



Anti-Money Laundering and Sanctions Rules and Guidance (AML)

*In this attachment underlining indicates new text and striking through indicates deleted text.

2. OVERVIEW AND PURPOSE OF THE AML RULEBOOK

Guidance

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3. The AML Rulebook is not intended to be read in isolation from other U.A.E. relevant legislation or developments in international policy and best practice and, to the extent applicable, Relevant Persons need to be aware of, and take into account, how these aforementioned matters may impact on the Relevant Person's day to day operations. This is particularly relevant when considering the list of terrorist organisations or persons issued under Article 63 of Federal Law No. 7 of 2014 on Combating Terrorism and the United Nations Security Council ("**UNSC**") Resolutions which apply in the ADGM, and Sanctions imposed by other jurisdictions which may apply to a Relevant Person depending on the Relevant Person's jurisdiction of origin, its business and/or customer base.

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Sanctions

24. The U.A.E., as a member of the United Nations, is required to comply with all Sanctions issued and passed by the UNSC. The U.A.E. periodically publicises its imposition of Sanctions. These UNSC obligations apply in the ADGM and their importance is emphasised by specific obligations contained in the AML Rulebook requiring Relevant Persons to establish and maintain effective systems and controls to make appropriate use of UNSC Sanctions and Resolutions (see Chapter 11).

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3. INTERPRETATION AND TERMINOLOGY

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3.2.1 The following terms and abbreviations bear the following meanings for the purposes of these Rules.

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Beneficial Owners	<p>Means, in relation to a customer, a natural <u>Natural person</u> Person who ultimately owns or controls the customer or a natural <u>Natural person</u> Person on whose behalf a transaction is conducted or a business relationship is established and includes:</p> <p>(a) in relation to a body corporate, a person <u>Person</u> referred to in Rule 8.3.3(2);</p> <p>(b) in relation to a Partnership, a person <u>Person</u> referred to in Rule 8.3.4(2);</p> <p>(c) in relation to a trust or other similar Legal Arrangement, a person <u>Person</u> referred to in Rule 8.3.5 (2); and</p> <p>(d) in relation to a foundation, a person <u>Person</u> referred to in Rule 8.3.6(2).</p>
Federal Decree by law No. 20 of 2018	Means U.A.E. Federal Decree by Law No. 20 of 2018 On Anti Money Laundering, Combating the Financing of Terrorism and Financing of Illegal Organisations.
Federal Law No. 1 of 2004	Means U.A.E. Federal Law No. 1 of 2004 regarding Combatting Terrorism Offences.
Federal Law No. 4 of 2002	Means U.A.E. Federal Law No. 4 of 2002 regarding the Criminalisation of Money Laundering.
Regulated Financial Institution	A person <u>Person</u> who does not hold a FSP but who is authorised in a jurisdiction other than the ADGM to carry on any financial service by another Financial Services Regulator.
Sanctions	Means any law executing foreign policy, security, sanction, trade embargo, or anti-terrorism objectives or similar restrictions imposed, administered or enforced from time to time by:

	<p>(a) the U.A.E.;</p> <p>(b) the United Nations Security Council;</p> <p>(c) the European Union;</p> <p>(d) H.M. Treasury of the United Kingdom;</p> <p>(e) the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury;</p> <p>(f) any other relevant governmental authority; or</p> <p><u>(g) any relevant inter-governmental or supra-national authority; or</u></p> <p>(gh) any of their successors.</p>
Senior Management	<p>Means in relation to a Relevant Person every member of the Relevant Person's executive management and includes:</p> <p>(<u>ia</u>) for an ADGM Entity, every member of the Relevant Person's Governing Body;</p> <p>(<u>ib</u>) for a Branch, the Person or Persons who control the day to day operations of the Relevant Person in the ADGM; or</p> <p>(<u>ic</u>) for an auditor, every member of the Relevant Person's executive management in the U.A.E.</p>
Shareholder	<p>Means a Natural Person or legal entity governed by private or public law, who holds, directly or indirectly:</p> <p>(a) Shares of the Issuer in its own name and on its own account;</p> <p>(b) Shares of the Issuer in its own name, but on behalf of another natural <u>Natural person</u> Person or legal entity; or</p> <p>(c) depository receipts, in which case the holder of the depository receipt shall be considered as the shareholder of the underlying Shares represented by the depository receipts.</p>

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4. GENERAL COMPLIANCE REQUIREMENTS

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- 4.5.2** A Relevant Person must immediately provide to the Regulator, upon request, or a law enforcement agency, pursuant to a valid and enforceable request or requirement, a copy of the record referred to in Rule 4.65.1.

