



AML/CFT PROGRAM

Enhanced Requirements for Businesses in the UAE

INTRODUCTION

The risk of money laundering and/or financing of terrorism remains a concern for financial institutions and business that operate in cash intensive industries and as service providers.

UAE's AML/CFT legislative and regulatory framework has recently undergone a series of changes and more and more businesses are being brought within the ambit of related laws and regulations. The latest is an awareness and monitoring campaign by the Ministry of Economy (MoE), which is one of the seven supervisory bodies who are responsible for effective implementation and supervision of AML Framework with respect to certain Designated Non-Financial Businesses and Professions ("DNFBPs").

The current campaign/guidance makes it mandatory for real estate businesses, dealers in precious metals and stones, trust and company service providers, and auditors to register on the e-system of UAE's Financial Intelligence Unit ("goAML"), and to also register in the system of Committee for Commodities Subject to Import and Export Control (Automatic Reporting System for Sanctions Lists).

The objective behind mandating such businesses to register appears to be two-fold; first, ensure awareness about their responsibility with respect to the AML Framework, and secondly, to provide a globally used and accepted platform for such businesses to proactively report suspicious transactions involving money laundering and terrorism financing.

It is pertinent to note that the responsibility of such businesses does not end with registration, but it's merely the first step.

The MoE expect such businesses to take additional steps in line with implementing regulations of the law, which among others, require such businesses to have a compliance/Money Laundering Reporting officer, carry out a ML/FT risk assessment, institute policies and procedures towards customer due diligence, and report suspicious transactions on the goAML platform, as and when needed.

MoE has planned inspections to assess compliance in the coming weeks and months. Businesses need to be proactive on assessing what needs to be done and take steps to ensure they remain compliant with these legislations.

On the following pages, we provide our perspective on what business can do to comply with these measures

ASSESS APPLICABILITY AND REGISTER

The first step is to assess if the business is required to register on the goAML and the Automatic Reporting System. The following businesses are required to register:

- Brokers and Real Estate Agents
- Dealers in Precious Metals and Precious Stones
- Independent Accountants
- Providers of Corporate Services

For some businesses, making an assessment is going to be straight-forward. For example, a business engaging in real estate brokerage services would need to register on the platform. However, for a business where the activity listed on the Trade License issued by the respective government authority is broad in nature, and operations involve multiple services, and none involve carrying out of any the specific commercial activity a more careful analysis might be required. Some factors to keep in mind, while assessing applicability may include, but are not limited to the following:

- Nature and complexity of operations
- Movement of cash across business
- High risk customers
- Banking channels used (digital assets, etc.) and bank accounts outside UAE, if any
- Other area that might present an increased risk of ML

The registration on the goAML platform has two stages namely:

- First stage: registration on the protection system (SACM) of the goAML platform
- Second stage: registration stage in the goAML system

There is specific guidance available on the MOE's website around documents required, and how to go about registering on the portal.

For businesses having an in-house compliance person/team, the answers to some of these might be readily available. For others, it might be worthwhile to seek outside help to assess applicability and related steps to compliance.



APPOINT A COMPLIANCE OFFICER/PERSON

All registered businesses are required to appoint a compliance officer¹. Further, this function/responsibility should be provided with adequate resources and clout to be able to do the job effectively. If outsourced, due independence will be critical in effectively carrying out rule based monitoring and related reporting to FIU.

Please note that the personal details of the compliance person should be documented and readily available, if requested, by the UAE-FIU.

ASSESS RISKS

There cannot be an AML/CFT compliance program without a ML/FT related risk assessment. For registered businesses, some form of ML assessment would be a logical first step in identifying areas of business operations that present an increased risk of ML, and accordingly need to be monitored for review, investigation and reporting on the goAML platform, as needed. Please note that the regulators do not mandate “one size fits all approach” and look for well thought out process in identifying and assessing the risks and related transactions proactively and in the right way, including considering all the qualitative and quantitative risk factors.

DEVELOP AND IMPLEMENT AML/CFT POLICIES & CONTROLS

Some of these would-be key entity level controls such as Code of Conduct, specific policies, SOPs for high-risk transactions, among others; however, for some process areas, an organization would need to implement specific financial controls. For example, transaction monitoring protocols should be deployed to allow for identification of suspicious transactions.

