



مصرف الإمارات العربية المتحدة المركزي
CENTRAL BANK OF THE U.A.E.

ENFORCEMENT POLICY

BANKING SUPERVISION
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TABLE OF CONTENTS

01	INTRODUCTION	4
02	PURPOSE	4
03	APPLICABILITY	4
04	TERMS & DEFINITIONS	5
05	ROLES & RESPONSIBILITIES	5
06	MAIN PRINCIPLES AND RULES	6
07	POLICY REVIEW	11
08	REFERENCES	11

1 INTRODUCTION

It is the vision of the Central Bank of the UAE (CBUAE) to promote monetary and financial stability towards sustainable economic growth, aiming to enhance the regulatory and supervisory framework for Licensed Financial Institutions.

2 PURPOSE

It is the function of Enforcement to support the CBUAE's strategic objectives in an efficient and flexible manner to maintain a disciplined approach towards enforcement and achieve the desired outcomes. This includes deterring violations of the applicable laws of the UAE, enhancing compliance with those laws and ensuring the redress and protection of consumers.

3 APPLICABILITY

This policy applies to all Licensed Financial Institutions.



4 TERMS AND DEFINITIONS

No.	Terms & Definitions	Description
4.1	CBUAE	Central Bank of the United Arab Emirates
4.2	Central Bank Law	The Decretal Federal Law No. (14) of 2018 regarding the Central Bank & Organization of Financial Institutions and Activities, as amended by Decretal Federal Law No. (25) of 2020
4.3	HSA	Higher Shari'ah Authority, referred to in article (17) of the Central Bank Law
4.4	AML/CFT	Anti-money laundering and combating financing of terrorism, as defined in Federal Decree-law No. (20) of 2018 on anti-money laundering and combating the financing of terrorism and financing of illegal organizations (the "AML/CFT Law")
4.5	BSD	Banking Supervision Department of the CBUAE
4.6	FCPD	Financial Consumer Protection Department of the CBUAE
4.7	AML/CFT-D	AML/CFT Department of the CBUAE
4.8	Licensed Financial Institutions	Banks and other financial institutions licensed in accordance with the provisions of the Central Bank Law
4.9	Carrying on unlicensed Financial Activities	Carrying on any of the financial activities referred to in Article (65) of the Central Bank Law without a license from the CBUAE
4.10	Financial Infrastructure System	A Clearing and Settlement System or a Retail Payment System, established, operated, licensed, or overseen by any of the Regulatory Authorities in the United Arab Emirates

5 ROLES & RESPONSIBILITIES

No.	Responsible Party	Role and Responsibilities
5.1	Enforcement Division or "Enforcement"	Preparing, reviewing and managing all relevant Regulations, Policies, Processes, Procedures and Protocols relevant to the Enforcement function
5.2	Supervisory & Regulatory Committee	To advise on any changes to the mandate and/or policy
5.3	The Board of Directors	To decide on any changes to the mandate and/or policy as recommended by the Supervisory & Regulatory Committee

6 MAIN PRINCIPLES AND RULES

6.1 The Enforcement Mandate

Enforcement will operate to support the strategic objectives of the CBUAE to enhance the regulatory and supervisory framework for licensed financial institutions as follows:

- a. Preparing, reviewing and managing all relevant Regulations, Policies, Processes, Procedures and Protocols relevant to the Enforcement function;
- b. Receiving referrals and information of potential violations from Banking Supervision & Examination, Financial Consumer Protection, Licensing, the Financial Intelligence Unit (FIU), the Higher Shari'ah Authority's (HSA) Secretariat with regard to Islamic Banks and regular banks operating an Islamic window, and other internal CBUAE functions as well as relevant external institutions;
- c. Liaising and coordinating with all relevant departments and institutions, internal and external, in assessing potential violations and proposing next steps;
- d. Expeditiously conducting further interviews and reviews of examinations, as necessary, to document potential violations, noting the required legal standards of evidence should the outcome of the examination be challenged in the Grievances & Appeals Committee and the Higher Federal Court;
- e. Evaluating the evidence, including assessing the impact of the violations on the market, stakeholders and consumers;
- f. Discussing settlement agreements with parties where appropriate, to achieve agreed outcomes;
- g. Liaising with the HSA regarding Sharia non-compliant transactions that require profit to be forfeited;

6.2. Laws, Regulations and Enforcement Powers

The CBUAE's remit is broad and includes the areas of financial stability, Shari'ah compliance, the integrity of the financial system, market conduct and consumer protection. The Central Bank Law and AML/CFT Law & Regulations govern these subject matters.

