasive in all circumstances.

**Recommendation 35 is rated largely compliant.**

## **Recommendation 36 – International instruments**

In its last MER, the UAE was rated compliant with these requirements. Some issues were highlighted in relation to UNSCRs 1373 and 1267 which are now covered under R.6.

**Criterion 36.1** – The UAE has either become a party to and accepted, or ratified, the relevant conventions:

**Table 6. UAE’s ratification of relevant international instruments**

| International Instrument | Signed      | Ratification               |
|--------------------------|-------------|----------------------------|
| Vienna Convention 1988   | No          | Acceptance – 12 April 1990 |
| Palermo Convention 2000  | 9 Dec 2002  | 9 Dec 2002                 |
| TF Convention 1999       | No          | Acceptance - 23 Sep 2005   |
| Merida Convention 2003   | 10 Aug 2005 | 10 Aug 2005                |

**Criterion 36.2** – The UAE has implemented the Vienna Convention, the Palermo Convention, and the Merida Convention. The reservations it made to these conventions are outside the scope of R.36.<sup>50</sup>

### *Weighting and Conclusion*

All criteria are met.

**Recommendation 36 is rated compliant.**

## **Recommendation 37 - Mutual legal assistance**

In its last MER, the UAE was rated largely compliant with these requirements. The deficiencies related to concerns about implementation of the requirements which are now covered under the effectiveness assessment in IO.2.

**Criterion 37.1** – The UAE has a legal basis for the provision of a wide range of MLA, including: determining identities and locations of persons; obtaining testimony and evidence; search and seizure; production of records and customer information, and account monitoring orders; and restraint and confiscation (MLA Law, Art. 43-46; AML Law, Art. 18-20). This assistance can be provided in respect of proceedings for

<sup>50</sup> The reservations are not in relation to the relevant articles of the Conventions listed in footnote 71 of the Methodology.

ML, TF and predicate offences, regardless of the existence of a treaty, on the basis of reciprocity. Dual criminality is required for assistance involving coercive measures only (AML By Law, Art. 52(5)).

**Criterion 37.2** – The International Judicial Cooperation Department in the Ministry of Justice (MOJ-IC) is the central authority for international cooperation requests (MLA Law, Art. 1 & 44). The MOJ-IC coordinates requests within the Emirates. All requests go through diplomatic channels via the Ministry of Foreign Affairs and International Cooperation (MFA).

Competent authorities that are executing the international cooperation requests are obliged to prioritise requests relating to ML and TF ensure prompt handling of those requests (AML Law, Art. 19). Since December 2018, the MOJ-IC has an IT-based case management system for the prioritisation and execution of requests. In March 2019, the MOJ-IC also issued clear processes for the prioritisation and execution of requests (Operation Card Form, ANA/TDQ/03).

**Criterion 37.3** – In relation to ML/TF requests, amendments made by the AML Law address previously restrictive conditions to providing assistance in the MLA Law (Art.19 – see 37.4 below). It is not clear if this applies to requests for MLA in relation to predicate offences not specifically linked to ML.

**Criterion 37.4** –

**(a)** International co-operation will not be rejected on the basis that the crime involves tax and financial affairs (AML Law, Art. 19(2)(a)). This reverses, and supersedes, the position in the MLA Law which provides a blanket exception for providing MLA if the request is related to an absolute financial crime such as taxation or customs crimes.

**(b)** Secrecy or confidentiality on FIs and DNFBPs does not constitute a ground for denying a request, with the exception of legal professional privilege and professional secrecy (AML Law, art.19(2)(c); AML By-law, Art. 52(2)). LPP and professional secrecy are limited to situations where lawyers and notaries obtained information for the purposes of providing legal advice on the assessment of their client's position or defending or representing them in proceedings (AML Law, Art. 17(2)).

**Criterion 37.5** – Competent authorities in the UAE are required to maintain the confidentiality of MLA requests as required by the requesting country (AML Law, Art. 18-19; MLA Law, Art. 48). If the confidentiality of the information cannot be assured, then the requesting country must be informed (AML By-law, Art. 51).

**Criterion 37.6** – The MLA Law requires dual criminality in all circumstances (Art. 53(1)). In relation to MLA requests related to ML, associated predicate crimes and TF, dual criminality is not required for MLA requests for non-coercive actions (AML By-Law, Art. 52(5)).

**Criterion 37.7** – The UAE takes a conduct-based approach to assessing dual criminality (MLA Law, Art. 53(1); AML Law, Art. 19(2)(e) & AML By-Law, Art. 52(6)). Technical differences between the offence's name, description or structure does not prevent the UAE providing assistance provided the underlying conduct is criminalised in both jurisdictions.

**Criterion 37.8** – The UAE can utilise all powers specified under R.31 in response to a MLA request provided they would also be available to domestic authorities and subject to the same conditions (e.g. judicial approval) (MLA Law, Art. 43; AML Law,



Art. 18). This includes production orders, search and seizure, and obtaining witness statements, in addition to other investigative techniques such as undercover operations.

