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

# ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM AND ILLEGAL ORGANISATIONS

# GUIDANCE FOR LICENSED FINANCIAL INSTITUTIONS PROVIDING SERVICES TO THE REAL ESTATE AND THE PRECIOUS METALS AND STONES SECTORS

June 16, 2021

# Contents

# Introduction

## 1.1 Purpose

Article 44.11 of the *Cabinet Decision No. (10) of 2019 Concerning the Implementing Regulation of Decree Law No. (20) of 2018 on Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organisations* charges Supervisory Authorities with "providing Financial Institutions…with guidelines and feedback to enhance the effectiveness of implementation of the Crime-combatting measures."

The purpose of this Guidance is to **assist** the understanding and effective performance by the United Arab Emirates Central Bank's ("CBUAE") licensed financial institutions ("LFIs") of their statutory obligations under the legal and regulatory framework in force in the UAE. It should be read in conjunction with the CBUAE's *Procedures for Anti-Money Laundering and Combating the Financing of Terrorism and Illicit Organizations* (issued by Notice No. 74/2019 dated 19/06/2019) and *Guidelines on Anti-Money Laundering and Combating the Financing of Terrorism and Illicit Organizations for Financial Institutions* (issued by Notice 79/2019 dated 27/06/2019) and any amendments or updates thereof.[1] As such, while this Guidance neither constitutes additional legislation or regulation nor replaces or supersedes any legal or regulatory requirements or statutory obligations, it sets out the **expectations** of the CBUAE for LFIs to be able to demonstrate compliance with these requirements. In the event of a discrepancy between this Guidance and the legal or regulatory frameworks currently in force, the latter will prevail. This Guidance may be supplemented with additional separate guidance materials, such as outreach sessions and thematic reviews conducted by the Central Bank.

Furthermore, this Guidance takes into account standards and guidance issued by the Financial Action Task Force ("FATF"), industry best practices and red flag indicators. These are not exhaustive and do not set limitations on the measures to be taken by LFIs in order to meet their statutory obligations under the legal and regulatory framework currently in force. As such, LFIs should perform their own assessments of the manner in which they should meet their statutory obligations.

This Guidance comes into effect immediately upon its issuance by the CBUAE with LFIs expected to demonstrate compliance with its requirements within one month from its coming into effect.

## 1.2 Applicability

Unless otherwise noted, this Guidance applies to all natural and legal persons, which are licensed and/or supervised by the CBUAE, in the following categories:

- National banks, branches of foreign banks, exchange houses, finance companies, payment service providers, registered hawala providers and other LFIs; and
- Insurance companies, agencies, and brokers.

[1] Available at https://www.centralbank.ae/en/cbuae-amlcft.

## 1.3 Legal Basis

This Guidance builds upon the provisions of the following laws and regulations:

- Decree Federal Law No. (20) of 2018 on Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organizations ("AML-CFT Law").
- Cabinet Decision No. (10) of 2019 concerning the Implementing Regulation of Decree Federal Law No. 20 of 2018 on Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organizations ("AML-CFT Decision").

# 2. Understanding Risks

The FATF's Mutual Evaluation Report of the UAE issued in April 2020 stated that the two sectors of real estate and precious metals and stones are weighted as highly important in terms of risk and materiality in the UAE. While the nature and extent of the risk posed by the two sectors to the LFIs providing them with accounts and other financial services is different, they do share common characteristics that LFIs should recognize and take into account:

- **Attractiveness to illicit finance.** The real estate and precious metals and stones sectors are important parts of the UAE's economy, and each provides important, legitimate goods and services to the UAE population and global trading partners. Nevertheless, experience shows that these sectors offer services that are particularly attractive to illicit actors.
- **Facilitation of the international movement of value.** Despite their different natures, both sectors allow individuals to move large values across international borders, sometimes with only minimal involvement from the formal financial system. For example, a courier carrying a valuable diamond can move millions of AED of value simply by taking a short international flight. In addition, the real estate and precious metals and stones sectors allow individuals to hold value in a form that retains value over time (such as gold or real property) without having to maintain an account in the formal financial system. These facilities are useful to many legitimate businesses, but are also highly sought-after by illicit actors.
- **Varying regulatory regimes.** The extent and nature of regulation on these sectors varies widely between jurisdictions. In some jurisdictions, participants such as dealers in precious metals and stones (DPMS) and real estate agents and brokers are required to be licensed or registered, and to comply with AML/CFT requirements that are similar to those imposed on LFIs. These include, at a minimum, the requirement to perform CDD on customers and to report suspicious transactions. Despite the existence of these requirements, however, sector participants are in many cases not closely supervised or monitored for compliance. Their understanding of their risk and of their compliance obligations may not be well-developed or accurate. In other jurisdictions, there are limited or no obligations placed on these actors, and they may not have any understanding of how they can be abused by illicit actors, or the steps they should take to protect themselves.

## 2.1 Understanding and Assessing Risks Related to DPMS

Dealers in precious metals and stones (DPMS) play a significant role in the economy of the UAE. DPMS engage in a wide range of activities related to precious metals and stones, from production to trading, establishing the UAE as an important regional hub for this sector. The Dubai Multi Commodities Centre specializes in providing services to precious 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.

Nonetheless, the precious metals and stones sector offers opportunities for criminals seeking to conceal, transfer, and/ or invest their illicit proceeds. Like cash, precious metals and stones offer high value by weight, are difficult to trace and identify, and retain their value over time. DPMS, if they do not apply effective preventive measures, could be vulnerable to abuse by illicit actors engaged in laundering the proceeds of crime, financing of terrorism, arms trafficking, sanctions evasion, and other illicit activities.

### *2.1.1 Risks of Precious Metals and Stones*

The characteristics of precious metals and stones make them uniquely appropriate as media to store, transfer, and exchange value:

i. Precious metals and stones are generally compact, durable, odourless, and of high value.
ii. Certain metals and stones (e.g., gold or diamond) are widely accepted as a method of exchange or currency.
iii. Precious metals and stones retain their value over time, and have roughly the same value all over the world.

In addition to these properties, precious metals and stones have characteristics that make them particularly attractive to criminals seeking to launder funds and others engaged in illicit behaviour:

i. Differentiating precious metals and stones often requires laboratory techniques, so it can be difficult or impossible to track their movement;
ii. Precious metals and stones can be transformed (through re-cutting or recycling) into different objects while retaining their value, interrupting known custody and transfer chains;
iii. Purchase, sale, and exchange of precious metals and stones often takes place outside the formal financial system.

For these reasons, DPMS may be targeted by illicit actors seeking to abuse their services and exploit the advantages of precious metals and stones. Although the majority of transactions involving DPMS are legal, these businesses may trade in items that could be the proceeds of crime, purchased with the proceeds of crime, and/or used to launder the proceeds of crime, unknowingly or complicitly.

**Because they are themselves at high risk of abuse, DPMS pose a risk to LFIs.** Complicit DPMS may knowingly partake in illicit activities and may in turn use their business relationships with LFIs to launder the proceeds of crime or carry out other illicit activity. Even DPMS that are not knowingly involved in illicit activities may use their accounts with an LFI to deal in the proceeds of crime. For example, a DPMS may wire payment for illegally mined gold to the entity responsible for mining and processing the gold.

**Gold as a High-Risk Medium of Exchange**

Gold is easy to exchange and transfer, and may provide anonymity when processing transactions, as it is difficult to trace. It also has a universal price standard, a relatively stable market for investment, and may be used as a currency. Gold dealers may provide specific services to their clients, such as metal accounts, for storage or for investment properties. This may enable criminals to move gold under the guise of legitimate business.

### *2.1.2 Features of DPMS that Increase Risk*

Not all DPMS pose equal risk. A DPMS is likely to be considered higher risk when it provides products or services that are attractive to illicit actors, has operations in high-risk jurisdictions, or does not apply appropriate anti-money laundering/combatting the financing of terrorism (AML/CFT) controls.

#### *2.1.2.1 Regulatory Environment*

In many jurisdictions, DPMS are not required to comply with requirements related to identification of customers and reporting suspicious activities. In other jurisdictions, these requirements are nominally in place, but DPMS are not subject to effective supervision and enforcement. Even in a jurisdiction that imposes and enforces such requirements, they frequently apply only to DPMS that engage in cash transactions above a certain value threshold. Where DPMS are unregulated or under-regulated, they are unlikely to be taking effective measures to protect themselves from abuse.

In contrast, an effective AML/CFT framework and supervisory regime for DPMS can protect DPMS and LFIs that serve them by effectively imposing AML/CFT requirements and by detecting, deterring, and prosecuting ML/TF crimes. It is important to note that, like LFIs, certain DPMS in the UAE are required to comply with all requirements of AML-CFT Decision, including the requirement to perform Customer Due Diligence (CDD) and report suspicious transactions (see section 2.1.4).

#### *2.1.2.2 Products, Services, and Delivery Channels*

Products, services, and delivery channels that facilitate the rapid, efficient, anonymous movement of value on a large scale will be more attractive to illicit actors and may put a DPMS at a higher risk of abuse. Such products, services, and delivery channels may include:

- Products (such as bullion and uncut stones) that are particularly hard to trace, retain or even increase in value despite being transformed into new forms (melted down, re-cut, etc.), and offer high value by weight.
- Services, such as metal accounts, that allow customers to rapidly purchase and sell precious metals or stones.
- Delivery channels that allow transactions to be carried out quickly and anonymously, such as accepting cash or virtual assets and conducting transactions online or through intermediaries.

#### *2.1.2.3 Customer Base*

The types of customers that a DPMS serves can also impact risk. For example, a DPMS that primarily deals with PEPs may be higher risk than one that serves a lower-profile clientele.