Lastly, while designing and implementing controls, the inherent limitations to controls should be taken into account, including key controls that can be overridden by senior management at decision points.

IMPLEMENT A CUSTOMER DUE DILIGENCE PROCESS

The results of the risk assessment should inform the customer due diligence² protocols that need to be implemented by the business.

The CDD process should be comprehensive and accurate. Further, Article 6 of Regulations provides specific categories, where CDD becomes mandatory for registered entities to be carried out. This includes diligence at the outset of a new customer relationship with the objective of identifying the ultimate beneficial owners, and transaction monitoring/review to identify suspicious transactions or ultimate beneficiaries of a transaction that might be sanctioned entities/individuals.

Lastly, this process should not be treated as a check in the box exercise, as this would most likely help the business identify suspicious customers/transactions that might require reporting to FIU through the goAML platform.

¹A natural person who is employed by a legal person (the company) or is appointed, who has the appropriate competence and experience, and is tasked with undertaking on behalf of the legal person (the company) to provide all relevant data, procedures and obligations that are enforceable for the supervisory authority (Ministry of Economy) to fulfill the requirements of (AML/CFT) legislation.

² As per the Federal Decree-law No. (20) of 2018, the process of identifying or verifying the information of a Client or Beneficial owner, whether a natural or legal person or a legal arrangement, and the nature of its activity and the purpose of the business relationship and the ownership structure and control over it for the purpose of this Decree-Law and its Implementing Regulation.

TRAIN AND COMMUNICATE

The importance of training employees and third parties cannot be underscored; however, the key to an effective AML/CFT program is understanding the risk profile, and accordingly push out specific trainings catered to that risk profile. For example, front line employees should be sensitized to key ML/FT risk factors to look out for, while dealing/interacting with customers.

DETECT AND REPORT

Organizations should proactively monitor transactions for red flags (correlations, patterns, trends and relationships) that are indicative of potential misconduct. Remember, a red flag does not mean that ML has occurred, but rather it needs to be reviewed to identify if this qualifies as a suspicious transaction and needs to be reported to FIU through the goAML platform.

All reporting organizations also need to implement the right kind of reporting mechanisms to allow employees to report suspicious transactions, if not already detected by transaction monitoring protocols. Creating whistle-blower mechanism allows for employees to report without the fear of retaliation. After all, what you do not know is what gets you in trouble.

Further, all businesses should have a well-defined and documented policy/SOP on how and when a suspicious activity/transaction report would need to be filed. This is key to a reporting entity being able to demonstrate to FIU that it has implemented appropriate procedures with the spirit to comply with such measures.

Additionally, all reporting organizations would need to register on registration on Automatic Reporting System in the Sanctions list. Further, a workflow needs to be created to allow automated access to entities designated/sanctioned³ by United Nations Security Council and/or UAE Cabinet, and related protocols for the reporting entity updates their records daily. The objective of this is to identify and report to FIU, if the reporting organization does business with any entity/individual that has been sanctioned by individuals and entities listed by each sanctions committee as well as information concerning the specific measures that apply to each listed name.

To conclude, non-compliance with these measures could lead to administrative penalties, criminal prosecution against responsible individuals, the disqualification of activities/operations or trade license. All of this makes it necessary for businesses to promptly register on the goAML platform, assess the ML risk profile, and develop and implement measures to help identify suspicious activity, and accordingly report to FIU through the goAML platform.

³ The United Nations Security Council (UNSC) in certain cases resort to imposing sanctions to maintain or restore international peace and security. The UNSC therefore publishes a consolidated list including the names of individuals and entities listed by each sanctions committee as well as information concerning the specific measures that apply to each listed name.

HOW CAN BDO HELP

- ▶ Assist with preliminary assessment and pre and post stage of registration on the goAML platform
- ▶ Assist with registration on Automatic Reporting System in the Sanctions list
- ▶ Overall assistance with AML/CFT Compliance program
- ▶ Assist with Customer Due Diligence Process
- ▶ Training and awareness efforts
- ▶ Sanctions Screening process

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