### *Weighting and Conclusion*

While the MLA framework has been substantially strengthened by the AML Law, minor deficiencies exist due to potentially restrictive conditions that apply to MLA requests in relation to predicate offences not directly linked with ML.

**Recommendation 37 is rated largely compliant.**

## **Recommendation 38 – Mutual legal assistance: freezing and confiscation**

In its last MER, the UAE was rated partially compliant with these requirements. The deficiencies related to concerns about implementation which are now covered under the effectiveness assessment in IO.2.

**Criterion 38.1** – Under the new AML Law, the UAE has the authority to take action in response to requests by foreign countries to identify, freeze, seize, and confiscate: **(a)** property laundered property from, **(b)** proceeds from, **(c)** instrumentalities used in, or **(d)** instrumentalities intended for use in, ML, predicate offences of TF, and **(e)** property of corresponding value (AML Law, Art. 18 (1)(a); AML By-Law, Art. 57, 59).

A foreign court decision may be recognised if the UAE has entered into a treaty with that country (AML Law, Art. 20; AML By-Law, Art. 58). The UAE has ratified 28 such treaties as of March 2019.

As set out in c.37.2, there are processes in place to ensure that expeditious action is taken in response to requests.

**Criterion 38.2** – While the UAE is unable to provide assistance to requests for cooperation made on the basis of non-conviction based confiscation proceedings, it can assist in asset recovery in the event of death or anonymity of the suspect (AML By-law, Art. 57(1)). While general provisions in the Criminal Procedure Law do allow for judgement in absentia (Federal Law No. 35 of 1992, Art. 189, 198-200), it is not clear if asset recovery could occur in the event of flight or absence of the perpetrator.

**Criterion 38.3** – The UAE can coordinate seizure and confiscation with other countries via the FIU, the Central Bank's freezing mechanisms, police-to-police cooperation and ultimately by making MLA requests (see R.40). As set out in R.4, the UAE does have mechanisms to manage and dispose of property frozen, seized or confiscated, including the appointment of receivers or administrators (AML By-Law, Art. 48).

**Criterion 38.4** – The UAE is able to share confiscated property with other countries based on a decision of the Minister for Justice (MLA Law, Art. 58). In July 2019, the MOJ finalised new procedures to facilitate this by establishing a 'Committee for studying the requests for Dividends of Proceeds of Crime' (Minister of Justice Decision No. 563 of 2019).

### *Weighting and Conclusion*

Most criteria are met, however it is not clear if assistance can be provided on a non-conviction basis where the perpetrator has fled or is absent.

**Recommendation 38 is rated largely compliant.**

## Recommendation 39 – Extradition

In its last MER, the UAE was rated largely compliant with these requirements. The deficiencies related to concerns about implementation which are now covered under the effectiveness assessment in IO.2.

**Criterion 39.1** – The UAE can execute extradition requests in relation to ML/TF from countries it has an extradition treaty with, or on the principle of reciprocity (AML Law, Art. 18(1)(b)).

- a) ML and TF are extraditable offences under the new AML law, as are associated predicate offences, as they fall within the definition of ‘crime’ (AML Law, Art.1).
- b) Extradition requests are handled by the MOJ-IC via diplomatic channels. Since December 2018, there is an electronic case management system in place for all incoming extradition requests. Legislation requires the prioritisation and prompt handling of international cooperation requests related to ML/TF (AML Law, Art. 19) and there are Key Performance Indicators in place to ensure timely execution of requests. In March 2019, the MOJ issues processes for the handling and execution of requests.
- c) The UAE does not place unreasonable or unduly restrictive conditions on the execution of requests. The courts may deny extradition on the basis of: UAE citizenship; double jeopardy; passage of time and termination of the case; possible interferences with an ongoing case in the UAE; concerning the subject; where extradition could lead to torture, inhumane or insulting treatment or a severe sentence not appropriate to the crime alleged; or where the request was made for the purpose of prosecution or prejudice on account of ethnicity, religion, nationality, or political opinion (MLA Law, Art. 9; AML Law, Art. 19).

**Criterion 39.2** – The UAE cannot extradite its citizens (UAE Constitution, Art. 38). In situations where extradition is refused solely on the grounds of nationality, authorities can prosecute UAE citizens for an act committed in foreign countries, as long as the act is also considered a crime according to the Penal Law (Penal Law, Art. 22).

**Criterion 39.3** – Technical differences between the offence’s name, description or categorisation does not prevent extradition provided the underlying conduct is criminalised in both jurisdictions (MLA Law, Art. 7(4), Art. 52(6)).

**Criterion 39.4** – The extradition process may be simplified where the requested person consents to surrender in writing (MLA Law, Art. 13).

### Weighting and Conclusion

All criteria are met.