#### *2.1.2.4 Geography*

DPMS may be based, or may trade internationally, in jurisdictions that are higher risk for money laundering, the financing of terrorism, and the financing of proliferation. Such DPMS may pose heightened risk to LFIs. Higher-risk jurisdictions may be characterized by:

- A low level of government oversight and regulation of the precious metal and stone value chain;
- Low economic and political stability;
- High use of the informal banking system;
- High levels of corruption;
- The presence of terrorist and other non-state armed groups;
- Weak border control measures; and/or
- Sanctions and embargoes

Where a DPMS is based in a high-risk jurisdiction, LFIs are required by AML-CFT Decision to perform Enhanced Due Diligence.

### *2.1.3 Typologies*

Precious metals and stones may be involved in a wide variety of illicit finance schemes. The following are some of the most common.

- **Illegal mining or mining supported by the proceeds of crime.** In jurisdictions where precious metals or stones are mined, illicit actors may operate small-scale 'artisanal' mines without receiving a license or paying taxes to the state. The products of these mines are then exported to a refining or cutting hub for processing into saleable goods, like gold bullion and cut stones.

  In many cases, criminal organizations control a mine or a network of small-scale miners. They may invest the proceeds of other illegal activities, such as drug trafficking, into the illegal mines and take the majority share of the resulting production as a return on investment. When the resulting precious metals or stones are processed, the criminal organization can sell them on world markets. The proceeds fund further illicit activities and may also support terrorism.

| **Example: Trading in gold to legitimise the proceeds of drug trafficking** |
| --- |
| A criminal organisation in Country X was buying gold from various precious metals retailers using illicit proceeds from narcotics sales. The gold was then sold to a precious metals broker who then sold it to other businesses. The proceeds of the sale were then wired to a third party outside of Country X with links to the drug trafficking organization, thus completing the money laundering cycle. |

- **Use of precious metals and stones in sanctions evasion.** The tradable nature, liquidity, wide availability, and anonymity of precious metals and stones has made them popular with individuals, organizations, and governments seeking to evade sanctions imposed by the United Nations or other jurisdictions. This activity may involve mining precious metals or stones under the control of the sanctioned person; the resulting products are then injected into legal trade using front companies and complicit DPMS, earning money for the sanctioned group. Or sanctioned actors may use precious metals and stones to disrupt a transaction chain involving the formal financial system and thus hide their interest in a transaction.

**Example: Large-scale sanctions evasion using precious metals**

According to Country A's federal indictments, a government sanctioned by Country A used front companies and complicit financial institutions to buy large quantities of gold in Country B. The gold was supposedly exported to the purchasing country, but was in fact moved by courier to the UAE, where it was sold in exchange for cash (U.S. dollars and euros). The cash was deposited with LFIs in the UAE under the names of front companies, and was made available to the sanctioned government to use in proliferation activities.

- **Evasion of duties on precious metals and stones.** Precious metals and stones are often the subject of heavy customs duties and other taxes. As a result, illicit actors will frequently seek to smuggle these goods from high-tax to low-tax jurisdictions, or may declare artificially low values for the goods by misrepresenting their quality or purity.
- **Trade-based money laundering (TBML).** The value of precious metals and stones varies highly based on their quality and purity, features which may not be apparent to the naked eye. In addition, the value of certain precious stones, particularly diamonds, can differ for different non-industry customers based on their personal preferences. This makes precious metals and stones particularly vulnerable to TBML, in which illicit actors use supposedly or actually licit trade to hide illicit finance. This can take a variety of forms:
    - Trading the same goods—often precious stones—repeatedly between co-conspirators to justify funds transfers between members of a criminal network, or between companies owned by the same individual(s). In these schemes, a single precious stone may be repeatedly sold between members of the network, or a single stone may be sold to multiple "purchasers" at the same time, each time with a different description.
    - Inflation or deflation of the value of traded stones to provide justification for cross-border transfers. A merchant may sell low-value precious metals or stones to a purchaser, but invoice for higher-quality goods and thus a higher sum. The purchaser pays the full invoice price, justifying the transaction to financial institutions, and also receives illicit goods such as drugs or smuggled items.
- **Use of precious metals and stones as security for fraudulent loans.** In a typology that is often related to TBML, precious metals or stones may be repeatedly sold or falsely valued between members of a network in order to justify loans and other forms of financing.

**Example: Over-Valuation to Justify Illicit Transfers**

Mr. A, a licensed DPMS, entered Country X numerous times, each time declaring that he was carrying valuable precious stones. He was in fact carrying gems that were lower value than the ones he declared. He then substituted the lower value gems for higher value gems that were already in Country X and presented them for inspection and clearance at an official diamond exchange. Through these methods, Mr. A obtained validated official importation statements for multiple importations of high-value stones which did not actually take place. He used these statements, together with fake invoices, to facilitate international foreign currency transfers to entities abroad in the guise of payment for the imported goods. He ordered these transactions both for himself and on behalf of other DPMS wanting to receive funds abroad without having to face scrutiny by financial institutions and public authorities.

### 2.1.4 Regulation and supervision of DPMS in the UAE

DPMS that qualify as Designated Nonfinancial Businesses and Professions (DNFBPs) are subject to AML/CFT requirements that are substantially the same as those imposed on LFIs, including the requirement to identify customers, to report suspicious transactions, and to perform a risk assessment. Under Article 3 of AML-CFT Decision, DPMS qualify as DNFBPs only if they are "*carrying out any single monetary transaction or several transactions that appear to be interrelated or equal to more than AED 55,000*". A DPMS that does not engage in such transactions is not required to take any preventive measures. Although cash transactions are certainly high risk, LFIs should be aware that the fact that a DPMS does not qualify as a DNFBP does not mean that it is low-risk. All DPMS, regardless of whether they qualify as DNFBPs, must have a commercial license to operate legally in the UAE. The Ministry of Economy is also responsible for identifying and classifying DPMS as DNFBPs; LFIs are not required to make this determination. But LFIs should discover, through the CDD process, whether their customer has been classified as a DNFBP by the Ministry of Economy.

Obliged DPMS are supervised for compliance by the Ministry of Economy, which has issued guidelines for supervised entities describing their AML/CFT compliance obligations.[2]

## 2.2 Understanding and Assessing Risks Related to the Real Estate Sector

The real estate sector is an important part of the UAE's economy, responsible for as much as 20 percent of Gross Domestic Product (GDP). The UAE real estate sector is diverse, encompassing construction and development, commercial real estate sales, and a wide variety of residential real estate, from apartments to luxury villas. A large number of professional real estate agents and brokers—over 11,500—support this sector.

Most transactions within the sector are legitimate. Nevertheless, LFIs should be aware that the real estate sector offers opportunities for criminals seeking to conceal, transfer, and/ or invest their illicit proceeds. The real estate market is a fairly liquid market in which assets generally retain stable values over time. Real estate transactions are generally large and offer criminals the opportunity to launder large values in a single transaction. And unlike other stores of value, such as cash or precious metals and stones, real estate can be enjoyed or can earn income while it is in the owner's possession.

### 2.2.1 Risks of the Real Estate Sector

The real estate sector is attractive to criminals and other illicit actors for many of the same reasons that it is popular with legitimate investors: real estate is a fairly liquid market, with assets that generally maintain or appreciate in value over time. Like certain forms of gold and precious metals, and unlike stores of value such as currency and stocks, real estate can be enjoyed by the owner. Indeed, the purchase of luxury real estate may in fact be the ultimate goal of the money laundering process.

[2] Available at https://www.economy.gov.ae/english/Pages/AML.aspx.

In addition, certain characteristics of the sector, while not in themselves illicit or undesirable, offer advantages for those seeking to launder funds and to move large values between individuals and across borders in a relatively short time:

- The sale or purchase of real estate is a normal, everyday transaction, and offers a simple, convenient explanation for the source of funds in a large transaction.
- Real estate transactions are typically high-value, allowing illicit actors to launder large sums in a single transaction.
- Real estate transactions of all kinds often take place between shell companies created for the sole purpose of owning real property. This practice makes it difficult to identity the true owner of the property. In addition, the ubiquity of this practice makes it difficult to distinguish licit from illicit transactions.
- The price of real estate is not fixed and is somewhat subjective, allowing illicit actors to inflate or deflate sales or purchase prices to better suit to their schemes.
- Real estate is frequently sold and re-sold in fairly quick succession, making it less suspicious when a criminal engages in similar behaviors in order to layer laundered funds.
- In some jurisdictions, the ownership of real estate gives the owners access to residency rights. Illicit actors may take advantage of these rights to expand their criminal networks to new jurisdictions, to escape criminal investigation in their home countries, and to hold assets offshore without alerting their home authorities.

The real estate sector may be abused at any stage of the laundering process

- **Placement:** A criminal may invest illicit funds into the sector through an initial purchase in cash.
- **Layering:** A criminal may conceal the true origin of illicit funds by selling and purchasing a number of properties, extending the distance between current assets and the original placement of the funds.
- **Integration:** A criminal may sell a property and invest the funds in stocks, using the paperwork from the sale to demonstrate an apparently acceptable source of funds.

### *2.2.2 Features of the Real Estate Sector that Increase Risk*

Certain features of the real estate sector in different jurisdictions can increase the attractiveness of the sector to illicit actors. Although these features are not in themselves negative or undesirable, they have the effect of increasing the ease with which illicit actors can use the sector to launder funds.

- **Varying regulation and supervision of real estate professionals**. Real estate agents and brokers are well placed both to detect and to collude in suspicious transactions. Agents and brokers are able to observe suspicious client behaviour, as well as aspects of a transaction that do not have a reasonable explanation. Conversely, complicit real estate professionals may advise a client on how to avoid scrutiny from LFIs and government authorities. This risk is increased in jurisdictions where agents handle client funds, such as in escrow or trust accounts.