The aforementioned laws and regulations provide for an extensive range of disciplinary powers to enable the CBUAE to take action against licensed financial institutions and individuals that violate their provisions. The CBUAE's enforcement powers include the following:

- a. Issue a warning or caution;
- b. Impose, change or cancel requirements or restrictions as conditions imposed on a license, registration or authorisation;
- c. Prohibit the financial institution from operating in the relevant sector for a specified period;
- d. Forfeiting the profit for activities or transactions that do not comply with Shari'ah requirements according to the HSA resolutions;
- e. Prohibit any individual from working, or undertaking designated functions with a financial institution;
- f. Suspend, withdraw, partially or fully an individual's authorisation;
- g. Impose a financial sanction;
- h. Close, restrict or suspend certain operations;
- i. Order redress to customers of losses suffered as a result of a violation;
- j. Suspend or withdraw the license, registration or authorisation of a financial institution; and
- k. Expel the financial institution from the Financial Infrastructure System.

6.3. Principles of Enforcement

The Enforcement Division's approach to enforcement is based on the following principles:

6.3.1. Risk Based Approach and Proportionality

The CBUAE adopts a risk-based approach to the regulation and supervision of Licensed Financial Institutions. That risk based approach takes into account the number of Licensed Financial Institutions as well as the size, complexity and maturity of the UAE's financial system. This results in greater focus on those areas of greatest risk to the financial markets and supports a more effective and efficient allocation of supervisory resources. Enforcement likewise adopts a proportionate approach, applying its resources in the most efficient way to achieve outcomes that support the strategic objectives of the CBUAE.

6.3.2. Conformity

By its disciplinary actions, Enforcement aims to effect a change in the culture and/or behavior of the Licensed Financial Institutions such that they concur and assent to the regulatory requirements of the CBUAE and where violations of the law occur, to deter future violations.

6.3.3. Procedural Fairness and Integrity

In taking disciplinary action, Enforcement will follow processes and principles of natural justice, which are fairness and consistency, treating all parties equally and without bias. Enforcement aims to maintain the integrity of its actions and ensure that the licensed financial institutions are operating in a manner that promotes financial confidence in the UAE's financial system.

6.3.4. Decisive and Proactive Outcomes

When the CBUAE detects conduct that may be a violation of its laws and/or regulations, Enforcement acts swiftly and decisively to stop that conduct, minimise the effects and prevent similar conduct recurring. In doing so, Enforcement acts fairly and in accordance with its policies and procedures.

6.3.5. International Best Practice

Enforcement action will be conducted at all times in accordance with the principles and procedures identified with international best practice. This approach supports the CBUAE's strategic objective of promoting confidence in the UAE's financial system.

6.3.6. Co-operation and Mutual Assistance

The CBUAE works closely with other regulators in the UAE as well as overseas regulators to ensure the effective exchange of information and adherence to the highest standards. This is important, as it may be necessary to obtain information from overseas regulators to assist in an enforcement examination.

6.4. Examinations

6.4.1. Referrals

There are many sources of referrals of cases to Enforcement. Most of the referrals will be made internally by various departments of the CBUAE which play an important role in the area of financial stability but also by the Financial Intelligence Unit (FIU). In the discharge of their functions these departments and the FIU will come across matters, which require Enforcement input. These departments are most likely to have matters that are of relevance to Banking Supervision Department (BSD) and the Financial Consumer Protection Department (FCPD).

Referrals can be made by the HSA pertaining to Shari'ah non-compliance and Shari'ah governance related matters. Referrals can also be made by the Licensed Financial Institutions, self-reporting issues as well as by individuals in their roles as for example, CEOs, compliance officers, or MLROs informing the CBUAE of matters which require examination. Whistleblowers are another source of referrals. Requests for assistance from other domestic or foreign regulators can also raise matters, which require Enforcement input.