**Recommendation 39 is rated compliant.**

## Recommendation 40 – Other forms of international co-operation

In its last MER, the UAE was rated partially compliant with these requirements. The deficiencies related to a lack of legal provisions for regulatory authorities to share

confidential information with foreign counterparts. The FATF requirements in relation to R.40 were strengthened since the UAE's last MER.

#### General principles

**Criterion 40.1** – The UAE requires that its competent authorities are able to provide a wide range of international co-operation in relation to ML, TF and predicate offences on the basis of a treaty or the principle of reciprocity, spontaneously or upon request (AML Law, Art. 18(2)-19; AML By-law, Art. 50-56). Competent authorities are defined as all government authorities entrusted with the application of the AML Law (AML Law, Art. 1), which includes law enforcement agencies, the FIU, Central Bank, customs agencies and FI, DNFBP and NPO supervisors. Authorities are required to provide this assistance 'promptly' (AML Law, Art. 18(2)) and to prioritise requests for assistance on ML/TF (AML Law, Art. 19(1)).

**Criterion 40.2** – Competent authorities, in general have a framework for providing informal international cooperation, but limited processes are in place to prioritise requests under sub-criterion (d):

- a) Competent authorities have a legal basis for providing co-operation – see c.40.1 above;
- b) Nothing prevents the competent authorities from using the most efficient means to co-operate. This includes collecting relevant information from other authorities when responding to a request (AML Law, Art. 18);
- c) Competent authorities have clear and secure gateways, mechanisms or channels to facilitate, transmit and execute requests for assistance. Co-operation largely occurs through mechanisms established by the Gulf Cooperation mechanisms, Egmont, Europol, and Interpol. The UAE's competent authorities work with the large network of 54 foreign liaison officers based in the country, with cooperation brokered via electronic link or through official correspondence;
- d) – Notwithstanding the legal requirement to prioritise AML/CTF requests for assistance, not all competent authorities have processes in place to assess and prioritise requests and ensure timely assistance is provided. The FIU has a Key Performance Indicator that requests will be responded to within 30 days and the DFSA has a policy to prioritise requests based on urgency, but it is not clear that other agencies apply similar policies;
- e) The confidentiality of foreign requests is required to be maintained and, if the confidentiality cannot be maintained, the requesting authority is informed (AML By-Law, Art. 51). More specifically, some competent authorities apply additional safeguarding processes such as the use of secure communication channels, the encryption of data, password protecting files and folders, if sharing electronic media such as USBs etc. these are sent securely or hand delivered when appropriate.

**Criterion 40.3** – Competent authorities have a range of bilateral and multilateral agreements and MOUs to facilitate co-operation with foreign counterparts. For example, MOI has signed 44 intelligence sharing and cooperation MOUs with a range of international partners. The FIU has 46 intelligence sharing MOUs signed with both Egmont and non-Egmont members. AML supervisors have also signed MOUs with international partners (BSD has 12 MOUs in place, FSRA has 36, SCA has 47, DFSA has 99). Other types of bi-lateral and multi-lateral agreements include 118 signed Double

Tax Agreements, although not all have entered into force. While such agreements are not required for UAE authorities to provide assistance on the basis of reciprocity, there is an expectation that they are negotiated and signed in a timely way (AML By-law, Art. 50).

**Criterion 40.4** – There is an expectation that competent authorities should to provide timely feedback upon request to foreign authorities who have provided assistance (AML By-law, Art. 53).

**Criterion 40.5** – The UAE does not place unreasonable or unduly restrictive conditions the provision of information or assistance. There are a range of factors that cannot be used as a grounds for refusal, including those set out under (a)-(d) of this criterion (Art. 19(2)).

**Criterion 40.6** – Authorities are required by law to only use international cooperation information for the intended purpose, unless otherwise agreed with the foreign counterpart (AML Law, Art. 18(2); AML By-Law, Art. 53(4)).

**Criterion 40.7** – UAE authorities are required to maintain appropriate confidentiality of international cooperation information, and where that might be compromised, a feedback mechanism is in place between the UAE and the foreign counterpart (AML Law, Art. 19; AML By-Law, Art. 51). Authorities can refuse to provide information in the event that it cannot be effectively protected by the foreign counterpart, (AML By-Law, Art. 53(5)). Authorities use various methods to do this, including through the use of secure email systems, encryption of data, use of passwords and hand delivery of information.

**Criterion 40.8** – Competent authorities are required to ‘gather information’ from other relevant authorities in the UAEs in dealing with requests for international cooperation (AML Law, Art. 18(2)). This includes the relevant competent authority contacting another authority in the UAE if they have access to any other requested information appropriate to the foreign inquiry (AML Law, Art. 9(2), AML By-law, Art. 53(1)).

Exchange of information between FIUs

**Criterion 40.9** – The FIU has an adequate legal basis for providing co-operation on ML, TF and predicate offences regardless of whether their counterpart FIU is administrative, law enforcement, judicial or other in nature (AML Law, Art. 9(2); AML By-law, Art. 43(1)).