  Because of the special role played by real estate professionals, the FATF Recommendations require that many such professionals be regulated and supervised, with AML/CFT obligations like those imposed on financial institutions. Where these obligations are not imposed and enforced, and where real estate professionals are not monitored for their compliance, the sector may be higher risk.

- **Widespread use of cash**. In certain jurisdictions, real estate transactions are frequently executed entirely or partially in cash. This allows a transaction to take place without involving the formal financial system. In addition, criminal activities often produce high volumes of cash, and placement of cash derived through illegal activities is often the first step in the money laundering process. Even if a particular transaction is executed through bank cheque or other similar means, if the property was purchased for cash in the recent past it can be difficult or impossible to fully understand the chain of ownership and thus to identify whether a transaction is part of the money laundering process (e.g., the property was purchased in cash by A, sold to B to launder the original purchase funds, and is now being re-sold to A).
- **Lack of transparency on beneficial owners.** As discussed above, illicit actors, like many purchasers of real estate, often engage in transactions using shell companies, and engage intermediaries such as law firms to represent them and obscure their interest in a property transaction. Where a jurisdiction does not collect beneficial ownership information for such companies or for real property in general, and permits foreign companies to own real estate, it increases the likelihood that law enforcement and LFIs will not be able to identify the individuals behind a purchase or sale.
- **Openness to foreign purchasers**. A real estate sector that is entirely open to non-residents and non-citizens is likely to be more liquid than a closed sector. In addition, an open sector is exposed to illicit funds generated all over the world. Jurisdictions that offer residency or citizenship rights to foreign purchasers of domestic real estate may be particularly attractive to foreign illicit actors.
- **High liquidity and rising prices**. Illicit actors, like licit investors, want assurance that they will be able to sell an investment property for an amount that recoups their investment or offers a profit. Although they may be willing to tolerate a modest loss on the investment as the cost of money laundering, they may be more likely than most purchasers to seek to ‘flip’ properties, buying and selling them in quick succession. A highly liquid market facilitates flipping and increases the likelihood that the sale price will meet or exceed the purchase price. In addition, rising prices and a ‘hot’ market make it easier to disguise certain typologies, such as making small renovations to a property and then reselling it to an associate for a steeply increased price. The difference between the purchase price and the market value is then secretly refunded to the buyer in cash.

### *2.2.3 Typologies*

Illicit actors may use a wide variety of strategies to launder the proceeds of crime through the real estate sector. Many of these strategies are not specific to the real estate sector and appear in a variety of contexts. The following are some of the most common.

- **Placement of cash.** There are a variety of ways that the real estate sector can be used to place the cash proceeds of crime.
    - Perhaps the simplest is purchasing a property in cash and then selling it, with the purchase price paid via wire or bank cheque. The criminal can identify a clear source of funds for the funds received, and can proceed to layer them using other techniques.

  - This basic typology is subject to a number of variations. A property owner may pay for renovations in cash that represents the proceeds of crime, thus increasing the property's value. When the property is sold, the purchase price will include the value of illicit funds spent on renovations.
  - An illicit actor may receive a bank loan to purchase the property, and then pay the loan back early in cash, or make payments in cash.
  - Real estate investments, such as rental properties, may also be cash-intensive businesses. In jurisdictions where it is common to pay rent in cash, these properties can be used to commingle licit with illicit funds.

- **Use of shell companies or other legal entities to obscure ownership**. As discussed above, the use of shell companies—legal persons with no operations or employees—to hold real property is a common feature of real estate sectors all over the world. This practice facilitates investment and business (e.g. owning a shopping mall and collecting rent from tenants) and also preserves privacy (e.g. a prominent individual purchasing a home using a shell company to avoid her address becoming public knowledge).

  Despite the legitimate uses of this technique, however, it can also be used to hide ownership when the true owner is an individual who does not want to be linked to the purchase. This may include Politically Exposed Persons (PEPs) who are purchasing properties that are inconsistent with their known sources of wealth; individuals who have past convictions for proceeds-generating offenses or are associated with negative news; and sanctioned individuals.

  In place of or in addition to shell companies, illicit actors may use complex ownership structures, legal arrangements, and nominee arrangements to conceal their ownership interest in a real estate transaction. Please see the CBUAE's *Guidance for Licensed Financial Institutions providing services to Legal Persons and Arrangements*[3] for more information on the risks of legal persons and arrangements.

- **Use of intermediaries to obscure ownership.** Similarly, individuals who wish to hide their connection to a real estate purchase or sale may rely on professional intermediaries—such as real estate brokers, lawyers, and accountants—to engage directly with financial institutions. Such intermediaries may be directly complicit in the concealment and aware that the true identity of their customer would raise questions about the transaction. Or they may simply be following professional rules that mandate professional secrecy regarding their clients.

- **Manipulation of property values.** Although real estate pricing is somewhat predictable, prices are sufficiently subjective to justify inflated or deflated pricing in service of laundering schemes.

  - Two co-conspirators may arrange a sale of a property for a sum that does not represent its market value, with the difference being paid in cash: for example, the sale price is 20% higher than the market value, and the seller repays the buyer in cash. A purchase price higher than market value may be justified to authorities on the grounds that the property was perfect for the buyer's needs, or the buyer was anxious to complete the sale quickly. Similarly, a purchase price below market value may be justified on the grounds that the seller wanted a quick sale, or the property had structural issues.

[3] Available at https://www.centralbank.ae/en/cbuae-amlcft.

  - Illicit actors may conspire with corrupt officials or bank employees to inflate the assessed value of a property, facilitating these schemes.
  - A criminal may also disguise illicit transfers as loans raised using the property as security. The higher the value of the property, the more money that can be laundered using this technique.
- **Sequential selling.** The repeated selling of real estate by a group of conspirators, or by a single individual using multiple shell companies, in an attempt to separate the ultimate owner from the criminal proceeds originally used to purchase the property. In many cases, the same individual(s) will buy the property or sell the property multiple times.

### *2.2.4 Regulation and supervision of the Real Estate Sector in the UAE*

#### *2.2.4.1 Regulation of the Real Estate Sector*

Regulation of the real estate sector as a whole—as opposed to regulation of real estate professionals—is the responsibility of each of the emirates and as a result varies across the UAE. This section discusses key aspects of regulation of the sector in Dubai and Abu Dhabi, the two largest property markets. Section 2.2.4.2 discusses regulation of real estate agents and brokers.

##### *2.2.4.1.1 Openness to Foreign Purchasers*

- **Dubai:** With the exception of nationals of the Gulf Cooperation Council (GCC), non-residents and non-citizens of the UAE are permitted to own real estate in Dubai only in one of the designated real estate investment areas. In general, foreign purchasers must be individuals; legal persons are not able to purchase real estate in the investment areas unless they make the purchase through a subsidiary incorporated in a Free Zone. Foreign trusts and other legal arrangements, including trusts or legal arrangements established in the Free Zones, are also not permitted to purchase real estate anywhere in the Emirate.
- **Abu Dhabi:** As in Dubai, foreigners are permitted to purchase real estate in Abu Dhabi only in one of nine designated real estate investment areas. Within these areas, there are no restrictions on the type of property they can own or the period of time for which they can own it. Outside of these areas, foreigners cannot exercise freehold ownership of property, although they can exercise other forms of long-term ownership, such as leaseholds and usufruct rights.

##### *2.2.4.1.2 Residency Rights*

Owners of freehold properties above a certain value may obtain an investor visa that grants them limited residency rights in the UAE. The larger the value of the property, the longer the length of the visa. Visa rules are set by the UAE federal government through Cabinet Resolution (56) of 2018 on Regulating the Residence Permits for Investors, Entrepreneurs and Specialised Talents, and thus apply to all emirates:

- Ownership of a property worth at least AED 1 million comes with a six-month multi-entry visa. Dubai will grant a three-year renewable residency visa in such circumstances.
- An individual who purchases a property of at least AED 5 million and retains it for three years is entitled to a five year residency visa.

- An individual who purchases a property of at least AED 10 million without a mortgage or other loan and retains it for three years is entitled to a ten year residency visa.

##### *2.2.4.1.3 Use of cash*

There are no legal restrictions on use of cash to purchase real estate or property in Dubai or Abu Dhabi.

#### *2.2.4.2 Regulation and Supervision of Real Estate Professionals*

Real estate agents and brokers in the UAE are required to be licensed. The Land Departments or municipality of each emirate and CFZ are responsible for granting licenses in the Mainland and CFZs; the Financial Services Regulatory Authority (FSRA) and Dubai Financial Services Authority (DFSA) license real estate agents in the FFZs.

Under Article 3 of AML-CFT Decision, real estate agents and brokers qualify as DNFBPs when they "*conclude operations for the benefit of their Customers with respect to the purchase and sale of real estate.*" When they qualify as DNFBPs, real estate agents and brokers must comply with the same AML/CFT preventive measures as LFIs, including the requirements to conduct a risk assessment, perform CDD, and report suspicious transactions.

The Ministry of Economy supervises real estate professionals in the mainland and CFZs for compliance with AML/CFT obligations, and the FSRA and DFSA supervises them in the FFZs. The Ministry of Economy has issued guidelines for supervised entities describing their AML/CFT compliance obligations.[4]

# 3 Mitigating Risks

Although LFIs should judge their own risk tolerance and risk management capabilities, **the CBUAE does not expect or encourage LFIs to broadly prohibit or exit customer relationships with the real estate and precious metals and stones sectors.** These sectors are important parts of the UAE economy, and they need access to financial services to conduct their legitimate business. **The CBUAE does expect, however, that LFIs understand their risk and take effective, risk-based steps to protect themselves from abuse and from illicit actors and transactions.** Effective risk mitigation is therefore critical to protecting the LFI, complying with its legal obligations, and meeting supervisory expectations.