Guidance

The Regulator expects that a Relevant Person will be able to ordinarily provide the records within one ~~day~~Business Day of a request from the Regulator.

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6. BUSINESS RISK ASSESSMENT

6.1 Assessing business AML risks

6.1.1 ...

(c) take appropriate measures to ensure that any risk identified as part of the assessment in (a) is taken into account in its day to day operations and is mitigated, including in relation to:

- (i) the development of new products;
- (ii) the taking on of new ~~Customers~~customers; and
- (iii) changes to its business profile.

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6.1.3 Without limiting compliance with Rules 6.1.1 and 6.1.2 a Relevant Person must, prior to launching any new product, service, business practice or using a new or developing technology, take reasonable steps to ensure that it has:

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Guidance

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2. Using the RBA, a Relevant Person should assess its own vulnerabilities to money laundering and take all reasonable steps to eliminate or manage such risks. The results of this assessment will also feed into the Relevant Person's risk assessment of its ~~Customers~~customers under Chapter 7.

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6.2 Anti-Money Laundering systems and controls

6.2.1 ...

(b) ensure that its systems and controls in (a):

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- (ii) enable it to determine whether a customer or a Beneficial Owners is a PEP;

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7. CUSTOMER RISK ASSESSMENT

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7.1 Assessing customer Anti-Money Laundering risks

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7.1.2 (1) ...

- (b) product, service, transaction or delivery channel risk factors, including whether:

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- (iii) the situation involves ~~non-face-to-face~~ NFTF business relationships or transactions, or lacks appropriate safeguards, such as electronic signatures or eKYC;

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7.2 Prohibition on Establishing Business Relationships with Certain customers

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7.2.3 A Relevant Person must not knowingly establish or maintain an anonymous account, an account in a fictitious name, or a nominee account which is held for the benefit of another ~~person~~ Person whose true identity has not been disclosed to the Relevant Person.

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8. CUSTOMER DUE DILIGENCE

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8.2.1 (1) For a Relevant Person that is an Authorised Person or Recognised Body:

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(5) Where the Relevant Person, having relied on Rule 8.2.1(1)(b) or 8.2.1(3) is unable to complete the verification of the identity of a customer and any Beneficial Owners, within ~~thirty days~~ twenty Business Days of effecting a Transaction or occasional transaction it must:

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8.4.1 Where a Relevant Person is required to undertake Enhanced CDD, having assigned a customer a high risk rating or it or its Beneficial Owners is a PEP, then, in addition to CDD under Rule 8.3.1, it must:

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Guidance

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9. For Rule 8.4.1, circumstances where it may be applicable to require the first payment made by a customer in order to open an account with a Relevant Person to be carried out through a bank account in the customer's name include:

(a) where, following the use of other Enhanced Customer Due Diligence measures, the Relevant Person is not satisfied with the results of that due diligence; or

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8.6.2 A Relevant Person ~~should~~must apply an intensified and on-going monitoring programme with respect to higher risk Transactions and customers.

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10. CORRESPONDENT BANKING, WIRE TRANSFERS, ANONYMOUS ACCOUNTS AND AUDIT

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10.2 Correspondent banking

10.2.1 An Authorised Person proposing to have a correspondent banking relationship with a respondent bank must:

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- (g) be satisfied that, in respect of any customers of the respondent bank who have direct access to accounts of the Authorised Person, the respondent bank:
 - (i) has undertaken CDD (including on-going CDD) at least equivalent to that in Rule 8.3.1 in respect of each ~~Customer~~customer; and

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10.3.1 In this section:

- (a) "**beneficiary**" means the ~~natural~~Natural or Legal Person or the Legal Arrangement that is identified by the originator as the receiver of the requested wire transfer;

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11. SANCTIONS AND OTHER INTERNATIONAL OBLIGATIONS

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Guidance

1. In Rule 11.1.1(1), taking reasonable measures to comply with resolutions or Sanctions may include, for example, a Relevant Person not undertaking a transaction for or on behalf of a Person without undertaking further due diligence in respect of ~~a~~that Person.