**Criterion 40.10** – The FIU can provide feedback to foreign counterparts including on the use of information shared and the outcome of any analysis (AML By-law, Art.43(2)).

**Criterion 40.11** – The FIU is able to exchange: **(a)** information which it can access or obtain directly or indirectly as required by R.29, and **(b)** any other information which it can obtain or access, directly or indirectly, at the domestic level (AML Law, Art. 9(2)).

Exchange of information between financial supervisors

**Criterion 40.12** – All supervisors have a legal basis for providing co-operation to their foreign counterparts because they are considered to be a ‘competent authority’ under the AML Law (AML Law, Art. 1). As such, the ability to cooperate as outlined in c.40.1 apply but it is not clear whether they can exchange supervisory information relevant to AML/CFT purposes where the cooperation must be in relation to a ‘crime’

(AML Law, Art. 18(2); AML By-law, Art. 55). This is mitigated by the AML By-law which sets out a range of information that the supervisors of FIs can provide, including: the regulatory framework, preventative measures and internal policies applied by FIs (Art. 55(1)(a-c)). This sharing can be subject to a treaty agreement or on the basis of reciprocity.

**Criterion 40.13** – Financial supervisors are able to exchange domestically-available information with foreign counterparts, including information held by financial institutions to the extent outlined in c.40.12 above.

**Criterion 40.14** – Financial supervisors can exchange any information they hold, to the extent outlined in c.40.12 above. It appears that supervisors can exchange the full range of regulatory, prudential and AML/CFT information envisaged under this criterion.

**Criterion 40.15** – Financial supervisors are able to exercise domestic powers and conduct inquiries on behalf of overseas regulators, including conducting an investigation and obtaining information or documents (AML By-law, Art. 55(3)).

**Criterion 40.16** – Financial supervisors must obtain prior approval of their counterpart for any dissemination of information exchanged, other than for its intended purpose, unless legally obliged to do so in which case it is required to promptly inform the counterpart (AML By-law, Art. 55(2)).

Exchange of information between law enforcement authorities

**Criterion 40.17** – Law enforcement authorities are able to exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to ML, TF and predicate offending, including the identification and tracing of proceeds and instrumentalities of crime (AML By-law, Art. 56(1)). This sharing must be subject to a treaty agreement or on the basis of reciprocity and can take place through Interpol channels or via the contact of the Council of Arab Ministers of Interior.

**Criterion 40.18** – Law enforcement authorities are able to conduct inquiries and use domestically-available non-coercive powers in support of a request from a foreign counterpart. LEAs may take coercive action if an Interpol Red Notice has been submitted, allowing for arrest, or if an MLA request is in place for other coercive actions (AML By-Law, Art. 56(2)). The UAE is a party to the Interpol convention and abides by the restrictions on use imposed under this convention.

**Criterion 40.19** – Law enforcement authorities in the UAE are able to form joint investigative teams (JITs) to conduct co-operative investigations with foreign authorities (AML By-law, Art. 56(2)).

Exchange of information between non-counterparts

**Criterion 40.20** – UAE's laws are broad enough to allow competent authorities to exchange information indirectly with international non-counterpart authorities, as the relevant provisions refer to responding to requests made by 'any component authority in the foreign country' (AML Law, Art. 18(2)).

### Weighting and Conclusion

Most criteria are met, there is a minor deficiency as not all relevant authorities have processes in place to prioritise informal cooperation requests.