The sections below discuss how LFIs can apply specific preventive measures to identify, manage, and mitigate the risks associated with the real estate and precious metals and stones sectors. It is not a comprehensive discussion of all AML/CFT requirements imposed on LFIs. LFIs should consult the UAE legal and regulatory framework currently in force. The controls discussed below should be integrated into the LFI's larger AML/CFT compliance program, and supported with appropriate governance and training.

[4] These guidelines may be found at https://www.economy.gov.ae/english/Pages/AML.aspx.

## 3.1 Risk-Based Approach

### *3.1.1 Overarching common requirements*

LFIs must take a risk-based approach to the preventive measures they put in place for all customers, including customers in the real estate and precious metals and stones sectors. A risk-based approach means that LFIs should dedicate compliance resources and effort to customers, business lines, branches, and products and services in keeping with the risk presented by those customers, business lines, branches, and products and services, as assessed in accordance with Article 4 of AML-CFT Decision.

**The risk-based approach has three principal components:**

#### *3.1.1.1 Conducting an enterprise risk assessment, as required by Article 4.1 of AML-CFT Decision.*

The enterprise risk assessment should reflect the presence of higher-risk customers, including DPMS and real estate sector participants in an LFI's customer base. This assessment should include higher-risk customers from outside the UAE whose risks will also need to be assessed. These assessments should in turn be reflected in the LFI's inherent risk rating. In addition, the controls risk element of the LFI's enterprise risk assessment, as required by section 4.2.1 of the *Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organisations Guidelines for Financial Institutions*, should take into consideration the strength of the controls that the LFI has in place to mitigate the risks posed by its higher-risk customers, including the preventive measures discussed below.

#### *3.1.1.2 Identifying and assessing the risks associated with specific customers.*

The LFI should assess the risk of each customer to identify those that require enhanced due diligence (EDD) and to support its entity risk assessment. In assessing the risks of a DPMS or real estate sector participant, LFIs should consider:

i. **Geographic Risk:** The risks associated with the jurisdictions in which the customer lives (for individuals) or is registered/headquartered (for legal persons) and where it operates, including the jurisdictions where it has subsidiaries, where it sources its products (where relevant), and where its main counterparties are based. These may include the overall risk of money laundering, terrorist financing, and financing of proliferation, as well as what is known regarding the prevalence of abuse of entities in these sectors.

   There are a number of sources that LFIs can use to develop a list of high-risk countries, jurisdictions, or regions. LFIs should consult any publications issued by the National Anti-Money Laundering and Combating the Financing of Terrorism and financing of Illegal Organizations Committee (NAMLCFTC)[5], UAE FIU and by the FATF, including the FATF's list of jurisdictions subject to countermeasures and to increased monitoring. LFIs may also use public free databases such as, for example, the Basel AML Index[6] or the Transparency International Corruption Perceptions Index.[7] LFIs should not rely solely on public lists, however, and should consider their

[5] Available at: https://www.namlcftc.gov.ae/en/high-risk-countries.php
[6] Available at: https://baselgovernance.org/basel-aml-index
[7] Available at: https://www.transparency.org/en/cpi/2020/index/nzl

own experiences and the nature of their exposure to each jurisdiction when assessing the risk of that jurisdiction.

ii. **Customer Risks:** For real estate agents and brokers and DPMS, customer risk can be assessed as the proportion of higher-risk customer types (e.g. PEPs, legal persons, and customers from high-risk jurisdictions) within a customer's customer base.

iii. **Product, Service, and Delivery Channel Risk:** LFIs should assess risk in this category on two dimensions:

  a. The products and services that the customer offers to its customers, and the delivery channels through which it offers these products and services. Products, services, and delivery channels that promote the rapid, anonymous transfer of high values are particularly attractive to illicit actors. These may include, but are not limited to:

    i. Online/non-contact sales: Non-face to face transactions make it easier for criminals to hide their identifies.

    ii. Accepting cash for high-value purchases. Cash is very difficult to trace and can be exchanged without involving the formal banking system, and thus is particularly attractive to criminals.

    iii. Accepting virtual assets: Virtual assets, like cash, are anonymous and difficult to trace to their users. Unlike cash, virtual assets allow parties to carry out transactions even when they are at a distance from one another. These qualities, combined with the lack of consistent regulation of entities that deal in virtual assets, make virtual assets high risk for abuse by illicit actors.

  Specific high-risk products and services offered by each customer type are discussed below in sections 3.1.2 and 3.1.3.

  b. The LFI products and services that the customer intends to use, and the delivery channels through which the LFI will provide these services. LFIs should draw on their entity risk assessment to assess the risk of the products and services each customer uses or intends to use. (This subject is also discussed in section 3.2.1.3.2 below in relation to understanding the nature and purpose of the business relationship.)

iv. **Controls Risk:** LFIs should seek to understand the regulatory requirements in place for the customer, as well as how well they are enforced. This assessment is particularly important for those DPMS and real estate brokers that qualify as DNFBPs and therefore are also subject to such requirements. Other participants in the real estate sector, such as developers, are not required to comply with AML/CFT preventive measures. In addition, participants in the precious metals and stones sector may also be required to comply with UAE requirements or global standards related to sourcing precious metals and stones and transparency of supply chains. Where relevant to a customer's business, LFIs should consider whether its customer conducts appropriate supply chain due diligence.

Questions that an LFI may ask to determine customer risk profile include, but are not limited to:

- Where is the customer incorporated? Where does it operate? Are these high-risk jurisdictions?

- What products and services does the customer provide?
- What is the trading volume of the business?
- What customer base does the customer serve?
- What is the regulatory environment in the jurisdiction(s) where the customer is incorporated/has operations?
- Is there an authority that actively enforces the requirements?
- Is the customer required to perform CDD on cash customers above a certain threshold in all jurisdictions where it operates? In such scenarios, is it required to identify the beneficial owners of legal person customers?
- Is the customer required (as are DNFBPs in the UAE) to conduct a regular independent audit? Did the most recent audit have any material findings?
- Does the customer perform sanctions screening?
- What is the main channel (in-person vs. online) and methods (cash, wire transfers, checks, etc.) of conducting transactions and in which currency (or multiple currencies)?

In addition to risk rating customers, LFIs should also consider the risks of specific transactions, especially high-value transactions, those involving high-risk jurisdictions, and those that represent departures from a customer's standard or expected behavior. LFIs should be aware of sectoral risks when reviewing large transactions associated with the DPMS or real estate sectors, or transactions of any size that do not have a clear licit economic purpose.

#### *3.1.1.3 Applying EDD and other preventive measures*

LFIs must apply EDD and other preventive measures to customers determined to be higher-risk, as required by Article 4.2(b) of AML-CFT Decision, or to specified higher-risk customer types, no matter their risk rating, as required by AML-CFT Decision. EDD measures should be designed to mitigate the specific risks identified with particular customers. Examples of EDD measures are offered below in section 3.2.

### *3.1.2 Key Considerations for DPMS*

Beyond the general considerations discussed above, in assessing the risk of a DPMS customer LFIs should consider:

- **Geographic Risk:** Whether the jurisdiction(s) in which the customer is based or operates are known centres for illegal or unregulated mining of precious metals and stones.

- **Product, Service, and Delivery Channel Risk:** The following products and services are particularly high risk:
    - Trade in gold bullion and diamonds: The high inherent value of these substances, their ability to retain value for a long period of time, the size and stability of the market, relative ease of exchange, high value by weight, and the difficulty of tracing them makes gold and diamonds particularly attractive to criminals.
    - Metal accounts: Metal accounts are accounts held by a custodian institution and denominated in precious metals (such as gold, silver, or platinum) rather than in fiat currencies. They allow the account holder to quickly buy and sell precious metals without needing to have a face-to-face interaction with a DPMS.

### 3.1.3 Key Considerations for the Real Estate Sector

Beyond the general considerations discussed above, in assessing the risk of a customer who is a participant in the real estate sector, LFIs should consider:

- **Controls Risk:** In the case of transactions or customers related to the real estate sector, an assessment of controls risk should also include the regulations governing the real estate sector as a whole, and not just regulations governing the sector participants (real estate agents and brokers). LFIs should assess whether regulations governing property transactions are likely to make the sector more or less attractive to illicit actors. As discussed above in section 2.2.2, these may include the openness to foreigners, the widespread use of cash and shell companies, and the intensity of scrutiny of real estate transactions.

In many cases neither party to a real-estate related-transaction will be a business or individual whose primary activity is related to the real estate sector (e.g., the sale of a private home). In such cases, in addition to the risk of the specific customer involved, LFIs should consider aspects of the transaction itself, including:

- The jurisdiction in which the real property that is the subject of the transaction is located;
- The jurisdiction in which the customer's counterparty is located;
- If the LFI's customer is the purchaser, whether the purchase price is consistent with the purchaser's known means and income;
- Whether the purchase price is generally consistent with the market price for roughly similar properties;
- Whether all parties to the transaction are resident in jurisdictions other than the jurisdiction in which the property is located;
- Whether the seller of the property has owned it only for a short period of time;
- Whether shell companies or other legal structures are involved in the purchase in such a way as to obscure the true owner of the property; and
- Whether the parties to the transaction appear to be related (e.g. are represented by the same law firm or real estate broker, share corporate directors, or share an address), but the relationship between them is unclear.

## 3.2 Customer Due Diligence and Enhanced Due Diligence

CDD, and where necessary EDD, are the core preventive measures that help LFIs manage the risks of all customers, particularly higher-risk customers. As discussed below, each stage of the CDD process gives LFIs an opportunity to collect the information they need to identify and manage the specific risks of higher-risk customers.