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11.2 Government, regulatory and international findings

- 11.2.1 (1) A Relevant Person must establish and maintain systems and controls to ensure that on an ongoing basis it is properly informed as to, and takes reasonable measures to comply with, any findings, recommendations, guidance, directives, resolutions, Sanctions, notices or other conclusions issued by:

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- (4) A Relevant Person must immediately notify the Regulator in writing if it becomes aware of non-compliance by a Person with a finding, recommendation, guidance, directive, resolution, Sanction, notice or other conclusion and provide the Regulator with sufficient details of the ~~person~~ Person concerned and the nature of the non-compliance.

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12. MONEY LAUNDERING REPORTING OFFICER

12.1 Appointment of a MLRO

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Guidance

1. Authorised Persons are reminded that under GEN Rule 5.5.1 the MLRO function is a mandatory appointment. For the avoidance of doubt, the individual appointed as the MLRO of an Authorised Person, other than a Representative Office, is the same individual who holds the Recognised Function of MLRO of that Authorised Person. Authorised Persons are also reminded that the guidance under GEN Rule 5.5.2 sets out the grounds under which the Regulator will determine whether to grant a waiver from the residence requirements for an MLRO. The same guidance ~~would apply by analogy~~ is relevant to other Relevant Persons seeking a waiver from the MLRO residence requirements.

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- 12.1.7** A Relevant Person may outsource the role of MLRO to an individual outside the Relevant Person provided that the individual under the outsourcing agreement is and remains suitable to perform the MLRO role.

Guidance

Where a Relevant Person outsources specific AML tasks of its MLRO to another individual or a third party provider, including the case where they are within its corporate Group, the Relevant Person remains responsible for ensuring that the duties undertaken by the MLRO ensure its compliance with the requirements in the AML Rulebook. The Relevant Person should satisfy itself of the suitability of anyone who acts for it in the role of MLRO.

12.2 Qualities of an MLRO

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12.3 Responsibilities of an MLRO

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14. SUSPICIOUS ACTIVITY REPORTS

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14.6 Freezing of assets

Guidance

It may also apply to ADGM Courts for an order restraining a Person from transferring or disposing of any assets suspected of relating to money laundering. In cases involving suspected money laundering, the ~~FSRA~~ Regulator will usually take such action in co-ordination with the FIU.

15. DNFBP REGISTRATION AND SUPERVISION

Guidance

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5. In determining if a Person is a DNFBP the Regulator will adopt a 'substance over form' approach. That is, it will consider what business or profession is in fact being carried on, and its main characteristics, and not just what business or profession the ~~person~~ Person purports, or is licensed, to carry on in the ADGM.
6. The Regulator considers that a "law firm, notary firm or other independent legal business, includes any business or profession that involves a legal service, including advice or services related to laws in the U.A.E. The Regulator does not consider it necessary for the purposes of the definition that the:
 - (a) Person is licensed to provide legal services in the U.A.E.; or

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15.1.1 A ~~person~~ Person who is a DNFBP must not carry on any activities in or from the ADGM unless that ~~person~~ Person is registered under AML 15.4 by the Regulator as a DNFBP.

15.1.2 The Regulator may delegate its powers for the registration, suspension and cancellation of ~~the~~ a DNFBP's registration of a DNFBP to the Registrar of Companies.

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15.3.1 A ~~person~~ Person may apply to the Regulator to be registered as a DNFBP by completing and submitting the appropriate form.

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15.3.4 Any ~~person~~ Person who is a DNFBP upon the making of this Chapter and was previously a Relevant Person prior to the making of this Chapter:

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15.6.2 (1) A DNFBP must notify the Regulator in writing at least ~~fourteen days~~ ten Business Days in advance of it ceasing to carry on the business activities that establishes it as a DNFBP.

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15.9.1 (1) The Registrar of Companies shall not grant a ~~person~~ Person who is a DNFBP a commercial licence to operate in the ADGM until the Regulator has confirmed to the Registrar of Companies that it intends to register the ~~person~~ Person as a DNFBP.

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