**Recommendation 40 is rated largely compliant.**

## ATTACHMENT A: Designated categories of offences (as per FATF Glossary)

|                                                                                                                                         | Law                                                                                                       | Reference                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| Participation in an organised criminal group and racketeering                                                                           | Penal Code                                                                                                | Articles 172, 186, 187, 188, 191, 192, and 196        |
| Terrorism, including terrorist financing                                                                                                | Penal Code                                                                                                | Articles 177, 178, and 191                            |
|                                                                                                                                         | Federal Law No. 7 of 2014 on Combating Terrorism Offences                                                 |                                                       |
| Trafficking in human beings and migrant smuggling                                                                                       | Law Against Trafficking in Human Beings No. (51) of 2006                                                  | Articles 2-4                                          |
| Sexual exploitation, including sexual exploitation of children                                                                          | Penal Code                                                                                                | Articles 354-357, and 363-370                         |
| Illicit trafficking in narcotic drugs and psychotropic substances                                                                       | Narcotic Drugs and Psychotropic Substances Law No. (14) of 1995                                           | Article 6                                             |
| Illicit arms trafficking                                                                                                                | Penal Code<br>Federal Law No. (5) of 2013 concerning Arms, ammunition, explosions, and military equipment | Article 196                                           |
| Illicit trafficking in stolen goods, and other goods                                                                                    | Penal Code                                                                                                | Article 407                                           |
| Corruption and bribery                                                                                                                  | Penal Code                                                                                                | Articles 234 -237, 224 -230, 240 - 247, and 250 - 252 |
| Fraud                                                                                                                                   | Penal Code                                                                                                | Articles 399 -400                                     |
| Counterfeiting currency                                                                                                                 | Penal Code                                                                                                | Articles 204-210                                      |
| Counterfeiting and piracy of products                                                                                                   | Federal Law No. (4) of 1979 on Combating Fraudulence and Cheating                                         | Articles 1-2                                          |
|                                                                                                                                         | Law No. (7) of 2002 Concerning Copyrights and Neighbouring Rights                                         | Articles 37-39                                        |
| Environmental crimes                                                                                                                    | Law No. (24) of 1999 On Protection and Development of Environment                                         | Articles 73-90                                        |
| Murder and grievous bodily injury                                                                                                       | Penal Code                                                                                                | Articles 331 -336, and 337 – 406                      |
| Kidnapping, illegal restraint and hostage taking                                                                                        | Penal Code                                                                                                | Article 344                                           |
| Robbery or theft                                                                                                                        | Penal Code                                                                                                | Articles 381-393                                      |
| Smuggling                                                                                                                               | Common Customs Law of the GCC States                                                                      | Articles 142-145                                      |
| Tax crimes related to direct taxes and indirect taxes ( <i>new designated category of offence under the 2012 FATF Recommendations</i> ) | Federal Law No. 7 of 2017 on Tax Procedures                                                               | Art.1, Article 26                                     |
| Extortion                                                                                                                               | Penal Code                                                                                                | Articles 351, 397, and 398                            |
| Forgery                                                                                                                                 | Penal Code                                                                                                | Articles 205-223                                      |
| Piracy                                                                                                                                  | Penal Code                                                                                                | Article 21                                            |
| Insider trading and market manipulation                                                                                                 | Federal Law No. 4 of 2000 Concerning the Emirates Securities and Commodities Authority and Market         | Articles 36 -39 and 41                                |

Note: This table is an updated version of that which was included in the 7<sup>th</sup> MENAFATF follow-up report from the last MER (p.8-9). All references to the Penal Code are a reference to Federal Law No. 3 of 1987 concerning the Penal Law.



## Summary of Technical Compliance – Key Deficiencies

### Compliance with FATF Recommendations

| Recommendations                                           | Rating | Factor(s) underlying the rating                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Assessing risks & applying a risk-based approach       | PC     | <ul style="list-style-type: none"> <li>There are some issues with how the assessment products were used, in addition to a lack of depth with data and information sources, to develop a collective understanding of ML/TF risk, including that: <ul style="list-style-type: none"> <li>It is not clear how the threats and vulnerabilities interact to create risks and if mitigation measures have taken into account.</li> <li>There is limited detail on trade-based money laundering, the role of organised crime groups, cross border ML/TF risks or the UAE's exposure to foreign proceeds of crime or the use of cash in transactions, including links to high-value real estate, and</li> <li>Vulnerabilities in relation to TF are treated identical to ML across each sector, which does not appear to align with the country's context nor with the TF case studies presented.</li> </ul> </li> <li>Apart from a few exceptions, generally, competent authorities have not conducted other risk assessments to identify and assess ML/TF risks in the UAE.</li> <li>The UAE's National Action Plan does not specifically address the allocation of resources or implementation of measures to address priority ML/TF risks. While some agencies are adjusting their resources and mitigation measures, it is not clear that this is occurring across all agencies or that additional measures are being considered in mitigating the UAE's risk exposure to more complex ML/TF risks.</li> </ul> |
| 2. National cooperation and coordination                  | LC     | <ul style="list-style-type: none"> <li>Issues identified in c1.1 impact the UAE's ability to implement policies informed by identified risks.</li> <li>There are gaps in operational coordination on CPF</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 3. Money laundering offences                              | LC     | <ul style="list-style-type: none"> <li>It is not clear to what extent the ML offence covers the laundering of the proceeds of a range of foreign direct or indirect tax crimes.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 4. Confiscation and provisional measures                  | LC     | <ul style="list-style-type: none"> <li>There is lack of legal or procedural frameworks in place to facilitate the use of the broad powers to identify, trace and evaluate property.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 5. Terrorist financing offence                            | LC     | <ul style="list-style-type: none"> <li>An additional terrorist purpose is required for acts in the CFT Convention,</li> <li>The indirect collection and definition of funds is not explicitly covered</li> <li>Minor deficiencies regarding extraterritoriality of TF offences</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 6. Targeted financial sanctions related to terrorism & TF | PC     | <ul style="list-style-type: none"> <li>The freezing obligation in the UNSCR Decision does not specifically apply to the local (1373) list.</li> <li>Lack of clear definition of "listed person" to whom the freezing measures apply, and freezing refers to funds connected to PF, not TF (c.6.5(b)).</li> <li>It is unclear whether the newly established system would operate without delay</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 7. Targeted financial sanctions related to proliferation  | PC     | <ul style="list-style-type: none"> <li>A number of obligations refer to the "Sanctions List", which as defined in the Decision does not include UNSCR 2231. As a result, there is: <ul style="list-style-type: none"> <li>no obligation to freeze the funds or other assets owned, controlled or held, in whole or in part of an individual acting, directly or indirectly on behalf of or as directed, controlled by a (2231) designated person or organisation (c.7.1 and 7.2(b)).</li> <li>a limit to the ongoing prohibition of making funds available (c. 7.2(c));</li> <li>a limit to publicly known procedures for submitting delisting requests, unfreezing funds and access to frozen funds (c.7.4); and</li> <li>a limit to freezing actions not preventing a designated person or entity from making a payment due under contract entered into prior the listing of such person or entity (c.7.5(b)).</li> </ul> </li> <li>It is unclear whether the newly established system would operate without delay.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 8. Non-profit organisations                               | LC     | <ul style="list-style-type: none"> <li>No clear policies regarding accountability, integrity, and public confidence in the administration and management of Emirate-level Rulers' Funds (c.8.1);</li> <li>Lack of developing and refining best practices (c.8.2(c)); and</li> <li>Only initial monitoring of Emirate-level Rulers' Funds (c.8.4(a))</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