**The goal of the CDD process is to ensure that LFIs understand who their customer is and the purpose for which the customer will use the LFI's services. Where an LFI cannot satisfy itself that it understands a customer, then it should not accept that legal person or legal arrangement as a customer. If there is an existing business relationship, the LFI should not continue it.** LFIs should also consider filing a Suspicious Transaction Report (STR), as discussed in section 3.3 below.

Under Article (5) of AML-CFT Decision, LFIs must conduct CDD before or during the establishment of the business relationship or account, or before executing a transaction for a Customer with whom there is no business relationship. Although Article 5 permits CDD to be delayed in circumstances of lower risk, the higher risk of the DPMS and real estate sectors makes it very unlikely that delayed CDD will be appropriate in the context of onboarding such customers.

LFIs should consult the UAE legal and regulatory framework currently in force for a full discussion of their CDD obligations and of the CBUAE's expectations for CDD procedures.

### *3.2.1 Overarching common requirements*

The following elements of CDD should be carried out for all customers, no matter the customer type.

#### *3.2.1.1 Customer Identification and verification*

Under Article 8 of AML-CFT Decision, LFIs are required to **identify and verify the identity of all customers**.

In most countries, including the UAE, anyone operating a business, whether as an individual or a legal person, must have a business license. Such persons may also need to be registered with their country's ministry of commerce or economy. Among other documents required for customer identification and verification, LFIs should ensure that they collect proof of an active license and/or registration from all business customers. Where a license is required, lack of one may indicate that a customer is attempting to avoid regulation and supervision by the authorities in the UAE or in its home jurisdiction.

#### *3.2.1.2 Beneficial Owner Identification*

The majority of DPMS and real estate sector customers will be legal persons. The UAE requires all financial institutions to identify the beneficial owners of a legal person customer by **obtaining and verifying the identity of all individuals who, individually or jointly, have a controlling ownership interest in the legal person of 25% or more.** Where no such individual meets this description, the LFI must identify and verify the identity of the individual(s) holding the senior management position in the entity.

Legal arrangements may be involved in transactions related to real estate. For legal arrangement customers, LFIs must **verify 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 and obtain sufficient information regarding the beneficial owner to enable verification of his/her identity at the time of payment, or at the time he/she intends to exercise his/her legally acquired rights.**

**The beneficial owner of a legal person or arrangement must be an individual.** Another legal person or arrangement cannot be the beneficial owner of a customer, no matter what percentage it owns. LFIs must continue tracing ownership all the way up the ownership chain until they discover all individuals who own or control at least 25% of the LFI's customer.

When the LFI has identified qualifying beneficial owners, it should perform CDD on each individual beneficial owner, in accordance with the requirements of Article 8.1(a) of AML-CFT Decision.

Please see the CBUAE's *Guidance for Licensed Financial Institutions providing services to Legal Persons and Arrangements*[8] for more information on identification of beneficial owners.

[8] Available at https://www.centralbank.ae/en/cbuae-amlcft.

##### 3.2.1.2.1 EDD: Beneficial Ownership

If the LFI is not confident that it has identified the individuals who truly own or control the customer, or when other high-risk factors are present, the LFI should consider intensifying its efforts to identify the beneficial owners. The most common method of doing so is to identify additional beneficial owners below the 25% ownership threshold mandated by UAE law. This may involve identifying and verifying the identity of beneficial owners at the 10% or even the 5% level. It may also involve requiring the customer to provide the names of all persons who own or control any share in the customer—without requiring them to undergo CDD—in order to conduct sanctions screening or negative news checks.

#### 3.2.1.3 Nature of the Customer's Business and Nature and Purpose of the Business Relationship

For all customer types, LFIs are required to understand the purpose for which the account or other financial services will be used, and the nature of the customer's business. This step requires the LFI to collect information that allows it to create a profile of the customer and of the expected uses to which the customer will put the LFI's services. This element of CDD will have important implications for the customer risk rating. This is particularly true of the nature of the customer's business, which will likely be the critical determinant of risk for customers of the types addressed in this Guidance.

##### 3.2.1.3.1 Nature of the Customer's Business

Understanding the nature of the customer's business involves first i) identifying that the customer is a participant in a higher-risk sector; and ii) collecting all the information necessary to assess the risk factors for that specific customer type, as described in section 3.1 above. Customers may not identify themselves explicitly as DPMS or real estate sector participants. In some cases, the nature of the customer's business will be clear based on the customer's own statements; in others, the LFI may need to ask additional questions to ascertain whether or not the customer carries out any of the qualifying activities. For example, an importer/exporter may qualify as a DPMS if it trades in precious metals and stones among other products, or a department store may qualify if it sells fine jewelry.

Following the determination of the customer's sector, the LFI should collect the information necessary to understand the products and services the customer offers, where it operates, and who its customers are. The exact information collected will depend on both the nature of initial findings and on the risk level of the entity. For example:

- Company A is a large commercial real estate broker licensed in Sharjah and supervised as a DNFBP by the Ministry of Economy. Company A applies for a general purpose business account with Bank C, an LFI. Bank C interviews Company A regarding its business activities and customer base, and asks Company A to supply a copy of its institutional risk assessment and its CDD and STR policies.
- Company B, a small business based in Dubai, seeks to establish a checking account with Bank C, an LFI. Company B represents that it primarily sells furniture and curios, but in response to questions from Bank C during the CDD process discloses that it sells gold and silver coins and also that it accepts cash payments. Company B is not licensed as a DPMS and is not registered by the Ministry of Economy. Bank C decides to make an unannounced site visit to Company Band discovers that gold objects make a up a large part of its inventory. Bank C declines to consider opening the account until Company B is licensed and registered as a DPMS.

#### *3.2.1.3.2 Nature and Purpose of the Business Relationship*

The risk to which the LFI may be exposed can vary based on the purpose of the account and the types of financial products and services the customer wishes to use. Nevertheless, if other risk factors are present a customer may still qualify as high risk even if they use only low-risk products and services.

- Certain aspects of a customer's business may be higher risk than others. For example, an account used for payroll may be lower risk than an account used to pay suppliers or that receives payments directly from customers.
- Certain LFI products and services may expose the LFI to higher risk. These include cash management services or large-scale cash deposits, and international wires, especially wires to or from high-risk or secrecy jurisdictions. These services are higher risk because they facilitate rapid movements of value across borders, or (in the case of cash) because they are conducive to anonymity. The LFI's entity risk assessment should identify its higher-risk products and services, and a customer that intends to use such services should be risk-rated accordingly.

For example:

- Company X is a small DPMS operating in the Dubai Gold Souk that applies for a general purpose checking account with Bank C , an LFI. Company X tells Bank C that it sells gold jewelry. It claims that it does not accept cash and has not registered as a DNFBP, but tells Bank C to expect weekly cash deposits. The relationship manager visits the store and observes a sign by the cash register saying "Payment by Cheque or Credit Only." Bank C decides to prohibit cash deposits into the account with prior authorization, and to restrict such deposits to a low monthly total.

#### *3.2.1.3.3 Developing a Customer Profile*

Businesses, including those in the DPMS and real estate sectors engage in an extremely wide variety of financial activity, potentially a wider variety than individual customers are likely to display. The activity profile of a cash-intensive business such as a small DPMS is likely to be completely different from that of a large-scale commercial developer . At the same time, specific businesses are also likely to engage in patterns of activity that remain constant from month to month and year to year. Understanding the purpose of the account allows LFIs to develop expected patterns and compare them to actual behaviour.

#### *3.2.1.3.4 EDD: Customer's Business and the Business Relationship*

As LFIs advance efforts to understand their customer's business and financial activities, they should consider whether aspects of the customer profile require EDD. The following are some situations in which EDD may be appropriate:

- The customer has business or other ties to high-risk jurisdictions (if the customer or its beneficial owners are based in a high-risk jurisdiction, EDD is mandatory).
- The customer intends to use high-risk financial products and services, such as bulk cash services or purchase and exchange of virtual assets.
- The LFI does not fully understand the customer's business model, or the customer has no clear business activities that would justify its expected to use of the account.

EDD on the business activities and account use of business like DPMS and real estate sector participants can involve the following:

- Requiring the customer to provide invoices documenting incoming and outgoing transfers;
- Inspecting payroll documents and other business records;
- Visiting the customer's business premises and interviewing its personnel;
- Requesting a reference from a current customer or other well-known firm with which the new customer claims to do business, or which operates in the same sector as the new customer.

#### *3.2.1.4 Ongoing Monitoring*

All customers must be subject to ongoing monitoring throughout the business relationship. Ongoing monitoring ensures that the account or other financial service is being used in accordance with the customer profile developed through CDD during onboarding, and that transactions are normal, reasonable, and legitimate.

##### *3.2.1.4.1 CDD Updating*

LFIs are required to ensure that the CDD information they hold on all customers is accurate, complete, and up-to-date. This is particularly crucial in the context of customers that are companies, which, by their very nature, can change their fundamental identity overnight. With the stroke of a pen, a company engaged in a low-risk business and owned by reputable UAE residents can move its activities to a high-risk sector and can transfer ownership to nationals of a high-risk foreign jurisdiction. For example:

- Mr. Y and Sons is a highly-reputable dealer in uncut diamonds that has been banking with Bank C for more than 40 years. Bank C's account manager reads in the newspaper that Mr. Y has recently passed away and calls on Mr. Y's sons to express his condolences. During the course of the conversation, the account manager asks which son will be in charge of the business going forward. They inform him that they have just sold the business to a consortium of investors who wished to remain anonymous but who were represented by a global law firm with offices in the Free Zone. Once it has become aware of this fact, Bank C should rapidly identify the new beneficial owners of the customer. If it cannot do so promptly, it should suspend activity on the account.

