



## Client Alert

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### **Strengthening compliance against financial crime: recent developments and enforcement trends in the UAE**

In the past year the United Arab Emirates (UAE) has witnessed a number of important developments in the area of compliance and financial crime which will have a significant impact on the risk exposure of companies operating in the UAE for the foreseeable future.

These developments include the adoption of new laws and regulations that are in line with international best practice, a strengthening of the enforcement authority and resources available to regulators to pursue violators and to impose penalties and sanctions, and enhanced cooperation between UAE and foreign law enforcement bodies to protect the integrity of the UAE financial system from money laundering and terrorist financing. Finally, the recent re-imposition of sanctions by the United States (US) against Iran has contributed to a reluctance on the part of most UAE financial institutions to accept any funds from sources in Iran or that are otherwise linked to Iran-related transactions.

Over time, collectively, these changes will have a profound impact on the compliance environment in the UAE, particularly as it relates to financial crimes, and companies can no longer approach compliance issues casually. Compliance now needs to be on the agenda of boards and management teams, and strategic business decisions - whether they relate to the launch of new products or services, acquisitions and other opportunities to expand into new markets, or the selection of key business partners - will need to be undertaken only after a thorough compliance risk assessment. The best companies will reassess their compliance policies and risk exposure in light of these new developments. All companies would be well advised to make appropriate adjustments and take corrective actions now to ensure they can continue to operate successfully in the new compliance-focused regulatory environment.

The UAE authorities have sent a clear signal that they are serious about protecting the UAE financial system from the risks of money laundering, terrorist-



linked financing and other financial crimes. Companies that ignore this shift will do so at their peril.

### **Greater scrutiny into financial crime**

The newly enacted Federal Law No. 20 of 2018 on Anti-Money Laundering Law (AML Law) contains important improvements over the prior legal framework to combat financial crimes. For the first time, digital currencies are brought within the ambit of the law, targeting online money laundering using cryptocurrencies. The law also introduces the concept of "controlled delivery" (a form of "sting operation") where the authorities would allow a suspected money laundering activity to proceed in order to assist in investigating and apprehending persons suspected of carrying on illicit activities.

In 2018, the UAE Criminal Penal Code was amended, among other things, to broaden the scope of the anti-bribery and anti-corruption provisions by including within its scope bribery committed by of foreign public officials and for the first time, expressly providing for extra-territorial reach, when the criminal act has an effect in the UAE or if the acts involve UAE persons or residents. These changes bring the UAE's anti-bribery and anti-corruption regime closer in line with international best practice standards.

The re-imposition of US sanctions against Iran has had a marked impact on companies doing business with Iran and the use of the UAE banking system to facilitate that business, and has increased the scrutiny into Iran-related transactions. The flow of funds between Iran and the UAE has been disrupted even through traditional, more established banking channels, following the US' unilateral re-imposition of sanctions after its withdrawal from the Iran nuclear deal. Although the UAE does not have a standalone comprehensive sanctions regime targeting Iran or a blanket prohibition on doing business with Iran.

### **Enhanced cooperation with foreign law enforcement authorities**

The UAE authorities are also cooperating with the US Treasury Department, notably through its partnership within the Terrorist Financing Targeting Center. This has led to the imposition of specific sanctions across the Gulf Cooperation Council countries, targeting networks of money traders and exchange houses. There have been several highly visible joint enforcement actions between the US and UAE authorities to shut down currency trading operations that had links to Iran.

### **Heightened accountability and enforcement authority**

Major appointments have been made at senior levels at the financial regulators in



the UAE financial free zones, the Dubai International Financial Centre (DIFC) and the Abu Dhabi Global Market (ADGM) over the past year. Appointments at the enforcement divisions of both the Dubai Financial Services Authority (DFSA) in the DIFC and the Financial Services Regulatory Authority (FSRA) in the ADGM signals that these bodies are likely to take a more active approach to enforcement and a renewed commitment to the financial safety and soundness of these financial hubs, particularly in advance of the evaluation of the soundness of the UAE's financial system and in particular its ability to detect and counter financial crimes that will be undertaken by the Financial Action Task Force (FATF) in Q2 of 2019.

The DFSA also introduced amendments to its cornerstone regulatory legislation to enhance its anti-money laundering regime, further supporting the UAE's alignment with the FATF Recommendations. The changes mainly address the registration of Designated Non-Financial Professions and Businesses (including law firms, real estate brokerages and accounting firms) and require the confirmation of their beneficial ownership, information on their senior management teams and details of their Money Laundering Reporting Officer.

### **What does all this mean to you?**

These developments assure that businesses will be facing greater regulatory scrutiny and operating in a more compliance-focused environment than ever before. We expect the UAE to share investigation intelligence information more transparently going forward, and work on actively implementing joint enforcement actions with foreign law enforcement agencies, pursuant to the new enabling provisions of the AML Law. We also anticipate that the UAE will adopt a more liberal approach to extradition requests and we expect to see greater transparency in cases involving bribery. For example, the Anti-Corruption Department within the UAE's State Audit Institution, the independent authority tasked with investigating financial irregularities involving federal bodies and government-owned companies, recently disclosed financial irregularities in public procurement contracts.

Now more than ever, companies will need to focus on putting in place robust compliance systems and controls to detect possible financial crimes. These systems should include carrying out regular due diligence exercises to determine a company's risk of exposure to internal and external financial crime.

But having compliance systems and controls in place alone is not sufficient. It will be crucial to train employees to ensure that these systems and controls are understood and properly and effectively implemented, allowing them to withstand regulatory scrutiny.



***To speak to us in relation to any compliance issues in the UAE, please feel free to contact one of the lawyers below, or your usual Baker McKenzie contact.***

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