

Reporting of Suspicious Activity

The DFSA requires prompt reporting of any suspicious transactions or activity, including attempted transactions, to the Financial Intelligence Unit of the UAE Central Bank (ie the Anti-Money Laundering Suspicious Cases Unit or AMLSCU), with a simultaneous notification to the DFSA. Regulated entities are expected to follow the UAE Central Bank's Circular No 24/2000, dated 14 November 2000 (amended by Notice No 2922/2008, dated 17 June 2008) when filing Suspicious Transactions Reports (STRs) with the AMLSCU. The DFSA may follow-up on matters disclosed so as to ensure systems and controls are in place and effective, while the AMLSCU will determine if a further investigation into the matter and subsequent prosecution is warranted. All regulated persons in the DIFC are expected to fully co-operate with the AMLSCU and other relevant UAE authorities in their investigation of suspicious activity.

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Getting Help

- **DFSA Rulebook:** The DFSA website contains more information about the DFSA Rulebook. Applicable modules include: Anti-Money Laundering, ASP (Chapters 5-6), AMI (Chapter 11)
- **Enquiries:** Firms who hold a licence from the DFSA should direct any enquiries through their DFSA Relationship Manager.

About the DFSA

The DFSA is the independent regulator of financial and ancillary services conducted in or from the Dubai International Financial Centre (DIFC), a purpose-built financial free-zone in Dubai. The DFSA's regulatory mandate covers asset management, banking and credit services, securities, collective investment funds, custody and trust services, commodities futures trading, Islamic finance, insurance, an international equities exchange and an international commodities derivatives exchange.

Visit the DFSA website at www.dfsa.ae for:

- more information regarding AML/CFT and UNSCR sanctions
- full text of the Laws, Regulations and Rules
- more news about the DFSA

General Enquiries

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Anti-Money Laundering and Combating the Financing of Terrorism: The DFSA Approach

DFSA's Supervisory Regime for Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT)

The DFSA is committed to maintaining a supervisory regime that acts as a significant deterrent to any criminal elements, including money launderers and persons wishing to assist, in any way, acts of terrorism.

Overview

Tax evasion, corruption, embezzlement, insider trading, computer fraud schemes, illegal arms sales, drug trafficking and human trafficking, can generate large amounts of illicit proceeds. The perpetrators of these acts need to "legitimise" their ill-gotten gains through money laundering. Criminals do this by disguising the sources, changing the form or moving the funds to a place where they are less likely to attract attention. Money laundering is the process of disguising criminal proceeds so as to disguise their illegal origin.

Terrorist financing is, in principle, different from money laundering, even though once such funds are in the financial system, they may seek to be laundered in the same sorts of ways. Financial support for terrorist activities may come directly from certain states or jurisdictions, from organisations large enough to be able to collect and make the funds available to the terrorist organisation or from sources channelled more directly through the financial system.

Much of the fight against money laundering and terrorist financing turns on an entity's ability to recognise persons or entities that have been identified, as having some connection with crime and/or terrorism. Given the difficulty in knowing the true beneficiary of transactions, especially cross-border transactions, and the fact that terrorism often involves relatively small individual amounts, patterns of transactions or behaviour that might give clues

to unusual underlying activity are much more difficult to detect, even with the aid of computer modelling. Only by knowing their customers, and by looking out for possible clues, can firms have a chance to detect these activities.

The integrity of the financial services marketplace depends heavily on the perception that it functions within a framework of high legal, professional and ethical standards. We should also note that regulated financial sectors are not the only businesses susceptible to the criminal element. Other businesses and professions such as lawyers, accountants, trust service providers, dealers in precious metals and other high value goods and real estate agents have also shown vulnerability to – and in some cases active participants in – money laundering and terrorist finance schemes. A reputation for integrity is one of the most valuable assets of the Dubai International Financial Centre (DIFC) and the individual financial institutions operating within the DIFC.

If funds from criminal activity can be easily processed through a particular financial institution – either because its employees and/or Directors have been bribed or because the institution's culture turns a blind eye to the criminal nature of such funds – the institution could be drawn into active complicity with criminals and become part of the criminal network itself. Evidence of such complicity will have a damaging effect on other financial intermediaries and on regulatory

authorities, as well as ordinary customers.

Money launderers and terrorist financiers are continuously looking for new methods of disguising their funds. Weaknesses in anti-money laundering systems and controls will be exploited by these persons, who tend to move their networks to countries and financial systems with weak or ineffective countermeasures.

The economic and political influence of criminal organisations can weaken the social fabric, collective ethical standards and ultimately the democratic institutions of society. Most fundamentally, money laundering is inextricably linked to the underlying criminal activity that generated it, enabling criminal activity to continue.