LFIs should update CDD for all customers on a risk-based schedule, with CDD on higher-risk customers being updated more frequently. EDD on all customers should involve more frequent CDD updates.

CDD updates should include a refresh of all elements of initial CDD, and in particular should ascertain that:

- The customer's beneficial owners remain the same;
- The customer continues to have an active status with a company registrar;
- The customer has the same legal form and is domiciled in the same jurisdiction;
- The customer is engaged in the same type of business, and in the same geographies;

In addition to a review of the customer's CDD file, the LFI should also review the customer's transactions to determine whether they continue to fit the customer's profile and business, and are consistent with the business the customer expected to engage in when the business relationship was established. This type of transaction review is distinct from the ongoing transaction monitoring discussed in section 3.2.1.4.2 below. The purpose of the review is to complement transaction monitoring by identifying behaviours, trends, or patterns that are not necessarily subject to transaction monitoring rules. For example:

- Bank C is conducting its scheduled CDD review for Company A, a commercial real estate brokerage firm. When reviewing the customer's transactions over the past year, Bank C notices that Company A has begun making fairly regular payments to a counterparty in Country 1.

> Previously, Company A had engaged in extremely limited cross-border activity. The payments do not exhibit any red flags and therefore were not flagged by Bank C's automated transaction monitoring system. Bank C contacts Company A and learns that it is has recently entered into a referral agreement with a private bank in Country 1. The bank refers customers looking to invest in the real estate sector, in Country 2, to Company A and in return receives a percentage of any commission Company A makes on a resulting sale. Bank C decides to conduct additional due diligence to learn more about the customer base referred to Company A by the bank in Country 1.

The techniques used for transaction review will vary depending on the client. For lower-risk clients, a review of alerts, if any, is likely to be sufficient. For higher risk clients, a more intensive review may be necessary. For clients with a large volume of transactions, LFIs may use data analysis techniques to identify unusual behaviour.

If the review finds that the customer's behaviour or information has materially changed, the LFI should risk-rate the customer again. New information gained during this process may cause the LFI to believe that EDD is necessary, or may bring the customer into the category of customers for which EDD is mandatory (i.e. customers that are PEPs, or owned or controlled by PEPs, or their family members or associates; and customers that are based in high-risk jurisdictions).

LFIs may consider requiring that the customer update them as to any changes in its beneficial ownership or business activities. Even if this requirement is in place, however, LFIs should not rely on the customer to notify it of a change, but should still update CDD on a schedule appropriate to the customer's risk rating.

#### *3.2.1.4.2 Transaction Monitoring*

LFIs must monitor activity by all customers to identify behaviour that is potentially suspicious and that may need to be the subject of an STR (see section 3.3 below). As with all customer types, LFIs that use automated monitoring systems should apply rules with appropriate thresholds and parameters that are designed to detect common typologies for illicit behaviour. When monitoring and evaluating transactions, the LFI should take into account all information that it has collected as part of CDD, including the identities of beneficial owners. For example, a series of transactions between two unconnected companies may not be cause for an alert. But if the companies are all owned or controlled by the same individual(s), the LFI should investigate to make sure that the transactions have a legitimate economic purpose.

Where possible, monitoring systems should also flag unusual behaviour that may indicate that a customer's business has changed—for example, a first transfer to or from a high-risk jurisdiction, or a large transaction involving a new counterparty. LFIs should follow up on such transactions with the customer to discover whether the customer has changed its business activities in such a way as to require a higher risk rating.

Sample red flags for illicit behaviour involving DPMS and the real estate sector are provided in the Annex to this Guidance.

#### *3.2.1.4.3 EDD: Ongoing Monitoring*

When customers are higher risk, monitoring should be more frequent, intensive, and intrusive. LFIs should review the CDD files of higher risk customers on a frequent basis, , such as every six or nine months for very high-risk customers. The methods LFIs use to review the account should also be more intense and should not rely solely on information supplied for the customer. For example, LFIs should consider:

- Manually reviewing all transactions on the account on a quarterly basis, rather than a sample of transactions (as discussed above, such manual review should be in addition to automated transaction monitoring). Manual review can take the form of reviewing individual transactions, or of using data analysis to determine information about the customer's activity (e.g., overall percentage of counterparties in high-risk jurisdictions; new jurisdictions of activity compared to last quarter; overall percentage of transactions that are round numbers, etc.) that would not be apparent to automated transaction monitoring systems;
- Conducting site visits at the customer's premises and requesting a meeting with the customer's managing director or Chief Financial Officer;
- Conducting searches of public databases, including news and government databases, to independently identify material changes in a customer's ownership or business activities or to identify adverse media reports. Searches for adverse media should include relevant key words, including, but not limited to, allegation, fraud, corruption, and laundering.

In addition, higher-risk customers should be subject to more stringent transaction monitoring, such as lower thresholds for alerts and more intensive investigation.

### *3.2.2 Key Considerations for DPMS*

All of the requirements above apply fully to DPMS customers. This section describes specific or additional considerations that LFIs should have in mind when carrying out CDD on such customers.

- **Nature of the Customer's Business:** Understanding the nature of the customer's business is particularly important in the context of DPMS, as risk is largely driven by the nature of the entity's business activities. LFIs should consider factors such as:
  - Whether the customer qualifies as a DNFBP, and, if so, whether it is registered as such with the appropriate authority in its home jurisdiction (in the UAE, this is the Ministry of Economy, see section 2.2.4);
  - The DPMS-specific risks of the countries where the customer does business (see section 3.1.1.2 (i)). Certain countries that may not be considered extremely high risk in other contexts may be very high risk in the DPMS sector, such as countries where illegal mining takes place on a significant scale, or countries were smuggling of gold and precious stones is particularly common;
  - The products and services the customer provides, and their attractiveness to illicit actors.
  - **Example:** Customer, a large Abu Dhabi luxury goods store, seeks to establish a general purpose business account with Bank B, an LFI. Customer sells fine jewelry to a clientele that includes a number of PEPs. Bank B collects additional information about sales and policies from Customer, and determines that all purchases of fine jewelry must be made using a credit card, and that fine jewelry accounts for less than 10% of Customer's annual turnover. Bank B decides that EDD is not necessary at this point, but decides to review activity on the account after six months to determine whether it presents any red flags.
- **Ongoing Monitoring:** Because DPMS risk varies with their business activities, it is particularly important that LFIs monitor DPMS accounts for any unexpected changes in activity. A change in

activity is not necessarily a sign of illicit behaviour, but it may indicate that a DPMS has changed its activity profile in ways that affect its risk rating.

- **Example:** When conducting its scheduled review of activity on the account of Customer, a large Abu Dhabi luxury goods store, Bank B notices that Customer has recently begun to receive large transfers from Iraq. When Bank B contacts Customer, the store explains that they've just begun conducting 'trunk shows' of fashion and fine jewelry for customers in Iraq and as a result have substantially increased the business they do with customers there. Based on this information, Bank B increases Customer's risk rating and considers placing other controls on the relationship.

### 3.2.3 Key Considerations for the Real Estate Sector

Customers that are overall low-risk, and whose business is unrelated to the real estate sector, can nonetheless engage in high-risk transactions related to the sector. For example, a retired businesswoman who has been a customer of an LFI for twenty years may sell her luxury villa to a foreign PEP. In such cases, the CDD that has been performed on the customer may not be sufficient to manage the risk of this particular transaction, and LFIs may need to perform additional transactional due diligence. Transactional due diligence may also be necessary to comply with the requirements of Article 7.1 of AML-CFT Decision, which requires LFIs to audit transactions carried out throughout the business relationship to ensure that the transactions are consistent with the customer's risk profile.

Transactional due diligence should at least involve collecting additional information about the underlying activity and the customer's counterparty. Information that an LFI may request in the context of transactional due diligence on real estate transactions includes:

- Sufficient information about the property to support an assessment that the purchase/sale price is reasonable and generally consistent with values for similar properties. This may include its official valuation for property tax purposes (where one exists); cadastral maps for the area where the property is located; floor plans; photographs; and recent sales information for similar properties. Where the LFI is financing a purchase, or has previously financed the purchase of the same property, it likely has this information on hand already.
- Information about the customer's counterparty. Where the counterparty is an individual, this should include sufficient information to perform adverse media, sanctions and PEP screening. Adverse media searches should include searches of public records and databases using relevant key words, including but not limited to, allegation, fraud, corruption, laundering.
- Where the counterparty is a legal person, it should include the jurisdiction in which the counterparty is registered/headquartered; identifying information on the counterparty's beneficial owners and line of business.
- Information on source of funds and source of wealth. LFIs should be able to identify the source of funds for every large transaction related to the real estate sector. Where a transaction is financed, the source of funds will often be a bank loan, but for unfinanced transactions the determination may be more difficult. For high-risk customers or counterparties, such as PEPs, LFIs should also understand the source of overall wealth, in addition to the source of the specific funds used to purchase the property.

## 3.3 STR Reporting

As required by Article 15 of AML-CFT Law and Article 17 of AML-CFT Decision, LFIs must file a STR with the UAE Financial Intelligence Unit (UAE FIU) when they have reasonable grounds to suspect that a transaction, attempted transaction, or certain funds constitute, in whole or in part, the proceeds of crime, is related to a crime, or is intended to be used in a crime. **STR filing is a legal obligation and a critical element of the UAE's effort to combat financial crime and protect the integrity of its financial system.** By filing STRs with the UAE FIU, LFIs help to alert law enforcement about suspicious behaviour and allow investigators to piece together transactions occurring across multiple LFIs.