6.4.2. Examination Powers

Enforcement will rely on examinations, conducted by internal departments of the CBUAE and explore further as required, doing so in a fair manner. Enforcement has extensive information gathering powers, including the following:

- a) In coordination with the concerned agencies in the UAE, to enter the premises of any (juridical) person, suspected of carrying on unlicensed financial activities, for the purpose of inspecting

and copying information and documents stored in any form on the premises;

- b) To require the licensed financial institution to prepare a report, by a nominated person, on any matter which the CBUAE determines;
- c) To require any related person to attend, at a specified time and place to answer questions, to be interviewed, produce specified documents and/or provide such information or assistance as the examiner may require; and
- d) With the co-operation of and in co-ordination with overseas regulatory authorities, to enter the premises of branches and related offices of licensed financial institutions to conduct examinations in those jurisdictions.

6.4.3. Internal Process

- a) Enforcement takes an inclusive approach to assessing and examining referrals;
- b) All referrals will initially be discussed between the referring party and Enforcement. Further requests for information may be made by Enforcement at any time throughout the examination process; and
- c) Internal decision making protocols will apply to Enforcement examinations.

6.4.4. Decision Making

The Governor and the Board of the CBUAE are the ultimate decision makers in relation to Enforcement actions. Enforcement will present its findings throughout the process to the Head of BSD and the Supervisory & Regulatory Committee who will review the veracity of the evidence being gathered and advise as to the steps required to progress. The Board will be kept informed of the matter as it requires and the Governor or the Board will make a decision as to the outcome. The relevant party will be informed of the decision in due course.

6.4.5. Settlements

- a) The decision to settle an enforcement action is a decision taken by the CBUAE with the agreement of the party that is the subject of the enforcement action. The settlement will entail an agreed set of facts and violations, with the party also agreeing to the imposition of an agreed penalty, if appropriate. The settlement will be agreed with and approved by the Governor, the Supervisory & Regulatory Committee and the Board of Directors as appropriate;
- b) Early settlement of an enforcement action has many advantages for both the CBUAE and the party that is the subject of the enforcement action. It allows matters to be resolved quickly, with non-compliant behavior being remedied immediately and valuable resources being used more effectively;
- c) Early settlement is not suitable in all cases. Matters which are for example administrative in nature and which do not present a serious risk to the Licensed Financial Institution or the wider financial market may be more suitable for early settlement than those which do not fall into this category;
- d) Early settlement is an effective way to achieve quicker redress for customers where customers have lost money due to the actions of the Licensed Financial Institution; and
- e) In some cases, it may be appropriate to partially settle a case and continue the enforcement process for the remaining unsettled elements of the case.

6.4.6 Sanctions

Article 137 of the Central Bank Law sets out the Administrative & Financial Sanctions applicable to the violations of the provisions of the Central Bank Law and AML/CFT Laws & Regulations. Article 137 of the Central Bank Law provides details of the sanctions to be imposed in the various

circumstances set out therein. Further sanctions and penalties are set out in the AML/CFT legislation.

6.5. Criteria relevant to determining the outcome of Enforcement Actions

To ensure fairness and consistency in the enforcement process, the CBUAE assesses allegations of violations against certain criteria. These criteria are designed to deliver outcomes consistent with the priorities and objectives of the CBUAE. The application of the criteria depends on the circumstances of a matter and not all criteria are relevant to the assessment of every allegation. The criteria include:

- a. Whether the CBUAE has jurisdiction over the matter;
- b. Whether the alleged violation relates to a matter of strategic importance to the CBUAE;
- c. The nature of the alleged violation, including whether it was deliberate, reckless, minor or routine;
- d. The seriousness of the alleged violation, including whether it indicates problems of a widespread or systemic nature;
- e. The effect of the alleged violation, including whether it resulted in a benefit to the person concerned and actual loss or detriment to others;
- f. The frequency and duration of the alleged violation, including whether it is ongoing and the time which has elapsed since it occurred;
- g. The likelihood of the alleged violation being proven, having regard to the availability, reliability and quality of the evidence of the alleged violation;
- h. The disciplinary record and compliance history of the licensed institution or person concerned, including whether that party has previously been warned about similar misconduct;