| Recommendations                                                 | Rating | Factor(s) underlying the rating                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------------------------------------------|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9. Financial institution secrecy laws                           | C      | <ul style="list-style-type: none"> <li>The Recommendation is fully met</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 10. Customer due diligence                                      | LC     | <ul style="list-style-type: none"> <li>It is not clear whether 'any other identification information' originates from a reliable and independent source</li> <li>The legislation does not adequately cover control of the legal person "through other means" where there is a doubt as to whether the controlling ownership interest is the beneficial owner or where no natural person exerts control through ownership interests.</li> <li>The legislation does not specifically refer to ultimate effective control being exercised through a chain of control/ownership.</li> <li>There is no explicit requirement to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable.</li> </ul> |
| 11. Record keeping                                              | LC     | <ul style="list-style-type: none"> <li>There is no explicit requirement that the records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity..</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 12. Politically exposed persons                                 | LC     | <ul style="list-style-type: none"> <li>There is no requirement to establish the source of wealth of customers and beneficial owners who are PEPs</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 13. Correspondent banking                                       | C      | <ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 14. Money or value transfer services                            | LC     | <ul style="list-style-type: none"> <li>No information provided by the UAE as to how to identify the natural or legal persons that carry out MVTS without a license or registration, or actual actions being taken in this regard;</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 15. New technologies                                            | LC     | <ul style="list-style-type: none"> <li>UAE has not fully identified and assessed the ML/TF risks of new technologies.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 16. Wire transfers                                              | C      | <ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 17. Reliance on third parties                                   | LC     | <ul style="list-style-type: none"> <li>Taking into account the level of country risk when relaying on third parties is limited to countries in the FATF Public Statement, rather than having regard to information available on country risk more broadly.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 18. Internal controls and foreign branches and subsidiaries     | LC     | <ul style="list-style-type: none"> <li>There is no enforceable requirement for FIs to appoint a compliance officer at the management level</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 19. Higher-risk countries                                       | PC     | <ul style="list-style-type: none"> <li>There are issues which are remaining regarding the requirements for and proportionality of countermeasures, which appear to be limited to normal enhanced CDD measures.</li> <li>There is no sufficient mechanism in place to ensure that FIs are advised of concerns about weaknesses in the AML/CFT system of other countries.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                             |
| 20. Reporting of suspicious transaction                         | C      | <ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 21. Tipping-off and confidentiality                             | LC     | <ul style="list-style-type: none"> <li>There is no explicit legal requirement that protection should be available even if the individual did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 22. DNFBPs: Customer due diligence                              | LC     | <ul style="list-style-type: none"> <li>There are minor shortcomings in relation to CDD, Record Keeping, PEPs and New Technologies.</li> <li>There are moderate shortcomings in relation to the consideration of the level of country risk.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 23. DNFBPs: Other measures                                      | LC     | <ul style="list-style-type: none"> <li>There are minor shortcomings in relation to the requirement in FFZs to appoint a compliance officer at management level.</li> <li>Regarding the confidentiality for reporting, protection should be available even if the individual did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.</li> <li>There are moderate shortcomings in relation to identification of high risk third countries.</li> </ul>                                                                                                                                                                                                                                                    |
| 24. Transparency and beneficial ownership of legal persons      | LC     | <ul style="list-style-type: none"> <li>The assessment of ML/TF risk of legal persons is currently restricted to the inherent vulnerability of the legal person.</li> <li>Issues remain over having mechanisms in place to ensure the accuracy of basic and beneficial ownership information.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 25. Transparency and beneficial ownership of legal arrangements | PC     | <ul style="list-style-type: none"> <li>As noted, that Waqf authorities confirmed they are not obliged to comply with the AML legislation.</li> <li>Moderate shortcomings remain around implementing the requirements of Recommendation 25 for Waqf (25.2, 25.3, 25.5, 25.7 and 25.8).</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 26. Regulation and supervision of financial institutions        | C      | <ul style="list-style-type: none"> <li>The Recommendation is fully met</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 27. Powers of supervisors                                       | C      | <ul style="list-style-type: none"> <li>The Recommendation is fully met</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 28. Regulation and supervision of DNFBPs                        | LC     | <ul style="list-style-type: none"> <li>There are some minor deficiencies such as around the market entry requirements to prevent criminals or their associates from owning, controlling or r holding a management function in a DNFBP licensing is often carried out by the local DED, where controls are generally not comprehensive (particularly for non-resident beneficial owners).</li> </ul>                                                                                                                                                                                                                                                                                                                                                                            |