In addition to the requirement to file an STR when an LFI suspects that a transaction or funds are linked to a crime, LFIs should consider filing an STR in the following situations:

- A potential customer decides against opening an account or purchasing other financial services after learning about the LFI's CDD requirements;
- A current customer cannot provide required information about its business or its beneficial owners;
- A customer cannot adequately explain transactions, provide supporting documents such as invoices, or provide satisfactory information about its counterparty; or
- The LFI is not confident, after completing CDD procedures, that it has in fact identified the individuals owning or controlling the customer. In such cases, the LFI should not establish the business relationship, or continue an existing business relationship.

Please consult the CBUAE's *Guidance for Licensed Financial Institutions on Suspicious Transaction Reporting*[9] for further information.

## 3.4 Governance and Training

The specific preventive measures discussed above should take place within, and be supported by, a comprehensive institutional AML/CFT program that is appropriate to the risks the LFI faces. **The core of an effective risk-based program is an appropriately experienced AML/CFT compliance officer who understands the LFI's risks and obligations and who has the resources and autonomy necessary to ensure that the LFI's program is effective.**

As with all risks to which the LFI is exposed, the AML/CFT training program should ensure that employees are aware of the risks of DPMS and real estate sector customers, are familiar with the obligations of the LFI, and are equipped to apply appropriate risk-based controls. Training should be tailored and customized to the LFI's risk and the nature of its operations. For example, an LFI that has a large number of DPMS customers should offer training that includes an in-depth discussion of risk factors and red flags related to such customers.

[9] Available at https://www.centralbank.ae/en/cbuae-amlcft.

# Annex 1. Red Flags

## Red Flags for DPMS

Trade practices

- Precious metals and stones originate from a country where there is limited production or no mines at all.
- Trade in large volumes conducted with countries which are not part of a specific precious metals and stones pipeline.
- An increase of the volume of the activity in a DPMS account despite a significant decrease in the industry-wide volume.
- Selling or buying precious metals and stones between two local companies through an intermediary located abroad (lack of business justification. uncertainty as to actual passage of goods between the companies).
- Volume of purchases and/or imports that grossly exceed the expected sales amount.
- Sale of gold bars, coins, and loose diamonds from a jewelry store (retail).
- Payments related to the appearance of rare or unique precious stones in the international market outside of known trading procedures (e.g., Argyle's rare pink diamond appearing in the international marketplace outside of the annual tender process). This to the best knowledge of the financial institution.
- A single bank account is used by multiple businesses.

Transactions/financing of precious metals and stones trade

- Unusual forms of payment in the trade, for example, use of travelers cheques (all stages according to the accepted forms of payments).
- Date of payment not customary in the trade, (e.g. receiving/sending funds for a precious metal and stone deal conducted a very long time ago (outside accepted payment terms). Or, a customer paying upfront where the customary payment date is within a 120 days term.
- Financial activity is inconsistent with practices in the precious metal and stone trade. For example,
    - Foreign currency deposits followed by currency conversion and cash withdrawal in local currency.
    - Cheque deposits followed by immediate cash withdrawals in slightly lower amounts (possible use of the DPMS account for cheques discounting).
    - Transfers of foreign currency and/or foreign currency cheques deposits, followed by currency conversion and immediate withdrawal from the account (possible use of the DPMS account for exchange services)
- No economic rationale for transactions involving an individual or company in the precious metal and stone industry.

- Deposits immediately followed by withdrawals, atypical of practices in the precious metal and stone trade, including but not limited to:
    - Circular transaction related to import/export of precious metals and stones.
    - Circular transactions related to local trade (between local bank accounts).
    - Circular financial transactions between a precious metal and stone company's account and the private account of the company's shareholder/director, without business or economic reason.
    - High turnover of funds through an account with a low end of day balance.
- Deposits or transfers to a precious metal and stone dealer's account from foreign companies followed by immediate transfer of similar amounts to another jurisdiction.
- Immediately after a precious metal and stone dealer's related account is opened, high-volume and high-value account activity is observed.
- Transactions between accounts of different companies which are affiliated with the same customer, particularly to or from Free Trade Zones or countries with tax leniencies 119 (may be an indication of transfer pricing or trade mispricing).
- Open export is settled by offsetting to, and receiving payment from, a third party.
- Open export is settled abroad by offset in front of the importer.
- Settling an open export invoice with unrelated companies that engage in a specific precious metal and stone and not through value/return from abroad or return of goods to the precious metal and stone merchant.
- Details of the transaction are different from the details of the commercial invoice presented by the DPMS to the bank (name of importer/exporter, sum, place etc.)
- High-value funds deposited or transferred to an account described as short-term loans with no transactions showing repayment of loans.
- Early repayment of DPMS loan (a loan for 25 years is repaid after five month) with no reasonable explanation.
- Sale of diamonds and jewelry at small incremental amounts (retail).
- Multiple cheques drawn on the same DPMS' account on the same day.
- Origin/destination of funds is different from the destination/origin of the specific precious metal and/or stone.
- DPMS is credited by transactions with no evidence of sales.
- Numerous returns of advanced payments.

<u>Customers</u>

- Activity does not match KYC, for example:
    - Actual trade volumes are significantly larger than the expected volume.

    - Customers and/or suppliers of the customer do not correspond to the stage of the trade initially declared.
- DPMS is not familiar with trade practices.
- DPMS maintains high level of secrecy.
- DPMS conducting activity in a branch not specializing in precious metals and stones (where such branches exist).
- Use of a bank account in the name of a charity to transfer funds to/from DPMS.
- Frequent changes in company name and contact person for a business in the industry (mainly wholesale)

Use of third parties

- Customer consults a third party while conducting transactions.
- Receiving/transferring funds for import/export activity to/from entities that are not known to be involved in the precious metals and stones trade (either an individual or a legal entity).
- Return of an advanced payment from a third party.
- Receiving/transferring funds for import/export where the ordering customer/beneficiary is an MSB.
- Use of third parties to deposit funds into single or multiple DPMS' accounts.
- Return of an advanced payment from a third party.
- Name of sender in the payment transfer to the DPMS is not the importer/buyer (mainly rough and polished trade).
- Name of receiver in the payment from the DPMS is not the exporter/supplier.
- A single bank account with multiple deposit handlers (retail and wholesale).

Use of missing/suspicious/falsified documents

- For diamond dealers, Kimberly Process (KP) certificate is or seems to be forged.
- Long validity of a KP certificate
- Transfers of funds or an attempt to transfer funds through a DPMS company's account without producing appropriate documentation.
- DPMS claims funds received/transferred are an advanced payment without producing any appropriate export/import invoice to support it.
- Transfers between a DPMS and a private account that are reported to the bank as precious metal and/or stone transactions, without presenting appropriate documentation.
- Invoice presented by the DPMS appears to the bank as unreliable/fake.
- Failing to provide a customs declaration in relation to a foreign currency cash deposit resulting from selling precious stones abroad.

## Red Flags for the Real Estate Sector

Natural persons

- Transactions involving individuals residing in tax havens or risk territories, when the characteristics of the transactions match any of those included in the list of indicators.
- Transactions carried out on behalf of minors, incapacitated persons or other persons who, although not included in these categories, appear to lack the economic capacity to make such purchases.
- Transactions involving persons who are being tried or have been sentenced for crimes or who are publicly known to be linked to criminal activities involving illegal enrichment, or there are suspicions of involvement in such activities and that these activities may be considered to underlie money laundering
- Transactions involving persons who are in some way associated with the foregoing (for example, through family or business ties, common origins, where they share an address or have the same representatives or attorneys, etc.).
- Transactions involving an individual whose address is unknown or is merely a correspondence address (for example, a PO Box, shared office or shared business address, etc.), or where the details are believed or likely to be false.
- Several transactions involving the same party or those undertaken by groups of persons who may have links to one another (for example, family ties, business ties, persons of the same nationality, persons sharing an address or having the same representatives or attorneys, etc.).
- Individuals who unexpectedly repay problematic loans or mortgages or who repeatedly pay off large loans or mortgages early, particularly if they do so in cash.

Legal persons

- Transactions involving legal persons or legal arrangements domiciled in tax havens or risk territories, when the characteristics of the transaction match any of those included in the list of indicators.
- Transactions involving recently created legal persons, when the amount is large compared to their assets.
- Transactions involving legal persons or legal arrangements, when there does not seem to be any relationship between the transaction and the activity carried out by the buying company, or when the company has no business activity.
- Transactions involving foundations, cultural or leisure associations, or non-profit-making entities in general, when the characteristics of the transaction do not match the goals of the entity.
- Transactions involving legal persons which, although incorporated in the country, are mainly owned by foreign nationals, who may or may not be resident for tax purposes.
- Transactions involving legal persons whose addresses are unknown or are merely correspondence addresses (for example, a PO Box number, shared office or shared business address, etc.), or where the details are believed false or likely to be false.
- Various transactions involving the same party. Similarly, transactions carried out by groups of legal persons that may be related (for example, through family ties between owners or representatives, business links, sharing the same nationality as the legal person or its owners or representatives, sharing an address, in the case of legal persons or their owners or representatives, having a common owner, representative or attorney, entities with similar names, etc.).