- i. The Licensed Financial Institution's or person's conduct after the alleged violation occurred, including whether they brought the violation to the CBUAE's attention or sought to conceal the alleged misconduct, and any steps taken to address the causes and effects of the alleged violations;
- j. Whether the Licensed Financial Institution or person has offered or is likely to offer any assistance to the CBUAE or persons affected by the alleged misconduct;
- k. The remedies and regulatory actions available to the CBUAE;
- l. Any remedies available to the person affected by the alleged violations;
- m. Whether any other authority is able to take action in relation to the alleged violation and the likelihood of such action being taken;
- n. Whether any other authority (in the UAE or elsewhere) has sought the co-operation of the CBUAE in relation to the alleged violations;
- o. Whether the alleged misconduct undermines or damages the financial stability, integrity, reputation of, or confidence in the CBUAE or the financial system of the UAE; and
- p. Whether, in all the circumstances, it would be appropriate for the CBUAE to examine the alleged violations.

6.6. Transparency and Publicity

- 6.6.1. As a general principle, the CBUAE will publish outcomes of administrative and financial sanctions and penalties imposed as result of enforcement action. The enforcement outcome will be published on an anonymous basis but will include the pertinent particulars of the case;

- 6.6.2. In two instances comment by the CBUAE on the name of the Licensed Financial Institution and/or (authorised) individual is appropriate, as follows:
 - a. Where a licence is suspended, withdrawn or revoked (to inform the financial market and consumers accordingly); and
 - b) Where achievement of the CBUAE's statutory objectives regarding stability and integrity of the financial system, has been or is being threatened.
- 6.6.3. In cases of recidivism (similar violations have been repeated within a timeframe of two years since the previous sanction became final), the CBUAE will, as a general principle comment on administrative and financial sanctions and penalties imposed as result of an enforcement action. In doing so the CBUAE may disclose the full names of the parties and the pertinent particulars of the case, unless such disclosure is deemed to threaten to jeopardize financial stability, an ongoing criminal investigation or criminal proceeding, to cause disproportionate harm to the persons concerned or to the institutions to which they belong.

6.7. The Enforcement Register

- 6.7.1. All Enforcement examinations and disciplinary actions taken by the CBUAE will be entered into the Internal Enforcement Register. The Enforcement Register will provide readily accessible information to the BSD and other departments within the CBUAE of all enforcement examinations and outcomes and should be a useful source of information for on-going

- supervision matters as well as future enforcement matters. The Enforcement Register should include the following information:
 - a. The full name and address of the Licensed Financial Institution and/or individuals;
 - b. Summary of the violations;
 - c. Details of the sanctions imposed;
 - d. Names of the CBUAE staff involved in the matter;
 - e. Names of all other relevant parties e.g. lawyers, accountants, involved in the matter; and
 - f. Links to all relevant documents, reports and decisions made in relation to the matter.
- 6.7.2. The Enforcement Register will also be helpful in collating information with regard to risk categorisations per sector.
- 6.7.3. The Enforcement Register will be updated regularly.

7. POLICY REVIEW

This Policy will be reviewed and updated following the implementation of new laws and regulations and/or changes in the existing laws and regulations. Changes in the strategic objectives and/or policy goals of the CBUAE may also require a review of this policy.

8. REFERENCES

This policy references the Central Bank Law and the AML/CFT Law. It also references the following documents:

- a. The Core Principles for Effective Banking Supervision by the Basel Committee of Banking Supervisors, September 2012;
- b. The Frameworks for Early Supervisory Intervention by the Basel Committee of Banking Supervision, March 2018;
- c. Statement of Policy: the Prudential Regulation Authority's approach to enforcement – statutory statements of policy and procedure by The Bank of England, August 2018;
- d. The Enforcement Information Guide by the UK Financial Conduct Authority, April 2017;
- e. The Enforcement Policy, issued by The Authority for the Financial Markets in Amsterdam and the Netherlands Central Bank, July 2008; and
- f. General information on the organization of supervision, enforcement and investigations gleaned from the websites of the:
 - o Monetary Authority of Singapore (Enforcement Department);
 - o Saudi-Arabia Monetary Authority (Specialized Enforcement Courts);
 - o New York State Department of Financial Services (Financial Frauds and Consumer Protection Division);
 - o Netherlands Central Bank (Prudential Supervision & Enforcement Divisions);
 - o UK Financial Conduct Authority (Enforcement Division);
 - o Australian Prudential Regulation Authority (Enforcement);