| Recommendations                                                       | Rating | Factor(s) underlying the rating                                                                                                                                                                                                                   |
|-----------------------------------------------------------------------|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                       |        | <ul style="list-style-type: none"> <li>The recent appointment of supervisors means that it is not yet possible to determine if guidance is fully comprehensive to ensure supervision on a risk-sensitive basis.</li> </ul>                        |
| 29. Financial intelligence units                                      | PC     | <ul style="list-style-type: none"> <li>In practice, State Security, and not the FIU, is the national centre for analysing STRs relating to TF.</li> <li>The FIU performs limited operational analysis and strategic analysis.</li> </ul>          |
| 30. Responsibilities of law enforcement and investigative authorities | C      | <ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>                                                                                                                                                                |
| 31. Powers of law enforcement and investigative authorities           | C      | <ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>                                                                                                                                                                |
| 32. Cash couriers                                                     | C      | <ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>                                                                                                                                                                |
| 33. Statistics                                                        | LC     | <ul style="list-style-type: none"> <li>UAE does not maintain comprehensive national statistics on values of frozen or seized property nor does it keep international cooperation statistics for all of its supervisory agencies</li> </ul>        |
| 34. Guidance and feedback                                             | LC     | <ul style="list-style-type: none"> <li>UAE has issued initial DNFBP guidance however, as the sectors are still being registered, it was not possible to fully determine if the guidance was suitably comprehensive or sector specific.</li> </ul> |
| 35. Sanctions                                                         | LC     | <ul style="list-style-type: none"> <li>The monetary sanctions in Article 31 of the AML law may not be dissuasive in all circumstances</li> </ul>                                                                                                  |
| 36. International instruments                                         | C      | <ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>                                                                                                                                                                |
| 37. Mutual legal assistance                                           | LC     | <ul style="list-style-type: none"> <li>There is a minor deficiency exist due to potentially restrictive conditions that apply to MLA requests in relation to predicate offence not directly linked with ML.</li> </ul>                            |
| 38. Mutual legal assistance: freezing and confiscation                | LC     | <ul style="list-style-type: none"> <li>It is not clear if assistance can be provided on a non-conviction basis where the perpetrator has fled or is absent.</li> </ul>                                                                            |
| 39. Extradition                                                       | C      | <ul style="list-style-type: none"> <li>The Recommendation is fully met.</li> </ul>                                                                                                                                                                |
| 40. Other forms of international co-operation                         | LC     | <ul style="list-style-type: none"> <li>There is a minor deficiency as not all relevant authorities have processes are in place to prioritize informal cooperation requests</li> </ul>                                                             |

## *Glossary of Acronyms*

| Abbreviation | Expanded Form                                       |
|--------------|-----------------------------------------------------|
| ADGM         | Abu Dhabi Global Market                             |
| ADX          | Abu Dhabi Securities Exchange                       |
| AED          | Arab Emirati Dirham (UAE currency)                  |
| AMAF         | Awqaf and Minor Affairs' Foundation                 |
| AML          | Anti-Money Laundering                               |
| BNI          | Bearer Negotiable Instruments                       |
| BO           | Beneficial owner                                    |
| BSD          | Banking Supervision Department of the Central Bank  |
| CAD          | Central Bank's Customers' Account Database          |
| CAMS         | Certified Anti-Money Laundering Specialist          |
| CB/CBUAE     | Central Bank of UAE                                 |
| CDD          | Customer Due Diligence                              |
| CFT          | Combating Financing of Terrorism                    |
| CFZ          | Commercial Free Zone                                |
| CPF          | Counter Proliferation Financing                     |
| CSP          | Company Services Provider                           |
| CT           | Counter Terrorism                                   |
| DCCA         | Dubai Creative Clusters Authority                   |
| DED          | Department of Economic Development                  |
| DFM          | Dubai Financial Market                              |
| DFSA         | Dubai Financial Services Authority                  |
| DGCX         | Dubai Gold and Commodities Exchange                 |
| DIFC         | Dubai International Financial Centre                |
| DLD          | Dubai Land Department                               |
| DMCC         | Dubai Multi Commodities Centre                      |
| DNFBP        | Designated Non-Financial Businesses and Professions |
| DPMS         | Dealers in Precious Metals and Stones               |
| EDD          | Enhanced Due Diligence                              |
| EU           | European Union                                      |
| FATF         | Financial Action Task Force                         |
| FCA          | Federal Customs Authority                           |
| FFP          | Federal Public Prosecution                          |
| FFZ          | Financial Free Zone                                 |
| FI           | Financial Institution                               |
| FIU          | Financial Intelligence Unit                         |
| FNC          | Federal National Council                            |
| FSRA         | Financial Services Regulatory Authority             |