The DFSA's AML/CFT Regime

The DFSA's supervisory regime for AML and CFT applies to all Firms providing financial and ancillary services in or from the DIFC. The supervisory regime is consistent with international standards set by the Financial Action Task Force (FATF), which is essential for the international fight against money launderers and financiers of terrorism. The DFSA ensures compliance with these standards through effective and efficient risk-based supervisory principles.

It is important to note that the DFSA Rulebook, including the AML Module, operates independently of Federal regulations (ie the AML regulations of the Central Bank of the United Arab Emirates (UAE), the UAE Ministry of Economy and the Federal securities regulator – the Emirates Securities and Commodities Authority (SCA)). However, the DIFC does not have a separate criminal legal regime from the UAE. Consequently, all regulated entities must also

comply with the Federal Law No 4 of 2002 (Criminalisation of Money Laundering) and the Federal Law No 1 of 2004 (Counter Terrorism Law) and any other relevant Federal criminal laws. The UAE Penal Code and other Federal criminal laws also continue to apply in the DIFC. Any criminal investigation and resulting penalties would be performed by UAE authorities.

The DFSA's regulatory and supervisory regime is based on the guiding principles of integrity, transparency and efficiency. Highlights include:

- authorisation and supervision standards, which are consistent with international standards for all financial institutions;
- regular on-site risk assessments of Authorised Firms (AFs) and Ancillary Service Providers (ASPs) conducted by experienced supervisors, supported by special and thematic reviews;
- required disclosures of beneficial owners, prohibitions on shell banks, nominee Directors or Officers, and bearer share certificates; and
- international regulatory co-operation.

AML/CFT Requirements

The DFSA requires AFs and ASPs, Registered Auditors (RAs) and Authorised Market Institutions (AMIs) to have in place an effective AML/CFT regime that prevents them from being used for illegal activities. Assessing the effectiveness of the AML/CFT controls established and maintained by these regulated entities forms a vital component of DFSA's ongoing risk assessment process. All regulated entities must appoint an Anti-Money Laundering Officer (MLRO) who has been assessed by the DFSA as fit and proper, and who is responsible

for the entities' compliance with AML/CFT requirements.

The DFSA's AML Module requires regulated entities to have policies, procedures and systems to prevent money laundering or terrorist financing and requires application of customer due diligence and ongoing monitoring on a risk-sensitive basis. This risk-based programme should periodically assess vulnerabilities with the regulated entity's clients, the jurisdictions from which the entity does business or obtains clients and the products and services offered to clients. Additionally, the DFSA expects each regulated entity to assess new technological advances that facilitate business, but might also make the entity more vulnerable to money launderers and/or financiers of terrorism.

The DFSA expects that all AFs, ASPs, RAs and AMIs to have a written policy for any customers, products or services relating, in any way, to any jurisdiction listed by the FATF as having strategic deficiencies, in particular those that might require countermeasures.

In addition to the points listed above, a regulated Firm is expected to establish effective AML/CFT systems and controls in order to prevent opportunities for money laundering and terrorist financing. Amongst other requirements, Firms are obliged to undertake the following:

- to ensure that the MLRO is responsible for all AML/CFT activities of the Firm, including providing at least annually a report to the governing body or senior management on money laundering matters;
- to establish and verify the true identity of any customer and any other person on whose behalf a customer is acting, including that of the beneficial owner; before the Firm effects any transaction on behalf of the customer;

- to establish and maintain monitoring arrangements, systems and controls to ensure that the information and evidence concerning a customer's identity is valid, accurate and up-to-date;
- to have systems to determine whether a customer is a Politically Exposed Person (PEP) and perform enhanced due diligence on these persons consistent with their risk profile;
- to retain relevant documents, records and reports for a period of at least 6 (six) years;
- to have specific arrangements to consider the fitness and propriety of staff; and
- to make arrangements with regard to providing periodic information and annual training to all staff.

Similar requirements are also in place for the two DIFC-based exchanges (NASDAQ Dubai and the Dubai Mercantile Exchange (DME)) and ASPs that offer legal or accountancy services.

United Nations (UN) Sanctions

As a matter of course, all regulated entities are required to meet obligations under sanctions imposed by the United Nations Security Council. This includes, but is not limited to, the UN Security Council Resolutions (UNSCRs) relating to the prevention and suppression of terrorist financing, including Resolution 1267 (1999), its successor resolutions and Resolution 1373 (2001). The DFSA will also closely monitor compliance with UNSCR 1737 (2008) and its successor resolutions, including 1929 (2010) relating to weapons proliferation programmes.

The DFSA will act swiftly with regard to any entity that fails to establish systems and controls to ensure compliance with the UN resolutions and sanctions.