- Formation of a legal person or increases to its capital in the form of non-monetary contributions of real estate, the value of which does not take into account the increase in market value of the properties used.
- Formation of legal persons to hold properties with the sole purpose of placing a front man or straw man between the property and the true owner.
- Contribution of real estate to the share capital of a company which has no registered address or permanent establishment which is open to the public in the country.
- Transactions in which unusual or unnecessarily complex legal structures are used without any economic logic. Natural and legal persons
- Transactions in which there are signs, or it is certain, that the parties are not acting on their own behalf and are trying to hide the identity of the real customer.
- Transactions which are begun in one individual's name and finally completed in another's without a logical explanation for the name change. (For example, the sale or change of ownership of the purchase or option to purchase a property which has not yet been handed over to the owner, reservation of properties under construction with a subsequent transfer of the rights to a third party, etc.).
- Transactions in which the parties:
  - Do not show particular interest in the characteristics of the property (e.g. quality of construction, location, date on which it will be handed over, etc.) which is the object of the transaction.
  - Do not seem particularly interested in obtaining a better price for the transaction or in improving the payment terms.
  - Show a strong interest in completing the transaction quickly, without there being good cause.
  - Show considerable interest in transactions relating to buildings in particular areas, without caring about the price they have to pay.
  - Transactions in which the parties are foreign or non-resident for tax purposes and: o Their only purpose is a capital investment (that is, they do not show any interest in living at the property they are buying, even temporarily, etc.).
  - o They are interested in large-scale operations (for example, to buy large plots on which to build homes, buying complete buildings or setting up businesses relating to leisure activities, etc.).
- Transactions in which any of the payments are made by a third party, other than the parties involved. Cases where the payment is made by a credit institution registered in the country at the time of signing the property transfer, due to the granting of a mortgage loan, may be excluded. Intermediaries
- Transactions performed through intermediaries, when they act on behalf of groups of potentially associated individuals (for example, through family or business ties, shared nationality, persons living at the same address, etc.).
- Transactions carried out through intermediaries acting on behalf of groups of potentially affiliated legal persons (for example, through family ties between their owners or representatives, business links, the fact that the legal entity or its owners or representatives are of the same nationality, that the legal entities or their owners or representatives use the same address, that the entities have a common owner, representative or attorney, or in the case of entities with similar names, etc.).

- Transactions taking place through intermediaries who are foreign nationals or individuals who are non-resident for tax purposes.

Means of Payment

- Transactions involving payments in cash or in negotiable instruments which do not state the true payer (for example, bank drafts), where the accumulated amount is considered to be significant in relation to the total amount of the transaction.
- Transactions in which the party asks for the payment to be divided in to smaller parts with a short interval between them.
- Transactions where there are doubts as to the validity of the documents submitted with loan applications.
- Transactions in which a loan granted, or an attempt was made to obtain a loan, using cash collateral or where this collateral is deposited abroad.
- Transactions in which payment is made in cash, bank notes, bearer cheques or other anonymous instruments, or where payment is made by endorsing a third-party's cheque.
- Transactions with funds from countries considered to be tax havens or risk territories, according to anti-money laundering legislation, regardless of whether the customer is resident in the country or territory concerned or not.
- Transactions in which the buyer takes on debt which is considered significant in relation to the value of the property. Transactions involving the subrogation of mortgages granted through institutions registered in the country may be excluded. Nature of the Transaction
- Transactions in the form of a private contract, where there is no intention to notarise the contract, or where this intention is expressed, it does not finally take place.
- Transactions which are not completed in seeming disregard of a contract clause penalising the buyer with loss of the deposit if the sale does not go ahead.
- Transactions relating to the same property or rights that follow in rapid succession (for example, purchase and immediate sale of property) and which entail a significant increase or decrease in the price compared with the purchase price. Transactions entered into at a value significantly different (much higher or much lower) from the real value of the property or differing markedly from market values.
- Transactions relating to property development in high-risk urban areas, in the judgement of the company (for example, because there is a high percentage of residents of foreign origin, a new urban development plan has been approved, the number of buildings under construction is high relative to the number of inhabitants, etc.).
- Recording of the sale of a building plot followed by the recording of the declaration of a completely finished new building at the location at an interval less than the minimum time needed to complete the construction, bearing in mind its characteristics.
- Recording of the declaration of a completed new building by a non-resident legal person having no permanent domicile indicating that the construction work was completed at its own expense without any subcontracting or supply of materials.
- Transactions relating to property development in high-risk urban areas based on other variables determined by the institution (for example, because there is a high percentage of residents of foreign origin, a new urban development plan has been approved, the number of buildings under construction is high relative to the number of inhabitants, etc.).

# Annex 2. Synopsis of the Guidance

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| **Purpose of this Guidance (1)** | Purpose | The purpose of this Guidance is to help Licensed Financial Institutions (LFIs) understand and mitigate risks when providing services to the dealers in precious metals and stones (DPMS) and real estate (RE) sectors, and to guide them in fulfilling their AML/CFT obligations. The FATF's Mutual Evaluation Report of the UAE issued in April 2020 stated that the two sectors are weighted as highly important in terms of risk and materiality in the UAE. |
| | Applicability | This Guidance applies to all natural and legal persons, which are licensed and/or supervised by the CBUAE, in the following categories:<br>• national banks, branches of foreign banks, exchange houses, finance companies, payment service providers, registered hawala providers and other LFIs; and<br>• insurance companies, agencies, and brokers. |
| **Understanding and Assessing the Risks of DPMS (2.1)** | ML/TF Risks of DPMS | DPMS present higher risks to LFIs because their services and products are attractive to illicit actors as the trade in precious metals and stones permits illicit actors to move large quantities of value in a liquid, fungible format across borders outside of the traditional financial system. |
| | Features of DPMS that Increase Risk | Not all DPMS pose equal risk to LFIs. DPMS with the following characteristics may be higher risk:<br>• Operating in jurisdictions with lax or non-existent regulation or that are high risk for crime and terrorism;<br>• Offer products and services—such as the sale of gold bullion or of uncut stones—that allow customers to access a widely traded, fungible, anonymous form of value; or<br>• Serve a high-risk customer base, such as a high proportion of PEPs. |
| | Supervision of DPMS in the UAE | DPMS in the UAE may qualify as DNFBPs when they carry out any single monetary transaction or several transactions that appear to be interrelated or equal to more than AED 55,000. If so, they are required to apply AML/CFT controls like those used by LFIs. They are supervised by the Ministry of Economy, which has issued guidelines for supervised entities describing their AML/CFT compliance obligations. |
| **Understanding and Assessing the Risks of the RE Sector (2.2)** | ML/TF Risks of the RE Sector | The RE sector presents a higher risk to LFIs because the sector offers an attractive way for illicit actors, criminals, and corrupt officials to move and store value while hiding their identity. |
| | Features of RE Sectors that Increase Risk | Not all customers and transactions related to the RE sector (in the UAE or elsewhere) pose equal risk to LFIs. Sectors with the following characteristics may be higher risk:<br>• Weak regulation and/or supervision of real estate brokers and agents;<br>• Widespread use of cash to purchase real property;<br>• Lack of transparency on beneficial owners of real estate;<br>• Openness to foreign purchasers, including 'golden visa' programs; and<br>• High liquidity and rising prices. |
| | Supervision of the RE Sector in the UAE | Real estate agents and brokers qualify as DNFBPs when they conclude operations for the benefit of their customers with respect to the purchase and sale of real estate. When they qualify, they are required to apply AML/CFT controls like those used by LFIs. They are supervised by the Ministry of Economy, which has issued guidelines for supervised entities describing their AML/CFT compliance obligations. |

<table>
<tr><td rowspan="9">Mitigating Risk: Requirements for LFIs (3)</td><td>Risk-Based Approach</td><td>LFIs must take a risk-based approach in their AML programs and to individual customers. This means that they should assess all customers, including DPMS and RE sector customers, to determine their degree of risk.<br>In assessing the risk of a DPMS and RE sector customers, LFIs should consider at least the following factors:<br>• The jurisdiction(s) in which the customer is based or does business, including both the jurisdictional risk of crime and terrorism but also the regulation in place on the DPMS and real estate sectors;<br>• The products and services the customer supplies to its customers;<br>• The customer's customer base;<br>• The quality of the customer's AML/CFT controls, where they exist.</td></tr>
<tr><td rowspan="6">Customer Due Diligence</td><td>For all customers, including DPMS and RE Sector customers, LFIs must perform Customer Due Diligence with the following components:</td></tr>
<tr><td>Customer Identification: DPMs and RE sector customers will often be businesses, and LFIs should ensure that their customer has the required licenses.</td></tr>
<tr><td>Identification of Beneficial Owners: DPMs and RE sector customers will often be legal persons. For all legal person customers, LFIs must identify all individuals who, individually or jointly, have a controlling ownership interest in the legal person of 25% or more. If no individual can be identified, the LFI must identify the individual(s) holding the senior management position(s) within the legal person customer.</td></tr>
<tr><td>Understand the Purpose of the Account and the Nature of the Customer's Business: The purpose of the account and the nature of the customer's business are critical drivers of risk for DPMS and RE sector customers. LFIs should fully understand how their customer makes money and what types of transactions it expect to carry out through the LFI's account. As they seek to understand the customer's business, LFIs should collect all information necessary to assess customer risk.</td></tr>
<tr><td>Perform Ongoing Monitoring: For all customers, LFIs must ensure that the customer information on file is up to date and accurate, and that the customer's activities are in line with the expectations set at onboarding. If not, the customer risk rating may need to be changed.</td></tr>
<tr><td>Special Considerations for RE transactions: Many transactions related to the RE sector will be between persons who are not themselves members of the sector. LFIs should perform due diligence on all transactions that are outside of a customer's normal behavioral profile. If LFIs discover that a transaction is related to the purchase or sale of real estate, it may be necessary to perform additional due diligence.</td></tr>
<tr><td>Suspicious Transaction Reporting</td><td>For customers of all types, LFIs must report any behavior that they reasonably suspect may be linked to money laundering, the financing of terrorism, or a criminal offence. Please consult the CBUAE's Guidance on Suspicious Transaction Reporting for further information.</td></tr>
<tr><td>Governance and Training</td><td>The measures discussed above should be supported by a larger AML/CFT program with effective governance arrangements, including a sufficiently empowered Compliance Officer, and training that educates LFI staff on the risks of these sectors.</td></tr>
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