| Abbreviation | Expanded Form                                                                     |
|--------------|-----------------------------------------------------------------------------------|
| FX/CFD       | Forex / Contracts for Difference                                                  |
| GCC          | Gulf Cooperation Council                                                          |
| GDP          | Gross Domestic Product                                                            |
| HMT          | Her Majesty's Treasury                                                            |
| IA           | Insurance Authority                                                               |
| IACAD        | Islamic Affairs and Charitable Activities Department                              |
| ID           | Identity Document                                                                 |
| IHC          | International Humanitarian City                                                   |
| IO           | Immediate Outcome                                                                 |
| IRR          | Integrated Regulatory Reporting                                                   |
| IT           | Information Technology                                                            |
| JAFZA        | Jebel Ali Free Zone                                                               |
| KPI          | Key Performance Indicator                                                         |
| KYC          | Know Your Customer                                                                |
| LEA          | Law Enforcement Authority                                                         |
| LLC          | Limited Liability Company                                                         |
| MENAFATF     | Middle-East and Northern Africa FATF                                              |
| ML           | Money Laundering                                                                  |
| MLA          | Mutual Legal Assistance                                                           |
| MMR          | Modified Risk Rating                                                              |
| MOCD         | Ministry of Community Development                                                 |
| MOE          | Ministry of Economy                                                               |
| MOFAIC       | Ministry of Foreign Affairs and International Cooperation                         |
| MOI          | Ministry of Interior                                                              |
| MOJ          | Ministry of Justice                                                               |
| MOJ-IC       | Ministry of Justice- International Cooperation Department                         |
| MOU          | Memorandum of Understanding                                                       |
| MSP          | Money Service Businesses                                                          |
| MVTS         | Money or Value Transfer Services                                                  |
| NAMLCFTC     | National Anti-Money Laundering and Combating the Financing of Terrorism Committee |
| NER          | National Economic Register                                                        |
| NGO          | Non-governmental organization                                                     |
| NOC          | No-objection certificate                                                          |
| NPO          | Non-profit organisation                                                           |
| NRA          | National Risk Assessment                                                          |
| OFAC         | Office of Foreign Assets Control                                                  |
| PBI          | Private Banking International                                                     |
| PEP          | Politically Exposed Person                                                        |
| PF           | Proliferation Financing                                                           |
| PMO          | Project Management Office                                                         |
| PMS          | Precious Metals and Stones                                                        |
| POA          | Power of Attorney                                                                 |
| PP           | Public Prosecution                                                                |

| Abbreviation | Expanded Form                                      |
|--------------|----------------------------------------------------|
| RAK          | Ras Al Khaimah                                     |
| RAKEZ        | Ras Al Khaimah Economic Zone                       |
| RBA/RBS      | Risk-Based Approach/ Risk-Based Supervision        |
| RM(P)        | Risk Management (Plan)                             |
| RRS          | Remittance Reporting System                        |
| SCA          | Securities and Commodities Authority               |
| SSP          | State Security Prosecution                         |
| STR          | Suspicious Transaction Report                      |
| TBML         | Trade-Based Money Laundering                       |
| TCSP         | Trust and Company Service Provider                 |
| TF           | Terrorism Financing                                |
| TFS          | Targeted Financial Sanctions                       |
| TO           | Terrorist Organisation                             |
| UAE          | United Arab Emirates                               |
| UAQ          | Umm Al Quwain                                      |
| UN           | United Nations                                     |
| UNCTAD       | United Nations Conference on Trade and Development |
| UNSCR        | United Nations Security Council resolution         |
| USD          | United States Dollar                               |
| WMD          | Weapons of Mass Destruction                        |





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## Anti-money laundering and counter-terrorist financing measures - United Arab Emirates

### *Fourth Round Mutual Evaluation Report*

In this report: a summary of the anti-money laundering (AML) / counter-terrorist financing (CTF) measures in place in the United Arab Emirates as at the time of the on-site visit on 1-18 July 2019.

The report analyses the level of effectiveness of United Arab Emirates' AML/CTF system, the level of compliance with the FATF 40 Recommendations and provides recommendations on how their AML/CFT system could be strengthened.